



## Chapter 3750 – Floodplain and Shoreland Ordinance

### Ordinance No. 23-5

(Originally enacted by Resolution #23-130 passed September 5, 2023.)

The County Board of Commissioners of Olmsted County does ordain:

Section 1. The Chapter 3750 is hereby reenacted to read as follows:

# TABLE OF CONTENTS

<b>ARTICLE I. GENERAL PROVISIONS.....</b>	<b>1</b>
Section 1.01 APPLICABILITY.....	1
Section 1.02 PURPOSE.....	1
Section 1.03 AUTHORITY.....	2
Section 1.04 POLICY.....	2
Section 1.05 COMPLIANCE.....	3
Section 1.06 JURISDICTION.....	3
<b>ARTICLE II. DEFINITIONS .....</b>	<b>5</b>
Section 2.01 RULES, WORD USAGE.....	5
Section 2.02 DEFINITIONS.....	6
<b>ARTICLE III. ADMINISTRATION OF FLOODPLAIN AND SHORELAND STANDARDS.....</b>	<b>26</b>
Section 3.01 ZONING ADMINISTRATOR.....	26
Section 3.02 BOARD OF ADJUSTMENT.....	27
Section 3.03 OLMSTED COUNTY PLANNING ADVISORY COMMISSION.....	27
Section 3.04 TOWNSHIP ZONING CONTROLS.....	28
Section 3.05 COMPLIANCE REQUIRED:.....	29
Section 3.06 PERMITS.....	30
Section 3.07 PERMITTING.....	30
Section 3.08 MITIGATION.....	34
Section 3.09 FLOODPLAIN CONDITIONAL USES AND VARIANCES.....	35
Section 3.10 SHORELAND CONDITIONAL USE PERMITS AND VARIANCES.....	40
Section 3.11 APPEAL OF THE ZONING ADMINISTRATOR'S DECISION:.....	41
Section 3.12 AGENCY NOTIFICATION REQUIREMENTS.....	42
Section 3.13 AMENDMENTS.....	44
Section 3.14 MANDATORY EAW.....	44
<b>ARTICLE IV. FLOODPLAIN JURISDICTION AND DISTRICTS.....</b>	<b>45</b>
Section 4.01 LAND TO WHICH ORDINANCE APPLIES.....	45
Section 4.02 INCORPORATION OF MAPS BY REFERENCE.....	46
Section 4.03 DISTRICTS.....	46
Section 4.04 MUNICIPAL BOUNDARY ADJUSTMENTS & TOWNSHIPS.....	47
Section 4.05 REQUIREMENTS FOR ALL FLOODPLAIN DISTRICTS.....	48
Section 4.06 FLOODWAY DISTRICT.....	50
Section 4.07 FLOOD FRINGE DISTRICT-FFA AND FFB.....	52
Section 4.08 GENERAL FLOODPLAIN DISTRICT.....	62

Section 4.09	RAILROADS, ROADS, BRIDGES, AND PUBLIC AND PRIVATE UTILITIES AND SERVICE FACILITIES.....	65
Section 4.10	MANUFACTURED HOMES AND RECREATIONAL VEHICLES .....	66
<b>ARTICLE V. FLOOD PRONE DISTRICT.....</b>		<b>67</b>
Section 5.01	PURPOSE OF THE FLOOD PRONE DISTRICT.....	67
Section 5.02	PERMITTED USES:.....	68
Section 5.03	CONDITIONAL USES: .....	69
Section 5.04	GENERAL FLOOD PRONE REGULATIONS: .....	70
<b>ARTICLE VI. SHORELAND DISTRICT .....</b>		<b>73</b>
Section 6.01	SHORELAND CLASSIFICATION SYSTEM AND LAND USE DISTRICTS.....	73
Section 6.02	LAND USES .....	74
Section 6.03	SPECIAL LAND USE PROVISIONS.....	76
Section 6.04	DIMENSIONAL AND GENERAL PERFORMANCE STANDARDS .....	80
Section 6.05	PLACEMENT, DESIGN, AND HEIGHT OF STRUCTURES.....	85
Section 6.06	SHORELAND ALTERATIONS .....	89
Section 6.07	PERFORMANCE STANDARDS FOR PUBLIC AND PRIVATE FACILITIES .....	94
Section 6.08	STORMWATER MANAGEMENT.....	97
Section 6.09	WATER SUPPLY AND SEWAGE TREATMENT.....	98
Section 6.10	SHORELAND PLANNED UNIT DEVELOPMENTS (SHORELAND PUDS).....	99
<b>ARTICLE VII. NONCONFORMITIES .....</b>		<b>112</b>
Section 7.01	NONCONFORMITIES SHORELAND.....	112
Section 7.02	CONTINUANCE OF NONCONFORMITIES IN FLOODPLAINS. ....	113
Section 7.03	SUBSTANTIAL IMPROVEMENT AND SUBSTANTIAL DAMAGE DETERMINATIONS IN FLOODPLAINS.....	114
<b>ARTICLE VIII. SUBDIVISION STANDARDS.....</b>		<b>116</b>
Section 8.01	FLOODPLAIN SUBDIVISIONS .....	116
Section 8.02	SHORELAND SUBDIVISIONS.....	116

## **ARTICLE I. GENERAL PROVISIONS**

### **Section 1.01 APPLICABILITY.**

- (A) This ordinance applies to shoreland and floodplain areas as defined in this ordinance located all unincorporated townships in Olmsted County, Minnesota.
- (B) This ordinance works in conjunction with the Memorandum of Understanding Between the County of Olmsted and the many Townships in Olmsted County for Administration and Enforcement of Land Use Regulations.
- (C) Any township that adopts official shoreland and/or floodplain controls must do so in compliance with Minn. Stat. § 394.33, Minn. Stat. § 103F.121 and/or Minnesota Rules, Part 6120.3900, Subp. 4a. Until this occurs, the County shall retain jurisdiction under this ordinance within unincorporated lands of any given township. In the event that a township surrenders shoreland or floodplain authority, the County shall resume that authority.

### **Section 1.02 PURPOSE.**

- (A) **Floodplain Management:** This ordinance regulates development in the flood hazard areas of Olmsted County. 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.
- (B) **Shoreland Development:** 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.

## Section 1.03

### **AUTHORITY**

- (A) **Statutory Authorization Floodplain Management:** This floodplain ordinance is adopted pursuant to the authorization and policies contained in [Minnesota Statutes, Chapter 103F](#); [Minnesota Rules, parts 6120.5000 – 6120.6200](#); the rules and regulations of the National Flood Insurance Program (NFIP) in [44 CFR § 59 to 80](#); and the planning and zoning enabling legislation in [Minnesota Statutes, Chapter 394](#).
- (B) **Statutory Authorization Shoreland Development:** This shoreland ordinance is adopted pursuant to the authorization and policies contained in [Minnesota Statutes, Chapter 103F](#), [Minnesota Rules, Parts 6120.2500 - 6120.3900](#), and the planning and zoning enabling legislation in Minnesota Statutes, [Chapter 394](#).
- (C) **Warning and Disclaimer of Liability:** This ordinance does not imply that areas outside the floodplain districts or land uses permitted within such districts will be free from flooding or flood damages. Not all flood risk is mapped. Larger floods do occur and the flood height may be increased by man-made or natural causes, such as ice jams or bridge openings restricted by debris. This ordinance does not create liability on the part of Olmsted County or its elected officials or employees for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

## Section 1.04

### **POLICY**

- (A) The Legislature of Minnesota has delegated responsibility to local governments of the state to regulate the subdivision, use and development of the shorelands of public waters and thus preserve and enhance the quality of surface waters, conserve the economic and natural environmental values of shorelands, and provide for the wise use of waters and related land resources. This responsibility is hereby recognized by Olmsted County.
- (B) This ordinance is adopted in the public interest to promote sound land use practices, and floodplains are a land resource to be developed in a manner which will result in minimum loss

of life and threat to health, and reduction of private and public economic loss caused by flooding.

- (C) This ordinance is adopted to maintain eligibility in the National Flood Insurance Program.

## Section 1.05

### **COMPLIANCE**

- (A) **Floodplain Management:** No new structure or land shall hereafter be used and no structure shall be located, extended, converted, repaired, maintained or structurally altered without full compliance with the applicable terms of this ordinance and other applicable regulations that apply to uses within the jurisdiction of this ordinance.
- (B) In addition, a caution is provided here that: New manufactured homes, replacement manufactured homes, and certain recreational vehicles are subject to the general provisions of this ordinance and specifically [Section 4.10](#)
- (C) Modifications, repair and maintenance, additions, structural alterations or repair after damage to existing nonconforming uses of structures or land are regulated by the general provisions of this ordinance and specifically [Section 7.02](#).
- (D) As-built Elevations for elevated or flood-proofed structures must be certified by ground surveys and flood proofing techniques must be designed and certified by a registered professional engineer or architect as specified in the general provisions of this ordinance.
- (E) **Shoreland Management:** No new structure or land shall hereafter be used and no structure shall be located, extended, converted, repaired, maintained or structurally altered without full compliance with the applicable terms of this ordinance and other applicable regulations that apply to uses within the jurisdiction of this ordinance.

## Section 1.06

### **JURISDICTION**

- (A) **Shoreland Development:** The provisions of this ordinance apply to the shorelands of the public water bodies as classified in [Section 6.01](#) of this ordinance. Pursuant to [Minnesota Rules, Parts 6120.2500 - 6120.3900](#), no lake, pond, or flowage less than 25 acres in size in unincorporated areas

need be regulated in a local government's shoreland regulations.

- (B) **Floodplain Management:** The provisions of this ordinance relating to floodplain management shall apply to all lands within the unincorporated townships of the county shown on the official zoning map and/or the attachments thereto as being located within the boundaries of the Floodway, FFA and FFB Flood Fringe, or General Floodplain Districts.
- (C) **Enforcement.** The Olmsted County Planning Department is responsible for the administration and enforcement of this ordinance. Any violation of the provisions of this ordinance or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances, conditional uses, or when something approved by a township is not consistent with the County's Floodplain and Shoreland Development permit) constitutes a misdemeanor and is punishable as defined by law. The imposition of any fine or sentence shall not exempt the offender from compliance with the requirements of this ordinance; and the County may pursue, by appropriate actions or proceedings, any or all additional other remedies. Violations of this ordinance can occur regardless of whether or not a permit is required for a regulated activity listed in [Section 3.06](#) and [Section 3.07](#) of this ordinance.
- (D) **Severability.** If any section, clause, provision, or portion of this ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected thereby.
- (E) **Repeal and Greater Restrictions.** It is not intended by this ordinance to repeal, revoke, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance imposes greater restrictions, the provisions of this ordinance shall prevail. All other ordinances inconsistent with this ordinance are hereby repealed to the extent of the inconsistency only.

## ARTICLE II. DEFINITIONS

### Section 2.01 RULES, WORD USAGE.

- (A) For the purpose of this ordinance, certain terms or words used herein shall be interpreted as follows:
- (1) **Board:** The word "Board" includes the County Commissioners, the Board of County Commissioners or any other word or words meaning the Olmsted County Board of Commissioners.
  - (2) **Board of Adjustment (BOA):** The "Board of Adjustment" shall mean the Olmsted County Board of Adjustment as established in the Olmsted County Code of Ordinances Chapter 1400, Article 3, Section 3.12.
  - (3) **Commission:** The "Commission" shall mean the Olmsted County Planning Advisory Commission (PAC).
  - (4) **Comprehensive Plan:** The "Comprehensive Plan" shall mean the Olmsted County General Land Use Plan, the Long-Range Transportation Plan (prepared and adopted by the Rochester-Olmsted Council of Governments), the Comprehensive Water Management Plan, and the Housing Plan. This will also include the "One Watershed, One Plan" documents for each of the county's three watersheds.
  - (5) **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.
  - (6) **Lot:** The word "lot" shall include the word piece, parcel, and plot.
  - (7) **Masculine and Feminine Gender:** The masculine gender includes all genders.
  - (8) **Person:** The word "person" includes a firm, association, organization, partnership, trust, company, or corporation as well as an individual.



- (9) **Shall and May:** The word "shall" is mandatory and not discretionary; the word "may" is permissive.
- (10) **Singular and Plural:** Words used in the singular shall include the plural, and the plural the singular.
- (11) **Tenses:** Words used in the present tense shall include the future.
- (12) **Used For:** The word "used for" shall include the phrases arranged for, designed for, intended for, maintained for, and occupied for.

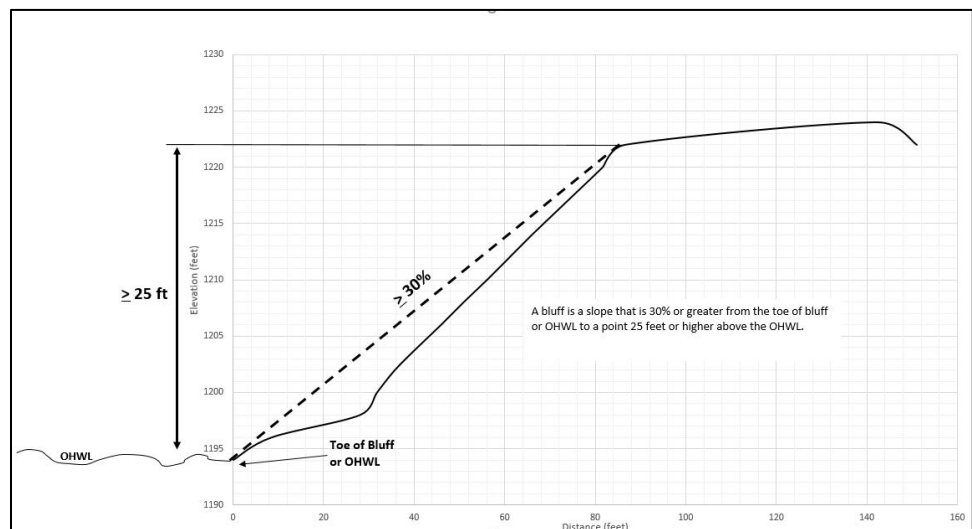
## Section 2.02 **DEFINITIONS**

- (A) Unless specifically defined, words or phrases used in this ordinance must be interpreted according to common usage and so as to give this ordinance its most reasonable application.
  - (1) **Accessory structure.** A structure, as defined in this ordinance, that is on the same parcel of property as, and is incidental to, the principal structure or use; an accessory structure specifically excludes structures used for human habitation.
  - (2) **Animal feedlot.** A facility as defined by Minnesota Rules, part 7020.0300.
  - (3) **Base Flood.** The flood having a one-percent chance of being equaled or exceeded in any given year. "Base flood" is synonymous with the term "regional flood" used in Minnesota Rules, part 6120.5000.
  - (4) **Base Flood Elevation (BFE).** The elevation of the base flood, regional flood, or one-percent annual chance flood. The term "base flood elevation" is used in the flood insurance study.
  - (5) **Basement.** Any area of a structure, including crawl spaces, having its floor subgrade (below ground level) on all four sides, regardless of the depth of excavation below ground level.

