

Agenda Planning Commission

City of Medicine Lake Meeting to be held virtual via Zoom February 17, 2021 6:00 pm

Topic: Medicine Lake Planning Commission
Time: February 17, 2022 06:00 PM Central Time
Location: To be held virtual via zoom as follows:

<https://us06web.zoom.us/j/86044011899?pwd=aGl0YTdyc1BsZ3E2Z1dwaDRpSXNNQT09>

Meeting ID: 860 4401 1899 | Passcode: 55441
If participant uses phone audio: 312 626 6799 US (Chicago)

1. Call to order and roll call
2. Approval of Agenda
3. Approval of Minutes from January 20th 2022 (attached)
4. Public Hearings: None scheduled
5. New Business: None
 - a) Discuss meeting format – when land use application items are on the agenda meet in person; when no land use applications require action – meet virtually
6. Old Business:
 - a) Short Term Rental survey (discussion at meeting)
 - b) Draft Shoreland Ordinance update discussion and process (attached)
7. Adjournment

MEMORANDUM

Hoisington Koegler Group Inc.



To: Medicine Lake Planning Commission
From: Brad Scheib, Consulting Planner
Subject: Short Term Rental Discussion and Shoreland Ordinance Update
Date: 02/14/2022

Thursday's PC meeting will be conducted virtually. The following items for on our agenda for discussion purposes. No action is necessary on any of these items.

1. 5. A) is to discuss our meeting formats. Prior to the recent public hearings and the seating of new PC members, we had discussed the notion of meeting in person to consider land use applications and meeting virtually for discussion items. Given the technology issues, we should reinstitute that advice. As long as we are able to have a quorum and conduct the meeting with proper safety protocols, meeting in person ensures all can be heard.
2. Short Term Rental Survey – Chair Swanson and commissioners Beisel and Kennedy have been working to revise the draft questions on the STR survey. Input was received on draft versions from Council and from resident Clint Carlson. At the meeting we should discuss a final version of the survey and agree to launch it. The intent would be to have the public provide input, then using that input, the PC can recommend a path forward. If an ordinance amendment is needed, a public hearing will be required. At this time, we are still in the information and engagement stage of that project.
3. The City approved the Comprehensive Plan in 2019. As part of the review process, BCWMC approved the Local Surface Water Management Plan, which was included as part of the Comprehensive Plan update. Consistent with the implementation directions of the plan staff began working on updates to the shoreland overlay district. The existing shoreland overlay (section 3600 of the zoning code) was never approved by the DNR and is outdated in many respects. Attached is a revised shoreland overlay district ordinance that incorporates relevant aspects of the DNR's model shoreland ordinance and most of the City's additional standards with one major exception. Prior to the pandemic, we had received 'conditional' approval from the DNR of the attached version with one exception. The shore impact zone was modified to be defined as 25 feet from the ordinary high water line as opposed to 50% of the structure setback. Because of our line of site setback, 50% of the structure setback would be extremely significant to a limited number of properties.

Staff will walk through the shoreland ordinance draft at the meeting and highlight the key omission from the current shoreland ordinance. We can discuss if that section is added back in for a the public hearing draft. The next step would be to conduct public engagement and have a public hearing on the draft ordinance. The attached would repeal and replace the current section 3600.

Meeting Minutes Planning Commission

City of Medicine Lake Meeting held virtual via Zoom and in person at City Hall January 20, 2022 6:00 pm

1. Call to order and roll call
 - The meeting was called to order at 6:05 pm.
 - Members present include – Jesse Swanson, Brad Beisel, Bill Enright, (in person) and Debbi Stafne, Glen Skajewski, and Laura Ferenci (via zoom). Shuan Kennedy arrived in person at approximately 6:30.
2. Approval of Agenda
 - Brad Beisel moved approval of the agenda and Bill Enright second with all present voting in favor. Motion to approve passed.
3. Approval of Minutes from December 16th, 2021.
 - Bill Enright moved to approve the December 16th 2021 meeting minutes and Brad Beisel second the motion. All members present voted in favor of the motion. Motion to approve passed.
4. Public Hearings: no new public hearings were held.
5. New Business: no new business was discussed.
6. Old Business:
 - The Planning Commission continued discussion regarding the property at 238 Peninsula Road and an application for a variance to allow construction of a retaining wall and sand beach area within 20 feet of the ordinary high water line on an area containing steep slopes.
 - Consulting Planner Scheib provided an overview of the project stating that this is a continuation of consideration of the variance for 238 Peninsula Road. Commissioners were advised that the public hearing was open and closed at the December 16th public hearing and that reopening the public hearing was at the discretion of the Planning Commission. Scheib indicated that additional materials sent to the Planning Commission were prepared by the applicant in response and follow up to the December meeting. In addition, new materials from Ted Hoshal (236 Peninsula Road) were forward to the Planning Commission generally in opposition to the variance request. These materials included a PowerPoint presentation

demonstrating the opinion of Mr. Hoshal that the lakeside area of the property is impacted by a bluff and a bluff impact zone as outlined in Mn State Rules. In addition a photo of the project area was taken from the lake and imposed over supplemental graphics provided by the applicant. The reason for the photo from Mr. Hoshal is to better show the undistorted condition of the slope/bluff area. Scheib reviewed the materials submitted by the applicant including a revised plan sheet that shows the retaining wall pulled back from the side yard to meet a four foot side yard setback, a narrative that describes the construction approach/process, narrative that provides background information on the contractor qualifications to complete the work, and computer renderings/illustrations that are intending to demonstrate character of the retaining wall as viewed from the lake with leaf on landscaping and leaf off conditions.

