

# THE SHORELAND MANAGEMENT ORDINANCE OF OTTER TAIL COUNTY, MINNESOTA

ORIGINAL EFFECTIVE DATE  
OCTOBER 15, 1971

REVISIONS  
MAY 1, 1973  
APRIL 1, 1978  
MAY 8, 1981  
APRIL 15, 1985  
FEBRUARY 5, 1992\*  
APRIL 13, 1993  
MAY 1, 1997  
JANUARY 1, 2001  
JANUARY 1, 2004  
MAY 1, 2008  
JUNE 1, 2011  
AUGUST 1, 2013  
APRIL 8, 2016  
JANUARY 15, 2017

\* AS MANDATED BY THE STATE OF MINNESOTA



LAND & RESOURCE MANAGEMENT  
OTTER TAIL COUNTY GOVERNMENT SERVICES CENTER  
540 WEST FIR  
FERGUS FALLS, MN 56537

218-998-8095  
[www.co.ottertail.mn.us](http://www.co.ottertail.mn.us)

**SHORELAND MANAGEMENT ORDINANCE OF OTTER TAIL COUNTY**  
**EFFECTIVE JANUARY 15, 2017**

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## I. GENERAL PROVISIONS

### 1. Title

This Ordinance from the date of its passage shall be known as the Shoreland Management Ordinance of Otter Tail County, Minnesota.

### 2. Purpose

The purpose of this Ordinance is to regulate the use and orderly development of shorelands in Otter Tail County, to prevent and eliminate pollution of public waters and to maintain historic values of significant historic sites in the unincorporated areas of Otter Tail County, and to preserve and enhance our natural resources as provided in the Environmental Rights Act, Minnesota Statutes 116B.

### 3. Legal Authority

This Ordinance is enacted pursuant to Minnesota Statutes Chapter 394 and in accordance with the authority granted in Minnesota Statutes 103G, 115 & 116.

### 4. Compliance

No structure located in Otter Tail County and lying outside the incorporated limits of any municipality and lying within the Shoreland Management Districts herein defined shall be erected or altered which does not comply with the regulations of this Ordinance, nor shall any structure or premises be used for any purpose other than a use permitted by this Ordinance. No topographical alterations shall be performed within Shoreland Management Districts without following the requirements of this Ordinance.

### 5. Owner Liable

In addition to any other person or persons involved in a violation or threatened violation of this Ordinance, the owner of record of any property falling under the jurisdiction of this Ordinance shall be responsible both criminally and civilly for any construction, alteration, excavation, or any other activity occurring upon his property which is contrary to the provisions of this Ordinance.

### 6. Savings Clause

All permits issued under this Ordinance are permissive only and shall not release the permittee from any liability or obligation imposed by Minnesota Statutes, Federal Law, or local Ordinances relating thereto. In the event any provision of this Ordinance shall be found contrary to law by a Court of competent jurisdiction from whose final judgment no appeal has been taken, such provision shall be considered void. All other provisions of this Ordinance shall continue in full force and effect as though the voided provision had never existed.

## II. DEFINITIONS

As used in this Ordinance words in the present tense shall include the future tense, and words used in the singular number shall include the plural number and the plural the singular. The word "shall" is mandatory and not discretionary. The word "may" is permissive. All distances, unless otherwise specified, shall be measured horizontally. The terms defined in Minnesota Statute 394.22 are hereby incorporated in this Ordinance.

For the purpose of this Ordinance certain terms and words are herein defined as follows:

1. **Access Lot:** A parcel of land designated for access to public waters for riparian parcels.

2. **Administrative Officer:** The administrator of the office of Land and Resource Management of Otter Tail County and his or her assistants.

3. **Agriculture:** The use of land for agricultural purposes, including farming, dairying, pasturage agriculture, horticulture, floriculture, viticulture, and animal and poultry husbandry and the necessary accessory uses for packing, treating, or storing the produce; provided, however, that the operation of any such accessory uses shall be secondary to that of the normal agricultural activities.

4. **Animal Feedlot:** A lot or building or combination of lots and buildings intended for the confined feeding, breeding, raising or holding of animals and specifically designed as a confinement area in which manure may accumulate or where the concentration of animals is such that a vegetative cover cannot be maintained within the enclosure. For purposes of these parts, open lots used for the feeding and rearing of poultry (poultry ranges) shall be considered to be animal feedlots. Pastures shall not be considered animal feedlots under these parts.

5. **Attached Structure:** Two buildings are attached when they share a common wall or portion of a wall with a door, so that a person may travel from any portion of one building to any portion of the second building without going outside.
6. **Bed & Breakfast Facility:** An owner-occupied single family residence at which lodging and meals are provided to registered guests. The Bed & Breakfast facility shall comply with all the applicable State and Local regulations for providing food and lodging.
7. **Bluff:** A topographic feature such as a hill, cliff, or embankment having all of the following characteristics:
  - A. Part or all of the feature is located in a Shoreland Area.
  - B. The slope rises at least 25 feet (ft.) above the ordinary high water level (OHWL).
  - C. The grade of the slope from the toe of the bluff to a point 25 ft. or more above the OHWL level averages 30% or greater.
  - D. The slope must drain toward the waterbody.

If the 50 ft. segment on either side of the point at which a feature is 25 ft. above the OHWL has a slope of 30% or more, it is a bluff.
8. **Bluff Impact Zone (BIZ):** A bluff and land located within 30 ft. from the top of a bluff.
9. **Boardwalk:** A permanent above grade constructed walkway, not to exceed 6 ft. in width, used to provide access to a lake or river where a wetland is present.
10. **Boathouse:** A structure designed and used solely for the storage of boats or boating equipment.
11. **Buffer Zone:** That portion of a parcel of land which adjoins neighboring parcels and is not used for structures, manufactured homes, recreational camping units or vehicle parking or storage; and which is maintained in a sightly manner with natural vegetation.
12. **Buildable Area:** The minimum continuous area remaining on a lot or parcel of land after all setback requirements, bluffs, areas with slopes greater than 25 percent, all easements and right-of-ways, significant historic sites, wetlands, and land less than 3' above the OHWL of public waters are subtracted.
13. **Building:** Any fixed construction with walls or a roof.
14. **Building Line:** That line measured across the width of the lot at the point where the main structure is placed in accordance with setback provisions.
15. **Centralized Sewage System:** A system of treating sewage from multiple sources which may require approval by the Minnesota Pollution Control Agency.
16. **Certificate of Compliance:** A document, written after a compliance inspection, certifying that a sewage treatment system is in compliance with applicable requirements at the time of inspection.
17. **Commercial Planned Unit Developments:** Are typically uses 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.
18. **Commercial Use:** The use of land or buildings for the sale, lease, rental or trade of products, goods or services, includes storage or transmission structures. More than 2 currently unlicensed vehicles stored outside on a lot constitute a commercial use.
19. **Commissioner:** Commissioner of the Department of Natural Resources or his or her designated representative.
20. **Compliance Inspection:** An evaluation, investigation, inspection, or other such process for the purpose of issuing a certificate of compliance or notice of noncompliance for a sewage treatment system.
21. **Conditional Use:** A use which is permitted within a zoning district only when allowed by the County Board of Commissioners or their legally designated agent if certain conditions are met which eliminate or minimize the incompatibility with other permitted uses of the district.
22. **Contiguous:** Parcels of land that have a common border.
23. **Continuous:** Going on or extending without interruption or break.