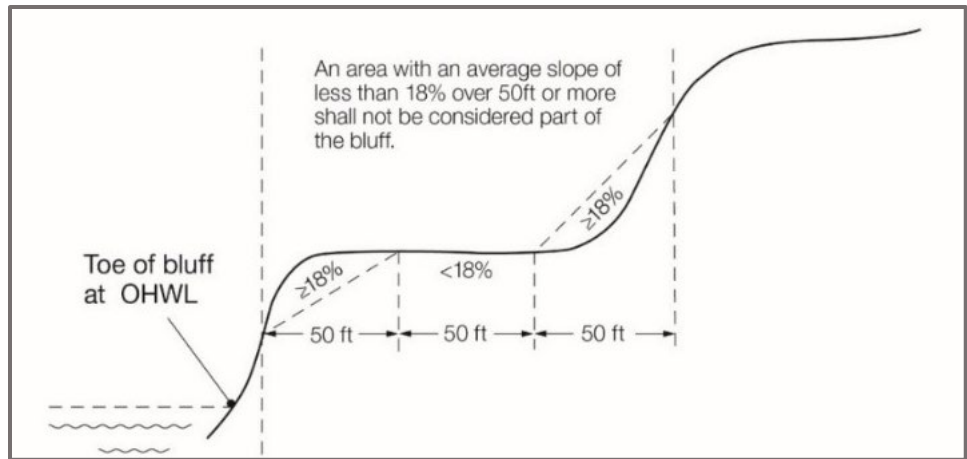
(6) **Bluff.** A topographic feature such as a hill, cliff, or embankment having the following characteristics:

- (a) Part or all of the feature is located in a shoreland area;
- (b) The slope must drain toward the waterbody.
- (c) The slope rises at least 25 feet above the ordinary high water level;
- (d) The grade of the slope from the toe of the bluff to a point 25 feet or more above the ordinary high water level averages 30 percent or greater (see Figure 2-1), 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 (see Figure 2-2).

(e) Figure 2-1 Illustration of Bluff

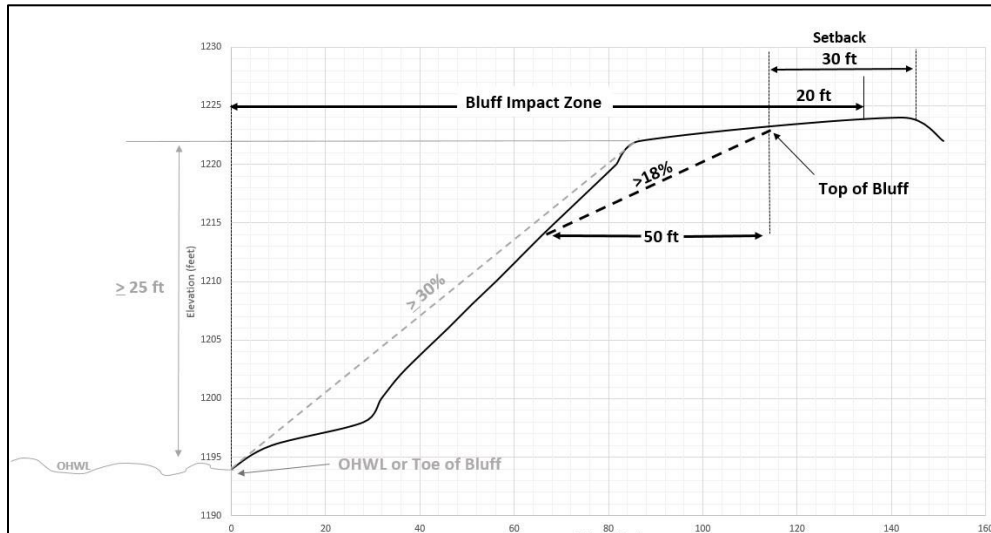


(f) Figure 2-2 Exception to Bluff



- (7) **Bluff Impact Zone.** A bluff and land located within 20 feet of the top of a bluff see Figure 2-3.

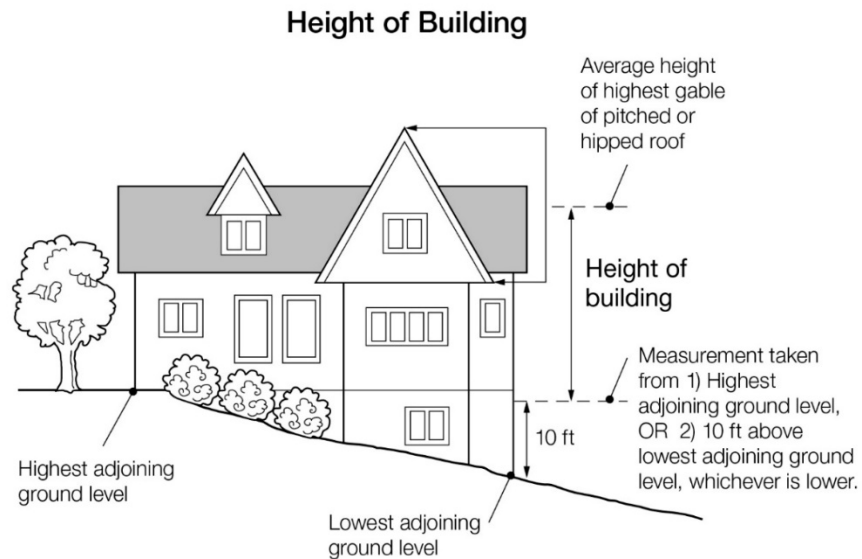
(a) Figure 2-3 Bluff Impact Zone Illustration



- (8) **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.
- (9) **Bluff, Top of.** For the purposes of measuring setbacks, bluff impact zone, and administering vegetation management standards, the higher point of a 50-foot segment with an average slope exceeding 18 percent.
- (10) **Boathouse.** A structure as defined by [Minnesota Statutes, Section 103G.245](#).
- (11) **Building.** See *Structure*

- (12) **Building, height.** 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 2-4).

(a) Figure 2-4 Height of Building



- (13) **Buffer.** A vegetative feature as defined by [Minnesota Statutes, Section 103F.48](#).
- (14) **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.
- (15) **Channel.** A natural or artificial depression of perceptible extent, with definite bed and banks to confine and conduct flowing water either continuously or periodically.
- (16) **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.

- (17) **Commercial use.** The principal use of land or buildings for the sale, lease, rental, or trade of products, goods, and services.
- (18) **Commissioner.** The commissioner of the Department of Natural Resources.
- (19) **Commercial planned unit development.** See Planned Unit Development, commercial shoreland.
- (20) **Conditional use.** A land use or development as defined by ordinance that would not be appropriate generally but may be allowed with appropriate restrictions upon a 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.
- (21) **Critical facilities.** Buildings and structures that contain essential facilities and services necessary for emergency response and recovery, or that pose a substantial risk to the public in the event of failure, disruption of function, or damage by flooding. Specifically, this includes facilities identified as Flood Design Class 4 in ASCE 24-14, Flood Resistant Design and Construction, as amended. Examples include health care facilities, facilities required for emergency response, power generating stations, communications towers, or electrical substations.
- (22) **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.
- (23) **Development.** Any man-made change to improved or unimproved real estate, including, but not limited to

buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

- (24) **Duplex, triplex, and quad.** A dwelling structure on a single lot, having two, three, and four units, respectively, attached by common walls and each unit equipped with separate sleeping, cooking, eating, living, and sanitation facilities.
- (25) **Dwelling site.** A designated location for residential use by one or more persons using temporary or movable shelter.
- (26) **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.
- (27) **Equal Degree of Encroachment.** A method of determining the location of floodway boundaries so that floodplain lands on both sides of a stream are capable of conveying a proportionate share of flood flows.
- (28) **Expansion.** Any increase in a dimension such as number of units or size, area, volume, or height of an existing structure or facility.
- (29) **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, Sections 93.44 to 93.51.](#)
- (30) **Farm Fence.** An open type of fence of posts and horizontally run wire, further specified in [Minnesota Statutes, Section 344.02](#), Subd. 1(a-d).

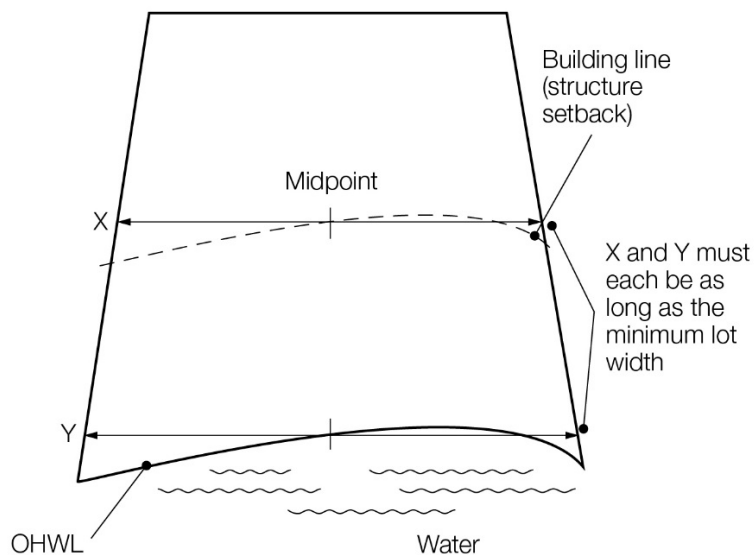
- (31) **FEMA.** Federal Emergency Management Agency.
- (32) **Flood.** A temporary rise in the stream flow or water surface elevation from any source that results in the inundation of normally dry land areas.
- (33) **Flood Fringe.** The portion of the one-percent annual chance floodplain located outside of the floodway.
- (34) **Flood Fringe, FFA.** Zone A or AE on the Flood Insurance Rate Map panels adopted in Section 4.01 that are below the 1% annual chance flood elevation but above the ordinary high water level as defined in [Minnesota Statutes, Section 103G.005.14](#) for developed parcels adjacent to Lake Zumbro in Oronoco Township.
- (35) **Flood Fringe, FFB.** Zone A or AE on the Flood Insurance Rate Map panels adopted in Section 4.01 that are below the 1% annual chance flood elevation but above the ordinary high water level as defined in [Minnesota Statutes, Section 103G.005.14](#)
- (36) **Flood Insurance Rate Map (FIRM).** An official map on which the Federal Insurance Administrator has delineated both the special flood 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).
- (37) **Flood Insurance Study (FIS).** The study referenced in [Section 4.02](#), which is an examination, evaluation and determination of flood hazards, and if appropriate, corresponding surface elevations, or an examination, evaluation, and determination of mudslide (i.e. mudflow) and/or flood-related erosion hazards.
- (38) **Floodplain.** The beds, channel and the areas adjoining a wetland, lake or watercourse, or other source which have been or hereafter may be inundated by the base flood.



- (39) **Floodplain, General.** Those floodplains designated on the Flood Insurance Rate Maps referenced in [Section 4.02](#), but that do not have a delineated floodway. Including the Flood Prone District.
- (40) **Floodplain, Flood Prone (FP).** Those floodplains based on alluvial soils which are water deposited soils representing the area's most often inundated by flood waters connected to and within 300 feet of any intermittent or public waterway as designated in [Article 5](#).
- (41) **Floodproofing.** A combination of structural and non-structural additions, changes, or adjustments to properties and structures subject to flooding, primarily for the reduction or elimination of flood damages.
- (42) **Floodway.** The bed of a wetland or lake and the channel of a watercourse and those portions of the adjoining floodplain which must be reserved to carry or store the base flood discharge without cumulatively increasing the water surface elevation more than one-half foot.
- (43) **Forest land conversion.** The clear cutting of forested lands to prepare for a new land use other than reestablishment of a subsequent forest stand.
- (44) **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.
- (45) **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, gravel driveways, or permeable pavers; and other similar surfaces.

- (46) **Industrial use.** The use of land or buildings for the production, manufacture, warehousing, storage, or transfer of goods, products, commodities, or other wholesale items.
- (47) **Intensive vegetation clearing.** The complete removal of trees or shrubs in a contiguous patch, strip, row, or block.
- (48) **Light duty truck.** Any motor vehicle that has all three of the following:
  - (49) 8,500 pounds Gross Vehicle Weight Rating or less;
  - (50) Vehicle curb weight of 6,000 pounds or less; and
  - (51) Basic vehicle frontal area less than 45 square feet.
- (52) **Lot.** A parcel of land designated by plat, metes and bounds, registered land survey, auditors plot, or other accepted means and separated from other parcels or portions by said description for the purpose of sale, lease, or separation.
- (53) **Lot width.** The minimum distance between:
  - (54) Side lot lines measured at the midpoint of the building line; and
    - (a) Side lot lines at the ordinary high-water level, if applicable (see Figure 2-5).
    - (b) Figure 2-5 Lot Width

## Lot Width



- (55) **Lowest Floor (LF).** 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 CFR § 60.3.
- (56) **Manufactured home.** A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include the term "recreational vehicle."
- (57) **New construction.** Structures for which the start of construction commenced on or after the effective date of an adopted floodplain management regulation and includes any subsequent improvements to such structures.

- (58) **Nonconformity.** Any legal use, structure or parcel of land already in existence, recorded, or authorized before the adoption of official controls or amendments to those controls that would not have been permitted to become established under the terms of the official controls as now written.
- (59) **Ordinary High-Water Level (OHWL).** The boundary of public waters and wetlands 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.
- (60) **Planned Unit Development (PUD).** 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.
- (61) **Planned unit developments, commercial.** Developments that provide non-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.

- (62) 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.
- (63) 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.
- (64) Principal structure.** The main building or other structure on a lot that is utilized for the property's principal use.
- (65) Public waters.** Any water as defined in [Minnesota Statutes, Section 103G.005, Subd. 15, and 15a.](#)
- (66) Quad.** A four plex dwelling unit.
- (67) Reach.** A hydraulic engineering term to describe a longitudinal segment of a stream or river influenced by a natural or man-made obstruction. In an urban area, the segment of a stream or river between two consecutive bridge crossings would most typically constitute a reach.
- (68) Recreational Vehicle (RV).** A vehicle that is built on a single chassis, is 400 square feet or less when

measured at the largest horizontal projection, is designed to be self-propelled or permanently towable by a light duty truck and is designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use. Those vehicles not meeting this definition shall be considered a structure for the purposes of this ordinance. For the purposes of this ordinance, the term recreational vehicle is synonymous with the term “travel trailer/travel vehicle.”

