

## 12. 41. Shoreland Management Overlay District

### 1.0 STATUTORY AUTHORIZATION AND POLICY

- 1.1 **Statutory Authorization.** This shoreland ordinance is adopted pursuant to the authorization and policies contained in [Minnesota Statutes, Chapter 103F](#), [Minnesota Regulations, Parts 6120.2500 - 6120.3900](#), and the planning and zoning enabling legislation in Minnesota Statutes, Chapter [462](#) (for municipalities).
- 1.2 **Policy.** 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 the City of La Crescent.

### 2.0 GENERAL PROVISIONS AND DEFINITIONS

- 2.1 **Jurisdiction.** The provisions of this overlay district apply to the shorelands of the public water bodies as classified hereinafter in this section, and to the shorelands of public water bodies greater than 10 acres in unincorporated areas in which the city has, by ordinance, extended the application of its zoning regulations as provided by [Minnesota Statute, Chapter 462.357 Subd 1](#). Pursuant to [Minnesota Regulations, Parts 6120.2500 - 6120.3900](#), no lake, pond, or flowage less than 10 acres in size in municipalities or 25 acres in size in unincorporated areas need be regulated in a local government's shoreland regulations. A body of water created by a private user where there was no previous shoreland may, at the discretion of the governing body, be exempt from this ordinance. There are no such unincorporated areas in the city of La Crescent into which the city extended its zoning regulations as of the date of adoption of these shoreland regulations.
- 2.2 **Greater Restrictions.** Where the standards of this overlay district impose greater restrictions than the underlying zoning district, the provisions of this district shall apply and prevail.
- 2.3 **Definitions.** Words and phrases used in this section shall have the meaning they have in common usage or as defined in Section 12.03 of this Title.

### 3.0 ADMINISTRATION

- 3.1 A certificate of compliance, consistent with [Minnesota Rules Chapter 7082.0700 Subp. 3](#), is required whenever a permit or variance of any type is required for any improvement on or use of a property which has an individual sewage treatment system within the Shoreland Management Overlay District. A sewage treatment system shall be considered compliant if the only deficiency is the system's improper setback from the ordinary high water level. This certificate shall specify that the use of the land conforms to the requirements of this section.
- 3.2 **Variances.** Variances may only be granted in accordance with Section 12.07 of this Title and are subject to the following:
  - 3.21 A variance may not circumvent the general purposes and intent of the Shoreland Management Overlay District; and
  - 3.22 For properties with existing sewage treatment systems, a certificate of compliance, consistent with [Minnesota Rules Chapter 7082.0700 Subp. 3](#), is required for variance approval. A sewage treatment system shall be considered compliant if the only deficiency is the system's improper setback from the ordinary high water level.
- 3.3 **Conditional Uses.** In addition to the requirements of Section 12.06 of this Title, all conditional uses in the shoreland area are subject to a thorough evaluation of the waterbody and the topographic, vegetation, and soil conditions to ensure:

- 3.31 The prevention of soil erosion or other possible pollution of public waters, both during and after construction;
- 3.32 The visibility of structures and other facilities as viewed from public waters is limited;
- 3.33 There is adequate water supply and on-site sewage treatment; and
- 3.34 The types, uses, and numbers of watercraft that the project will generate are compatible in relation to the suitability of public waters to safely accommodate these watercraft.

### 3.7 Additional Conditions of Approval.

- 3.71 In addition to the requirements of Section 12.07 of this Title, in evaluating all variances, conditional uses, zoning and building permit applications, the zoning authority shall require the property owner to address, when appropriate, the following conditions, when related to and proportional to the impact, to meet the purpose of this ordinance, to protect adjacent properties, and the public interest:
  - A. Advanced storm water runoff management treatment;
  - B. Reducing impervious surfaces;
  - C. Increasing setbacks from the ordinary high water level;
  - D. Restoration of wetlands;
  - E. Limiting vegetation removal and/or riparian vegetation restoration. The extent of existing vegetation in shoreland areas will be verified by aerial photography, satellite images or similar, as of the date of adoption of this ordinance to document removal of vegetation which may not be in keeping with the spirit and intent of this ordinance;
  - F. Provisions for the location, design, and use of structures, sewage treatment systems, water supply systems, watercraft launching and docking areas, and parking areas;
  - G. Docks must comply with DNR General Permit 2008-0401 and generally do not require a specific permit if they are simply used for access to navigable water depth and are no more than 8 feet wide. They may run parallel to the shore allowing for river current. The structure can have no cover or canopy other than over a watercraft; cannot be longer than is needed to achieve its intended use; is not a hazard to navigation, health, or safety; does not restrict the free flow of water beneath it; is not intended for use as a marina or for hire; is placed on a lot with a principal structure; does not include walls, a roof, or sewage facilities; or, impede access to a legally placed neighboring dock. Violations will be forwarded to the DNR and may also be subject to enforcement as defined in this Title; and
  - H. Other conditions the zoning authority deems necessary.
- 3.72 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.