- Illustrations were presented to demonstrate the character. It was noted that the graphics are distorted due how they were prepared. This was expressed as a concern by Hoshal in his written correspondence. It was noted that the purpose of the graphic was to illustrate what the wall would look like from the lake to help understand the impact on the character of the shoreland and how the retaining wall could blend in with the shoreland.
- Construction methods include grading pads at the bottom of the hill to place the stones and bottom stairs and a pad mid point of hill to place the middle section of stairs. Restoration would occur as each section of stairs are placed to reduce the amount of time the area is disturbed. The upper stairs will be placed from the top of the hill.
- Staff discussed the bluff and bluff impact area definitions and the implications of determining if the proposed improvements are on a bluff or within a bluff impact zone. Scheib indicated that the city zoning code is triggering the variance need. If the property were in a bluff impact zone, similar variance findings would need to be made. In staff's initial review it was determined that, using the statutory rule of bluff as spelled out in 6120.2500 Subp. 1b Bluff, that the property was partially within a bluff and thus bluff impact zone; however, at a point where the 914 elevation turns away from the water, the determination of bluff becomes less clear. The applicant modified the design and reduced the footprint of improvements to be located outside of areas that are clearly bluff areas. Further, in reviewing the grading plan, staff applied the best practices to the plans for managing shoreland alterations in a responsible way following shoreland rules and DNR guidance (see Mn Statute 6120.3300 Subp. 4 B.). It was noted Mr. Hoshal's presentation presented a more impacting interpretation of the bluff area.

- Staff indicated that the public hearing was opened and closed at the December Meeting. However, it is the PC's discretion to allow for additional public input. A motion was made by Bill Enright and second by Brad Beisel to re-open the public hearing. Ted Hoshal (236 Peninsula Road) reviewed the materials that he had submitted with the packet. Mr. Hoshal indicated that as proposed the improvements of the retaining wall and beach area would threaten the quality and character of the shoreland, are within a bluff and bluff impact zone and are thus not in compliance with State Shoreland Rules, and are not in keeping with the spirit and intent of the zoning code. For these reasons and others as documented by Mr. Hoshal, he urged the planning commission to recommend denial of the proposed variance request. Mr. Hoshal indicated he wishes to work with the Juetten and be friendly neighbors and that his lack of support is not a personal issue but he is passionate about preserving the integrity of the shorelands and thus cannot support the retaining wall and beach area as proposed.
- The applicant, Patric Juetten (238 Peninsula Road) indicated that the improvements were to create a small area near the water where his family could safely enjoy the lake front proximity. He indicated he has worked with staff to reduce the footprint while still providing for the desired improvements. He indicated that he is working with qualified professionals (engineers and contractors) in order to do the work and minimize the impact on the hill. His contractor has extensive experience working with steep slopes and riparian areas. He discussed erosion control approaches and techniques that he will put in place and that the city has advised on. He also spoke to the photo and rendering intending to demonstrate the landscape character of the retaining wall to try and show commissioners what it might look like in leaf on and leaf off conditions.
- Discussion ensued with regards to the retaining wall structural components and desire to have seen a cross section drawing of the retaining wall and slope. Staff indicated that they have a supplemental submittal from a qualified engineer to advise on the structural integrity of the retaining wall. This was submitted and reviewed by the city engineer. Staff showed the exhibit at the meeting and indicated that because the wall is over 4 feet it will also need a building permit review.
- Further discussion ensued regarding the bluff and state shoreland rules, prior vegetation removal on the site, DNR permitting relating to rip-rap work and work below the OHW, and volume of grading work (cut/fill/grading estimated to be around 100 cubic yards). It was noted the amount of grading on the site does not trigger the more extensive storm water pollution control plan but is significant enough that it does trigger engineering review and a grading permit. Construction oversight and management could be managed through the construction management plan process. This could be a condition of approval.

- The public hearing was closed on a motion by Brad Beisel and second by Jesse Swanson and all voted in the affirmative.
- Further discussion by the planning commission ensued.
- Brad Beisel moved to recommend to the City Council approval of the variance with the conditions and findings as noted in the staff report dated 12/09/2021 and with the conditions added from the Planning Commission discussion including: 4) Any work that is performed below the ordinary high water line requires review and permitting approvals from the DNR; 5) A building permit be obtained prior to construction of the retaining wall. 6) Applicant shall follow the City's construction management plan process which will provide for construction oversight and observation. Bill Enright second the motion to recommend approval. Further discussion ensued. Ferenci expressed frustration with not being able to hear the full discussion due to technology related matters and not feeling comfortable with considerations relative to bluff and bluff impact areas. Ferenci further expressed concerns about erosion and sediment controls, drainage, and safety concerns with children next to the lake and boat traffic. Skajewski expressed disappointment that additional exhibit materials (an elevation/cross section drawing) with regard to the retaining wall and steep slope was not provided and was asked for at the December meeting. Skajewski indicated he had no issue with the stairs or landing area as part of the stairs but felt that the proposed improvement could be smaller and was not in keeping with the spirit and intent of the zoning ordinance due to its impact on the bluff area. Further discussion was also had regarding the applicant's engineer's memo on the retaining wall. Kennedy inquired if additional elevations or cross sections could be provided with the recommendation to the City Council. Scheib said yes and it would be to the applicant's advantage to provide such information. Following the discussion a roll call vote was made on the motion. The following voted in favor of the motion: Beisel, Enright, Swanson, Kennedy, and Stafne. The following voted in opposition to the motion: Skajewski and Ferenci.
- On a vote of five members in favor of the motion and two members opposed, the motion to recommend approval with noted conditions and findings was approved.