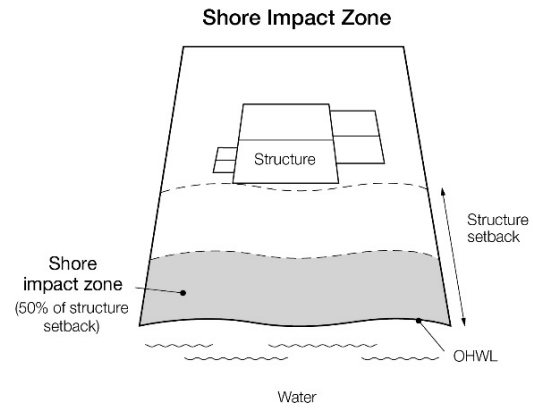
- (69) Regulatory Flood Protection Elevation (RFPE).** An elevation that is one foot above the elevation of the base flood plus any increases in the water surface elevation caused by encroachments on the floodplain that result from designation of a floodway. These increases in water surface elevations are typically identified in the Floodway Data Tables, found in the Flood Insurance Study.
- (70) 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.
- (71) Residential planned unit development.** See Planned Unit Development, residential
- (72) Resort.** “Resort” has the meaning in [Minnesota Statute, Section 103F.227](#).
- (73) River Corridor District.** 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

(d) South Branch Middle Fork Zumbro River

- (74) **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.
- (75) **Setback.** The minimum horizontal distance between a structure, sewage treatment system, or other facility and an ordinary high-water level, sewage treatment system, top of a bluff, road, highway, property line, or other facility.
- (76) **Sewage Treatment System (STS).** See Subsurface Sewage Treatment System.
- (77) **Sewer system.** Pipelines or conduits, pumping stations, and force main, and all other construction, devices, appliances, or appurtenances used for conducting sewage or industrial waste or other wastes to a point of ultimate disposal.
- (78) **Subsurface Sewage Treatment System (SSTS).** “Subsurface Sewage Treatment System” as defined under [Minnesota Rules, part 7080.1100, Subp. 82.](#)
- (79) **Shore Impact Zone (SIZ).** 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 2-6).

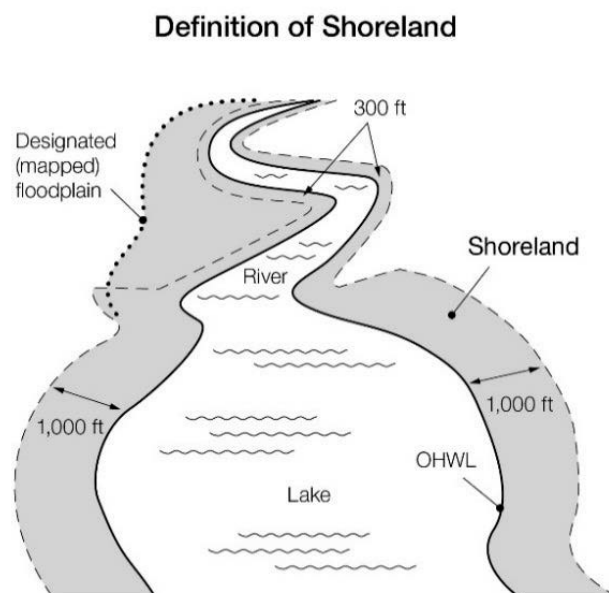
a) Figure 2-6 Shore Impact Zone





(80) **Shoreland.** “Shoreland” means land located within the following distances from public waters:

- a) 1,000 feet from the ordinary high-water level of a lake, pond, or flowage; and
- b) 300 feet from a river or stream, or the landward extent of a floodplain designated by ordinance on a river or stream, whichever is greater (see Figure 2-7).
- c) Figure 2-7 Definition of Shoreland



(81) **Shore recreation facilities.** Swimming areas, docks, watercraft mooring areas and launching ramps and other water recreation facilities.

(82) **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 contain remains outside of recorded cemeteries 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 burial sites are automatically considered to be significant historic sites.

- (83) **Stage increase.** Any increase in the water surface elevation during the one-percent annual chance flood caused by encroachments on the floodplain.
- (84) **Start of construction.** Includes substantial improvement, and means the date the permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means 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.
- (85) **Steep slope.** Lands having average slopes over 12 percent, as measured over horizontal distances of 50 feet or more, which are not bluffs.
- (86) **Structure (floodplain).** Any roofed building, including a gas or liquid storage tank that is principally above ground. Recreational vehicles not considered travel ready, as detailed in [Section 4.10](#) shall also be

considered a structure for the purposes of this ordinance

- (87) **Structure (shoreland).** Any building or appurtenance, including decks, except aerial or underground utility lines, such as sewer, electric, telephone, telegraph, gas lines, towers, poles and other supporting facilities.
- (88) **Subdivision.** Land that is divided for the purpose of sale, rent, or lease, including planned unit developments.
- (89) **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.

  - (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; or
  - (b) Any alteration of a “historic structure,” provided that the alteration will not preclude the structure’s continued designation as a “historic structure.” For the purpose of this ordinance, “historic structure” is defined in [44 CFR § 59.1](#).
- (90) **Suitability analysis.** An evaluation of land to determine if it is appropriate for the proposed use. The analysis considers factors relevant to the proposed use and may include the following features: susceptibility to flooding; existence of wetlands; soils, erosion potential; slope steepness; water supply, sewage treatment capabilities; water depth, depth to groundwater and bedrock, vegetation, near-shore aquatic conditions unsuitable for water-based recreation; fish and wildlife habitat; presence of significant historic sites; or any other relevant feature of the natural land.

- (91) **Variance.** “Variance” means the same as that defined in [44 CFR § 59.1](#) and [Minnesota Statutes, Section 394.27 Subd. 7](#).
- (92) **Watercourse.** A channel in which a flow of water occurs either continuously or intermittently in a definitive direction. The term applies to either natural or artificially constructed channels.
- (93) **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 surface water, reasonably needs to be located closer to public waters than the normal structure setback. Examples of such structures and facilities include, watercraft and watercraft equipment storage structures, gazebos, screen houses, fish houses, pump houses, saunas, patios, and detached decks. Boathouses and boat storage structures given the meaning under [Minnesota Statutes, Section 103G.245](#) are not a water-oriented accessory structures.
- (94) **Water-dependent use.** The use of land for commercial, industrial, public or semi-public purposes, where access to and use of a public water is an integral part of the normal conduct of operation. Marinas, resorts, and restaurants with transient docking facilities are examples of commercial uses typically found in shoreland areas.
- (95) **Wetlands.** “Wetlands” has the meaning given under [Minnesota Rule, part 8420.0111](#). As well as “public waters, wetlands” found in [Minnesota State Statutes, Section 103G.005, Subd. 15, 15a](#).

## **ARTICLE III. ADMINISTRATION OF FLOODPLAIN AND SHORELAND STANDARDS**

### **Section 3.01 ZONING ADMINISTRATOR**

- (A)** The Planning Director of the Olmsted County Planning Department shall have the power and duty to administer and enforce this ordinance. The Planning Director may designate employees of the Olmsted County Planning Department to act upon to administer and enforce this ordinance.
- (B) ZONING ADMINISTRATOR POWERS AND DUTIES**
  - (1)** The Zoning Administrator shall have the following powers and duties in addition to any other duties and powers now or hereafter. The Zoning Administrator shall:
  - (2)** Enforce and administer this ordinance.
  - (3)** Issue zoning certificates and any other permits as required by the terms of this ordinance, including the Floodplain/Shoreland Development Permit.
  - (4)** Conduct inspections of the use of buildings and land to determine compliance with the terms of this ordinance.
  - (5)** Maintain permanent and current records of this ordinance, including but not limited to all maps, amendments, and conditional uses, variances, appeals and applications therefor.
  - (6)** Receive, publish legal notices, research and report upon all applications for Appeals, Variances, Conditional Uses, Text or Map Amendments, and other matters to the designated official bodies.
  - (7)** Assist the County Board, Planning Advisory Commission and Board of Adjustment upon matters of floodplain and shoreland regulations.
  - (8)** Coordinate with townships on all development activities that required permits and approvals from both local government units.

- (9) Institute in the name of the County any appropriate actions or proceedings against a violator in accordance with this ordinance.

## **Section 3.02      BOARD OF ADJUSTMENT**

- (A) Pursuant to [Minnesota Statutes 394.27](#), the Olmsted County Zoning Board of Adjustment, has been established by the Olmsted County Board (Olmsted County Code of Ordinances Chapter 1400 Article 3 Section 3.12) and has the authority to order the issuance of variances, hear and decide appeals from and review any order, requirement, decision or determination made by the Zoning Administrator in accordance with [Section 3.11](#) this ordinance.
- (B) 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.
- (C) Appeal from an adverse decision of the Board of Adjustment on variance applications or appeals shall be made to the Olmsted County District Court.

## **Section 3.03      OLMSTED COUNTY PLANNING ADVISORY COMMISSION**

- (A) Pursuant to [Minnesota Statute Chapter 394.30](#), the Olmsted County Planning Advisory Commission shall hold public hearings for the following actions:
- (1) Floodplain and Shoreland map/ordinance text amendments. The Planning Advisory Commission

shall make a recommendation to the County Board for final determination on all map or ordinance amendments.

- (2) Floodplain Conditional Use Permit as required in [Article 4.00](#) and [Section 5.03](#) of this ordinance. The Planning Advisory Commission shall make final decisions for all floodplain conditional use permits in accordance with Section 3.09
- (3) Shoreland Conditional Use Permits as required in [Article 6.00](#) of this ordinance. The Planning Advisory Commission shall hold a hearing and make the final decision on shoreland conditional use permits, unless a Memorandum of Understanding has been established delegating that authority to a Township, in which case the Township will hold the hearing and make the final decision as provided in Section 3.04.

## **Section 3.04      TOWNSHIP ZONING CONTROLS**

- (A) Townships that have established their own zoning authority may issue permits for activities regulated under this ordinance provided a Floodplain/Shoreland Development Permit is first obtained by the applicant from the County as required in [Section 3.06](#) and [3.07](#) of this ordinance. The range of zoning controls a Township takes on shall be further clarified in a Memorandum of Understanding with the County, and may include, but is not limited to, the following:
  - (1) Building/Zoning Permits
  - (2) Grading and erosion control plans
  - (3) On-Site Sewage Treatment System
  - (4) Conditional Use Permits, in accordance with Article 6.00 of this ordinance.
  - (5) Subdivision of land in accordance with Township's Subdivision Ordinance and in accordance with Article 8 of this ordinance.

- (B) Any township that adopts official shoreland and/or floodplain controls must do so in compliance with [Minn. Stat. § 394.33](#), [Minn. Stat. § 103F.121](#), [Minnesota Rules, Part 6120.3900](#), [Subp. 4a](#) and/or [6120.5400](#). Until this occurs, the County shall retain jurisdiction under this ordinance within unincorporated lands of any given township. In the event that a township surrenders shoreland or floodplain authority, the County shall resume that authority.
- (C) Sequencing:
- (1) An approved Floodplain/Shoreland Development Permit from the County required in Section 3.06 and 3.07 must be submitted as part of the Township application prior to a Township holding a public hearing or making any decisions.
  - (2) Approval of the Floodplain/Shoreland Development Permit does not constitute final approval of the project. Final approval must be received from the Township.
  - (3) Conditions required by the Floodplain/Shoreland Development Permit must be incorporated into the Township's final approval. Any project changes after issuance of a Floodplain/Shoreland Development Permit shall void the permit and require a new application and review by the County for compliance under this ordinance.

### **Section 3.05      COMPLIANCE REQUIRED:**

- (A) It shall be the duty of all property owners, architects, contractors, subcontractors, builders and other persons involved in the use of property, the erecting, altering, changing or remodeling of any building or structure, including mobile homes, before beginning or undertaking any such use or work, to see that such work does not conflict with and is not in violation of the provisions of this ordinance; and any such property owner, architect, builder, contractor or other person using property, or doing or performing any such work and in violation of the provisions of this ordinance shall be held accountable for such violation.



## **Section 3.06      PERMITS REQUIRED.**

- (A) A permit in accordance with [Section 3.07](#) of this ordinance 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 6.07](#) of this ordinance.
- (B) A certificate of compliance, for a sewage treatment system 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.
- (C) Certificate of Zoning Compliance. The Zoning Administrator shall issue a certificate of zoning compliance for each activity requiring a permit as specified in [Section 3.07](#) 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 3.07](#) of this ordinance.

## **Section 3.07      PERMIT PROCESS**

- (A) Shoreland Development Permit Required: A person must obtain a Floodplain/Shoreland Development Permit from the County Zoning Administrator to verify compliance with all applicable standards in this Ordinance prior to conducting any permissible activities in [Article 6.00](#) of this Ordinance. The failure to do so is a violation of this ordinance. The activities include but are not limited to:

- (1) The construction of structures or building additions regardless of cost and size (and including such related activities as construction of fences, higher than six feet, ground mounted solar panels, decks, stairs and signs).
  - (2) The installation or alteration of a SSTS
  - (3) Vegetation Alteration in Accordance with [Section 6.06](#) of this ordinance.
  - (4) Those grading and filling activities not exempted by [Section 6.06.B](#) of this ordinance.
- (B)** Floodplain Development Permit Required. A Floodplain Development Permit must be obtained from the County Zoning Administrator to verify compliance with all applicable standards outlined in this Ordinance. The failure to do so is a violation of this ordinance. The activities include but are not limited to:
- (1) The erection, addition, modification, rehabilitation, repair, or alteration of any building, structure, or portion thereof. Normal maintenance requires a permit to determine if such work, either separately or in conjunction with other planned work, constitutes a substantial improvement, as specified in Section 7.03.
  - (2) The construction of a fence, pool, deck, or placement of anything that may cause a potential obstruction. Farm fences, as defined in Section 2.02.A.30 of this ordinance, are not considered to be an obstruction, and as such, do not require a permit.
  - (3) The change or expansion of a nonconforming use.
  - (4) The repair of a structure that has been damaged by flood, fire, tornado, or any other source.
  - (5) The placement of fill, excavation, utilities, on-site sewage treatment systems, or other service facilities.
  - (6) The storage of materials or equipment, in conformance with Section 4.05 Subdivision B Subsection 2.

- (7) Relocation or alteration of a watercourse (including stabilization projects or the construction of new or replacement dams, culverts and bridges). A local permit is not required if public waters work permit has been obtained from the Department of Natural Resources, unless a significant area above the ordinary high water level is also to be disturbed.
- (8) Any other type of “development,” as defined in Section 2.02 of this ordinance.

**(C) Permit Application Procedures**

- (1) Application for permit. Permit applications shall be submitted to the Olmsted County Planning Department on forms provided. Applicants shall provide all information as required for the administration of this ordinance.
- (2) Contents of Permit application. The permit application shall include the following:

  - (a) The names, addresses and telephone numbers of the owners of the property or any person having a legal interest therein.
  - (b) The legal description of the real property for which the permit is requested.
  - (c) A site plan showing all pertinent dimensions, and existing or proposed buildings, structures, and significant natural features having an influence on the permit.
  - (d) A sediment and erosion control plan including vegetation management and reestablishment.
  - (e) Location and detail of grading, fill, or storage of materials.
  - (f) Copies of any required local, state, or federal permits and approvals.