- 24. Controlled Access:** Any private site, field or tract of land abutting a classified body of water to be used primarily for access purposes. Including, but not limited to non-riparian lot access.
- 25. Deck:** A horizontal, unenclosed platform with or without attached railings, seats, trellises or other features, attached to a principal use or site and at any point extending more than three feet above ground.
- 26. Duplex, Triplex, and Quad:** A dwelling structure on a single lot, having two, three, and four units respectively, being attached by common walls and each unit equipped with separate sleeping, cooking, eating, living, and sanitation facilities.
- 27. Dwelling Site:** A designated location for residential use by one or more persons using temporary or movable shelter, including camping and recreational vehicle sites.
- 28. 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, but not limited to, rental or timeshare accommodations such as cottage, house, motel, hotel and resort rooms, cabins, tents, RCUs and manufactured homes.
- 29. Environmental Assessment Worksheet (EAW):** A brief document, in worksheet format, that helps local governments and state agencies decide whether a proposed action is a major action with the potential for significant environmental effects and, in the case of a private action, whether it is of more than local significance. If the action meets these criteria, an environmental impact statement (EIS) should be prepared.
- 30. Environmental Impact Statement (EIS):** An informational document which contains a thorough evaluation of the environmental effects of a proposed project. The EIS provides information for agencies and private persons which helps them not only to evaluate the impacts of proposed actions which have the potential for significant environmental effects, but to consider alternatives and to institute methods for reducing adverse environmental effects.
- 31. Existing Resort:** A resort established prior to October 15, 1971, which has remained in continuous operation.
- 32. Extractive Use:** The use of land for surface or subsurface removal of sand, gravel, rock, industrial minerals, other nonmetallic minerals, and peat not regulated under Minnesota Statutes, Sections 93.44 to 93.51.
- 33. Fee Schedule:** A document setting forth fees for subdivisions, permits, applications and appeals. These fees are established by the Board of County Commissioners at a meeting in January of each year, and the County Fee Schedule is on file in the Office of County Auditor.
- 34. Filtering Basin:** A wetland, low area or basin that may contain related vegetation which functions to remove sediment, organic matter and other pollutants from runoff or waste water by filtration, deposition, infiltration, absorption, adsorption, decomposition and volatilization, thereby reducing pollution and protecting the environment.
- 35. Flood Fringe:** The portion of a flood plain outside of the floodway.
- 36. Flood Plain:** The areas adjoining a water course or water basin that have been or may be covered by a regional flood, as defined in Minnesota Statutes Chapter 103F.
- 37. Flood Way:** The channel of the water course, the bed of water basins, and those portions of the adjoining flood plains that are reasonably required to carry and discharge flood water and provide water storage during a regional flood.
- 38. Forest:** A plant community in which the dominant vegetation is trees and other woody vegetation.
- 39. Forest Land Conversion:** The clear cutting of forested lands to prepare for a new land use other than reestablishment of a subsequent forest stand.
- 40. Height Of Building:** The vertical distance between the highest adjoining ground level at the structure or 10 feet above the lowest ground level, whichever is lower and the highest point of the roof, with the exception of Water Oriented Accessory Structures, which must meet the requirements of Section III.4.F.2. of this Ordinance.
- 41. Ice Ridge:** A modification to the topographic characteristics of the shore resulting from a water basins expanding and contracting ice sheet and consisting of a linear mound of soil generally parallel to the water's edge.

**42. Impervious Surface:** A constructed hard surface that either prevents or retards the 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. Examples include, but are not limited to, decks, rooftops, sidewalks, patios, permeable pavers, storage areas, and concrete, asphalt, or gravel driveways.

**43. Improved Lot:** A lot that contains a single-family dwelling, ready for immediate use, which is serviced by a sewage treatment system and water supply, all of which comply with all state and local regulations.

**44. Industrial:** Any activity engaged in, but not limited to the cleaning, servicing, testing, repairing, storage, processing, construction, or fabrication of goods or products.

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

**46. Interim Use:** An Interim Use is a temporary use of property until a particular date, until the occurrence of a particular event, or until zoning regulations no longer permit it. (Minnesota Statutes 394.303)

**47. 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.

**48. Lot Alteration:** Any change of the existing onsite topography or impervious surface except for normal agricultural purposes.

**49. Lot Width:** The shortest distance between lot lines as measured on a line most parallel to the lakeshore at the legal building setback and not being less than the required lake frontage.

**50. Lowest floor:** The lowermost floor of the lowest enclosed area, including basement and crawl space.

**51. Manufactured Home:** A structure, transportable in 1 or more sections, which in the traveling mode, is 8½ body ft. or more in width or 40 body ft. or more in length, or when erected onsite, is 399 or more square ft. and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation. This includes park models that meet this definition.

**52. Manufactured Home Park:** Shall mean any area whether charging a fee or free of charge on privately or publicly owned land used on a daily, nightly, weekly, or longer basis for the accommodation of two or more manufactured homes or recreation units.

**53. Non-Conformity:** Any legal use, structure or parcel of land already in existence, recorded, or authorized before the adoption of official controls or amendments thereto that would not have been permitted to become established under the terms of the official controls as now written, if the official controls had been in effect prior to the date it was established, recorded or authorized.

**54. Non-Riparian Lot:** A parcel of land without water frontage on Public Waters.

**55. Open Space:** Any space or area preserved in its natural state and specifically not used for parking, structures or roads.

**56. 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 water courses, the OHWL is the elevation of the top of the bank of the channel. For reservoirs and flowages, the OHWL is the operating elevation of the normal summer pool.

**57. Parking Space:** An off street area for motor vehicles not less than 10 ft. by 20 ft. in area, having access to a public street or alley, or private driveway. In determining the gross area required for a specified number of off street parking places, including driveways and aisles, 300 square ft. per space shall be used.

**58. Patio:** Flat area of ground that is covered with a hard material such as bricks, concrete or wood.

**59. Performance Bond:** A bond which may be required by the County Board, Planning Commission or Board of Adjustment to insure the completion of any activity falling under the jurisdiction of this Ordinance.

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

**61. Professional Drawing:** A signed drawing prepared by a Minnesota Registered Land Surveyor, Civil Engineer, or Architect.

**62. Public Utility:** Persons, corporations or other legal entities, their lessees, trustees, and receivers, now or hereafter operating, maintaining, or controlling in this state equipment or facilities for furnishing at retail natural, manufactured or mixed gas or electric service to or for the public or engaged in the production and retail sale thereof.

**63. Public Waters:** Any waters as defined in Minnesota Statutes, Section 103G.005, Subdivisions 15 and 18. However, no lake, pond or flowage of less than 10 acres in size in municipalities and 25 acres in size in unincorporated areas need be regulated for the purposes of Minnesota Rules 6120.2500 to 6120.3900. A body of water created by a private user where there was no previous shoreland may, at the discretion of the local government, be exempted from parts 6120.2500 to 6120.3900.

The official determination of the size and physical limits of drainage areas of rivers shall be made by the Commissioner.

**64. Recreational Camping Area:** Any area, whether privately or publicly owned, used on a daily, weekly, nightly or longer basis for the accommodation of two or more recreational camping units.

**65. Recreational Camping Unit (RCU):** A relocatable single-family dwelling unit, less than 40 ft. in length, and is less than 399 square feet when erected onsite, including, but not limited to tents, motor homes and travel trailers. This includes park models that meet this definition.

**66. Regional Flood:** A flood which is representative of large floods known to have occurred generally in Minnesota and reasonably characteristic of what can be expected to occur with an average frequency in the magnitude of the 100 year recurrence interval.

**67. 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.

**68. Resort:** A shoreland commercial establishment that includes buildings, lodges, structures, dwelling units, camping or recreational vehicle sites, or enclosures, or any part thereof kept, used, maintained, or advertised as or held out to the public to be a place where sleeping accommodations are furnished to the public, primarily to persons seeking recreation for periods of one day or longer, and having for rent 3 or more cabins, rooms, campsites, or enclosures. A shoreland commercial establishment must be primarily service oriented for transient lodging of guests. All cabins, rooms, dwelling units, camping or recreational vehicle sites, or enclosures must be included in the resort rental business. Resorts must not allow residential use of a dwelling unit or site, except dwellings used as residences for the service providers. To qualify as a resort under this Section, a resort must be fully licensed and permitted under appropriate state and local regulations. The entire parcel of land must be controlled and managed by the licensee.

**69. Riparian Lot:** A parcel of land with water frontage on Public Waters.

**70. Scale Drawing:** A signed drawing which includes and identifies a graphic scale in feet or indicates all setback distances, all existing and/or proposed structures, septic tanks, drainfields, lotlines, road right-of-ways, easements, OHWLs, wells, wetlands, topographic features (i.e. bluffs), and onsite impervious surface calculations.