7. Adjournment

- Brad Beisel moved to adjourn the meeting at 9:10 pm. Bill Enright second the motion and all voted in the affirmative.

Respectfully Submitted
 Brad Scheib
 Planning Consultant/Zoning Administrator

§3600-Shoreland Ordinance

§3600.1 Purpose, Statutory Authorization, and Policy

§3600.2 General Provisions and Definitions

§3600.3 Administration

§3600.4 Shoreland Classification System and Land Uses

0 Special Land Use Provisions

§3600.6 Dimensional and General Performance Standards

§3600.7 Performance Standards for Public and Private Facilities

§3600.8 Vegetation and Land Alterations

§3600.9 Subdivision/Platting Provisions

§3600.10 Planned Unit Developments (PUDs)

§3600.1 Purpose, Statutory Authorization, and Policy

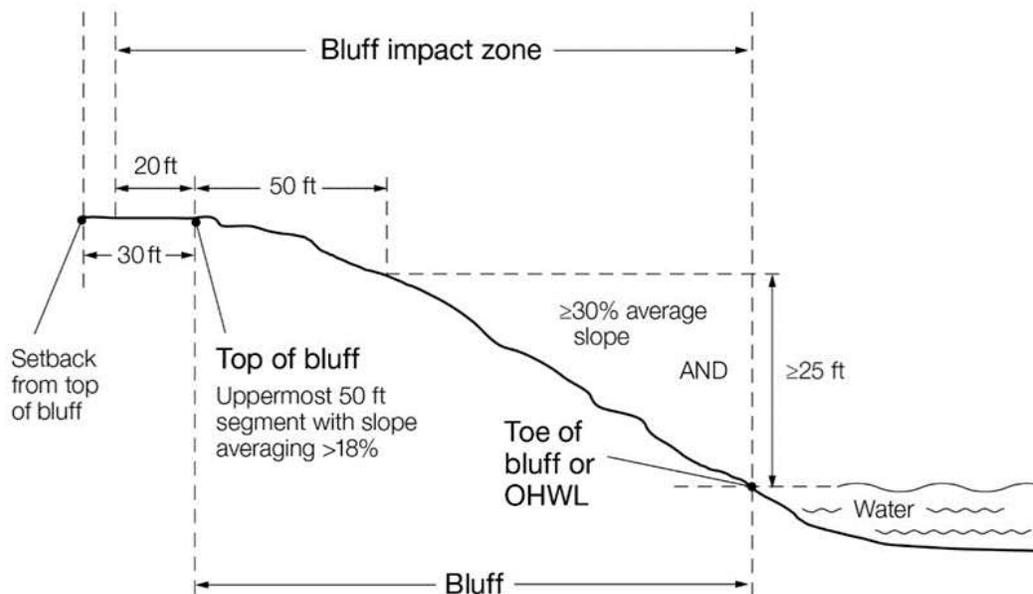
- (a) Purpose. The uncontrolled use of shoreland areas affects the public health, safety and general welfare by contributing to the pollution of public waters, causing over-crowding of surface waters and impairing the local tax base. The shorelands within the City of Medicine Lake are hereby designated as “S” Shoreland Overlay Districts and the requirements set forth in this Chapter shall govern development and other activities within these districts. The classification of the shoreland areas shall govern the use, alteration and development of these areas according to said classification.
- (b) 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.
- (c) 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 Medicine Lake.

§3600.2 General Provisions and Definitions

- (a) Jurisdiction. The provisions of this ordinance apply to the shorelands of the public water bodies as classified in Section §3600.4(a) of this ordinance. Pursuant to Minnesota Regulations, Parts 6120.2500 – 6120.3900. 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.
- (b) Enforcement. The City of Medicine Lake 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 or conditional uses constitutes a misdemeanor and is punishable as defined by law. Violations of this ordinance can occur regardless of whether or not a permit is required for a regulated activity listed in Section §3600.3(a) of this ordinance.

- (c) **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.
- (d) **Abrogation and Greater Restrictions.** It is not intended by this ordinance to repeal, abrogate, 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.
- (e) **Definitions.** Unless specifically defined below, words or phrases used in this ordinance shall be interpreted to give them the same meaning they have in common usage and to give this ordinance its most reasonable application. For the purpose of this ordinance, the words “must” and “shall” are mandatory and not permissive. All distances, unless otherwise specified, are measured horizontally.
- (1) **Accessory structure or facility:** Any building or improvement subordinate to a principal use.
- (2) **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 toe of bluff;
 - d. The grade of the slope from the toe of the bluff to a point 25 feet or more above the toe of the bluff averages 30 percent or greater, except that an area with an average slope of less than 18 percent over a distance of at least 50 feet shall not be considered part of the bluff; and