- (g) Other relevant information request by the Zoning Administrator.
  - (h) Shoreland Mitigation in accordance with Section 3.08 of this Ordinance.
  - (i) Application Fee. The application fee shall accompany the permit application.
- (3) Incomplete or Non-Conforming Application. If a permit application is not complete or otherwise does not conform with the requirements of this ordinance or Minnesota Statute Chapter 394, the Zoning Administrator shall advise the applicant in writing of the reasons for non-acceptance within 15 business days of receipt of the application.
- (4) Site Investigation. Upon receipt and acceptance of a permit application, the Zoning Administrator shall decide if a site investigation conducted by the Zoning Administrator is necessary.
- (5) Approval of Permit Required. The Zoning Administrator must review and approve the permit application before issuing a permit. Any work requiring a permit under this ordinance must not be initiated until the Zoning Administrator grants a permit.
- (6) Nonconforming SSTS. Any permit that is issued shall stipulate that an identified nonconforming SSTS shall be reconstructed or replaced in accordance with the provisions of this ordinance and Olmsted County Ordinance Chapter 3400.
- (7) Permit Expiration. A permit issued under Section 3.08 of this ordinance is valid for a period of no more than one year from the date of issue or until development activities have commenced, whichever comes first. The permit may be extended in accordance with Section 3.07.C.8 below.
- (8) Extensions and Renewals. The Zoning Administrator may grant an extension of a permit issued under this

section if other agency approvals are required and not obtained prior to expiration of the permit. The permit may be extended for a period of no more than one year. After one extension a new permit must be applied for in accordance with this section.

- (9) Permit Not Transferable. A permit issued under this section shall not be transferable to a new owner. The new owner must apply for a new permit in accordance with this section.
- (10) Denial of Permit. If the Zoning Administrator denies a permit to an applicant, the applicant shall be notified of such denial in writing. The applicant may appeal the permit denial to the Olmsted County Board of Adjustment pursuant to Section 3.04 above.
- (11) Certification Required. An applicant for a floodplain management permit must submit to the Zoning Administrator certification by a registered professional engineer, registered architect, or registered land surveyor that the finished fill and building elevations were accomplished in compliance with the provisions of the permit and this ordinance. Flood-proofing measures must be certified by a registered professional engineer or registered architect.
- (12) No Permit Required: Certain uses or activities may be exempt from obtaining a permit, such as planting a garden, farming, or other obviously insignificant activities such as putting up a mailbox or flagpole. The continuation of existing uses, when the associated uses and activities do not change and do not encroach further on the regulatory floodplain or trigger associated standards in this ordinance, do not require a permit. Applicants should check with the Zoning Administrator if uncertain.

## **Section 3.08     MITIGATION**

- (A) In evaluating all variances, conditional uses, and Floodplain/Shoreland Development permit applications in the

shoreland district, the Zoning Administrator shall consider and may require the property owner to address the following conditions, when related to and proportional to the impact, to meet the purpose of this ordinance and, to protect adjacent properties, and the public interest:

- (1) Advanced storm water runoff management treatment.
  - (2) Reducing impervious surfaces.
  - (3) Increasing setbacks from the ordinary high-water level.
  - (4) Restoration of wetlands.
  - (5) Limiting vegetation removal and/or requiring riparian vegetation restoration.
  - (6) Provisions for the location, design, and use of structures, sewage treatment systems, water supply systems, watercraft launching and docking areas, and parking areas.
  - (7) Other conditions the Zoning Administrator deems necessary.
- (B) 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 3.09**

### **FLOODPLAIN CONDITIONAL USES AND VARIANCES**

- (A) Conditional Use. An application for a conditional use permit in relation to Article 4.00 of this ordinance will be reviewed by the County Zoning Administrator and approved by the County Planning Advisory Commission.
- (B) Additional Conditional Use Criteria. The following additional factors shall be considered for Conditional Use Permits in the Floodplain Districts, and Flood Prone District:

- (1) The 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 susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
  - (4) The relationship of the proposed use to the flood plain management program for the area.
  - (5) The safety of access to the property in times of flood for ordinary and emergency vehicles.
  - (6) The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters expected at the site.
  - (7) The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.
  - (8) The importance of the services provided by the proposed facility to the community.
  - (9) The availability of alternative locations not subject to flooding for the proposed use.
  - (10) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
  - (11) 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.
- (C) Variances. An application for a variance to the provisions of this Ordinance will be reviewed by the County Zoning Administrator and acted on by the Olmsted County Zoning Board of Appeals in accordance with [Minnesota Statutes](#).

[section 394.27, Subd. 7](#) and this ordinance. Townships shall have the opportunity to provide comments to the County Board of Adjustments when variances are considered.

- (D)** 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.
  - (7)** Additional Variance Criteria. The following additional variance criteria of the Federal Emergency Management Agency must be satisfied:



- (a) Variances must not be issued within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.

- (b)** Variance may only be issued upon:

  - (i) A showing of good and sufficient cause;
  - (ii) A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
  - (iii) A determination that 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.
- (c)** Variances may only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (d)** Adherence to State Floodplain Management Standards. Variances must be consistent with the general purpose of these standards and the intent of applicable provisions in state and federal law. Though variances may be used to modify permissible methods of flood protection, no variance shall permit a lesser degree of flood protection than the Regulatory Flood Protection Elevation (RFPE).
- (e)** Flood Insurance Notice. The Zoning Administrator must notify the applicant for a variance in writing that:

  - (i) The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage; and

- (ii) Such construction below the base flood level increases risks to life and property. Such notification must be maintained with a record of all variance actions.

## **Section 3.10 VARIANCES**

### **SHORELAND CONDITIONAL USE PERMITS AND**

- (A) Conditional Use. An application for a conditional use prescribed in [Section 6.02](#), of this Ordinance will be reviewed by the County Zoning Administrator and heard and approved by the County Planning Advisory Committee, except in Townships that have established their own zoning authority and have a Memorandum of Understanding with the County under [Section 3.04](#). In those Townships, The County Zoning Administrator must first approve a Shoreland Development permit in accordance with [Section 3.06](#) and [Section 3.07](#) prior to hearing and approval by the Town Board. Conditions required by the Shoreland Development Permit, including but not limited to those detailed in [Section 3.08](#), must be incorporated into the Township's final approval.
- (B) Conditional Use Criteria: A thorough evaluation of the waterbody and topographic, vegetation, and soils conditions on the site must be made to ensure:
  - (1) The prevention of soil erosion or other possible pollution of public waters, both during and after construction;
  - (2) The visibility of structures and other facilities as viewed from public waters is limited;
  - (3) The site is adequate for water supply and on-site sewage treatment; and
  - (4) 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 watercrafts.

- (C) Variances. An application for a variance to the provisions of this Ordinance will be reviewed by the County Zoning Administrator and acted on by the Olmsted County Zoning Board of Appeals in accordance with [Minnesota Statutes, section 394.27, Subd. 7](#) and this ordinance.
- (D) Variance Criteria:
- (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.

**Section 3.11**  
**DECISION:**

**APPEAL OF THE ZONING ADMINISTRATOR'S**

- (A) 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](#).

**(B)** Appeal Procedures:

- (1)** The appeal application shall be submitted to the Olmsted County Planning Department within ten calendar (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.
- (2)** Within sixty calendar (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 calendar (60) days of the Board's scheduled public hearing date.

**Section 3.12**

**AGENCY NOTIFICATION REQUIREMENTS**

- (A)** All amendments to this ordinance must be submitted to the Department of Natural Resources for review and approval for compliance with the statewide shoreland management rules. The Olmsted County Planning Department will submit the proposed ordinance amendments to the commissioner or the commissioner's designated representative at least 30 days before any scheduled public hearings.
- (B)** All notices of public hearings to consider variances, ordinance amendments, or conditional uses under this ordinance must be sent to the commissioner or the commissioner's designated representative at least ten calendar (10) days before the hearings. Notices of hearings to consider proposed subdivisions/plats must include copies of the subdivision/plat. For any townships holding hearings under this ordinance through authority delegated through a Memorandum of Understanding, the County shall be responsible for notification under this section.

- (C) All approved ordinance amendments and subdivisions/plats, and final decisions approving variances or conditional uses under this ordinance must be sent to the commissioner or the commissioner's designated representative and postmarked within ten days of final action. When a variance is approved after the Department of Natural Resources has formally recommended denial in the hearing record, the notification of the approved variance shall also include the summary of the public record/testimony and the findings of facts and conclusions which supported the issuance of the variance.
- (D) Any request to change the shoreland management classification of public waters within Olmsted County must be sent to the commissioner or the commissioner's designated representative for approval, and must include a resolution and supporting data as required by Minnesota Rules, part 6120.3000, subp.4. The boundaries of shorelands may be reduced when the shoreland of water bodies with different classifications overlap. In these cases, the topographic divide between the water bodies shall be used for adjusting the boundaries.
- (E) Notifications for Watercourse Alterations. Before authorizing any alteration or relocation of a river or stream, the Zoning Administrator must notify adjacent township, city, county or other governmental jurisdiction. If the applicant has applied for a permit to work in public waters in accordance with Minnesota Statutes, Section 103G.245, this will suffice as adequate notice. A copy of the notification must also be submitted to FEMA.
- (F) Notification to FEMA: When Physical Changes Increase or Decrease Base Flood Elevations. Where physical changes affecting flooding conditions may increase or decrease the water surface elevation of the base flood, Olmsted County must notify FEMA of the changes in order to obtain a Letter of Map Revision (LOMR), by submitting a copy of the relevant technical or scientific data as soon as practicable, but no later than six months after the date such supporting information becomes available.

### **Section 3.13      AMENDMENTS**

- (A) Ordinance Amendments. Any revisions to the floodplain maps by the Federal Emergency Management Agency or annexations of new map panels require an ordinance amendment to update the map references in Section 4.02 of this ordinance.
- (B) Required Approval. The floodplain and shoreland ordinance shall not be considered valid until approved by the Department of Natural Resources.

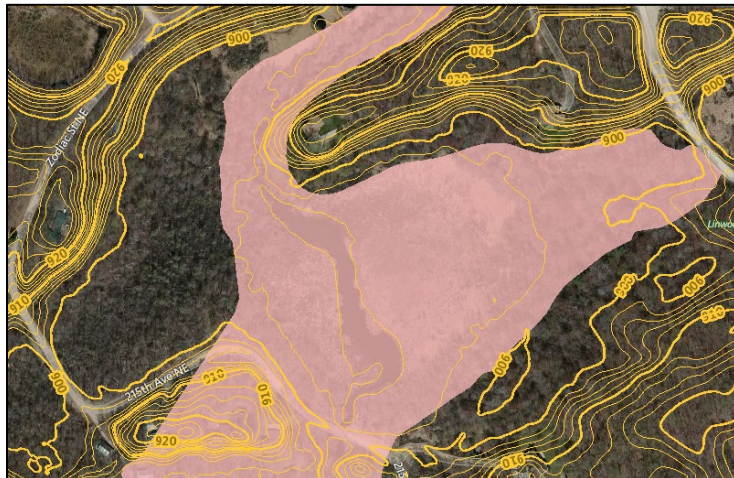
### **Section 3.14      MANDATORY EAW**

- (A) An Environmental Assessment Worksheet consistent with Minnesota Rules, Chapter 4410 must be prepared for projects meeting the thresholds of Minnesota Rules, part 4410.4300, Subparts 19a, 20a, 25, 27, 28, 29, and 36a.
- (B) Unless otherwise specified in Minnesota Rules, part 4410.4300, Subparts 19a, 20a, 25, 27, 28, 29, and 36a the Responsible Government Unit (RGU) for Environmental Assessment Worksheets in association with this ordinance is the County.

## ARTICLE IV. FLOODPLAIN JURISDICTION AND DISTRICTS

### Section 4.01 LAND TO WHICH ORDINANCE APPLIES

- (A) This ordinance applies to all lands within the jurisdiction of Olmsted County within the boundaries of the Floodway, Flood Fringe and General Floodplain Districts.
- (B) The Floodway, Flood Fringe or General Floodplain Districts are overlay districts. The standards imposed in the overlay districts are in addition to any other requirements. In case of a conflict, the more restrictive standards will apply.
- (C) Where a conflict exists between the floodplain limits illustrated on the official floodplain maps and actual field conditions (as illustrated in Figure 4-1), the Base Flood Elevation (BFE) shall be the governing factor in locating the outer boundaries of the one-percent annual chance floodplain.
- (D) Figure 4-1 Floodplain limit conflicts



- (E) 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 as an appeal and to submit technical evidence in accordance with [Section 3.11](#) of this ordinance.



## **Section 4.02      INCORPORATION OF MAPS BY REFERENCE.**

- (A) The following maps together with all attached material are hereby adopted by reference and declared to be a part of the official zoning map and this ordinance. The attached material includes the Flood Insurance Rate Map Index and the Flood Insurance Study for Olmsted County, Minnesota, and Incorporated Areas, both dated September 21, 2023 and April 19, 2017 prepared by the Federal Emergency Management Agency.
- (B) The Soil Survey of Olmsted County, Minnesota prepared by the United States Department of Agriculture, Soil Conservation Service, dated 1980.
- (C) The FFA Flood Fringe, and FFB Flood Fringe district boundaries as shown on the Olmsted County Zoning Map as updated with this Ordinance dated September 21, 2023.

## **Section 4.03      DISTRICTS**

- (A) Pertaining to all Flood Plain Districts including the Floodway (FW) District, FFA Flood Fringe District, FFB Flood Fringe 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 with the regulations applicable to the underlying use district in which the land is situated remaining in effect in all other respects.
- (B) Floodway District. Those areas within Zone AE delineated within floodway areas as shown on the Flood Insurance Rate Maps referenced in [Section 4.02 INCORPORATION OF MAPS BY REFERENCE](#). Those areas within Zone AE located outside of the delineated floodway, as shown on the Flood Insurance Rate Maps referenced in [Section 4.02](#).
- (C) General Floodplain District. Those areas within Zone A that do not have a floodway delineated as shown on the Flood Insurance Rate Maps referenced in [Section 4.02](#).
- (D) 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 as well as

those areas within Zone A determined to be in flood fringe based on the floodway delineation methods detailed in [Section 4.08](#).

- (1) 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.
- (2) FFB Flood Fringe District standards shall apply to all areas determined to be within the flood fringe, except parcels adjacent to Lake Zumbro that were developed prior to the establishment of the FFB district, where the FFA Flood Fringe District standards shall be applied.

#### **Section 4.04** **TOWNSHIPS**

#### **MUNICIPAL BOUNDARY ADJUSTMENTS &**

- (A) The Flood Insurance Rate Map panels referenced in [Section 4.02](#) apply Countywide. If at any point any lands come under the jurisdiction of another local government, the following shall apply:
- (B) City adjustments of corporate boundaries, including but not limited to annexations and detachments, shall shift floodplain administrative authority of all affected lands immediately upon the date of the boundary adjustment occurring. Cities retain jurisdictions for all incorporated lands, and the County retains jurisdiction under this ordinance on all unincorporated lands, except as provided under Item Section 4.04 Subdivision C below or as laid out in some form of administrative agreement.
- (C) Townships wishing to adopt official controls under [Minnesota Statutes, Section 394.33](#) may only obtain zoning authority for floodplain controls when they have adopted an ordinance that is approved by the Department of Natural Resources and have formally enrolled in the NFIP. Until this occurs, the County shall retain jurisdiction under this ordinance on all unincorporated lands.
- (D) In the event that a township surrenders zoning authority after obtaining an approved ordinance, the County shall resume that authority.