- 71. Screen Porch:** A structure attached to the primary dwelling unit, where at least 80% of the walls consist of screens and/or glass (combination windows), see Water-Oriented Accessory Structure definition.
- 72. Sensitive Area:** Areas which due to steep slopes, bluffs, flooding, erosion, limiting soil conditions (shallow soils over ground water or bedrock, highly erosive or expansive soils), occurrence of vegetation or wildlife in need of special protection, the presence of wetlands or other physical constraints are sensitive to development.
- 73. Setback:** The minimum horizontal distance between a structure, sewage treatment system or other facility and an OHWL, top of a bluff, lotline and road right-of-ways.
- 74. Sewage:** Definitions relative to sewage and sanitation are set forth in the Sanitation Code of Otter Tail County referred to under IV.2. of this Ordinance.
- 75. Sewage Treatment Area:** The area meeting or exceeding the onsite requirements of the Sanitation Code of Otter Tail County, for the purpose of soil treatment (drainfield) areas and future additional sites.
- 76. Shore Impact Zone (SIZ):** Land located between the OHWL of a public water and a line parallel to it at a setback of 50% of the structure setback (see Section III.4.), but not less than 50 feet. For Ag land the SIZ is 50 ft. from the OHWL (see Section IV.4.). Only 1 structure may be placed in a SIZ.
- 77. Shoreland:** Land located within the following distances from public water: 1,000 ft. from the OHWL of a lake, pond or flowage; and 300 ft. from a river or the landward extent of a flood plain designated by Ordinance on a river, whichever is greater. The limits of shorelands may be reduced whenever the waters involved are bounded by topographic divides which extend landward from the waters for lesser distances and when approved by the Commissioner.
- 78. 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.
- 79. Single Family Residence:** A dwelling unit used by members of 1 immediate family, which may include multiple structures provided they meet impervious surface and sanitation standards and are not rented-out separately. Licensed adult and child foster homes and daycare programs are a permitted single family residential use of property as provided in Minnesota Statutes 245A.11 and 245A.14.
- 80. Site Permit:** A permit for the erection and/or alteration of any structure controlled by this Ordinance issued to insure compliance with all requirements of this Ordinance.
- 81. Steep Slope:** Land where agricultural activity or development is either not recommended or described as poorly suited due to slope steepness and the site's soil characteristics, mapped and described in available County soil surveys or other technical reports, unless appropriate design and construction techniques and farming practices are used in accordance with the provisions of these regulations. Where specific information is not available, steep slopes are lands having average slopes over 12%, as measured over horizontal distances of 50 ft. or more, that are not bluffs.
- 82. Structure:** Any building or appurtenance, including, but not limited to, vision obstructing fences, decks, swimming pools, satellite dishes in excess of 1 meter in diameter, towers (except for public utilities), solar panels, and pergolas.
- 83. Subdivision:** A parcel of land which is divided.
- 84. Toe Of The Bluff:** The point on a bluff where there is, as visually observed, a clearly identifiable break in the slope, from gentler to steeper slope above. If no break in the slope is apparent, the toe of the bluff shall be determined to be the lower end of a 50 ft. segment, measured on the ground, with an average slope exceeding 18%.
- 85. Top Of The Bluff:** The point on a bluff where there is, as visually observed, a clearly identifiable break in the slope, from steeper to gentler above. If no break in the slope is apparent, the top of the bluff shall be determined to be the upper end of a 50 ft. segment, measured on the ground, with an average slope exceeding 18%.



**86. Tower:** Framework or structure exceeding 35 feet in height, telephone communication tower, and any structure required by any other regulations to have warning lights.

**87. Vegetative Strip:** A minimum 30 foot strip of land, located adjacent to and parallel with the OHWL, which is left in its natural state (must maintain existing ground cover), with the exception of a continuous 30 foot (maximum width) recreational access. A vegetative strip must be maintained.

**88. Water-Oriented Accessory Structure or Facility (WOAS):** A small building or other improvement, except stairways, fences, docks, and retaining walls, which, because of the relationship of its use to a surface water feature, reasonably needs to be located closer to public waters than the required structure setback. Examples of such structures and facilities include boathouses, screen houses, screen porches, saunas, fish houses, detached decks, and pergolas.

**89. Wetland:** Any lands as defined in Minnesota Statutes, Section 103G.005 Subd. 19. These lands are transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water. Wetlands must have the following three attributes: (1) have a predominance of hydric soils; (2) are inundated or saturated by surface or ground water at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions; and (3) under normal circumstances support a prevalence of such vegetation.

**90. Wind Energy Conversion System (WECS):** An electrical generating facility comprised of one or more wind turbines and accessory facilities, including but not limited to: power lines, transformers, and substations that operate by converting the kinetic energy of wind into electrical energy, and Meteorological Towers (MET). The energy maybe used on-site or distributed into the electrical grid.

### III. DISTRICT REQUIREMENTS

The requirements set forth in this Section for each of the Shoreland Management Districts defined as part of this Ordinance shall govern the development within the said districts.

#### 1. District Boundaries:

The boundaries of the Shoreland Management Districts defined in this Ordinance are hereby established at 1,000 ft. from the OHWL of a lake, pond or flowage and 300 ft. from a river or the landward extent of the flood plain on such river, whichever is greater. Where the waters involved are bounded by natural topographic divides which extend landward from the waters for lesser distances, the Planning Commission may interpret the district boundaries.

Public waters shall be classified by the Commissioner. The Commissioner may, as the need arises, reclassify any public water. Also, any local government may at any time submit a resolution and supporting data requesting a change in any shoreland management classification of waters within its jurisdiction to the Commissioner for consideration.

The classification for each area surrounding each public body of water is hereby established according to the document entitled "Waters of Otter Tail County Classification", which accompanies and is made a part of this Ordinance. Such document shall be duly authenticated by the County and shall be kept and maintained by the Administrative Officer, which copy shall be the final authority on the classification for such body of water.

All of Otter Tail County is classified under the Minnesota Rules as a "High Density Residential District", as modified in the following tables. Otter Tail County's Shoreland Management District & Classifications (zoning) Map, as revised February 26, 2008, is adopted and is available for review at the Land & Resource Management Office and on Otter Tail County's Website ([www.co.otter-tail.mn.us](http://www.co.otter-tail.mn.us)).

## 2. Shoreland Classifications And Uses; Lakes and Rivers

**Lakes:**    **General Development = GD**  
               **Recreational Development = RD**  
               **Natural Environment = NE**

**Rivers:**    **Urban & Tributary = U & T**  
               **Agriculture = Ag**  
               **Transition = Trans**

<u>USES</u>	<u>LAKES</u>			<u>RIVERS</u>		
	<u>GD</u>	<u>RD</u>	<u>NE</u>	<u>U &amp; T</u>	<u>Ag</u>	<u>Trans</u>
Access Lot	C	C	C	C	C	C
Agriculture	P	P	P	P	P	P
Bed & Breakfast	C	C	C	C	C	C
Boat Access	C	C	C	C	C	C
Cemetery	C	C	C	C	C	C
Church, Chapel, Temple, Etc.	C	C	C	C	C	C
Commercial	C	C	C	C	C	C
Commercial PUD	C	C	C	C	C	C
Controlled Access	N	N	N	N	N	N
Duplex, Triplex, and Quad	P	P	P	P	P	P
Extractive	C	C	C	C	C	C
Forest Land Conversion	C	C	C	C	C	C
Guest House / Bunkhouse	N	N	N	N	N	N
Industrial	C	C	N	C	N	N
Park	C	C	C	C	C	C
PUD Conversion	C	C	C	C	C	C
Residential PUD	C	C	C	C	C	C
Single Family Residence	P	P	P	P	P	P
Tower	C	C	C	C	C	C