### 3.8 Nonconformities.

- 3.81 All legally established nonconformities as of the date of this ordinance may continue, but will be managed according to Section 12.10 of this Title and [Minnesota Statutes, Sections 394.36 Subd. 5](#) and [462.357 Subd. 1e](#) and other regulations of this community for alterations and additions; repair after damage; discontinuance of use; and intensification of use, except as follows:
  - A. For shoreland lots of record in the office of the county recorder on the date of adoption of these local shoreland controls that do not meet the requirements for lot size or lot width, the

City Council may regulate the repair, replacement, maintenance, improvement, or expansion of nonconforming uses and structures on such lots of record in shoreland areas as follows:

1. A nonconforming single lot of record located within a shoreland area may be allowed as a building site without variances from lot size requirements, provided that:
  - a. All structure and septic system setback distance requirements can be met;
  - b. Type 1 sewage treatment system consistent with Minnesota Rules, chapter 7080, can be installed or the lot is connected to a public sewer; and
  - c. The impervious surface coverage does not exceed twenty five percent (25%) of the lot.
2. In a group of two or more contiguous lots of record under a common ownership, an individual lot must be considered as a separate parcel of land for the purpose of sale or development, if it meets the following requirements:
  - a. The lot must be at least 66 percent of the dimensional standard for lot width and lot size for the shoreland classification consistent with Minnesota Rules, chapter 6120;
  - b. The lot must be connected to a public sewer, if available, or must be suitable for the installation of a Type 1 sewage treatment system consistent with Minnesota Rules, chapter 7080, and local government controls;
  - c. Impervious surface coverage must not exceed 25 percent of each lot; and
  - d. Development of the lot must be consistent with an adopted comprehensive plan.
3. A lot subject to paragraph 2 above not meeting the requirements of that paragraph must be combined with the one or more contiguous lots so they equal one or more conforming lots as much as possible.
4. Notwithstanding paragraph 2 above, contiguous nonconforming lots of record in shoreland areas under a common ownership must be able to be sold or purchased individually if each lot contained a habitable residential dwelling at the time the lots came under common ownership and the lots are suitable for, or served by, a sewage treatment system consistent with the requirements of section 115.55 and Minnesota Rules, chapter 7080, or connected to a public sewer.
5. In evaluating all variances, zoning and building permit applications, or conditional use requests, the zoning authority shall require the property owner to address, when appropriate, storm water runoff management, reducing impervious surfaces, increasing setback, restoration of wetlands, vegetative buffers, sewage treatment and water supply capabilities, and other conservation-designed actions.
6. A portion of a conforming lot may be separated from an existing parcel as long as the remainder of the existing parcel meets the lot size and sewage treatment requirements of the zoning district for a new lot and the newly created parcel is combined with an adjacent parcel.

3.82 All additions or expansions to the outside dimensions of an existing nonconforming structure must meet the setback, height, and other requirements of this section. Any deviation from these requirements must be authorized by a variance.

### 3.9 Notifications to the Department of Natural Resources.

3.91 All notices of public hearings to consider variances, ordinance amendments, or conditional uses under shoreland management controls must be sent to the commissioner or the commissioner's designated representative according to the notice requirements for owners of affected property in Section 12.04 of this Title. Notices of hearings to consider proposed subdivisions/plats must include copies of the subdivision/plat.

3.92 All approved ordinance amendments and subdivisions/plats, and final decisions approving variances or conditional uses under local shoreland management controls must be sent to the commissioner or the commissioner's designated representative and postmarked at least ten days prior to 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.

3.93 Any request to change the shoreland management classification of public waters within the City of La Crescent 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.](#)

3.94 Any request to reduce the boundaries of shorelands of public waters within the City of La Crescent must be sent to the commissioner or the commissioner's designated representative for approval and must include a resolution and supporting data. 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.

3.10 **Mandatory EAW.** 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.

## 4.0 SHORELAND CLASSIFICATION SYSTEM AND LAND USES

### 4.1 Shoreland Classification System.

4.11 Purpose. To ensure that shoreland development on the public waters of the City of La Crescent is regulated consistent with the classifications assigned by the commissioner under [Minnesota Rules, part 6120.3300.](#)

4.12 The shoreland area for the waterbodies listed in Sections 4.13 to 4.15 are defined in Section 2.550 and are shown on the Official Zoning Map.