## Section 4.05

### **REQUIREMENTS FOR ALL FLOODPLAIN DISTRICTS**

- (A) A Floodplain Development Permit is required in accordance with [Section 3.06](#) and [Section 3.07](#) of this ordinance.
- (B) Minimum Development Standards.
  - (1) All developments must meet all of the following requirements:
  - (2) Be designed (or modified) and adequately anchored to prevent floatation, collapse, or lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
  - (3) Be constructed with materials and equipment resistant to flood damage.
  - (4) Be constructed by methods and practices that minimize flood damage.
  - (5) Be constructed with heating, ventilation, duct work, and air conditioning equipment and other service facilities elevated at least up to the Regulatory Flood Protection Elevation (RFPE). Water, sewage, electrical, and other utility lines below the RFPE shall be constructed so as to prevent water from entering or accumulating within them during conditions of flooding.
  - (6) Be reasonably safe from flooding and consistent with the need to minimize flood damage.
  - (7) Be assured to provide adequate drainage to reduce exposure to flood hazards.
  - (8) Not be detrimental to uses in adjoining areas.
  - (9) Not adversely affect the efficiency or restrict the flood carrying capacity of the channel and adjoining floodplain of any tributary watercourse or drainage system.
  - (10) Materials that, in time of flooding, are buoyant, flammable, explosive, or could be injurious to human, animal, or plant life shall be stored at or above the Regulatory Flood Protection Elevation (RFPE), floodproofed, or protected by other measures as

approved by the Zoning Administrator. Storage of materials likely to cause pollution of the waters, such as sewage; sand; rock; wrecked and discarded equipment; dredged spoil; municipal, agricultural or industrial waste; and other wastes as further defined in [Minnesota Statutes, Section 115.01](#), are prohibited unless adequate safeguards approved by the Minnesota Pollution Control Agency are provided. For projects not requiring approvals by the Minnesota Pollution Control Agency, adequate safeguards must be approved by the Zoning Administrator prior to issuance of a permit.

- (11) Critical facilities shall be located so that the lowest floor is not less than two feet above the Base Flood Elevation (BFE), or the 0.2% annual chance flood elevation, whichever is higher.

Table 4-1 Summary of Permitting requirements for Structures

Structure Type	Floodway	Flood Fringe-FFA	Flood Fringe-FFB	Standards*
Accessory Structures – on fill	Only specific uses and types-CUP	Floodplain Permit	CUP	4.07.E.4.b
Accessory Structures – Alt. Elevation Methods	Only specific uses and types-CUP	Floodplain Permit	CUP	4.07.C.2.c
Accessory Structures – Wet Floodproofing	Only specific uses and types-CUP	Floodplain Permit	CUP	4.07.E.4.a
Accessory Structures – Dry (watertight) Floodproofing	Not allowed	Floodplain Permit	CUP	4.07.F.4.d
Residential – on fill	Not allowed	Floodplain Permit	CUP	4.07.C.1
Residential – Alt. Elevation Methods	Not allowed	CUP	CUP	4.07.E
Residential – Dry (watertight) Floodproofing and/or Basement Construction below RFPE	Not allowed	Not allowed	Not allowed	N/A
Non-Residential – on fill	Not allowed	Floodplain Permit	CUP	4.07.D.1

Non-Residential – Alt. Elevation Methods	Not allowed	Floodplain Permit	CUP	4.07.D.2.b
Non-Residential – Dry (watertight) Floodproofing and/or Basement Construction below RFPE	Not allowed	Floodplain Permit	CUP	4.07.D.2.c

\*Note-many of these standards are cross-referenced to avoid duplication

## **Section 4.06      FLOODWAY DISTRICT**

**(A) Permitted Uses in Floodway.** Development allowed in the floodway district is limited to that which has low flood damage potential and will not obstruct flood flows, increase velocities, or increase the water surface elevations of the one-percent annual chance flood. The following uses and activities may be allowed with a permit, subject to the standards in [Section 3.06](#) and [Section 3.07](#):

- (1)** Agricultural uses, recreational uses, parking lots, loading areas, airport landing strips, water control structures, navigational facilities, as well as public open space uses.
- (2)** Public or Private Roads, driveways, railroads, trails, bridges, and culverts.
- (3)** Public utility facilities and water-oriented industries which must be in or adjacent to watercourses.
- (4)** Grading, filling, land alterations, and shoreline stabilization projects.
- (5)** No structures, as defined in Section 2.02, are allowed in the Floodway District, except structures accessory to the uses detailed in Section 4.06 Subdivision A Subdivision 1 (above) and 4.06 Subdivision C Subdivision 1 (below) of this ordinance, which require a conditional use permit under Section 3.09.
- (6)** Levees or dikes intended to protect agricultural crops, provided the top of the dike does not exceed the 10-percent annual chance flood event.

**(B) Standards for Permitted Uses in Floodway.** In addition to the applicable standards detailed in [Section 4.05](#):

- (1)** The applicant must demonstrate that the development will not result in any of the following during the one-percent annual chance flood: cause a stage increase of 0.00 feet or greater, obstruct flood flows, or increase velocities. This shall be demonstrated through hydrologic and hydraulic analysis performed by a professional engineer, or using other standard engineering practices (e.g., projects that restore the site to the previous cross-sectional area). This is commonly documented through a “no-rise certification.”
- (2)** Any development that would result in a stage increases greater than 0.00 feet may only be allowed with a permit if the applicant has applied for and received approval for a Conditional Letter of Map Revision (CLOMR) in accordance with 44 CFR § 65.12. Map revisions must follow the procedures in Sections 3.13.
- (3)** Any development resulting in decreases to the water surface elevation of the base flood identified in the Flood Insurance Study requires a Letter of Map Revision (LOMR) following the procedures in Sections **3.12 and 3.13**.
- (4)** Any development in the beds of public waters that will change the course, current or cross section is required to obtain a public waters work permit in accordance with Minnesota Statutes, Section 103G.245 or a utility crossing license in accordance with Minnesota Statutes, Section 84.415, from the Department of Natural Resources, or demonstrate that no permit is required, before applying for a local permit.
- (5)** Any facility used by employees, or the general public must be designed with a flood warning system acceptable to the Zoning Administrator that provides adequate time for evacuation or be designed to ensure that within the area inundated during the base flood

event, the depth (in feet) multiplied by the velocity (in feet per second) is less than four.

- (6) Fill and other land alteration activities must offer minimal obstruction to the flow of flood waters and be protected from erosion and sediment entering surface waters by the use of vegetative cover, riprap or other methods as soon as possible.

(C) **Conditional Uses in Floodway.** The following uses and activities may be permitted as conditional uses, subject to the standards detailed in [Section 3.09](#):

- (1) Commercial extractive uses, and storage and stockpiling yards.
- (2) Structures accessory to uses detailed in Section 4.06.A.1 and Section 4.06.C.1.

(D) **Standards for Conditional Uses in Floodway.** In addition to the applicable standards detailed in [Sections 3.09](#), [Section 4.05](#), [Section 4.06.B](#):

- (1) Extractive uses as defined in Section 2.02.A.28 and storage of materials require the completion of a site plan and a restoration plan, to be approved by Olmsted County.
- (2) Accessory Structures. Structures accessory to the uses detailed in Section 4.06.A.1 and Section 4.06.C must be constructed and placed so as to offer a minimal obstruction to the flow of flood waters and are subject to the standards in Section 4.07.C of this ordinance.

## Section 4.07

### **FLOOD FRINGE DISTRICT-FFA AND FFB**

- (A) Permitted Uses in FFA Flood Fringe. Any uses or activities allowed in any applicable underlying zoning districts may be allowed with a permit, subject to the standards set forth in [Section 3.06](#) and [3.07](#).

**(B)** Permitted Uses in FFB District: The following uses have a low flood damage potential and do not obstruct flood flows. These uses are permitted in the FFB 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 mainstream, drainage ditch or any other drainage facility. The following uses are permitted in this district:

- (1)** Agricultural Uses: Agricultural uses such as general farming, pasture, grazing, outdoor growing of nursery stock, horticulture, truck farming, forestry, and sod farming, 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)** Standards for Permitted and Conditional Uses in FFA and FFB Flood Fringe. In addition to the applicable standards detailed in Section 4.05:

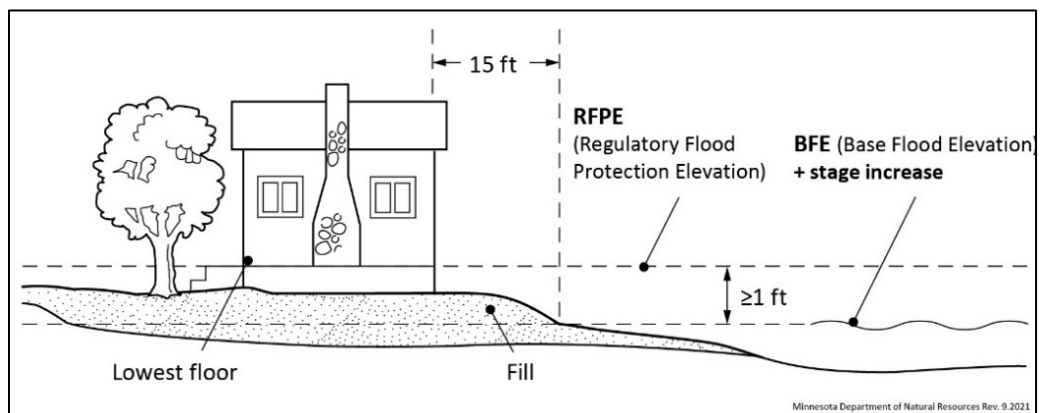
**(C)** Residential Structures.

- (1)** Elevation on Fill. All structures to be erected, constructed, reconstructed, altered, or moved on fill within the Flood Fringe District shall be placed so that the lowest floor, as defined in [Section 2.02.A.49](#) of this ordinance, is elevated at or above the Regulatory Flood Protection Elevation (RFPE). The finished fill



elevation shall be at or above the elevation associated with the base flood plus any stage increases that result from designation of a floodway. Fill must extend at the same elevation at least 15 feet beyond the outside limits of the structure. Elevations must be certified by a registered professional engineer, land surveyor or other qualified person designated by the Zoning Administrator. Elevation methods alternative to these fill standards are subject to a Conditional Use Permit, as provided in Section 4.07.D.2 of this ordinance (Figure 4-2).

(2) Figure 4-2 Example of fill standards for residential structures



(D) Nonresidential Principal Structures. Nonresidential principal structures must meet one of the following construction methods:

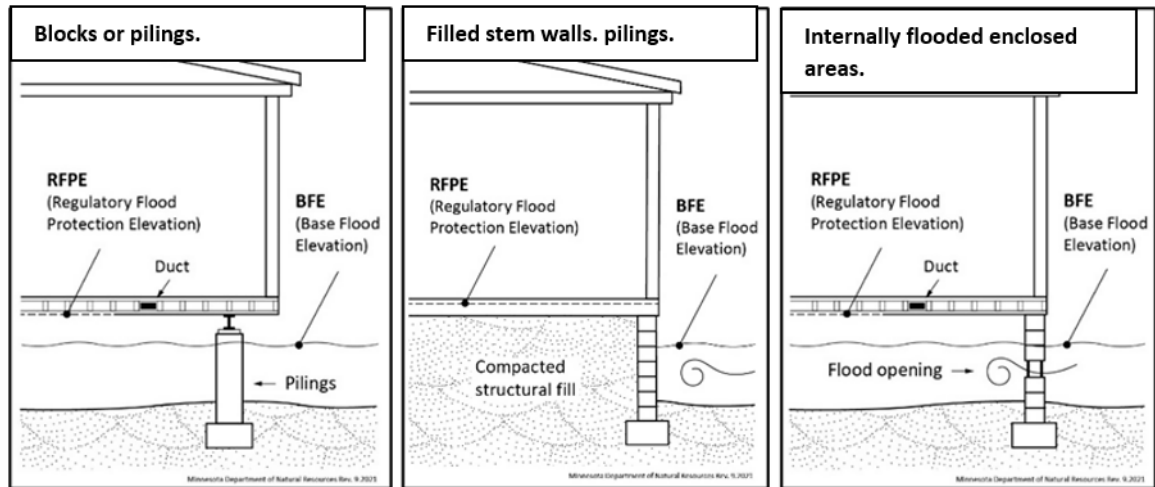
(1) Elevation on Fill. Structures may be elevated on fill, meeting the standards in Section 4.07.C.1.a of this ordinance.

(a) Fill for nonresidential structures is not required to be extended 15 feet beyond the outside limits of the structure.

(2) Alternative Elevation Methods. Structures may have their lowest floor elevated above the Regulatory Flood Protection Elevation (RFPE) using methods alternative

to the fill standards in Section Section 4.07.C.1 of this ordinance. Such methods as shown in Figure 4-3 include the use of blocks, pilings (left), filled stem walls (middle), or internally-flooded enclosed areas such as crawl spaces (right), attached garages, or tuck under garages.

(a) Figure 4-3 Examples of Alternative Elevation Measures



(b) Designs accommodating for internally-flooded enclosed areas must be certified by a registered professional engineer or architect, or meet or exceed the standards detailed in [FEMA Technical Bulletin 1](#), as amended, as well as the following standards:

- (i) The floor of the enclosed area must be at or above the exterior grade on at least one side of the structure.
- (ii) To allow for the equalization of hydrostatic pressure, there shall be a minimum of two openings below the base flood elevation on at least two sides of the structure. The bottom of all openings shall be no higher than one foot above grade. The openings shall have a minimum net area of not less than one square inch for every square foot of enclosed area subject to flooding, have a net area of not less than one square inch for every square foot of enclosed area subject to flooding, and shall allow

automatic entry and exit of floodwaters without human intervention.

- (iii) Internally flooded enclosed areas shall only be used for the parking of vehicles, building access, or storage. Bathrooms and toilet rooms shall not be allowed. Such areas shall be subject to a deed-restricted non-conversion agreement as well as periodic inspections with the issuance of any permit.
- (c) Dry Floodproofing. Structures having watertight enclosed basements or spaces below the Regulatory Flood Protection Elevation (RFPE) must meet the following standards:
  - (i) Walls must be substantially impermeable to the passage of water, with structural components having the capacity of resisting hydrostatic and hydrodynamic loads and effects of buoyancy, at least up to the Regulatory Flood Protection Elevation (RFPE);
  - (ii) Must meet the standards of FEMA Technical Bulletin 3, as amended; and
  - (iii) A registered professional engineer or architect shall be required to certify that the design and methods of construction meet the standards detailed in this Section.
- (E) Accessory Structures. All accessory structures must meet the following standards:
  - (1) Structures shall not be designed or used for human habitation.
  - (2) Structures will have a low flood damage potential.