P = Permitted Use  
 C = Conditional Use  
 N = Prohibited Use

### 3. Minimum Lot Area, Water Frontage & Lot Width Requirements; Lakes and Rivers

	<u>LAKES</u>			<u>RIVERS</u>		
	<u>GD</u>	<u>RD</u>	<u>NE</u>	<u>U &amp; T</u>	<u>Ag</u>	<u>Trans</u>
<b><u>RIPARIAN LOTS</u></b>						
<b><u>LOT AREA (Ft<sup>2</sup>) *</u></b>						
Single Family Residential	20,000	40,000	80,000	20,000	40,000	60,000
Duplex	40,000	80,000	120,000	40,000	80,000	120,000
Triplex	60,000	120,000	160,000	60,000	120,000	160,000
Quad	80,000	160,000	200,000	80,000	160,000	200,000
<b><u>Buildable Area (Ft<sup>2</sup>)</u></b>						
Single Family Residential	8,400	8,400	8,400	8,400	8,400	8,400
<b><u>Sewage Treatment Area (Ft<sup>2</sup>) **</u></b>						
Single Family Residential	2,500	2,500	2,500	2,500	2,500	2,500
<b><u>WATER FRONTAGE &amp; LOT WIDTH (Ft)</u></b>						
Single Family Residential	100	150	200	100	150	250
Duplex	180	225	300	150	225	375
Triplex	260	300	400	200	300	500
Quad	340	375	500	250	375	625
<b><u>NON-RIPARIAN LOTS</u></b>						
<b><u>LOT AREA (Ft<sup>2</sup>) *</u></b>						
Single Family Residential	40,000	40,000	80,000	40,000	40,000	80,000
Duplex	80,000	80,000	160,000	80,000	80,000	160,000
Triplex	120,000	120,000	240,000	120,000	120,000	240,000
Quad	160,000	160,000	320,000	160,000	160,000	320,000
<b><u>Buildable Area (Ft<sup>2</sup>)</u></b>						
Single Family Residential	8,400	8,400	8,400	8,400	8,400	8,400
<b><u>Sewage Treatment Area (Ft<sup>2</sup>) **</u></b>						
Single Family Residential	2,500	2,500	2,500	2,500	2,500	2,500
<b><u>LOT WIDTH (Ft)</u></b>						
Single Family Residential	150	150	200	100	150	250
Duplex	265	265	400	150	225	375
Triplex	375	375	600	200	300	500
Quad	490	490	800	250	375	625

\* Excluding all public road right of-ways, wetlands, bluffs, or land below the OHWL of Public Waters.

\*\* Required for all proposed Subdivisions, the proposed location may be varied with approval from Land & Resource Management.

**4. Minimum Structure Setback Requirements; Lakes and Rivers**  
**A. Table of Shoreland Management Ordinance Standards**

<b>SETBACKS (Ft)</b>	<b><u>LAKES</u></b>			<b><u>RIVERS</u></b>		
	<b><u>GD</u></b>	<b><u>RD</u></b>	<b><u>NE</u></b>	<b><u>U &amp; T</u></b>	<b><u>Ag</u></b>	<b><u>Trans</u></b>
<b><u>Elevation Above OHWL</u></b>						
Vertical Separation*	3	3	3	3	3	3
<b><u>Setback From</u></b>						
<b><u>OHWL</u></b>						
Dwellings / Non-Dwellings	75	100	200	100	100	150
WOAS	20	20	20	20	20	20
<b><u>Lotline**</u></b>						
Single Family Residence	10	10	10	10	10	10
Commercial PUD	50	50	50	50	50	50
Residential PUD	50	50	50	50	50	50
WOAS	40	65	90	40	65	115
<b><u>Top of Bluff</u></b>	30	30	30	30	30	30
<b><u>Road Right-of-Way (Public / Private)</u></b>						
All Structures	20	20	20	20	20	20
<b><u>Septic Tanks</u></b>						
All Structures	10	10	10	10	10	10
<b><u>Soil Treatment Area</u></b>						
Dwelling	20	20	20	20	20	20
Non-Dwelling	10	10	10	10	10	10
<b><u>Maximum Structure Height</u></b>						
Dwelling	35	35	35	35	35	35
Non-Dwelling ***	20	20	20	20	20	20
WOAS	10	10	10	10	10	10

\* For lakes, by placing the lowest floor, at a level at least 3' above the highest known water level, or 3' above the OHWL, whichever is higher. For rivers, by placing the lowest floor, at least 3 ft. above the Regional Flood Level, the OHWL or by conducting a technical evaluation to determine effects of proposed construction upon flood stages and flood flows and to establish the flood protection elevation. WOAS may have the lowest floor placed lower than the elevation determined in this subpart 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.

\*\* Lotline setbacks shall not apply to vision obstructing fences which are not greater than 6' in height.

\*\*\* Except Non-Dwelling Buildings more than 400 ft. from the OHWL of a Lake and/or 300 ft. from the OHWL of a River.

B. A Single Family Residential Lot shall contain only 1 single family residence, an exemption to this requirement, without a Site Permit, would allow:

1. A tent of no more than 100 square feet, or tents whose cumulative size is no more than 100 square feet; *or*

2. Lots compliant with all area, water frontage and width requirements of Section III.3., may contain one RCU, provided all other requirements of this Ordinance are met, and there are no sewer or water connections.

C. A lot without a dwelling unit may contain, 1 RCU without a Site Permit, on a temporary basis, not to exceed 22 days per year, provided all other requirements of this Ordinance are met, and there are no sewer or water connections.

D. Non-riparian lots of no less than 5,000 square ft. may be created if they are legally joined to a riparian lot within 200 feet of the non-riparian lot, and contain permanent restrictions against residential construction. Such nonresidential non-riparian lots must be created by subdivision plat in such a manner as to allow for orderly attachment to riparian lots and with appropriate restrictive covenants. The final plat will not be accepted unless it identifies the riparian lot to which each new non-riparian lot shall be permanently attached.

E. BIZ - Structures and accessory facilities, except stairways and landings, must not be placed within BIZ.

F. Steep Slopes - Local government officials must evaluate possible soil erosion impacts and development visibility from public waters before issuing a permit for construction of sewage treatment systems, roads, driveways, structures or other improvements on steep slopes. When determined necessary, conditions must be attached to issued permits 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.

G. Unplatted cemeteries and significant historic sites - No structure may be placed nearer than 50 ft. from the boundary of an unplatted cemetery protected under Minnesota Statutes, Section 307.08, unless necessary approval is obtained from the Minnesota State Archaeologist's Office. No structure may be placed on a 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.

H. One (1) WOAS per lot will be allowed, provided:

1. The structure must be above ground unless a Conditional Use Permit or a Lot Alteration Permit is granted.

2. The structure is 10 ft. or less in height as measured from the lowest adjoining ground level.

3. The structure is 260 square ft. or less in area.

4. The maximum width of the structure is 20 ft. as measured parallel to the shoreline.

5. The structure is set back from the OHWL at least 20 ft.

6. The structure must comply with the lotline setback requirements as set by Sec. III.4.A.

7. The structure must not be used for human habitation or have water or sewer connections.

8. The structure is treated to reduce visibility as viewed from public waters and adjacent shoreland by vegetation, topography, increased setbacks, color or other acceptable means, assuming summer leaf-on conditions.

9. The roof of the structure may be used as a deck with safety rails, but must not be enclosed or used as a storage area.

10. Only one structure may be placed within the SIZ.

I. Stairways, Lifts and Landings - Stairways and lifts are the preferred alternative to topographic alterations for achieving access up and down bluffs and steep slopes, or across a SIZ to shore areas. Stairways and lifts must meet the following design requirements:

1. Stairways and lifts must not exceed 4 ft. in width on residential lots, and 8 ft. in width for commercial properties, public open-space recreational properties and planned unit developments.

2. Landings for stairways and lifts on residential lots must not exceed 36 square ft. in area. Landings no larger than 64 square ft. may be used for commercial properties, public open-space recreational properties 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, and authorized by a required Conditional Use Permit or Lot Alteration Permit.

5. Stairways, lifts and landings must be located in the most visually inconspicuous portions of lots, as viewed from the surface of the public water assuming summer, leaf-on conditions, whenever practical.

6. Facilities such as ramps, lifts or mobility paths for physically handicapped persons are also allowed for achieving access to shore areas, provided that the dimensional and performance standards of sub items 1 to 5 are complied with, in addition to the requirements of Chapter 1341 of the Minnesota Rules.

J. Decks - Except as provided in Item H., decks must meet the structure setback standards. Decks that do not meet setback requirements from public waters may be allowed without a variance to be added to structures existing on February 5, 1992, if all of the following criteria and standards are met:

1. A thorough evaluation of the property and structure reveals no reasonable location for a deck meeting or exceeding the existing OHWL setback of the structure.

2. The deck encroachment toward the OHWL does not exceed 15% of the existing shoreline setback of the structure from the OHWL or is not closer than 30 ft. to the OHWL, whichever is more restrictive.

3. The deck is not roofed or screened.

#### **IV. GENERAL REQUIREMENTS**

##### **1. 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.

Private wells must be located, constructed, maintained and sealed in accordance with or in a more thorough manner than the Water Well Construction Code of the Minnesota Department of Health.