4.13 Lakes are classified as follows, including the classification of Blue Lake below, following the guidance in the letter from the Department of Natural Resources dated April 19, 2017 on file with the City Administrator:

<b>Lake Classification</b>	<b>DNR Public Waters I.D. #</b>
General Development	
U.S. Lock and Dam No. 8 Pool	28-0005-00
Blue Lake, for land within the city limits as of the date of adoption of these shoreland regulations	28-0005-03
Natural Environment	
Blue Lake, for land annexed to the city after the date of adoption of these shoreland regulations	28-0005-03

4.14 Rivers and Streams are classified as follows:

<b>River and Stream Classification</b>	<b>Legal Description</b>
Tributary	
Pine Creek	From: City Limits, Sec. 15, T104, NR4W To: City Limits, Sec. 15, T104N, R4W

4.15 All public rivers and streams shown on the Public Waters Inventory Map for Houston County, a copy of which is adopted by reference, not given a classification in Section 4.14 shall be considered “Tributary.”

**4.2 Land Uses.**

4.21 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.

4.22 Shoreland district land uses listed in Sections 4.23 and 4.24 are regulated as follows. The most restrictive standards apply, whether in this shoreland ordinance or the standards in the underlying zoning district:

- A. Permitted uses (P). These uses are allowed, provided all standards in this ordinance are followed and such uses are allowed in the underlying zoning district;
- B. Conditional uses (C). These uses are allowed through a conditional use permit if allowed in the underlying zoning district. The use must be evaluated according to the criteria in Section 3.6 of this ordinance and any additional conditions listed in this ordinance; and
- C. Not permitted uses (N). These uses are prohibited.

4.23 Land uses for lake classifications:

<b>Land Uses</b>	<b>General Development</b>	<b>Natural Environment</b>
Single residential	P	P
Duplex, triplex, quad residential	P	C
Residential PUD	C	C
Water-dependent commercial - As accessory to a residential planned unit development	C	C
Commercial	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 Section 10.0 of this ordinance are satisfied.	C	C
Parks & historic sites	C	C
Public, semipublic	P	C
Industrial	C	N
Agricultural: cropland and pasture	P	P
Agricultural feedlots - New	N	N
Agricultural feedlots - Expansion or resumption of existing	C	C
Forest management	P	P
Forest land conversion	C	C
Extractive use	C	C
Mining of metallic minerals and peat	P	P

## 4.24 Land uses for river and stream classifications:

<b>Land Uses</b>	<b>Tributary</b>
Single residential	P
Duplex, triplex, quad residential	P
Residential PUD	C
Water-dependent commercial - As accessory to a residential planned unit development	C
Commercial	P
Commercial PUD - Limited expansion of a commercial PUDs involving up to six additional dwelling units or sites may be allowed as a permitted use provided the provisions of Section 10.0 of this ordinance are satisfied.	C
Parks & historic sites	C
Public, semipublic	P
Industrial	C
Agricultural: cropland and pasture	P
Agricultural feedlots – New	N
Agricultural feedlots - Expansion or resumption of existing	C
Forest management	P
Forest land conversion	C
Extractive use	C
Mining of metallic minerals and peat	P

**5.0 SPECIAL LAND USE PROVISIONS****5.1 Commercial, Industrial, Public, and Semipublic Use Standards.**

5.11 Water-dependent uses may be located on parcels or lots with frontage on public waters provided that the use is a permitted use in the underlying district and:

- A. The use complies with provisions on Performance Standards for Public and Private Facilities in this section;
- 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; and

- D. Uses that depend on patrons arriving by watercraft may use signs and lighting, provided that:
- (1) 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
  - (2) Signs placed within the shore impact zone are:
    - (a) No higher than ten feet above the ground, and no greater than 32 square feet in size; and
    - (b) If illuminated by artificial lights, the lights must be shielded or directed to prevent illumination across public waters; and
  - (3) 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.

5.12 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.

## 5.2 Agriculture Use Standards.

### 5.21 Buffers.

- A. 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 (Resource Management Systems) consistent with the field office technical guides of the local soil and water conservation districts or the Natural Resource Conservation Service, as provided by a qualified individual or agency.
- B. The shore impact zone for parcels with permitted agricultural land uses is equal to a line parallel to and 50 feet from the ordinary high water level.

5.22 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; and,
- C. Old feedlots not currently in operation may resume operation consistent with [Minnesota Statutes, Section 116.0711](#).

## 5.3 Forest Management Standards.

- 5.31 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.
- 5.32 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.

- 5.4 **Extractive Use Standards.** Extractive uses are conditional uses only if permitted in the underlying zoning district and must meet the following standards:
- 5.41. 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; and
    - C. Clearly explain how the site will be rehabilitated after extractive activities end.
  - 5.42 Setbacks for Processing Machinery. Processing machinery must meet structure setback standards from ordinary high water levels and from bluffs.
- 5.5 **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, only if permitted in the underlying zoning district.