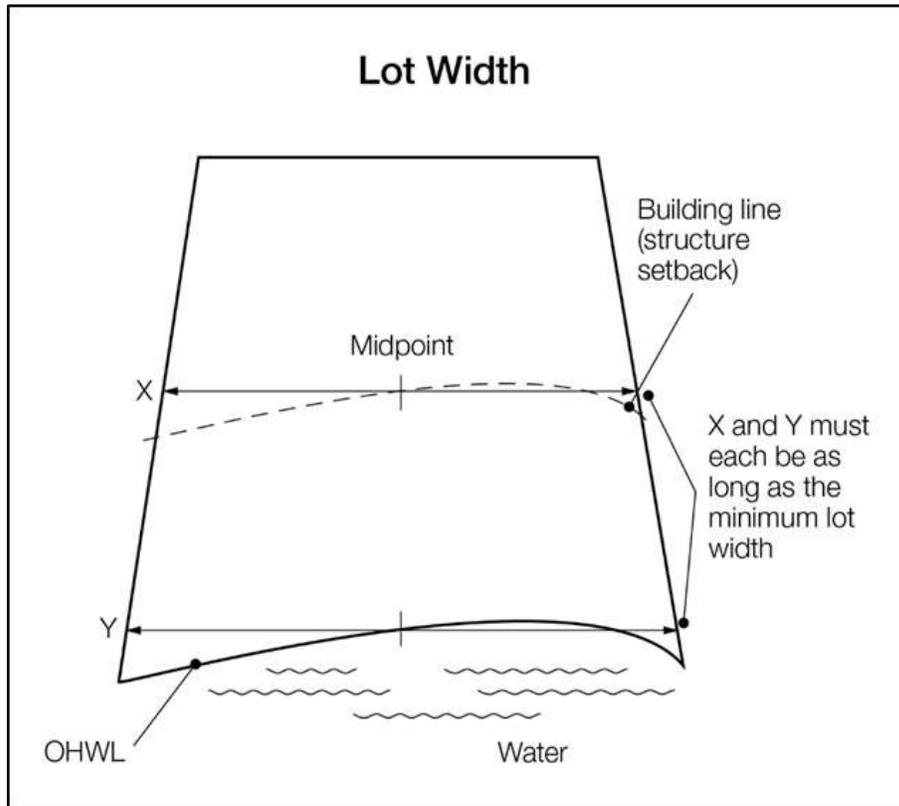
Bluff, Bluff Impact Zone, Top and Toe of Bluff



Note: The DNR's bluff mapping tool, a GIS script, is available for download from the Minnesota Geospatial Commons. This tool is helpful for identifying bluffs for general mapping and planning purposes.

- (3) Bluff impact zone: A bluff and land located within 20 feet of the top of a bluff.
- (4) 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.
- (5) Bluff, Top of: For the purposes of measuring setbacks, the higher point of a 50-foot segment with an average slope exceeding 18 percent.
- (6) Boathouse: A facility as defined by [Minnesota Statutes Section 103G.245](#). Boathouses are prohibited by state statute.
- (7) Buffer: A vegetative feature as defined by [Minnesota Statutes, Section 103F.48](#).
- (8) 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.
- (9) Controlled access lot: A lot used to access public waters or as a recreation area for owners of non-riparian lots within the same subdivision containing the controlled access lot.
- (10) Commercial planned unit developments: Developments that provide transient, short-term lodging spaces, rooms, or parcels and their operations are essentially service-oriented. For example, hotel/motel accommodations, resorts, recreational vehicle and camping parks, and other primarily service-oriented activities are commercial planned unit developments.
- (11) Commercial use: The principal use of land or buildings for the sale, lease, rental, or trade of products, goods, and services.
- (12) Commissioner: The commissioner of the Department of Natural Resources (DNR).
- (13) 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.
- (14) 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.
- (15) Duplex 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.
- (16) Dwelling site: A designated location for residential use by one or more persons using temporary or movable shelter, including camping and recreational vehicle sites.
- (17) Dwelling unit: Any structure or portion of a structure, or other shelter designed as short- or long-term living quarters for one or more persons, including rental or timeshare accommodations such as motel, hotel, and resort rooms and cabins.
- (18) Height of building: The vertical distance from the average of the highest and lowest point of grade for that portion of the lot covered by the building to the highest point of the roof for flat roofs, to the roof deck line of mansard roofs, and to the uppermost point on all other roof types.

- (19) **Impervious surface:** A constructed hard surface that prevents or retards entry of water into the soil and causes water to run off the surface in greater quantities and at an increased rate of flow than prior to development, including rooftops; decks; sidewalks; patios; swimming pools; parking lots; concrete, asphalt, or gravel driveways; and other similar surfaces.
- (20) **Industrial use:** The use of land or buildings for the production, manufacture, warehousing, storage, or transfer of goods, products, commodities, or other wholesale items.
- (21) **Intensive vegetation clearing:** The complete removal of trees or shrubs in a contiguous patch, strip, row, or block.
- (22) **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.
- (23) **Lot width:** The minimum distance between:
- a. Side lot lines measured at the midpoint of the building line; and
 - b. Side lot lines at the ordinary high water level, if applicable.