##### **2. Sanitation Standards:**

The sanitation standards for this Ordinance are set forth in the Sanitation Code of Otter Tail County, which is incorporated herein by reference, an official copy of which is on file for use and examination by the public in the office of the County Auditor. Any lot with a dwelling unit shall have an approved method of sewage disposal.

##### **3. Shoreland Alterations:**

Vegetative alterations and excavations or grading and filling necessary for the construction of structures and sewage treatment systems under validly issued permits for these facilities are exempt from the vegetative alteration standards in this subpart and separate permit requirements for grading and filling. However, the grading and filling conditions of this subpart must be met for issuance of permits for structures and sewage treatment systems. Alterations of vegetation and topography must prevent erosion into public waters, fix nutrients, preserve shoreland aesthetics, preserve historic values, prevent bank slumping and protect fish and wildlife habitat. Wetland acreage lost as a result of a topographical alteration must be replaced in accordance with the provisions of the Wetlands Conservation Act.

A. Removal or alterations of vegetation, except for agricultural uses or forest management as provided for in subparts 4 and 5, is allowed according to the following standards:

1. Intensive vegetation clearing within the SIZ and BIZ land on steep slopes is not allowed. Intensive vegetation clearing outside of these areas is allowed if the activity is consistent with the forest management standards in Section IV.5.

2. Limited clearing of trees and shrubs and cutting, pruning and trimming of trees 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, as well as providing a view to the water from the principal dwelling unit or dwelling site, in SIZ and BIZ and on steep slopes is allowed, 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. Along rivers, existing shading of water surfaces is preserved.
- c. The above provisions are not applicable to the removal of trees, limbs or branches that are dead, diseased or pose safety hazards.

3. Use of fertilizer, herbicides and pesticides in the Shoreland Management District must be done in such a way as to minimize runoff into the SIZ, BIZ or public water by the use of earth, vegetation or both. Use of fertilizer containing phosphorous is prohibited in the Shoreland Management District, except for agricultural purposes more than 300 feet from the OHWL of a public water.

B. A Conditional Use Permit or a Lot Alteration Permit is required for grading, filling or alteration of existing topography, including the installation of retaining walls and boardwalks. (The property owner is legally responsible for all surface water drainage that may occur). Projects of less than 20 cubic yards per year, which are not in a SIZ, BIZ or a wetland, do not require a permit and are not subject to the time limits in IV.3.D.

1. Before authorizing any grading or filling activity in any type 2, 3, 4, 5, 6, 7 or 8 wetland, the effect of the proposed activity on the following functional qualities of the wetland must be considered:

- a. Sediment and pollutant trapping and retention.
- b. Storage of surface runoff to prevent or reduce flood damage.
- c. Fish and wildlife habitat.
- d. Recreational use.
- e. Shoreline or bank stabilization.
- f. Noteworthiness, including special qualities such as historic significance, critical habitat for endangered plants and animals or others.

This evaluation must also include a determination of whether the wetland alteration being proposed requires permits, reviews, or approvals by other local, state or federal agencies such as a watershed district, the Minnesota Department of Natural Resources or the United States Army Corps of Engineers.

2. Alterations must be designed and conducted in a manner that ensures only the smallest amount of bare ground is exposed for the shortest time possible.

3. Mulches or similar materials must be used, where necessary, for temporary bare soil coverage, and a permanent vegetation cover must be established within 10 days.

4. Diversions, silting basins, terraces and other methods to trap sediment must be used, where necessary, to prevent erosion.

5. Fill must be stabilized according to accepted engineering standards.

6. Fill or excavated material must not be placed in BIZ.

7. Fill must not restrict a floodway or destroy the storage capacity of a flood plain.

8. Any alterations at or below the OHWL of public waters must first be authorized by the Commissioner, under Minnesota Statutes, Section 103.G.245.

9. Any alterations of topography must only be allowed if they do not adversely affect adjacent or nearby properties.

10. Placement of natural rock riprap, including associated grading of the shoreline and placement of a filter blanket, is permitted if the finished slopes does not exceed 3 ft. horizontal to 1 ft. vertical, the landward extent of the rip rap is within 10 ft. of the OHWL and the height of the rip rap above the OHWL does not exceed 3 ft.

11. Public and private roads, driveways and parking areas must be designed to take advantage of natural vegetation and topography to achieve maximum screening from view from public waters. They must be 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.

a. Roads, driveways and parking areas must meet structure setbacks and must not be placed within BIZ and SIZ, 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.

b. Public and private watercraft access ramps, approach roads and access related parking areas may be placed within SIZ provided the vegetative screening and erosion control conditions of this Section are met.

12. The applicant for a Conditional Use Permit or a Lot Alteration Permit involving grading and filling or any alteration of the existing topography shall be legally responsible for all surface water runoff problems that may occur in the future.

C. Excavations on shorelands where the intended purpose is connection to a public water shall require a permit from the Administrative Officer before construction is begun. Such permit may be obtained only after the Commissioner of Natural Resources has granted permission for work in beds of public water.

D. Unless otherwise indicated by the Conditional Use Permit or a Lot Alteration Permit, all grading, filling or alteration of the existing topography, including stabilization, shall be performed between April 15th and October 1st. The April 15th to October 1st construction period shall not be applicable to Conditional Use Permits and Lot Alteration Permits for grading, filling or alteration of the existing topography involving finished grade slopes of less than 12% consistent with the steep slope requirements and when appropriate methods for preventing erosion are adhered to.

#### **4. Agricultural Use Standards:**

A. The SIZ for parcels with permitted agricultural land uses is an area with a 50-foot average width and a 30-foot minimum width, as measured from the OHWL if identified, or the top or crown of bank or normal water level as provided in Minnesota Statutes, Section 103F.48, Subd. 3 (c), whichever is applicable.

B. General cultivation farming, grazing, nurseries, horticulture, truck farming, sod farming and wild crop harvesting are permitted uses if steep slopes and SIZ and BIZ 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.

C. Animal feedlots must not be located in the shoreland of rivers or in BIZ and must meet a minimum setback of 300 ft. from the OHWL of all public water basins.

D. Application of fertilizer, herbicides, pesticides, animal wastes or other chemicals within shorelands must be done in such a way as to minimize impact on the SIZ, BIZ or public water by the use of earth or vegetation.

#### **5. Forest Management Standards:**

The harvesting of timber and associated reforestation or conversion of forested use to a nonforested use must be conducted consistent with the following standards:

A. Timber harvesting and associated reforestation must be conducted consistent with the provisions of the Minnesota Nonpoint Source Pollution Assessment Forestry and the provisions of Water Quality in Forest Management "Best Management Practices in Minnesota".

B. Forest land conversion to another use requires issuance of a Conditional Use Permit and adherence to the following standards:

1. SIZ and BIZ must not be intensively cleared of vegetation.

2. An erosion and sediment control plan is developed and approved by the local Soil and Water Conservation District before issuance of a Conditional Use Permit for the conversion.

C. Use of fertilizer, herbicides, pesticides or animal wastes within shorelands must be done in such a way as to minimize runoff into the shore impact zone or public water by the use of earth or vegetation.



**6. Extractive Use Standards:**

Processing machinery, such as crushers, conveyors and related structures, must be located consistent with the setback standards for structures from OHWL of public waters and from bluffs.

An extractive use site development and restoration plan must be developed, approved by the local government and followed over the course of operation of the site. The plan must address dust, noise, possible pollutant discharges, hours and duration of operation and anticipated vegetation and topographic alterations. It must also identify actions to be taken during operation to mitigate adverse environmental impacts, particularly erosion, and must clearly explain how the site will be rehabilitated after extractive activities end.

**7. Standards For Commercial, Industrial, Public And Semipublic Uses:**

Surface water-oriented commercial uses and industrial, public or semipublic uses with similar needs to have access to and use of public waters may be located on parcels or lots with frontage on public waters. Uses without water-oriented needs must be located on lots or parcels without public waters frontage, or, if located on lots or parcels with public waters frontage, must either be set back double the normal OHWL setback or be substantially screened from view from the water by vegetation or topography, assuming summer leaf-on conditions. Those with water-oriented needs must meet the following standards:

A. In addition to meeting impervious coverage limits, setbacks and other zoning standards presented elsewhere in this Ordinance, the uses must be designed to incorporate topographic and vegetative screening of parking areas and structures.