## 6.0 DIMENSIONAL AND GENERAL PERFORMANCE STANDARDS

- 6.1 **Purpose.** To establish dimensional and performance standards that protect shoreland resources from impacts of development.
- 6.2 **Lot Area and Width Standards.** After the effective date of this ordinance, all new lots must meet the minimum lot area and lot width requirements below, or the standards in the underlying zoning district, whichever is more restrictive, subject to the following standards:
- 6.21 Only lands above the ordinary high water level can be used to meet lot area and width standards;
  - 6.22 Lot width standards must be met at both the ordinary high water level and at the building line;
  - 6.23 The sewer lot area dimensions can only be used if publicly owned sewer system service is available to the property;
  - 6.24 Residential subdivisions with dwelling unit densities of single unit, duplex, triplex and quad must meet the standards in Sections 6.25 and 6.26 below. Residential subdivisions with densities greater than a quad (four units to a building) are allowed only if designed and approved as residential PUDs under Section 10.0 of this ordinance.

6.25 Lake Minimum Lot Area and Width Standards:

<b>General Development – No Sewer</b>				
	Riparian		Nonriparian	
	Lot Area (sf)	Lot Width (ft)	Lot Area (sf)	Lot Width (ft)
Single	20,000	100	40,000	150
Duplex	40,000	180	80,000	265
Triplex	60,000	260	120,000	375
Quad	80,000	340	160,000	490
<b>General Development – Sewer</b>				
	Riparian		Nonriparian	
	Lot Area (sf)	Lot Width (ft)	Lot Area (sf)	Lot Width (ft)
Single	15,000	75	10,000	75
Duplex	26,000	135	17,500	135
Triplex	38,000	195	25,000	190
Quad	49,000	255	32,500	245
<b>Natural Environment – No Sewer</b>				
	Riparian		Nonriparian	
	Lot Area (sf)	Lot Width (ft)	Lot Area (sf)	Lot Width (ft)
Single	80,000	200	80,000	200
Duplex	120,000	300	160,000	400
Triplex	160,000	400	240,000	600
Quad	200,000	500	320,000	800
<b>Natural Environment – Sewer</b>				
	Riparian		Nonriparian	
	Lot Area (sf)	Lot Width (ft)	Lot Area (sf)	Lot Width (ft)
Single	40,000	125	20,000	125
Duplex	70,000	225	35,000	220
Triplex	100,000	325	52,000	315
Quad	130,000	425	65,000	410

6.26 River/Stream Minimum Lot Width Standards. There are no minimum lot area requirements for rivers and streams. The lot width standards in feet are:

	Tributary	
	No Sewer	Sewer
Single	100	75
Duplex	150	115
Triplex	200	150
Quad	250	190

6.3 **Special Residential Lot Provisions.** Special provisions apply to existing nonconforming lots of record in the Shoreland area, as detailed in 3.81 above.

6.4 **Placement, Height, and Design of Structures.**

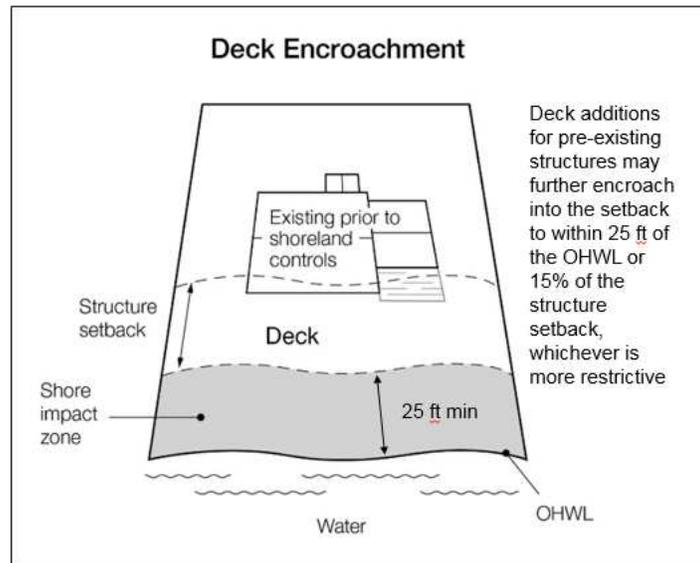
6.41 Placement of Structures and Sewage Treatment Systems on Lots. When more than one setback applies to a site, structures and facilities must be located to meet all setbacks, and comply with the following provisions:

- A. *OHWL Setbacks.* Structures, impervious surfaces, and sewage treatment systems must meet the following setbacks from the Ordinary High Water Level (OHWL), except that one water-oriented accessory structure or facility, designed in accordance with Section 7.3 of this ordinance, may be set back a minimum distance of ten (10) feet from the OHWL, and except as provided for existing nonconforming lots of record in the Shoreland area detailed below 6.41.F.

Classification	Structures		Sewage Treatment System
	No Sewer	Sewer	
<b>Lakes</b>			
Natural Environment	150	150	150
General Development	75	50	50
<b>Rivers and Streams</b>			
Tributary	100	50	75

B. *Setbacks of decks.* Deck additions may be allowed without a variance to a structure not meeting the required setback from the ordinary high water level if all of the following criteria are met:

- (1) The structure existed on the date the structure setbacks were established;
- (2) A thorough evaluation of the property and structure reveals no reasonable location for a deck meeting or exceeding the existing ordinary high water level setback of the structure;
- (3) The deck encroachment toward the ordinary high water level does not exceed 15 percent of the existing setback of the structure from the ordinary high water level or is no closer than 25 feet from the OHWL, whichever is more restrictive; and



(4) The deck is constructed primarily of wood, and is not roofed or screened.