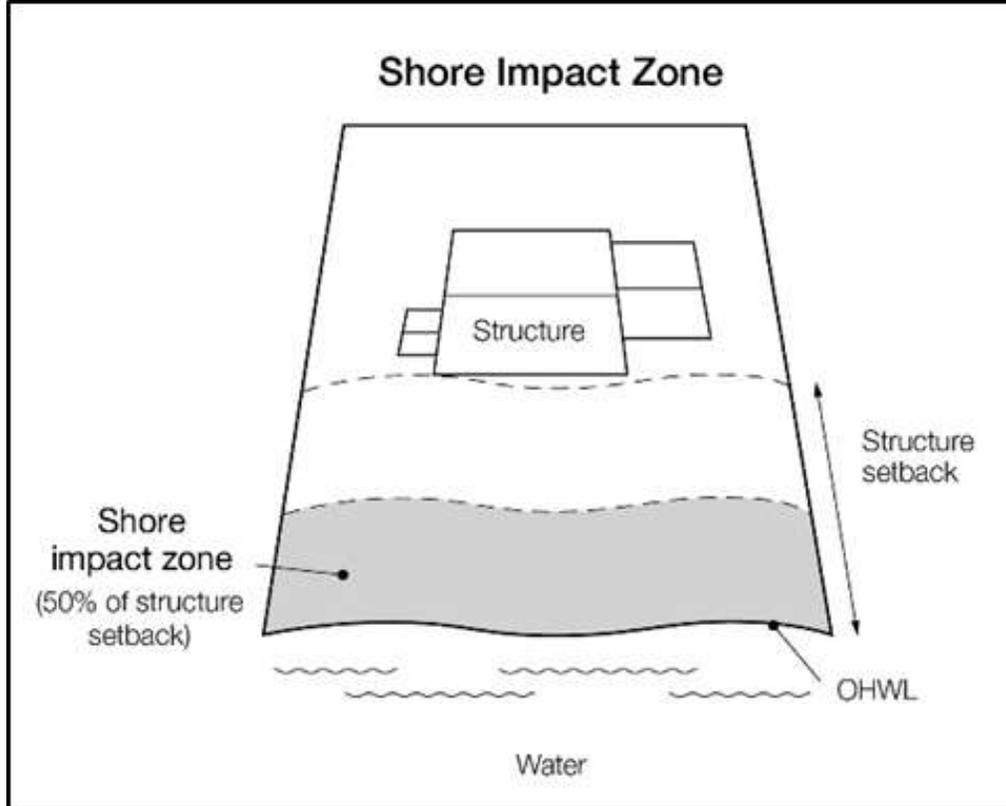


- (24) **Nonconformity:** Any legal use, structure or parcel of land already in existence, recorded, or authorized before the adoption of official controls or amendments to those controls that would not have been permitted to become established under the terms of the official controls as now written.
- (25) **Ordinary high water level (OHWL):** The boundary of public waters and wetlands, and shall be an elevation delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape, commonly that point where the natural

vegetation changes from predominantly aquatic to predominantly terrestrial. For watercourses, the ordinary high water level is the elevation of the top of the bank of the channel. For reservoirs and flowages, the ordinary high water level is the operating elevation of the normal summer pool.

- (26) 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.
- (27) Public waters: Any water as defined in Minnesota Statutes, Section 103G.005, Subd. 15, 15a.
- (28) Residential planned unit development: A use where the nature of residency is nontransient 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.
- (29) 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.
- (30) 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.
- (31) Sewage treatment system: “Sewage treatment system” has the meaning given under Minnesota Rules, part 7080.1100, Subp. 82.
- (32) 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.

- (33) **Shore impact zone:** Land located between the ordinary high water level of a public water and a line parallel to it at a setback of 25 feet.



- (34) **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.
- (35) **Shore recreation facilities:** Swimming areas, docks, watercraft mooring areas and launching ramps and other water recreation facilities.
- (36) **Significant historic site:** Any archaeological site, standing structure, or other property that meets the criteria for eligibility to the National Register of Historic Places or is listed in the State Register of Historic Sites, or is determined to be an unplatted cemetery that falls under the provisions of Minnesota Statutes, Section 307.08. A historic site meets these criteria if it is presently listed on either register or if it is determined to meet the qualifications for listing after review by the Minnesota state archaeologist or the director of the Minnesota Historical Society. All unplatted cemeteries are automatically considered to be significant historic sites.
- (37) **Steep slope:** Lands having average slopes over 12 percent, as measured over horizontal distances of 50 feet or more, which are not bluffs.
- (38) **Structure:** 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.

- (39) Subdivision: Land that is divided for the purpose of sale, rent, or lease, including planned unit developments.
- (40) 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.
- (41) Variance: “Variance” means the same as that defined in Minnesota Statutes Section 462.357 Subd. 6 (2).
- (42) 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.
- (43) Wetland: “Wetland” has the meaning given under Minnesota Rule, part 8420.0111.

§3600.3 Administration

- (a) Purpose. The purpose of this Section is to identify administrative provisions to ensure the ordinance is administered consistent with its purpose.
- (b) Permits. A permit is required for the construction of buildings or building additions (including construction of decks and signs) and those grading and filling activities not exempted by Section §3600.8(c) of this ordinance.
- (c) Application materials. Application for permits and other zoning applications such as variances shall be made to the Zoning Administrator on the forms provided. The application shall include the necessary information so that the Zoning Administrator can evaluate how the application complies with the provisions of this ordinance.
- (d) Certificate of Zoning Compliance. The Zoning Administrator shall issue a certificate of zoning compliance for each activity requiring a permit as specified in Section §3600.3(a) of this ordinance. This certificate will specify that the use of land conforms to the requirements of this 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 §3600.2(b) of this ordinance.
- (e) Variances. Variances may only be granted in accordance with Section 462.357 and are subject to the following: A variance may not circumvent the general purposes and intent of this ordinance.
- (f) Conditional Uses. 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:
- (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;
- (g) Mitigation.

- (1) In evaluating all variances, conditional uses, zoning and building permit applications, the zoning authority shall require the property owner to address the following conditions, when related to and proportional to the impact, to meet the purpose of this ordinance, to protect adjacent properties, and the public interest:
 - a. Advanced storm water runoff management treatment;
 - b. Reducing impervious surfaces;
 - c. Increasing setbacks from the ordinary high water level;
 - d. Restoration of wetlands;
 - e. Limiting vegetation removal and/or riparian vegetation restoration;
 - f. Provisions for the location, design, and use of structures, water supply systems, watercraft launching and docking areas, and parking areas; and
 - g. Other conditions the zoning authority deems necessary.
- (2) In evaluating plans to construct 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.

(h) Nonconformities.