- (3)** Structures with fewer than two rigid walls, such as carports, gazebos, and picnic pavilions, may be located at an elevation below the RFPE.
- (4)** Structures with two or more rigid walls, must meet one of the following construction methods:

  - (a)** Wet Floodproofing. Structures may be floodproofed in a way to accommodate internal flooding. Such structures shall constitute a minimal investment not to exceed 576 square feet in size, one-story in height, and shall only be used for parking and storage. To allow for the equalization of hydrostatic pressure, there shall be a minimum of two openings on at least two sides of the structure and the bottom of all openings shall be no higher than one foot above grade. The openings shall have a minimum net area of not less than one square inch for every square foot of enclosed area subject to flooding, and shall allow automatic entry and exit of floodwaters without human intervention.
  - (b)** Elevation on Fill. Structures may be elevated on fill, meeting the standards in Section 4.07.C.1 of this ordinance. Fill is not required to be extended 15 feet beyond the outside limits of the structure.
  - (c)** Alternative Elevation Methods. Structures may have their lowest floor elevated above the RFPE through methods alternative to the fill standards in Section 4.07C.3.d.i, meeting the standards in Section 4.07.C.2.c of this ordinance.
  - (d)** Dry Floodproofing. Structures may be dry-floodproofed, or watertight, meeting the standards in Section 4.07.C.2.d of this ordinance.
- (F)** Fill. The cumulative placement of fill or other materials for any purpose, up to 1,000 cubic yards, is permitted. Additional fill

over 1,000 cubic yards is only permitted if the fill is specifically intended to elevate a structure in accordance with Section 4.07.C.1 and or Section 4.07.C.2 of this ordinance, or for a transportation project in accordance with Section 4.09.

- (1)** Fill over 1,000 cubic yards for purposes other than these purposes requires a conditional use permit as provided in Section 3.09.
  - (2)** Materials must be protected from erosion, discharge, and sediment entering surface waters by the use of vegetative cover or other methods as soon as possible.
- (G)** All new principal structures must provide for vehicular access no lower than one foot below the Base Flood Elevation (BFE).
- (H)** Any facilities used by employees, or the general public must be designed with a flood warning system acceptable to Olmsted County that provides adequate time for evacuation, or be designed to ensure that within the area inundated during the base flood event, the depth (in feet) multiplied by the velocity (in feet per second) is less than four.
- (I)** Manufactured homes and recreational vehicles must meet the standards of Section 4.10 of this ordinance.
- (J)** Conditional Uses in FFA Flood Fringe. The following uses and activities may be permitted as conditional uses, subject to the standards in Sections 4.07.F (below):
  - (1)** Alternative Elevation Methods – Residential Structures. Residential structures with their lowest floor elevated above the Regulatory Flood Protection Elevation (RFPE) using methods alternative to the fill requirements in Section 4.07.B.2.
  - (2)** Fill. The cumulative placement of more than 1,000 cubic yards of fill or other materials, when the fill is not being used to elevate a structure or for a transportation project.
  - (3)** Conditional Uses in FFB Flood Fringe. Other uses are permitted only upon application to the Zoning Administrator

and the issuance of a conditional use permit as provided in Section 4.07.F and subject to the following provisions:

- (4) Uses permitted in Section 4.07.A, Permitted Uses, and in Section 4.07.D Conditional Uses, subject to provisions set forth in Section 4.07.F.
- (K) 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 District shall not result in an increase in erosion potential on the site after such activities are completed.
- (L) Standards for Conditional Uses in FFB Flood District. In addition to the applicable standards detailed in Sections [3.09](#), and [4.08](#):

  - (1) All residential structures with lowest floors elevated through alternative elevation methods must meet the standards for nonresidential structures in Section 4.07.C.2 of this ordinance.
  - (2) The placement of more than 1,000 cubic yards of fill or other materials (other than for the purpose of elevating a structure or for a transportation project) must comply with a site development and restoration plan approved by the Zoning Administrator. The plan must detail the anticipated topographic alterations and identify actions to be taken to mitigate environmental impacts, particularly erosion.

- (3) 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:
- (i) Fill deposited in the flood fringe area shall be no more than the minimum amount necessary to conduct the use.
  - (ii) 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.
  - (iii) The effect of such activities in the FFB Flood District shall not result in an increase in erosion potential on the site after such activities are completed.



## Section 4.08

## **GENERAL FLOODPLAIN DISTRICT**

### **(A) Permitted Uses**

- (1)** Until the floodway is delineated, allowable uses will be restricted to those listed in the Floodway District, [Section 4.06](#) of this ordinance.

### **(B) All other uses are subject to a floodway/flood fringe determination as provided in Section 4.08.D, in addition to the standards provided in Sections 4.08.B and C. Permitted uses shall be determined as follows:**

- (1)** If the development is determined to be in the Floodway District, Section 4.06 applies.
- (2)** If the development is determined to be in the Flood Fringe District, Section 4.07.B applies.

### **(C) Standards for Determining Flood Elevations**

All development requires a determination of the Base Flood Elevation (BFE). Exceptions to this requirement include projects that restore the site to the previous cross-sectional area, such as shore stabilization or culvert replacement projects. Base Flood Elevations (BFE) may be found using best available data from any Federal, State, or other source (including [MNDNR's Lake & Flood Elevations Online](#) (LFEO Viewer)).

The Regulatory Flood Protection Elevation (RFPE) can be determined by assuming a one-half (0.5) foot stage increase to accommodate for future cumulative impacts. A stage increase does not need to be assumed along lakes, wetlands, and other basins that are not affected by velocities.

### **(D) Encroachment Analysis**

- (1)** Encroachments due to development may not allow stage increases more than one-half (0.5) foot at any point. This evaluation must include the cumulative effects of previous encroachments and must be documented with hydrologic and hydraulic analysis performed by a professional engineer or using other

standard engineering practices. A water surface elevation increases less than one-half (0.5) foot is required if, due to the water surface level increase, increased flood damages would potentially result.

**(2) Standards for the Analysis of Floodway Boundaries**

**(a)** Requirements for Detailed Studies. Any development, as requested by the Zoning Administrator, shall be subject to a detailed study to determine the Regulatory Flood Protection Elevation (RFPE) and the limits of the Floodway District. This determination must be consistent with the minimum standards for hydrologic and hydraulic mapping standards and techniques, as detailed in [Minnesota Rules, part 6120.5600, Subp. 4](#) and FEMA Guidelines and Standards for Flood Risk Analysis and Mapping, as revised. Additionally:

**(b)** A regulatory floodway necessary to carry the discharge of the one-percent annual chance flood must be selected without increasing the water surface elevation more than one-half (0.5) foot at any point. This determination should include the cumulative effects of previous encroachments. A water surface elevation increases less than one-half (0.5) foot is required if, due to the water surface level increase, increased flood damages would potentially result; and

**(c)** An equal degree of encroachment on both sides of the stream within the reach must be assumed in computing floodway boundaries, unless topography, existing development patterns, and comprehensive land use plans justify a modified approach, as approved by the Department of Natural Resources.

**(3) Other Acceptable Methods.** For areas where a detailed study is not available or required:

- (a)** Development prohibited in floodways (e.g., most buildings) requires a floodway/flood fringe determination to verify the development is within the flood fringe. This determination must be done by a professional engineer or utilize other accepted engineering practices. The Department of Natural Resources may also provide technical assistance and must approve any alternative methods used to determine floodway boundaries.
- (b)** For areas where the floodway has not been determined in and along lakes, wetlands, and other basins, the following methodology may be used as an alternative to Item A above, provided these areas are not affected by velocities and the lot is able to accommodate a building site above the Regulatory Flood Protection Elevation (RFPE):
- (c)** All areas that are at or below the ordinary high-water level, as defined in [Minnesota Statutes, Section 103G.005, Subd. 14](#), will be considered floodway, and all areas below the Base Flood Elevation (BFE) but above the ordinary high-water level will be considered flood fringe, provided that within 25 feet of the ordinary high-water level, or within the Shore Impact Zone as identified in the community's Shoreland ordinance, whichever distance is greater, land alterations shall be restricted to:
- (d)** The minimum required to accommodate beach areas, access areas, and accessory structures as permitted, not to exceed a volume greater than 10 cubic yards; projects involving volumes exceeding 10 cubic yards require floodway/flood fringe determination in accordance with the procedures in Section 4.08 Subdivision D Subdivision 1; and

- (e) The minimum required to accommodate shoreline stabilization projects to correct an identified erosion problem as verified by a qualified resource agency such as the Soil and Water Conservation District, DNR, MPCA, watershed district, or the Zoning Administrator.

#### **Section 4.09 RAILROADS, ROADS, BRIDGES, AND PUBLIC AND PRIVATE UTILITIES AND SERVICE FACILITIES**

- (A) Public Transportation Facilities. Railroad tracks, roads, and bridges must be elevated to the Regulatory Flood Protection Elevation (RFPE) where such facilities are essential to the orderly functioning of the area, or where failure or interruption would result in danger to public health or safety. 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. All public transportation facilities should be designed to minimize increases in flood elevations.
- (B) Public Utilities. All utilities such as gas, electrical, sewer, broadband, telephone or other similar service line, and water supply systems to be located in the floodplain must be elevated and/or floodproofed to the Regulatory Flood Protection Elevation (RFPE), be located and constructed to minimize or eliminate flood damage, and be designed to eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters. All public utilities should be designed to minimize increases in flood elevations. New solid waste management facilities, as defined in Minnesota Rules, part 7035.0300, are prohibited in the one-percent annual chance floodplain. Water supply systems are subject to the provisions in [Minnesota Rules, part 4725.4350](#).
- (C) Private On-site Water Supply, Individual Sewage Treatment Systems, and other Service Facilities. Private facilities shall be subject to applicable provisions detailed in Section 4.09 Subdivision B. In addition, new or replacement on-site sewage treatment systems are to be located to avoid impairment to them or contamination from them during times

of flooding, shall not be located in a designated floodway, and are subject to the provisions in [Minnesota Rules, parts 7080.2270](#).

## **Section 4.10** **VEHICLES**

### **MANUFACTURED HOMES AND RECREATIONAL**

- (A) **Manufactured Homes.** Manufactured homes and manufactured home parks are subject to applicable standards for each floodplain district. In addition:
- (1) New and replacement manufactured homes must be placed and elevated in compliance with [Section 4.07](#) of this ordinance and must be securely anchored to a 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.
  - (2) New manufactured home parks and expansions to existing manufactured home parks must meet the appropriate standards for subdivisions in [Article 7](#) of this ordinance.
- (B) **Recreational Vehicles.** New recreational vehicle parks or campgrounds and expansions to existing recreational vehicle parks or campgrounds are prohibited in any floodplain district. Recreational vehicles placed in existing recreational vehicle parks, campgrounds or lots of record in the floodplain must either:
- (1) Meet the requirements for manufactured homes in Olmsted County Code of Ordinances, Chapter 1400 Article 10, Section 10.1, or
  - (2) Be travel ready, meeting the following criteria:
  - (3) The vehicle must be fully licensed.
  - (4) The vehicle must be ready for highway use, meaning on wheels or the internal jacking system, attached to the site only by quick disconnect type utilities.
  - (5) No permanent structural type additions may be attached to the vehicle.

- (6) Accessory structures may be permitted in the Flood Fringe District, provided they do not hinder the removal of the vehicle should flooding occur, and meet the standards outlined in [Sections 4.05](#) and [4.07.C.3](#).

## **ARTICLE V. FLOOD PRONE DISTRICT**

### **Section 5.01 PURPOSE OF THE FLOOD PRONE DISTRICT**

- (A) 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.
- (B) 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 connected to and within 300 feet of any intermittent or public waterway.
- (C) Any land not located in a FEMA mapped floodplain as referenced above, but contain the following soils which are subject to flooding shall be deemed to be within the Flood Prone District. Table 5-1 shown below are the soil symbol and names corresponding with the FP.

(D) Table 5-1 Flood Prone Soils

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

## Section 5.02

### **PERMITTED USES:**

- (A) The following uses, having a low flood damage potential and which do not obstruct flood flows, are permitted within the Flood Prone 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 mainstream, 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.

## **Section 5.03      CONDITIONAL USES:**

- (A) 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 any residential primary or accessory structure.
  - (2) Must provide flood elevations in accordance with [Section 4.08](#)
  - (3) Constructed and placed on the building site so as to offer the minimum resistance to the flood or floodwaters.
  - (4) Placement of any non-residential structure.
  - (5) Must provide flood elevations in accordance with [Section 4.08](#)
  - (6) Non-residential structures may be elevated by alternative means described in [Section 4.07.C.2](#)
  - (7) Placement of fill, except when fill is used as part of an approved soil conservation service drainage control structure.
  - (8) Extraction of sand, gravel, and other minerals.



- (9) Other railroads, streets, bridges, utility transmission lines and pipelines not included as a permitted use in the previous Section 5.02.A.6.
- (10) Storage yards for equipment, machinery, or materials.
- (11) Other uses similar in nature to uses described in [Section 5.02.A](#), Permitted Uses, or [5.03.A Conditional Uses](#).

## Section 5.04

### **GENERAL FLOOD PRONE REGULATIONS:**

- (A) 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.
  - (1) In addition, all flood prone conditional uses shall be subject to the following regulations:
  - (2) Floodplain/Shoreland Development Permit-All Conditional Use Permits must include a Floodplain/Shoreland Development Permit in accordance with [Section 3.06](#) and [3.07](#)
- (B) Fill:
  - (1) 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.
  - (2) Such fill or other materials shall be protected against erosion by rip-rap, vegetative cover or bulk heading.
  - (3) 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 5.04.A.1.a.

**(C) Utilities, Railroad Tracks, Streets, and Bridges**

- (1)** 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.
- (2)** 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.

**(D) On-site Water Supply and Sewage Treatment Systems:**  
Where public utilities are not provided:

- (1)** 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.
- (2)** 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.

**(E) Storage of Material and Equipment:**

- (1)** 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.

- (2) Storage of other material or equipment may be allowed if not subject to major damage by floods and firmly anchored to prevent flotation.
  - (3) 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.
- (F) 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:
  - (1) 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.
  - (2) 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.
  - (3) 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.