C. *Additional structure setbacks.* Structures must also meet the following setbacks, regardless of the waterbody classification, or the setbacks in the underlying zoning district, whichever is more restrictive:

Setback from:	Setback (ft)
Top of bluff	30
Unplatted cemetery	50
Right-of-way line of federal, state, or county highway	50
Right-of-way line of town road, public street, or other roads not classified	20

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

E. Notwithstanding other provisions of any other section of the Zoning Ordinance to the contrary, setbacks for legally non-conforming principal dwellings and accessory structures (including solar structures) in Residential Shoreland areas on lots of record with frontage on

Shore Acres Road existing on the date of adoption of these shoreland regulation, will be regulated as follows, without variances:

1. Front setback:
  - a. The minimum front setback for the dwelling will be 35 feet from the edge of the road's bituminous surface.
  - b. No accessory structure, including solar structures or sheds; nor the placement of any material for storage including vehicles, boats or trailers may occur closer to the road than that of the minimum front setback for a principal dwelling.
  - c. Except as provided hereafter there shall be no encroachment in the first 15 feet, measured from the road edge, including retaining walls of any kind, and paved or graveled areas specifically for vehicle parking (excluding driveways and parking areas that legally exist on the day of adoption of this ordinance). Permitted uses within the first 15 feet include: walkways, driveways, mailboxes, mailbox bollards, cable boxes, telephone poles, minimal and non-sight-obscuring flowers and landscaping, power stands, and decorative bollards.
  - d. Hedges, fences, plantings, and retaining walls may occur between 15 and 35 feet from the road edge.
2. Lot depth will be measured as the horizontal distance from the OHW (ordinary high water) line to the road edge.
3. Rear setback to OHW of shoreland:
  - a. For lots with lot depth of 115 feet or greater, the setback to OHW established in 6.41.A above applies.
  - b. For lots of less than 115 feet in depth, for every foot of lot depth less than 115 feet, the setback to OHW shall be reduced by one foot, up to a maximum 15-foot reduction in the setback from the OHW for a 100-foot deep lot.
  - c. For lots of less than 100 feet in depth, a maximum 15-foot reduction in the setback from the OHW applies.
  - d. Homes or accessory buildings that exist, on lots of 100 feet or less, as of the date of adoption of this ordinance may be replaced or reconstructed on or within their existing footprint.
4. Front setback provisions do not apply to homes without frontage on a city street.
5. These provisions apply equally to Shoreland residential properties that do not front on the Mississippi River or its waters with the exception that lot depth will be the distance from right-of-way to recorded rear lot line of property.

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

6.43 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.

#### 6.5 **Water Supply and Sewage Treatment.**

6.51 Water supply. Any public or private supply of water for domestic purposes must meet or exceed standards for water quality of the Minnesota Department of Health and the Minnesota Pollution Control Agency.

6.52 Sewage treatment. Any premises used for human occupancy must be connected to a publicly-owned sewer system, where available or comply with [Minnesota Rules, Chapters 7080 – 7081](#).

## 7.0 PERFORMANCE STANDARDS FOR PUBLIC AND PRIVATE FACILITIES

- 7.1 **Placement and Design of Roads, 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 as viewed from public waters and comply with the following standards:
- 7.11 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;
  - 7.12 Watercraft access ramps, approach roads, and access-related parking areas may be placed within shore impact zones in non-residential districts provided the vegetative screening and erosion control conditions of this subpart are met;
  - 7.13 Watercraft access ramps, approach roads, and access-related parking areas are prohibited in shore impact zones in residential districts;
  - 7.14 Private facilities must comply with the grading and filling provisions of Section 8.3 of this ordinance; and
  - 7.15 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.
- 7.2 **Stairways, Lifts, and Landings.** Stairways and lifts are the preferred alternative to major topographic alterations for achieving access up and down bluffs and steep slopes to shore areas. Stairways, lifts, and landings must meet the following design requirements:
- 7.21 Stairways and lifts must not exceed four feet in width on residential lots. Wider stairways may be used for commercial properties, public recreational uses, and planned unit developments;
  - 7.22 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, public-space recreational uses, and planned unit developments;
  - 7.23 Canopies or roofs are not allowed on stairways, lifts, or landings;
  - 7.24 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;
  - 7.25 Stairways, lifts, and landings must be located in the most visually inconspicuous portions of lots, as viewed from the surface of the public water assuming summer, leaf-on conditions, whenever practical; and
  - 7.26 Facilities such as ramps, lifts, or mobility paths for physically handicapped persons are also allowed for achieving access to shore areas, if they are consistent with the dimensional and performance standards of sub items 7.21 to 7.25 above and the requirements of [Minnesota Rules, Chapter 1341](#).
- 7.3 **Water-oriented Accessory Structures or Facilities.** Each lot may have one water-oriented accessory structure or facility if it complies with the following provisions:
- 7.31 The structure or facility must not exceed ten 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 exceeding eight feet above grade at any point;
  - 7.32 The structure or facility is not in the Bluff Impact Zone;