- (1) All legally established nonconformities as of the date of this ordinance may continue, but will be managed according to Minnesota Statutes 462.357 Subd. 1e and other regulations of this community for alterations and additions; repair after damage; discontinuance of use; and intensification of use.
- (2) All additions or expansions to the outside dimensions of an existing nonconforming structure must meet the setback, height, and other requirements of Sections 0 to §3600.8 of this ordinance. Any deviation from these requirements must be authorized by a variance.

(i) Notifications to the Department of Natural Resources.

- (1) All amendments to this shoreland ordinance must be submitted to the Department of Natural Resources for review and approval for compliance with the statewide shoreland management rules. The City of Medicine Lake will submit the proposed ordinance amendments to the commissioner or the commissioner's designated representative at least 30 days before any scheduled public hearings.
- (2) 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 at least ten (10) days before the hearings. Notices of hearings to consider proposed subdivisions/plats must include copies of the subdivision/plat.
- (3) 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 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.

- (4) Any request to change the shoreland management classification of public waters within the City of Medicine Lake 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.
- (5) Any request to reduce the boundaries of shorelands of public waters within the City of Medicine Lake 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.
- (j) **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 20a, 25, 27, 28, 29, and 36a.

§3600.4 Shoreland Classification System and Land Uses

(a) Shoreland Classification System.

- (1) **Purpose.** To ensure that shoreland development on the public waters of the City of Medicine Lake is regulated consistent with the classifications assigned by the commissioner under Minnesota Rules, part 6120.3300.
- (2) The shoreland area for the waterbodies listed in Sections §3600.4a (3) and §3600.4a **Error! Reference source not found.** are defined in Section §3600.2e (34) and are shown on the Official Zoning Map.
- (3) Lakes are classified as either General Development, Recreational Development, or Natural Environment. Medicine Lake has one General Development Lake, as shown below.

Lake Classification	DNR Public Waters I.D. #
General Development	
Medicine Lake	27010400

- (4) Rivers and Streams are classified as either Urban, Agricultural, Transition, Forested, or Reserve. The City of Medicine Lake does not have any rivers or streams.

(b) Land Uses.

- (1) **Purpose.** To identify land uses that are compatible with the protection and preservation of shoreline resources in order to conserve the economic and environmental values of shoreland and sustain water quality.
- (2) Shoreland district land uses listed in Sections §3600.4b (3) are regulated as:
 - a. **Permitted uses (P).** These uses are allowed, provided all standards in this ordinance are followed;

- b. Conditional uses (C). These uses are allowed through a conditional use permit. The use must be evaluated according to the criteria in Section §3600.3(f) of this ordinance and any additional conditions listed in this ordinance; and
- c. Not permitted uses (N). These uses are prohibited.

(3) Land uses for lake classifications:

Land Uses	General Development
Single residential	P
Duplex	P
Residential PUD	C
Water-dependent commercial - As accessory to a residential planned unit development	C
Commercial	P
Commercial PUD - Limited expansion of a commercial planned unit development involving up to six additional dwelling units or sites may be allowed as a permitted use provided the provisions of Section §3600.10 of this ordinance are satisfied.	C
Parks & historic sites	C
Public, semipublic	P
Industrial	C
Water Oriented Uses	N

§3600.5 Special Land Use Provisions

(a) 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 §3600.7;
 - 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:
 - I. No higher than ten feet above the ground, and no greater than 32 square feet in size; and
 - II. 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.
- (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.

§3600.6 Dimensional and General Performance Standards

- (a) **Purpose.** To establish dimensional and performance standards that protect shoreland resources from impacts of development.
- (b) **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 in Section §3600.6b (4), subject to the following standards:
 - (1) Only lands above the ordinary high water level of a public water body can be used to meet lot area and width standards;
 - (2) Lot width standards must be met at both the ordinary high water level of a public water body and at the building line;
 - (3) Residential subdivisions with dwelling unit densities exceeding those in Section §3600.6b (4) are allowed only if designed and approved as residential PUDs under Section §3600.10 of this ordinance; and
 - (4) **Lake Minimum Lot Area and Width Standards:**

General Development – Sewer				
	Riparian		Nonriparian	
	Lot Area (sf)	Lot Width (ft)	Lot Area (sf)	Lot Width (ft)
Single	12,500	50	12,500	50
Duplex	18,000	75	18,000	75

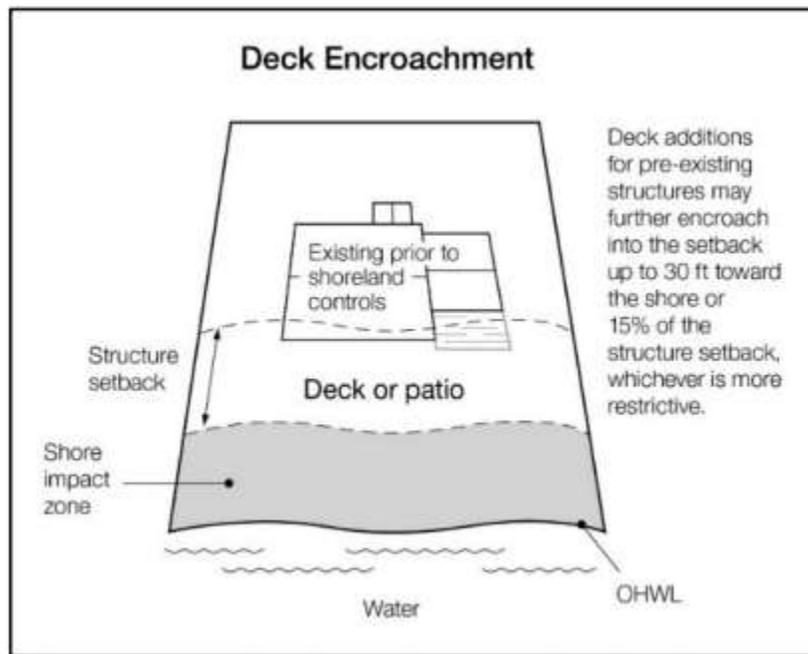
(c) Placement, Height, and Design of Structures.