B. 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.

C. Uses that depend on patrons arriving by watercraft may use signs and lighting to convey needed information to the public, subject to the following general standards:

1. No advertising sign or supporting facilities for signs may be placed in or upon public waters. Signs conveying information or safety messages may be placed in or on public waters by a public authority or under a permit issued by the County Sheriff.

2. Signs may be placed, when necessary, within the SIZ if they are designed and sized to be the minimum necessary to convey needed information. They must only convey the location and name of the establishment and the general types of goods or services available. The signs must not contain other detailed information such as product brands and prices, and must not be higher than 10 ft. in height. If illuminated by artificial lights, the lights must be shielded or directed to prevent illumination out across public waters.

3. Other outside lighting may be located within the SIZ or over public waters if it is used primarily to illuminate potential safety hazards and is shielded or otherwise directed to prevent direct illumination out across public waters.

**8. Stormwater Management:**

Local governments must consider proper stormwater management in all reviews, approvals and permit issuance under shoreland management controls adopted under Minnesota Rules 6120.2500 to 6120.3900. The following general and specific standards must be incorporated into local government shoreland management controls and their administration.

A. The following are general standards:

1. When possible, existing natural drainage ways, wetlands and vegetated soil surfaces must be used to convey, store, filter and retain stormwater runoff before discharge to public waters.

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

3. When development density, topographic features, and soil and vegetation conditions are not sufficient to adequately handle stormwater runoff using natural features and vegetation, various types of constructed facilities such as diversions, settling basins, skimming devices, dikes, waterways and ponds may be used. Preference must be given to designs using surface drainage, vegetation and infiltration rather than buried pipes and man-made materials and facilities.

B. The following are specific standards:

1. Total impervious surface coverage of lots must not exceed 25% of the lot area, of which buildings must not exceed 20% of the lot area. Impervious surface coverage within the SIZ must not exceed 260 square ft.

2. When constructed facilities are used for stormwater management, they must be designed and installed consistent with the field office technical guide of the local Soil and Water Conservation Districts.

3. New constructed stormwater outfalls to public waters must provide for filtering or settling of suspended solids and skimming of surface debris before discharge.

4. Surface area of a lot physically separated (i.e. public, private road right-of-way or easement) from itself or another, cannot be included for purposes of the impervious surface calculation.

5. Unless otherwise provided by the property owner, a minimum 12' wide driveway, from the nearest road right-of-way to the proposed structure(s), must be included in the impervious surface calculation.

6. Half of the area covered by professionally installed and properly maintained permeable pavers will be counted as impervious surface. Professionally installed means installed by an Interlocking Concrete Pavement Institute Certified Installer, and properly maintained means following the manufacturer's suggested maintenance schedule.

7. All installation or alterations of impervious surface require a Lot Alteration Permit, except for the removal of impervious surfaces that are not being replaced.

**9. Mining Of Metallic Minerals And Peat, As Defined By Minnesota Statutes, Sections 93.44 to 93.51:**

Mining of metallic minerals and peat may be a permitted use provided the provisions of Minnesota Statutes, Sections 93.44 to 93.51, are satisfied.

**10. Subdivision Provisions:**

A. Land Suitability:

Each lot created through subdivision must be suitable in its natural state for the proposed use with minimal alteration. Suitability analysis by the local unit of government shall consider susceptibility to flooding, existence of wetlands, soil and rock formations with severe limitations for development, severe erosion potential, steep topography, inadequate water supply or sewage treatment capabilities, near-shore aquatic conditions unsuitable for water-based recreation, important fish and wildlife habitat, presence of significant historic sites or any other feature of the natural land likely to be harmful to the health, safety or welfare of future residents of the proposed subdivision or of the community.

B. Platting:

All subdivisions with lots or parcels that are less than 5 acres in size must be platted in accordance with Minnesota Statutes 505. No conveyance or other document creating a subdivision of any real property other than by a duly approved plat, shall be recorded, unless accompanied by a registered surveyor's drawing for recording.

C. Consistency With Other Controls:

Subdivisions must conform to all other requirements of the Subdivision Controls Ordinance of Otter Tail County. Subdivisions must not be approved that are designed so variances from one or more standards in official controls would be needed to use the lots for their intended purpose. In areas not served by publicly owned sewer and water systems, subdivisions must not be approved unless domestic water supply is available and soil absorption sewage treatment can be provided for every lot. A lot shall meet the minimum lot size as specified in Section III.3., however Natural Environment Standards may be considered to protect Sensitive Areas. The minimum undisturbed 2,500 square foot of Sewage Treatment Area, as specified in Section III.3., shall be identified on each lot. This undisturbed Sewage

Treatment Area must be identified and staked onsite by a Minnesota Pollution Control Agency (MPCA) Licensed Sewage System Designer. Lots that would require use of holding tanks must not be approved.

D. Presentation Requirements:

1. Preliminary Plat prepared (signature required) by Minnesota Registered Land Surveyor.

2. Identification and Description:

a. Proposed name of subdivision.  
b. Location by section, town, range and/or by other identifying description including, the nearest existing E-911 address, parcel number, township name, lake name and number.

c. Names and addresses of owner(s), subdivider(s), and Minnesota Registered Land Surveyor, Civil Engineer or Architect.

d. Graphic scale: 1 inch = 100 ft., if possible, but not smaller than 1 inch = 200 ft.

e. North Point.

f. Date of preparation.

g. Proposed use of all lots.

h. Vegetative Strip.

i. Buildable Area (8,400 sq. ft.).

3. Existing conditions in tract and in surrounding area to a distance of 300 ft.:

a. Boundary line of proposed subdivision, clearly outlined and dimensioned.

b. Total acreage and total water frontage.

c. Total number and location of dwelling units.

d. Platted streets, right-of-way and utility easements.

e. Boundary lines and ownership of adjoining land.

f. Sewers, water mains, culverts or other underground facilities.

g. Permanent buildings and structures.

h. Summary of soil and vegetation types (terrestrial and aquatic).

i. Lakes, water courses and marsh areas and such other information as location of the OHWL or highest known water elevation and contours at vertical intervals of not more than 10 ft. or 5 ft. in BIZ and on steep slopes. All elevation data shall be mean-sea level or some other assumed workable datum.

j. Wetlands, delineated in accordance with the Minnesota Wetland Conservation Act. All Wetland Delineation Reports must be signed and dated.

k. Evidence that the ground water level is at least three feet below the finished grade or plans for resolving any ground water problems.

4. Subdivision Design Features:

a. Layout and width of proposed streets and utility easements showing lake setback boundaries, buffer zone boundaries, lot boundaries and dedicated roads.

b. Preliminary road grades, including a center line profile, and drainage plans shall be shown on a copy of the contour map. All roads must be identified and signed in accordance with the provisions of the County's Enhanced 911 Countywide Addressing System.

c. Statement of source of water supply.

d. The minimum 8,400 square foot of Buildable Area, as specified in Section III.3., shall be identified on each lot.

e. The minimum undisturbed 2,500 square foot of Sewage Treatment Area, as specified in Section III.3., shall be identified on each lot. This undisturbed Sewage Treatment Area must be identified and staked onsite by a Minnesota Pollution Control Agency (MPCA) Licensed Sewage System Designer.

f. Documents, such as bylaws, property owner's agreements, covenants and restrictions that explain how the project is designed and will function. These ordinarily include membership requirement in a property owners association, assessment of costs, various easements, a concept statement describing the project, floor plans for structures and various other drawings or plans.

5. A Preliminary Title Opinion prepared (signed and dated) by the subdivider's attorney.

E. Stake center line of proposed road and lot boundaries.

F. Dedications:

If local governments require land or easement dedications, they must provide easements over natural drainage or ponding areas for management of stormwater and significant wetlands.

#### **11. Planned Unit Development:**

A. General:

All PUDs, which have been in operation continuously since October 15, 1971 may continue to operate the number, type and size of dwelling units which were in operation on October 15, 1971. Any change will require that the owner obtain a Conditional Use Permit which will authorize a specific number, type and size of dwelling units.

All owners of PUDs which have opened since October 15, 1971, must have a Conditional Use Permit which specifies the number, type and size of dwelling units which they are authorized to operate. Any increase in number or size (square footage) of dwelling units or change in type of dwelling units requires a new Conditional Use Permit.