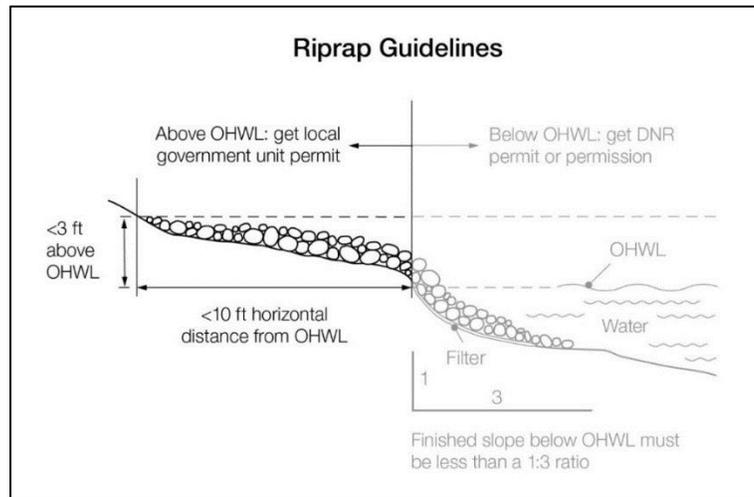
- 7.33 The setback of the structure or facility from the ordinary high water level must be at least ten feet;
- 7.34 The structure is not a boathouse or boat storage structure as defined under [Minnesota Statutes, Section 103G.245](#);
- 7.35 The structure or facility must be treated to reduce visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks or color, assuming summer, leaf-on conditions;
- 7.36 The roof may be used as an open-air deck with safety rails, but must not be enclosed or used as a storage area;
- 7.37 The structure or facility must not be designed or used for human habitation and must not contain water supply or sewage treatment facilities;
- 7.38 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 20 feet as measured parallel to the shoreline; and
- 7.39 Water-oriented accessory structures may have the lowest floor placed lower than the elevation specified in Section 6.43 if the structure is constructed of flood-resistant materials to the elevation, electrical and mechanical equipment is placed above the elevation and, if long duration flooding is anticipated, the structure is built to withstand ice action and wind-driven waves and debris.

## 8.0 VEGETATION AND LAND ALTERATIONS

- 8.1 **Purpose.** Alterations of vegetation and topography are regulated to prevent erosion into public waters, fix nutrients, preserve shoreland aesthetics, preserve historic values, prevent bank slumping, sustain water quality, and protect fish and wildlife habitat.
- 8.2 **Vegetation Management.**
  - 8.21 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 roads and parking areas if consistent with Section 7.1 of this ordinance;
    - C. Forest management uses consistent with Section 5.3 of this ordinance; and
    - D. Agricultural uses consistent with Section 5.2 of this ordinance.
  - 8.22 Intensive vegetation clearing in the shore and bluff impact zones and on steep slopes is prohibited. Intensive clearing outside of these areas is allowed if consistent with the forest management standards in Section 5.3 of this ordinance.
  - 8.23 Limited clearing and trimming of trees and shrubs in the shore and bluff impact zones and on steep slopes, is allowed to provide a view to the water from the principal dwelling 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;
    - B. Existing shading of water surfaces along rivers is preserved;

- C. Cutting debris or slash shall be scattered and not mounded on the ground; and
  - D. Perennial ground cover is retained.
- 8.24 Removal of trees, limbs, or branches that are dead, diseased, dying, or pose safety hazards is allowed without a permit.
- 8.25 Fertilizer and pesticide runoff into surface waters must be minimized through use of vegetation, topography or both.
- 8.3 Grading and Filling.**
- 8.31 Grading and filling activities must comply with the provisions of this subsection except for the construction of public roads and parking areas if consistent with Section 7.1 of this ordinance.
- 8.32 Permit Requirements.
- A. Grading, filling and excavations necessary for the construction of structures and sewage treatment systems, if part of an approved permit, do not require a separate grading and filling permit. However, the standards in Section 8.33 of this ordinance must be incorporated into the permit.
  - B. For all other work, a grading and filling permit is required for:
    - (1) the movement of more than ten (10) cubic yards of material on steep slopes or within shore or bluff impact zones; and
    - (2) the movement of more than 50 cubic yards of material outside of steep slopes and shore and bluff impact zones.
- 8.33 Grading, filling and excavation activities must meet the following standards:
- A. Grading or filling of any wetland must meet or exceed the wetland protection standards under [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:
    - (1) Limiting the amount and time of bare ground exposure;
    - (2) Using temporary ground covers such as mulches or similar materials;
    - (3) Establishing permanent vegetation cover as soon as possible;
    - (4) Using sediment traps, vegetated buffer strips or other appropriate techniques;
    - (5) Stabilizing altered areas to acceptable erosion control standards consistent with the field office technical guides of the soil and water conservation district;
    - (6) Not placing fill or excavated material in a manner that creates unstable slopes. Plans to place fill or excavated material on steep slopes must be reviewed by qualified professionals for continued slope stability and must not create finished slopes of 30 percent or greater;
    - (7) Fill or excavated material must not be placed in bluff impact zones;
    - (8) Any alterations below the ordinary high water level of public waters must first be authorized by the commissioner under [Minnesota Statutes, Section 103G](#);