## ARTICLE VI. SHORELAND DISTRICT

### Section 6.01 SHORELAND CLASSIFICATION SYSTEM AND LAND USE DISTRICTS

- (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.
- (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.
- (C) Table 6-1 below classifies Lakes as follows:

Lake Classification; DNR Public Waters ID #

**General Development- Lake Florence 55-1**

**Recreational Development; Lake Zumbro 55-4**

**Natural Environment – Lake Mayowood 55-2, Lake Shady 55-5**

- (D) Table 6-2 below classifies Rivers and Streams as follows:

	From Section	From Township	From Range	To Section	To Township	To Range
<b>Urban River listed below:</b>						
<i>South Fork Zumbro River</i>	14	107	14	14	107	14
<b>Agricultural Rivers listed below:</b>						
<i>Middle Fork Zumbro River</i>	7	108	15	4	108	15
<i>So. Branch Middle Fork Zumbro River</i>	8	107	15	13	108	15
<i>South Fork Zumbro River</i>	7	105	15	17	106	14
<i>South Fork Zumbro River</i>	8	106	14	9	106	14
<i>North Branch Root River</i>	6	104	15	33	105	14
<i>North Branch Root River</i>	26	105	14	15	105	13
<i>North Branch Root River</i>	21	105	12	36	105	12
<i>South Fork Whitewater River</i>	13	106	12	24	106	11
<i>North Fork Whitewater River</i>	27	107	12	4	107	12

**Transition River listed below:**

<i>Middle Fork Zumbro River</i>	3	108	15	12	108	15
<i>Middle Fork Zumbro River</i>	17	108	14	15	108	14
<i>So. Branch Middle Fork Zumbro River</i>	18	107	15	8	107	15
<i>South Fork Zumbro River</i>	11	107	14	23	108	14
<i>North Branch Root River</i>	10	105	13	21	105	12
<i>Middle Fork Whitewater River</i>	34	107	11	25	107	11
<i>North Fork Whitewater River</i>	3	107	11	1	107	11

\* No Forested or Remote Rivers within Olmsted County

- (2) Tributary Streams: All other protected watercourses in Olmsted County not listed above on Table 6-2 are given the classification shown on the DNR's Online classification application located at: [https://www.dnr.state.mn.us/waters/watermgmt\\_section/shoreland/lake\\_shoreland\\_classifications.html#map-application](https://www.dnr.state.mn.us/waters/watermgmt_section/shoreland/lake_shoreland_classifications.html#map-application) .

## Section 6.02 LAND USES

- (A) 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.
- (B) All uses must also conform with the underlying zoning district with the more restrictive standard applying.
- (C) Shoreland district land uses listed in Table 6-3 Table 6-4 are regulated as:
- (1) Permitted uses (P). These uses are allowed, provided all standards in this ordinance are followed.
- (2) Conditional uses (C). These uses are allowed through a conditional use permit. The use must be evaluated according to the criteria in [Section 6.05.B](#) of this

ordinance and any additional conditions listed in this ordinance; and

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

(D) Table 6-3 identifies land uses for lake classifications found in Table 6-1:

(1) Table 6-3 Land Use Summary-Lakes

Land Uses if allowed by underlying zoning	General Development	Recreational Development	Natural Environment
Single residential	P	P	P
Duplex, triplex, quad residential	P	P	C
Residential PUD	C	C	C
Water-dependent commercial - As accessory to a residential planned unit development	C	C	C
Commercial	P	P	C
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 Subdivision R of this ordinance are satisfied.	C	C	C
Guest Cottages	N	N	N
Parks & historic sites	C	C	C
Public, semipublic	P	P	C
Industrial	C	C	N
Agricultural: cropland and pasture	P	P	P
Agricultural feedlots - New	N	N	N
Agricultural feedlots - Expansion or resumption of existing	C	C	C
Forest management	P	P	P
Forest land conversion	C	C	C
Extractive use	C	C	C
Mining of metallic minerals and peat	P	P	P

(E) Table 6-4 identifies land uses for river and stream classification as found in Table 6-2:

(1) Land Uses if allowed by underlying zoning district	Transition	Agriculture	Urban	Tributary
Single residential	P	P	P	P
Duplex, triplex, quad residential	P	P	P	P
Residential PUD	C	C	C	C
Water-dependent commercial - As accessory to a residential planned unit development	C	C	C	C
Commercial	C	C	P	P
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 Section 5.04 of this ordinance are satisfied.	C	C	C	C
Guest Cottages	N	N	N	N
Parks & historic sites	C	C	C	C
Public, semipublic	C	C	P	P
Industrial	N	N	C	C
Agricultural: cropland and pasture	P	P	P	P
Agricultural feedlots - New	N	N	N	N
Agricultural feedlots - Expansion or resumption of existing	C	C	C	C
Forest management	P	P	P	P
Forest land conversion	C	C	C	C
Extractive use	C	C	C	C
Mining of metallic minerals and peat	P	P	P	P

## Section 6.03 SPECIAL LAND USE PROVISIONS

(A) River Corridor District: The following 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 District 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:
    - (a) The use complies with provisions of [Section 6.05](#).
    - (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; and

- (ii) Signs placed within the shore impact zone are:
- (iii) No higher than ten feet above the ground, and no greater than 32 square feet in size; and
- (iv) If illuminated by artificial lights, the lights must be shielded or directed to prevent illumination across public waters; and
- (v) 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 6.04 STANDARDS**

### **DIMENSIONAL AND GENERAL PERFORMANCE**

- (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 Tables 6-7 through 6-13, 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 quad (as defined in [Section 2.02.A.62](#)) are allowed only if designed and approved as residential PUDs under [Section 6.07](#) of this ordinance.
- (5) Lake Minimum Lot Area and Width Standards: Tables 6:7-12 (Subdivision a-f) 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:

(a) Table 6-7 General Development – No Sewer

	Riparian Lot Area (sf)	Riparian Lot Width (ft)	Non-Riparian Lot Area (sf)	Non-Riparian Lot Width (ft)
<b>Single</b>	87,120	100	87,120	150
<b>Duplex</b>	87,120	180	87,120	265
<b>Triplex</b>	87,120	260	120,000	375
<b>Quad</b>	87,120	340	160,000	490

(b) Table 6-8 General Development – Sewer

	Riparian Lot Area (sf)	Riparian Lot Width (ft)	Non-Riparian Lot Area (sf)	Non-Riparian Lot Width (ft)
<b>Single</b>	15,000	75	10,000	75
<b>Duplex</b>	26,000	135	17,500	135
<b>Triplex</b>	38,000	195	25,000	190
<b>Quad</b>	49,000	255	32,500	245

i.

(c) Table 6-9 Recreational Development – No Sewer

	<b>Riparian Lot Area (sf)</b>	<b>Riparian Lot Width (ft)</b>	<b>Non-Riparian Lot Area (sf)</b>	<b>Non-Riparian Lot Width (ft)</b>
<b>Single</b>	87,120	150	87,120	150
<b>Duplex</b>	87,120	225	87,120	265
<b>Triplex</b>	120,000	300	120,000	375
<b>Quad</b>	160,000	375	160,000	490

(d) Table 6-10 Recreational Development – Sewer

	<b>Riparian Lot Area (sf)</b>	<b>Riparian Lot Width (ft)</b>	<b>Non-Riparian Lot Area (sf)</b>	<b>Non-Riparian Lot Width (ft)</b>
<b>Single</b>	20,000	75	15,000	75
<b>Duplex</b>	35,000	135	26,000	135
<b>Triplex</b>	50,000	195	38,000	190
<b>Quad</b>	65,000	255	49,000	245

(e) Table 6-11 Natural Environment – No Sewer

	<b>Riparian Lot Area (sf)</b>	<b>Riparian Lot Width (ft)</b>	<b>Non-Riparian Lot Area (sf)</b>	<b>Non-Riparian Lot Width (ft)</b>
<b>Single</b>	87,120	200	87,120	200
<b>Duplex</b>	120,000	300	160,000	400
<b>Triplex</b>	160,000	400	240,000	600
<b>Quad</b>	200,000	500	320,000	800

(f) Table 6-12 Natural Environment – Sewer

	<b>Riparian Lot Area (sf)</b>	<b>Riparian Lot Width (ft)</b>	<b>Non-Riparian Lot Area (sf)</b>	<b>Non-Riparian Lot Width (ft)</b>
<b>Single</b>	87,120	200	87,120	200
<b>Duplex</b>	120,000	300	160,000	400
<b>Triplex</b>	160,000	400	240,000	600
<b>Quad</b>	200,000	500	320,000	800

- (6) River/Stream segments must meet the underlying zoning district lot area requirements. In addition, the following lot width standards shown in Table 6-13 must be met:

(a) Table 6-13 River/Stream Lot Width Requirements

Dwelling Type	Transition	Agricultural	Urban/Tributary (unsewered)	Urban/Tributary (sewered)
Single	250'	150'	100'	75'
Duplex	375'	225'	150'	115'
Triplex	500'	300'	200'	150'
Quad	625'	375'	250'	190'

**(B) Special Residential Lot Provisions**

- (1) 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.
  - (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 6-14:
- (c) Table 6-14 Controlled Access Lot Frontage Requirements

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

- (d) 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
- (e) 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.
- (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 6.05      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. Structures shall be located as shown in Table 6-15.

- (1) Table 6-15 Structure and Sewage Treatment System Setback Requirements

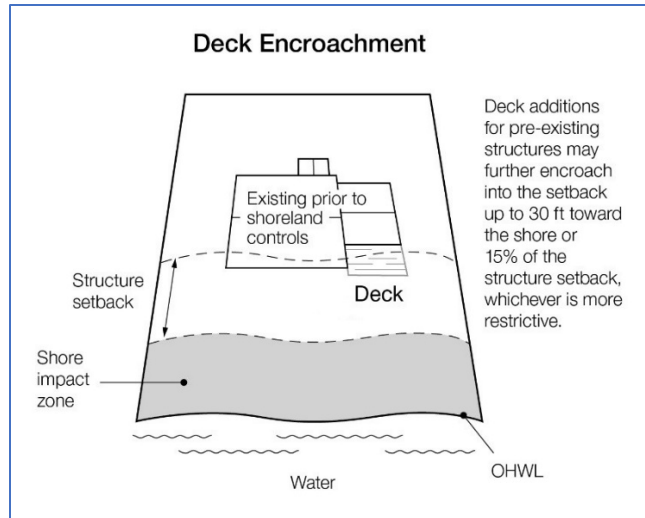
<b>Waterbody Classification</b>	<b>Structures with <u>No Sewer</u></b>	<b>Structures with <u>Sewer</u></b>	<b>Sewage Treatment Systems</b>
Natural Environment Lakes	150	150	150
Recreational Development Lakes	100	75	75
General Development Lakes	75	50	50
Transition Rivers	150	150	100
Agriculture, Urban, & Tributary Rivers	100	50	75

- (2) OHWL Setbacks. Structures, impervious surfaces, and sewage treatment systems must meet setbacks from the Ordinary High-Water Level (OHWL).



- (3)** Where principal 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.
- (4)** Setbacks of decks. See Figure 6-1 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:

  - (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 is no closer than 30 feet from the OHWL, whichever is more restrictive; and
  - (d)** The deck is constructed primarily of wood, or materials that are wood in appearance, and is not roofed or screened.
- (5)** Figure 6-1 Deck Encroachment Exhibit



- (6) Additional Structure Setbacks: Table 6-16 shows the additional structure setbacks that apply, regardless of the waterbody class.

(7) Table 6-16 Additional Structure Setbacks

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

\* Right of way setbacks may be increased in accordance with Chapter 1300, Article 10, Section 10.30 of the Olmsted County Zoning Ordinance.

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

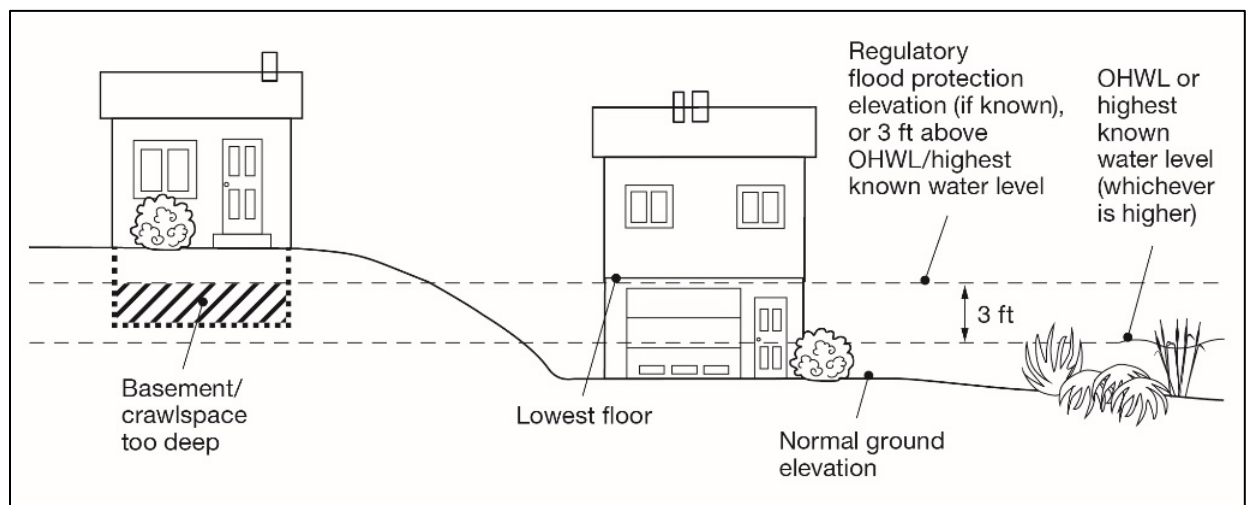
(B) Lowest Floor Elevation:

- (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 6-2).
- (b) For rivers and streams, by placing the lowest floor at least three (3) feet above the highest known flood elevation. If data 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.

(2) Figure 6-2 Lowest Floor Elevation



- (3) 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 Shore Impact Zone (SIZ), then structures must instead be elevated through floodproofing methods in accordance with Section 6.05.B.
  - (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.
- (4) Significant Historic Sites: No structure may be placed on a significant historic site in a manner that affects the values of the site unless adequate information about the site has been removed and documented in a public repository.

## **Section 6.06      SHORELAND ALTERATIONS**

### **A)      Vegetation Management**

- (1) Removal or alteration of vegetation, must comply with the provisions of this subsection except for:

  - (a) Vegetation alteration necessary for the construction of structures and sewage treatment systems under validly issued permits for these facilities.
  - (b) The construction of public or private roads and parking areas if consistent with [Section 6.07](#) of this ordinance.

- (c) Forest management uses consistent with [Section 6.03.D.](#)
  - (d) Agricultural uses consistent with [Section 6.03.C.](#)
- (2) 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 6.03.D](#) of this ordinance
- (3) 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:
  - (a) The screening of structures, vehicles, or other facilities as viewed from the water, assuming summer leaf on conditions, is not substantially reduced, and.
  - (b) Along rivers, existing shading of water surfaces is preserved.
  - (c) Cutting debris or slash shall be scattered and not mounded on the ground.
  - (d) Perennial ground cover is retained: and
  - (e) The above provisions are not applicable to the removal of tree limbs, or branches that are dead, diseased, or pose safety hazards.
  - (f) 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 and private roads and parking areas consistent with [Section 6.07.A](#) 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
    - (ii) The movement of more than fifty (50) cubic yards of material outside of steep slopes and shore and bluff impact zones.
- (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 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.