1. Pre-Application Meeting:

Prior to the submission of any plans for consideration to the Planning Commission under the provisions of this Ordinance, the potential applicant shall meet with the Administrative Officer and learn what shall be expected of them in such a capacity.

B. Presentation Requirements:

1. A scale drawing for the project indicating the location and setback distances from:

- a. Property boundaries (lotlines, road right-of-ways and easements).
- b. Existing and proposed structures (must identify each structure).
- c. Existing and proposed sewage treatment systems.
- d. Existing and proposed water wells.
- e. Tier location and areas in square feet.
- f. Location and elevation of the OHWL or highest known water level

(all elevation data shall be mean-sea level or some other assumed workable datum).

g. Contours at vertical intervals of not more than 10 ft. or 5 ft. in BIZ and on steep slopes (all elevation data shall be mean-sea level or some other assumed workable datum). The drawing must identify the top of the bluff.

- h. Shore recreation facilities (swimming areas, docks, etc.).
- i. Parking areas.

2. A Wetland Delineation Report in accordance with the Minnesota Wetland Conservation Act (must be signed and dated).

3. Documents that explain how the project is designed and will function. These ordinarily include covenants that require membership in a property owners association, various easements, a concept statement describing the project, floor plans for structures, and various other drawings or plans.

4. An onsite impervious surface calculation.

5. The Administrator may require a professional drawing.

C. Requirements of PUDs:

Proposed new or expansions to existing PUDs must be evaluated using the following procedures and standards:

1. The project parcel must be divided into tiers by locating one or more lines approximately parallel to a line that identifies the OHWL at the following intervals, proceeding landward:

Shoreland Tier Dimensions

	<u>Unsewered</u>
General Development Lakes - First Tier	200 Ft.
General Development Lakes - Second & Additional Tiers	267 Ft.
Recreational Development Lakes	267 Ft.
Natural Environment Lakes	400 Ft.
All River Classes	300 Ft.

2. The area within each tier is next calculated, excluding all public road right-of-ways, wetlands, bluffs or land below the OHWL of public waters. For Residential PUDs, land dedicated to, and required for, commercial, industrial, or other non-residential uses, shall also be excluded from the area calculations for residential density. This area is then subjected to either the residential (D) or commercial (E) PUD density evaluation steps to arrive at an allowable number of dwelling units or sites.

D. Residential PUD density evaluation steps and design criteria:

The density evaluation steps and design criteria for Residential PUDs are contained in items 1. to 4.

1. The area within each tier is divided by the single residential lot size standard for lakes and rivers. Proposed locations and numbers of dwelling units or sites for the residential PUD are then compared with these data and map of the evaluation. Dwelling unit or site density increases for residential PUDs above the densities determined in the evaluation may be allowed if all dimensional standards in Sections III. & IV. are met or exceeded. Maximum density increases may only be allowed if all design criteria in D.2. are also met or exceeded. Increases in dwelling unit or site densities must not exceed the maximums in the following table. Allowable densities may be transferred from any tier to any other tier further from the Shoreland water body or watercourse, but must not be transferred to any other tier closer.

Maximum Allowable Dwelling Unit or Site Density Increases For Residential PUDs

<u>Density Evaluation Tiers</u>	<u>Multiplier</u>
First	1.5
Second	2.0
Third	3.0
Fourth	3.0
Fifth	3.0

2. The design criteria are:

- a. All Residential PUDs must contain at least 5 dwelling units or sites.
- b. Residential PUDs must contain open space meeting all of the

following criteria:

- 1. At least 50% of the total project area must be preserved as open space.
- 2. Dwelling units or sites, road-rights-of-way, or land covered by road surfaces, parking areas, or structures, except WOAS, are developed areas and should not be included in the computation of minimum open space.
- 3. Open space must include areas with the physical characteristics unsuitable for development in their natural state, and areas containing significant historic sites or unplatted cemeteries.
- 4. Open space may include outdoor recreational facilities for use by owners of the dwelling units or sites or the public.
- 5. The SIZ, based on normal structure setbacks, must be included as open space. At least 50% of the SIZ area of existing developments or at least 70% of the SIZ area of new developments must be preserved in their natural or existing state.
- 6. Open space must not include commercial facilities or uses, but may contain WOAS.

7. The appearance of open space areas, including topography, vegetation, and allowable uses, must be preserved by use of restrictive deed covenants, permanent easement, public dedication and acceptance, or other equally effective and permanent means.

8. Open space may include subsurface sewage treatment systems, if the use of the space is restricted to avoid adverse impact on the systems.

c. Centralization and design of facilities and structures must be done to the following standards:

1. Residential PUDs must be connected to publically owned water supply and sewer systems, if available. Onsite water supply and sewage treatment systems must be centralized and designed and installed to meet or exceed applicable standards or rules of the Minnesota Department of Health and the Minnesota Pollution Control Agency. Onsite sewage treatment systems must be located on the most suitable areas of the development, and sufficient lawn area free of limiting factors must be provided for a replacement soil treatment system for each sewage system.

2. Dwelling units or sites must be clustered into one or more groups and located on suitable areas of the development. They must be designed and located to meet or exceed the following dimensional standards for the relevant Shoreland classification: setback from the OHWL, elevation above the surface water features, and maximum height. Setbacks from the OHWL must be increased for developments with density increases. Maximum density increases may only be allowed if structure setbacks from the OHWL are increased to at least 50% greater than the minimum setback, or the impact on the waterbody is reduced an equivalent amount through vegetative management, topography, or additional means acceptable to the local unit of government and the setback is at least 25% greater than the minimum setback.

3. Shore recreation facilities, including but not limited to swimming areas, docks, and watercraft mooring areas and launching ramps must be centralized and located in areas suitable for them. Evaluation of suitability must include consideration of land slope, water depth, vegetation, soils, depth to ground water and bedrock, or other relevant factors. 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. 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.

4. 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 leave-on conditions.

5. WOAS may be allowed if they meet or exceed design standards contained in Section III.4.F.

d. Erosion control and stormwater management for residential PUDs must:

1. Be designed, and their construction managed, to minimize the likelihood of serious erosion occurring either during or after construction. This must be accomplished by limiting the amount and length of time of bare ground exposure. Temporary ground covers, sediment entrapment facilities, vegetative buffer strips, or other appropriate techniques must be used to minimize erosion impacts on surface water features. Erosion control plans approved by a Soil and Water Conservation District may be required, if project size and site physical characteristics warrant.

2. Be designed, and constructed to effectively manage reasonably expected quantities and qualities of stormwater runoff.

3. Impervious surface cover must not exceed 25% of the first tier and 25% of the overall development. A PUD must also conform with the stormwater management provisions in Section IV.8.

e. Setback from the OHWL, elevation above the surface water features and maximum height. Setbacks from the OHWL must be increased for developments with density increases. Maximum density increases may only be allowed if structure setbacks from the OHWL are increased to at least 50% greater than the minimum setback, or the impact on the waterbody is reduced an equivalent amount through vegetative management, topography or additional means acceptable to the Local Government Unit and the setback is at least 25% greater than the minimum setback.

3. Administration and maintenance requirements.

Before final approval of all Residential PUDs, local governments must insure adequate provisions have been developed for preservation and maintenance in perpetuity of open spaces and for the continued existence and functioning of the development as a community.

a. Open space preservation. Deed restrictions, covenants, permanent easements, public dedication and acceptance, or other equally effective and permanent means must be provided to insure long-term preservation and maintenance of open space. The instruments must include all of the following protections:

1. Commercial uses prohibited.
2. Vegetation and topographic alterations, other than routine maintenance prohibited.
3. Construction of additional building or storage of vehicles and other materials prohibited.
4. Uncontrolled beaching prohibited.

b. Development organization and functioning.

Unless an equally effective alternative community framework is established, when applicable, all residential PUDs must use an owners association with the following features:

1. Membership must be mandatory for each dwelling unit or site purchaser and any successive purchasers.
2. Each member must pay a pro rata share of the association's expenses, and unpaid assessments can become liens on units or sites.
3. Assessments must be adjustable to accommodate changing conditions.
4. The association must be responsible for insurance, taxes, and maintenance of all commonly owned property and facilities.