(1) Placement of Structures on Lots. When more than one setback applies to a site, structures and facilities must be located the greater of 50' from the Ordinary High Water Level (OHWL) or as determined by the line of site.

a. OHWL Setbacks. Structures and impervious surfaces must meet setbacks from the OHWL.

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 30 feet from the OHWL, whichever is more restrictive; and
- (4) The deck is constructed primarily of wood, and is not roofed or screened.

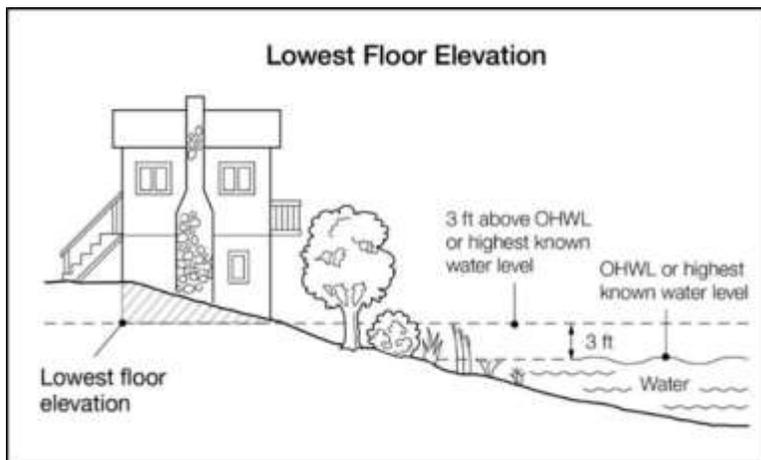


c. Additional structure setbacks. Structures must also meet the following setbacks, regardless of the waterbody classification:

Setback from:	Setback (ft)
Top of bluff	30

Setback from:	Setback (ft)
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.
- (2) Height of Structures. All structures in residential districts in cities, except churches and nonresidential agricultural structures, must not exceed ~~25~~ 35 feet in height.
- (3) Lowest Floor Elevation. Structures must be placed in accordance with any floodplain regulations applicable to the site. Where these controls do not exist, the elevation to which the lowest floor, including basement, is placed or flood-proofed must be determined 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. If the structure is floodproofed instead of elevated under items, then it must be floodproofed in accordance with Minnesota Rules, part 6120.5900 Subp. 3 (D).

- (4) Water Supply and Sewage Treatment.
 - a. 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.
 - b. Sewage treatment. Any premises used for human occupancy must be connected to a publicly-owned sewer system.

§3600.7 Performance Standards for Public and Private Facilities

- (a) 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:
 - (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) 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 subpart are met;
 - (3) Private facilities must comply with the grading and filling provisions of Section §3600.8(c) 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, lifts, and landings must meet the following design requirements:
- (1) 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;
 - (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, public-space recreational uses, and planned unit developments;
 - (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; and
 - (6) 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 subitems §3600.7b (1) to §3600.7b (5) and the requirements of Minnesota Rules, Chapter 1341.

§3600.8 Vegetation and Land Alterations

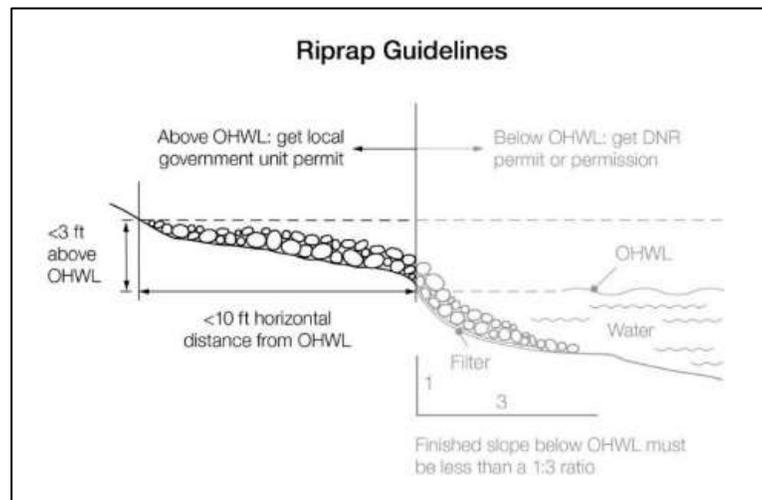
- (a) Purpose. Alterations of vegetation and topography are regulated to prevent erosion into public waters, fix nutrients, preserve shoreland aesthetics, preserve historic values, prevent bank slumping, sustain water quality, and protect fish and wildlife habitat.
- (b) Vegetation Management.
- (1) Removal or alteration of vegetation must comply with the provisions of this subsection except for:
 - a. Vegetation alteration necessary for the construction of structures under validly issued permits for these facilities;
 - b. The construction of public roads and parking areas if consistent with Section §3600.7(a) of this ordinance;

- (2) Intensive vegetation clearing in the shore and bluff impact zones and on steep slopes is prohibited.
- (3) 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, 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 is preserved;
 - c. Cutting debris or slash shall be scattered and not mounded on the ground; and
 - d. Perennial ground cover is retained.
- (4) Removal of trees, limbs, or branches that are dead, diseased, dying, or pose safety hazards is allowed without a permit.
- (5) Fertilizer and pesticide runoff into surface waters must be minimized through use of vegetation, topography or both.