- (9) Alterations of topography are only allowed if they are accessory to permitted or conditional uses and do not adversely affect adjacent or nearby properties; and
- (10) Placement of natural rock riprap, including associated grading of the shoreline and placement of a filter blanket, is permitted if:
- the finished slope does not exceed three feet horizontal to one foot vertical;
  - the landward extent of the riprap is within ten feet of the ordinary high water level; and
  - the height of the riprap above the ordinary high water level does not exceed three feet.



8.34 Connections to public waters. Excavations to connect boat slips, canals, lagoons, and harbors to public waters require a public waters permit and must comply with [Minnesota Rules, Chapter 6115](#).

#### 8.4 Stormwater Management.

##### 8.41 General Standards:

- When possible, existing natural drainageways, and vegetated soil surfaces must be used to convey, store, filter, and retain stormwater runoff before discharge to public waters.
- 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 as soon as possible and appropriate facilities or methods used to retain sediment on the site.
- When development density, topography, soils, and vegetation are not sufficient to adequately handle stormwater runoff, constructed facilities such as settling basins, skimming devices, dikes, waterways, ponds and infiltration may be used. Preference must be given to surface drainage, vegetation, and infiltration rather than buried pipes and man-made materials and facilities.

##### 8.42 Specific Standards:

- Impervious surfaces of lots must not exceed 25 percent of the lot area without a variance.

- B. When constructed facilities are used for stormwater management, documentation must be provided by a qualified individual that they are designed and installed consistent with the field office technical guide of the local soil and water conservation district or the Minnesota Stormwater Manual, as applicable.
- C. New constructed stormwater outfalls to public waters must be consistent with [Minnesota Rules, part 6115.0231](#).

## 9.0 SUBDIVISION/PLATTING PROVISIONS IN THE SHORELAND MANAGEMENT OVERLAY DISTRICT

- 9.1 **Purpose.** To ensure that new development minimizes impacts to shoreland resources and is safe and functional.
- 9.2 **Land suitability.** Each lot created through subdivision, not including administrative subdivision, but including planned unit developments authorized under Section 10.0 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.
- 9.3 **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.
- 9.4 **Water and Sewer Design Standards.**
  - 9.41 A potable water supply and a sewage treatment system consistent with [Minnesota Rules, Chapters 7080 – 7081](#) must be provided for every lot.
  - 9.42 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.
  - 9.43 Lots that would require use of holding tanks are prohibited.
- 9.5 **Information requirements.**
  - 9.51 Topographic contours at ten-foot intervals or less from United States Geological Survey maps or more current sources, showing limiting site characteristics;
  - 9.52 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;
  - 9.53 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;
  - 9.54 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;
  - 9.55 Location of 100-year flood plain areas and floodway districts from existing adopted maps or data; and

- 9.56 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.
- 9.6 **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.
- 9.7 **Platting.** All subdivisions that cumulatively create five or more lots or parcels that are 2-1/2 acres or less in size shall be processed as a plat in accordance with Minnesota Statutes, Chapter 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.
- 9.8 **Controlled Access Lots.** Controlled access lots within a subdivision must meet or exceed the lot size criteria in Section 6.33 of this ordinance.

## 10.0 PLANNED UNIT DEVELOPMENTS (PUDs)

- 10.1 **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.
- 10.2 **Types of PUDs Permissible.** Planned unit developments (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 6.2 of this ordinance is allowed if the standards in this Section are met.
- 10.3 **Processing of PUDs.** Planned unit developments in the Shoreland Management Overlay District 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 this section. Approval cannot occur until all applicable environmental reviews are complete.
- 10.4 **Application for a PUD.** The applicant for a PUD must submit the following documents prior to final action on the application request:
- 10.41 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; and
  - 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).
- 10.42 A property owners association agreement (for residential PUD's) with mandatory membership, and consistent with Section 10.6 of this ordinance.
- 10.43 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; and

- B. Ensure the long-term preservation and maintenance of open space in accordance with the criteria and analysis specified in Section 10.6 of this ordinance.