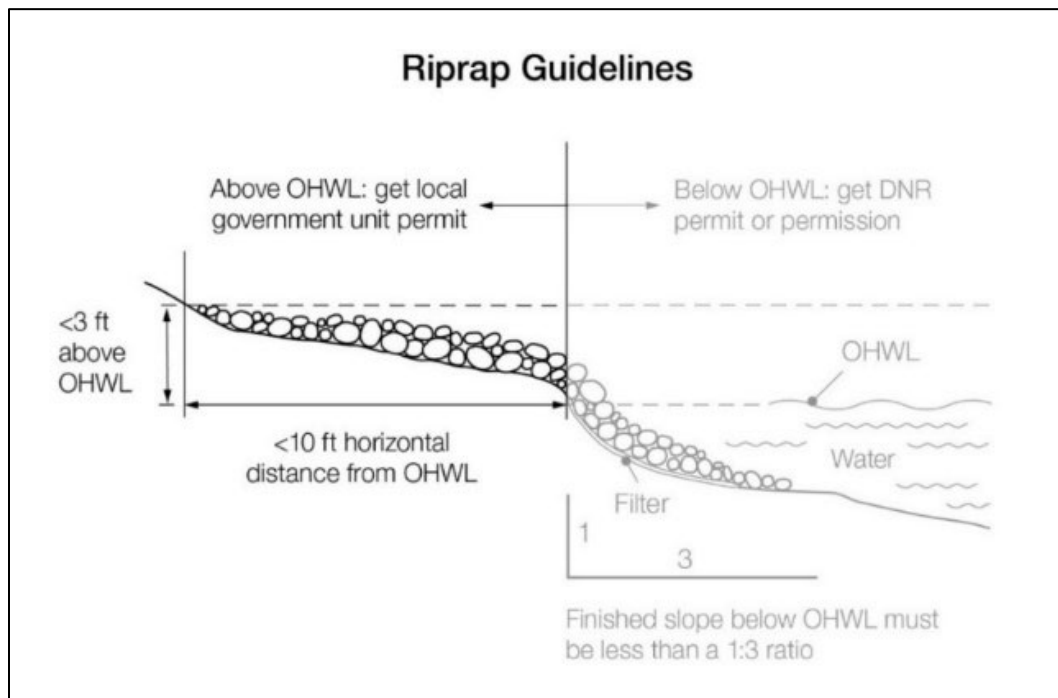
- (b) Land alterations must be designed and implemented to minimize the amount of erosion and sediment from entering surface waters during and after construction consistently by:
- (i) Limiting the amount and time of bare ground exposure.
  - (ii) Using temporary ground covers such as mulches or similar materials.
  - (iii) Establishing permanent vegetation cover as soon as possible.
  - (iv) Using sediment traps, vegetated buffer strips or other appropriate techniques.
  - (v) 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 certified licensed engineer, certified erosion control specialist, or other similar professional for continued slope stability and must not create finished slopes of 30 percent or greater.
  - (vi) Fill or excavated materials must not be placed in bluff impact zones.
  - (vii) Any alterations below the ordinary high-water level of public waters must first be authorized by the Commissioner under [Minnesota Statutes, Chapter 103G](#);
  - (viii) 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
  - (ix) Placement of natural rock riprap (see Figure 6-3), including associated grading of the shoreline and placement of a filter

blanket, is permitted if all of the following are met:

- (a)** The finished slope does not exceed three (3) feet horizontal to one (1) foot vertical.
- (b)** The landward extent of the riprap is within ten (10) feet of the ordinary high-water level.
- (c)** The height of the riprap above the ordinary high-water level does not exceed three (3) feet.



(d) Figure 6-3 Riprap Guidelines



- (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 in accordance with [Section 3.06](#) and [Section 3.07](#). Permission for excavations require public waters permit and must comply with [Minnesota Rules, Chapter 6115](#).

## **Section 6.07 PERFORMANCE STANDARDS FOR PUBLIC AND PRIVATE FACILITIES**

- (A) Placement And Design of Road, Driveways, And Parking Areas: 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. They must be constructed to minimize and control erosion to public waters consistent with the field office technical guides of the local SWCD. If no alternatives exist, they may be placed within these areas, and must be designed to minimize adverse impacts.

- (1) 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.
  - (2) 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) Private facilities must comply with the grading and filling provisions of [Section 6.06.B](#) of this ordinance; and
  - (4) For public roads, driveways and parking areas, documentation must be provided by a qualified individual that they are designed and constructed to minimize and control erosion to public waters consistent with the field office technical guides of the local soil and water conservation district, or other applicable technical materials.
- (B) 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:
  - (1) 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.
  - (2) 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.

- (3) Canopies or roofs are not allowed on stairways, lifts, or landings.
  - (4) 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.
  - (5) 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.
  - (6) 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 this section are complied with in addition to the requirements of Minnesota Regulations, Chapter 1341.
- (C) 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:
  - (1) 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.
  - (2) The structure or facility is not in the Bluff Impact Zone.
  - (3) The setback of the structure or facility from the ordinary high-water level must be at least ten (10) feet.
  - (4) 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.

- (5) 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.
- (6) The structure or facility must not be designed or used for human habitation and must not contain water supply or sewage treatment facilities; and
- (7) 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;
- (8) Water-oriented accessory structures may have the lowest floor placed lower than the elevation specified in [Section 6.05.B](#) if the structure is designed to accommodate internal flooding, meeting the standards in [Section 4.07.C.2.c](#) constructed of flood-resistant materials to the elevation, electrical and mechanical equipment is placed above the elevation.

## **Section 6.08      STORMWATER MANAGEMENT**

### **(A)      General Standards**

- (1) 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.
- (2) 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.
- (3) 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.

**(B) Specific Standards**

- (1)** Impervious surface coverage of lots must not exceed 25 percent of the lot area.
- (2)** 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.
- (3)** New constructed stormwater outfalls to public waters must be consistent with [Minnesota Rules, part 6115.0231](#).

**Section 6.09**

**WATER SUPPLY AND SEWAGE TREATMENT**

- (A)** Water Supply: The water supply shall meet all applicable requirements of the Olmsted County Water Well and Water Supply Ordinance, and amendments thereto.
- (B)** 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:
- (1)** Publicly owned sewage treatment systems shall be used where available.
  - (2)** All new individual sewage treatment systems, including repairs or additions to existing systems, shall meet or exceed the requirements of [Olmsted County Code of Ordinances Chapter 3400](#) Subsurface Sewage Treatment Systems Ordinance, and amendments thereto.

- (3) 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 6.04.A](#) of this ordinance.
- (4) Nonconforming individual sewage treatment systems shall be regulated and upgraded in accordance with [Section 6.05.A](#) of this ordinance.

## **Section 6.10     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 6.04](#) 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 5.10.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 6.10.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 6.10.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 6-17:



(a) Table 6-17 Density Tiers-Shoreland PUD

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

- (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 divide the tier width or river frontage 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.

(c) Table 6-18 Floor Area/Dwelling Site Area Ratio

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

- (i) Select the appropriate floor area/dwelling site area ratio from Table 6-18 for the floor area or dwelling site area determined in Section 6.10.E.3.b.i.
    - (ii) Multiply the suitable area within each tier determined in Section 6.10.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.
    - (iii) Divide the total floor area or dwelling site area for each tier calculated in Section 6.10.E.3.d by the average inside living floor area for dwelling units or dwelling site area determined in Section 6.10.E.3.b.i. 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 6.10.E.5.
- (4) Step 4. Determine if the Site can Accommodate Increased Density:
- (a) The following Table 6-19 increases to the dwelling unit or dwelling site base densities determined Section 6.10.E.3 are allowed if the design criteria in Section 6.10.E.5 of this ordinance are satisfied as well as the standards in Section 6.10.E.4.b:

- (i) Table 6-19 Maximum density increase per tier

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

- (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.

- (5) Design Criteria. All PUDs must meet the following design criteria.

- (a) General Design Standards.

- (i) All residential planned unit developments must contain at least five dwelling units or sites.
- (ii) On-site water supply and sewage treatment systems must be centralized and meet the standards in [Section 6.05.B](#) of this ordinance. Sewage treatment systems must meet the setback standards of [Section 6.05.A](#) of this ordinance.

- (iii) Dwelling units or dwelling sites must be clustered into one or more groups and located on suitable areas of the development.
- (iv) Dwelling units or dwelling sites must be designed and located to meet the dimensional standards in [Section 6.04](#).
- (v) 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.
- (vi) 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.

- (vii) Accessory structures and facilities, except water oriented accessory structures, must meet the required structure setback and must be centralized.
- (viii) Water-oriented accessory structures and facilities may be allowed if they meet or exceed design standards contained in [Section 6.05.C.3](#) of this ordinance and are centralized.

**(6) Open Space Requirements.**

- (a) Open space must constitute at least 50 percent of the total project area and must include when present on the property:
  - (i) Areas with physical characteristics unsuitable for development in their natural state.
  - (ii) Areas containing significant historic sites or burial sites (when present);
  - (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.
    - (c) For all commercial PUD's at least 50 percent of the shore impact zone.
- (b) Open space may include:

- (i) 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.
  - (ii) Subsurface sewage treatment systems if the use of the space is restricted to avoid adverse impacts on the systems; and
  - (iii) Non-public water wetlands.
- (c) Open space shall not include:
  - (i) Dwelling sites or lots, unless owned in common by an owners' association.
  - (ii) Dwelling units or structures, except water-oriented accessory structures or facilities.
  - (iii) Road rights-of-way or land covered by road surfaces and parking areas;
  - (iv) Land below the OHWL of public waters; and
  - (v) Commercial facilities or uses.
- (d) Open Space Maintenance and Administration Requirements.
  - (i) 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:
    - (a) Commercial uses (for residential PUD's).

- (b) Vegetation and topographic alterations other than routine maintenance.
  - (c) Construction of additional buildings or storage of vehicles and other materials; and
  - (d) Uncontrolled beaching of watercraft.
- (ii) 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:
  - (a) Membership must be mandatory for each dwelling unit or dwelling site owner and any successive owner.
  - (b) Each member must pay a pro rata share of the association's expenses, and unpaid assessments can become liens on units or dwelling sites.
  - (c) Assessments must be adjustable to accommodate changing conditions; and
  - (d) The association must be responsible for insurance, taxes, and maintenance of all commonly owned property and facilities.
- (7) Erosion Control and Stormwater Management.
  - (a) Erosion control plans must be developed and must be consistent with the provisions of [Section 6.06.B.1](#) 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 a general development lake with an approved stormwater management plan and consistency with [Section 6.08](#) of this ordinance.
- (8)** 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 6.10.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.

## ARTICLE VII. NONCONFORMITIES

### Section 7.01 NONCONFORMITIES SHORELAND

- (A) All legally established nonconformities as of the date of this ordinance may continue, but will be managed according to [Minnesota Statutes, Sections 394.36 Subd. 5](#) and other regulations of the County for alterations and additions; repair after damage; discontinuance of use; and intensification of use.
- (B) All additions to the outside dimensions of an existing nonconforming structure must meet the setback, height, lowest floor elevations, and other requirements of [Sections 6.02 to 6.09](#) of this ordinance. Any deviation from these requirements must be authorized by a variance.
  - (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 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.
- (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 evaluate their sewage treatment systems and voluntarily upgrade the sewage treatment system, if nonconforming.

**Section 7.02     CONTINUANCE OF NONCONFORMITIES IN FLOODPLAINS.**

- (A) 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:
  - (1) Within the floodway and general floodplain districts (when a site has been determined to be located in the floodway following the procedures in [Section 4.06](#), or when the floodway has not been delineated), expansion or enlargement of uses or structures is prohibited.
  - (2) Within all districts, any addition, modification, rehabilitation, repair, or alteration shall be in conformance with the provisions of this ordinance, shall not increase the flood damage potential or increase the degree of obstruction to flood flows, and where applicable, must be protected to the RFPE.

- (3) If any nonconforming structure is determined to be substantially damaged or substantially improved based on the procedures in Section 7.03, it may not be reconstructed except in conformity with the provisions of this ordinance.
- (4) 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 7.03     SUBSTANTIAL IMPROVEMENT AND SUBSTANTIAL DAMAGE DETERMINATIONS IN FLOODPLAINS.**

- (A) Prior to issuing any permits for additions, modifications, rehabilitations, repairs, alterations, or maintenance to nonconforming structures, the Zoning Administrator is required to determine if such work constitutes substantial improvement or repair of a substantially damaged structure. A determination must be made in accordance with the following procedures:
- (B) Estimate the market value of the structure. In cases where the property has sustained damage, the market value of the structure shall be the market value before the damage occurred and before any restoration or repairs are made.
- (C) Estimate the cost of the project. The property owner shall accommodate for inspection, and furnish other documentation needed by the Zoning Administrator to evaluate costs.
  - (1) Improvement costs shall be comprised of the market rate of all materials and labor, as well as the costs of all ordinary maintenance and upkeep carried out over the past year.
  - (2) Costs to repair damages shall be comprised of the market rate of all materials and labor required to restore a building to its pre-damaged condition regardless of the work proposed, as well as associated improvement costs if structure is being restored beyond its pre-damaged condition.

- (D)** Compare the cost of the project and/or repairs to the estimated market value of the structure, and determine whether the proposed work constitutes substantial improvement or repair of a substantially damaged structure, as defined in [Section 2.02.A.85](#) of this ordinance.

  - (1)** For the purposes of determining whether the proposed work would constitute substantial improvement, the evaluation shall also include all rehabilitations, additions, or other improvements completed since the County has adopted floodplain standards impacting this structure.
  - (2)** If any nonconforming structure experiences a repetitive loss, as defined in [Section 2.02.A.63](#) of this ordinance, it shall be considered substantially damaged and must not be reconstructed except in conformity with the provisions of this ordinance.
- (E)** Based on this determination, the Zoning Administrator shall prepare a determination letter and notify the property owner accordingly. Structures determined to be substantially damaged or substantially improved may not be reconstructed except in conformity with the provisions of this ordinance.

## **ARTICLE VIII. SUBDIVISION STANDARDS**

### **Section 8.01      FLOODPLAIN SUBDIVISIONS**

- (A) All subdivided land must meet the following requirements. Manufactured home parks and recreational vehicle parks or campgrounds are considered subdivisions under this ordinance.
- (B) All lots within floodplain districts must be suitable for a building site outside of the Floodway District.
- (C) All subdivisions must have vehicular access both to the subdivision and to the individual building sites no lower than two feet below the RFPE, unless a flood warning/emergency evacuation plan has been approved by Olmsted County.
- (D) The Floodway and Flood Fringe District boundaries, the RFPE and the required elevation of all access roads must be clearly identified on all required subdivision drawings and platting documents.

### **Section 8.02      SHORELAND SUBDIVISIONS**

- (A) Land suitability. Each lot created through subdivision, including shoreland planned unit developments authorized under [Section 6.10](#) 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 create more than three or more parcels from one existing parcel 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 6.04.B.2](#) of this ordinance.

## EFFECTIVE DATE.

The changes to this ordinance shall take effect September 21, 2023.

Passed and approved this 5<sup>th</sup> of September 2023.

## OLMSTED COUNTY BOARD OF COMMISSIONERS

DocuSigned by:

*Gregory Wright*

8ED5B5492B2D450...

9/6/2023 | 8:21 AM CDT

Gregory Wright, Chairperson

ATTEST: DocuSigned by:

*Lisa Morris*

9/6/2023 | 9:30 AM CDT

00038147A35A4DF...

Lisa Morris-Helmstetler, Deputy Clerk to the County Board