(c) Grading and Filling.

- (1) Grading and filling activities must comply with the provisions of this subsection except for the construction of public roads and parking areas if consistent with Section §3600.7(a) of this ordinance.
- (2) Permit Requirements.
 - a. Grading, filling and excavations necessary for the construction of structures, sewage treatment systems, and driveways, if part of an approved permit, do not require a separate grading and filling permit. However, the standards in Section §3600.8c (3) of this ordinance must be incorporated into the permit.
 - b. For all other work, including driveways not part of another permit, 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.
- (3) 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:
 - (a) the finished slope does not exceed three feet horizontal to one foot vertical;
 - (b) the landward extent of the riprap is within ten feet of the ordinary high water level; and
 - (c) the height of the riprap above the ordinary high water level does not exceed three feet.



- (4) 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](#).

(d) Stormwater Management.

(1) General Standards:

- a. 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.
- b. Development must be planned and conducted in a manner that will minimize the extent of disturbed areas, runoff velocities, erosion potential, and reduce and delay runoff volumes. Disturbed areas must be stabilized as soon as possible and appropriate facilities or methods used to retain sediment on the site.
- c. 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.

(2) Specific Standards:

- a. Impervious surfaces of lots must not exceed ~~25~~40 percent of the lot area.
- 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](#).

§3600.9 Subdivision/Platting Provisions

- (a) Purpose. To ensure that new development minimizes impacts to shoreland resources and is safe and functional.
- (b) Land suitability. Each lot created through subdivision, including planned unit developments authorized under Section §3600.10 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.
- (c) 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.
- (d) Information requirements.
 - (1) Topographic contours at two-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.
- (e) 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.
- (f) 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, Chapters 462.358 Subd. 3a and 505. No permit for construction of buildings shall be issued for lots created after the adoption of this ordinance unless the lot was previously approved as part of a formal subdivision.

§3600.10 Planned Unit Developments (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 (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 §3600.6(b) of this ordinance is allowed if the standards in this Section are met.
- (c) Processing of PUDs. 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 §3600.10(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;

- c. 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).
- (2) A property owners association agreement (for residential PUD's) with mandatory membership, and consistent with Section §3600.10(f) 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; and
 - b. Ensure the long-term preservation and maintenance of open space in accordance with the criteria and analysis specified in Section §3600.10(f) 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:

	Sewer (ft)
General Development Lakes – 1st tier	200
General Development Lakes – all other tiers	200

- (2) Step 2. Calculate Suitable Area for Development. Calculate the suitable area within each tier by excluding all wetlands, bluffs, or land below the ordinary high water level of public waters.
- (3) Step 3. Determine Base Density:
 - a. For residential PUDs, divide the suitable area within each tier by the minimum single residential lot area for lakes to determine the allowable number of dwelling units, or base density, for each tier. For rivers, if a minimum lot area is not specified, divide the tier width by the minimum single residential lot width.
 - b. For commercial PUDs:
 - (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. 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.
- (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 §3600.10e (3b(1)).

Inside Living Floor Area or Dwelling Site Area (sf)	Floor Area/Dwelling Site Area Ratio
	General Development Lakes w/Sewer – all tiers
< 200	.040
300	.048
400	.056
500	.065
600	.072
700	.082
800	.091
900	.099
1,000	.108
1,100	.116
1,200	.125
1,300	.133
1,400	.142
> 1,500	.150

- (3) Multiply the suitable area within each tier determined in Section §3600.10e (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.

(4) Divide the total floor area or dwelling site area for each tier calculated in Section §3600.10e (3b(3)) by the average inside living floor area for dwelling units or dwelling site area determined in §3600.10e (3b(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 §3600.10(f).

(4) 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 §3600.10e (3) are allowed if the design criteria in Section §3600.10(f) of this ordinance are satisfied as well as the standards in Section §3600.10e (4), item b:

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:
 - (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.

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

(1) General Design Standards.

- a. All residential planned unit developments must contain at least five dwelling units or sites.
- b. On-site water supply and sewage treatment systems must be centralized and meet the standards in Section §3600.6(4) of this ordinance. Sewage treatment systems must meet the setback standards of Section §3600.6d (1), item (1)a of this ordinance.
- c. Dwelling units or dwelling sites must be clustered into one or more groups and located on suitable areas of the development.

- d. Dwelling units or dwelling sites must be designed and located to meet the dimensional standards in Sections §3600.6:
 - c. 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.
- (2) 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:
 - I. For existing residential PUD's, at least 50 percent of the shore impact zone
 - II. For new residential PUDs, at least 70 percent of the shore impact zone.
 - III. 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;
 - (2) Non-public water wetlands.
 - c. Open space shall not include:
 - (1) Dwelling sites or lots, unless owned in common by an owners association;

- (2) Dwelling units or structures, except water-oriented accessory structures or facilities;
- (3) Road rights-of-way or land covered by road surfaces and parking areas;
- (4) Land below the OHWL of public waters; and
- (5) Commercial facilities or uses.

(3) 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.

(4) Erosion Control and Stormwater Management.

- a. Erosion control plans must be developed and must be consistent with the provisions of Section §3600.8(c) 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 §3600.8 of this ordinance.

(g) 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:

- (1) 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;
- (2) 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;
- (3) 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.
- (4) Existing dwelling unit or dwelling site densities that exceed standards in Section §3600.10(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.