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

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

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

10.51 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:

Classification	Tier Depth	
	No Sewer (ft)	Sewer (ft)
General Development Lakes – 1st tier	200	200
General Development Lakes – all other tiers	267	200
Natural Environment Lakes	400	320
All Rivers and Streams	300	300

10.52 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.

10.53 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 and streams, if a minimum lot area is not specified, divide the tier width by the minimum single residential lot width.

B. For commercial PUDs:

(1) 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:

I. For average floor area less than 200 sf, use 200 sf.

II. For average floor area greater than 1,500 sf, use 1,500 sf.

(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.

(2) Select the appropriate floor area/dwelling site area ratio from the following table for the floor area or dwelling site area determined in Section 10.53 B. 1.

Inside Living Floor Area or Dwelling Site Area (sf)	Floor Area/Dwelling Site Area Ratio		
	General Development Lakes w/Sewer – all tiers	General Development Lakes w/no sewer – all other tiers	Natural Environment Lakes
	General Development Lakes w/no sewer – 1 <sup>st</sup> tier		
	Tributary Rivers		
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

(3) Multiply the suitable area within each tier determined in Section 10.52 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.

(4) Divide the total floor area or dwelling site area for each tier calculated in Section 10.53 B. 3 by the average inside living floor area for dwelling units or dwelling site area determined in 10.53 B 1. This yields the allowable number of dwelling units or dwelling sites, or base density, for each tier.

C. Allowable densities may be transferred from any tier to any other tier further from the waterbody, but must not be transferred to any tier closer to the waterbody.

D. All PUDs with densities at or below the base density must meet the design standards in Section 10.6

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

A. The following increases to the dwelling unit or dwelling site base densities determined Section 10.53 are allowed if the design criteria in Section 10.6 of this ordinance are satisfied as well as the standards in Section 10.54, item B:

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

B. Structure setbacks from the ordinary high water level:

- (1) Are increased to at least 50 percent greater than the minimum setback; or
- (2) 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.

10.6 **Design Criteria.** All PUDs must meet the following design criteria.

10.61 General Design Standards.

- A. All residential planned unit developments must contain at least five dwelling units or sites.
- B. On-site water supply and sewage treatment systems must be centralized and meet the standards in this section. Sewage treatment systems must meet the setback standards of Section 6.41, item A of this ordinance.
- C. Dwelling units or dwelling sites must be clustered into one or more groups and located on suitable areas of the development.
- D. Dwelling units or dwelling sites must be designed and located to meet the dimensional standards in this section.
- E. Shore recreation facilities:
  - (1) Must be centralized and located in areas suitable for them based on a suitability analysis.
  - (2) 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).
  - (3) 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.
- F. 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.
- G. Accessory structures and facilities, except water oriented accessory structures, must meet the required structure setback and must be centralized.
- H. Water-oriented accessory structures and facilities may be allowed if they meet or exceed design standards contained in Section 7.3 of this ordinance and are centralized.

#### 10.62 Open Space Requirements.

- A. Open space must constitute at least 50 percent of the total project area and must include:
  - (1) Areas with physical characteristics unsuitable for development in their natural state;
  - (2) Areas containing significant historic sites or unplatted cemeteries;
  - (3) 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.
    - (c) For all commercial PUD's, at least 50 percent of the shore impact zone.
- B. Open space may include:
  - (1) 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; and
  - (2) Subsurface sewage treatment systems if the use of the space is restricted to avoid adverse impacts on the systems.
- C. Open space shall not include:
  - (1) Dwelling units or sites and residential lots; road rights-of-way, or land covered by road surfaces; parking areas, or structures, except water-oriented accessory structures or facilities; and
  - (2) Commercial facilities or uses.

#### 10.63 Open Space Maintenance and Administration Requirements.

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

10.64 Erosion Control and Stormwater Management.

- A. Erosion control plans must be developed and must be consistent with the provisions of Section 8.3 of this ordinance. Erosion control plans approved by a soil and water conservation district may be required if project size and site physical characteristics warrant.
- B. Stormwater management facilities must be designed and constructed to manage expected quantities and qualities of stormwater runoff. For commercial PUDs, impervious surfaces within any tier must not exceed 25 percent of the tier area, except that 35 percent impervious surface coverage may be allowed in the first tier of general development lakes with an approved stormwater management plan and consistency with Section 8.0 of this ordinance.

10.7 **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:

- 10.71 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;
- 10.72 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;
- 10.73 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:
  - A. Removal of extraneous buildings, docks, or other facilities that no longer need to be located in shore or bluff impact zones;
  - B. Remedial measures to correct erosion, improve vegetative cover and improve screening of buildings and other facilities as viewed from the water; and
  - C. 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.

10.74 Existing dwelling unit or dwelling site densities that exceed standards in Section 10.5 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.