4. Conversions:

Existing resorts or other land uses and facilities may be converted to alternate forms of PUDs if all of the following standards are met:

a. Proposed conversions must be initially evaluated using the same procedures and standards presented in this part for developments involving all new construction. Inconsistencies between existing features of the development and these standards must be identified.

b. Deficiencies involving water supply and sewage treatment, structure color, impervious coverage, open space and shore recreation facilities must be corrected as part of the conversion or as specified in the conditional use permit.

c. SIZ and BIZ deficiencies must be evaluated and reasonable improvements made as part of the conversion. These improvements must include, where applicable, the following:

1. Removal of extraneous building, docks or other facilities that no longer need to be located in SIZ and BIZ.
2. Remedial measures to correct erosion sites and improve vegetative cover and screening of buildings and other facilities as viewed from the water.
3. If existing dwelling units are located in SIZ and BIZ zones, conditions are attached to approvals of conversions that preclude exterior expansions in any dimension or substantial alterations. The conditions must also provide for future relocation of dwelling units, where feasible, to other locations, meeting all setback and elevation requirements when they are rebuilt or replaced.

d. Existing dwelling unit or dwelling site densities that exceed standards in this part 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.

E. Commercial PUD density evaluation steps and design criteria. The density evaluation steps and design criteria for commercial PUDs are contained in items 1. and 2.:

1. Density evaluation steps:

a. Determine the average inside living area size of dwelling units or sites within each tier, including both existing and proposed units and sites. Computation of inside living area sizes need not include decks, patios, stoops, steps, garages, or porches and basements, unless they are habitable space.

b. Select the appropriate floor area ratio from the following table:

Commercial Planned Unit Development  
 Floor Area Ratios\*  
 Public waters classes

Average unit floor area (sq. ft.)	Second and additional tiers		
	Sewered general development lakes; first tier on unsewered general development lakes; urban, agricultural, tributary river segments	on unsewered general development lakes; recreational development lakes; transition and forested river segments	Natural environment lakes; remote river segments
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

\*For average unit floor areas less than shown, use the floor area ratios listed for 200 square feet. For areas greater than shown, use the ratios listed for 1,500 square feet. For recreational camping areas, use the ratios listed at 400 square feet. Manufactured home sites in recreational camping areas shall use a ratio equal to the size of the manufactured home, or if unknown, the ratio listed for 1,000 square feet.

c. Multiply the useable area within each tier by the floor area ratio to yield total floor area for each tier allowed to be used for dwelling units or sites.

d. Divide the area computed in paragraph c. by the average determined in Paragraph a. This yields a base number of dwelling units and sites for each tier.

e. Determine whether the project is eligible for any additional density increases. To be eligible, projects must meet all of the Design Standards, and exceed one or more of them. The maximum allowable density increases are listed in the following table:



### Maximum Allowable Dwelling Unit Or Site Density Increases For Commercial Planned Unit Developments

Tier	Maximum density increase within each tier (percent)
First	1.5
Second	2.0
Third	3.0
Fourth	3.0
Fifth	3.0

f. Allowable densities may be transferred from any tier to any other tier further from the shoreland lake or river, but must not be transferred to any other tier closer.

2. The design criteria are:

a. Open space. Commercial PUDs must contain open space meeting all of the following criteria:

1. At least 50% of the total project area must be preserved as open space.

2. Dwelling units or sites, road-rights-of-way, or land covered by road surfaces, or parking areas, except WOAS, are developed areas and should not be included in the computation of open space.

3. Open space must include areas with physical characteristics unsuitable for development in their natural state, and areas containing significant historic sites or unplatted cemeteries.

4. All SIZs within commercial PUDs must be included as open space, and at least 50% of these areas must be preserved in their natural or existing state.

5. Open space may include outdoor recreation facilities, for use by guests staying in dwelling units or sites, or the public.

6. Open space may include subsurface sewage treatment systems, if use of the space is restricted to avoid adverse impacts on the systems.

b. Design of structures and facilities must be done according to the following standards:

1. Commercial PUDs must be connected to publicly owned water supply and sewer systems, if available. Onsite water supply and sewage treatment systems must be designed and installed to meet or exceed applicable rules of the Minnesota Department of Health and the Minnesota Pollution Control Agency. Onsite sewage treatment systems must be located on the most suitable areas of the development, and sufficient lawn area free of limiting factors must be provided for a replacement soil treatment system for each sewage system.

2. Dwelling units or sites must be located on suitable areas of the development. They must be designed and located to meet or exceed the following dimensional standards for the relevant Shoreland classification: setback from the OHWL, elevation above surface water features, and maximum height. Maximum density increases may only be allowed if the structure setbacks from the OHWL are increased to at least 50% greater than the minimum setback, or the impact on the waterbody is reduced an equivalent amount through vegetative management, topography, or other means acceptable to the local unit of government and the setback is at least 25% greater than the minimum setback.

3. Structures, parking areas, and other facilities must be designed and located in a manner that minimizes their visibility from surface water features, assuming summer, leaf-on conditions. The structure, dwelling unit, accessory structure, or parking area 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.

4. WOAS may be located within SIZs if they meet or exceed design standards contained in Section III.4.F.

5. Shore recreation facilities, including but not limited to swimming areas, docks, and watercraft mooring areas and launching ramps, must be centralized and located in areas suitable for them. Evaluation of suitability must include consideration of land slope, water depth, vegetation, soils, depth to ground water and bedrock, or other relevant factors. The number of watercraft allowed to be continually beached, moored, or docked must not exceed one for each allowable dwelling unit or site in the first tier, notwithstanding existing mooring sites in an existing harbor. 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.

c. Erosion control and stormwater management for commercial PUDs must:

1. Be designed, and their construction managed, to minimize the likelihood of serious erosion occurring either during or after construction. This must be accomplished by limiting the amount and length of time of bare ground exposure. Temporary ground covers, sediment entrapment facilities, vegetative buffer strips, or other appropriate techniques must be used to minimize erosion impacts on surface water features. Erosion control plans approved by a Soil and Water Conservation District may be required if project size and site physical characteristics warrant.

2. Impervious Surface cover must not exceed 25% of the first tier and 25% of the overall development. A PUD must also conform with the stormwater management provisions in Section IV.8.

d. RCUs in a Commercial PUD must be currently licensed and no appurtenant structures are allowed, with the exception of an unenclosed deck no larger than 200 square ft. in area and/or a storage structure no larger than 20 square ft. in area and 6 ft. in height for each permitted RCU, provided all other provisions of this Ordinance are met.

e. Existing resorts may add on to, or replace, existing dwelling units, without a Conditional Use Permit or Variance, in accordance with Minnesota Statute 103.F.227.

f. Setback from the OHWL, elevation above the surface water features and maximum height. Setbacks from the OHWL must be increased for developments with density increases. Maximum density increases may only be allowed if structure setbacks from the OHWL are increased to at least 50% greater than the minimum setback, or the impact on the waterbody is reduced an equivalent amount through vegetative management, topography or additional means acceptable to the Local Government Unit and the setback is at least 25% greater than the minimum setback.

## **12. Non-Conforming Uses:**

A. A non-conforming use is any continuous use of land established before the effective date of a County or local Ordinance which does not conform to the use restrictions of a particular zoning district. This should not be confused with substandard dimensions of a conforming use.

B. Otter Tail County has implemented and will continue an active identification and abatement program for all non-conforming and failing sewage treatment systems. Sewage treatment systems not in compliance with the Sanitation Code of Otter Tail County shall be eliminated within the time specified in any Abatement Notice issued by the Administrative Officer.

If the notification of non-conformance is not complied with, the Administrative Officer or County Board may institute appropriate actions or proceedings to prevent, restrain, correct or abate such non-conforming use, and it shall be the duty of the County Attorney to institute such action.

C. A prohibited non-conforming use may not be expanded or improved.

D. Repair and/or Replacement of an existing Non-Conforming building or structure is permitted only in accordance with Minnesota Statute 394.36.

E. If any non-conformity or occupancy is discontinued for a period of more than one year, any subsequent use or occupancy of the land or premises shall be a conforming use or occupancy.

### **13. Exemptions:**

A. The following uses, being essential for the operation of any zoning use district, are exempt from all the provisions of this Ordinance and are permitted in any district: poles, towers, telephone booths, wires, cables, conduits, vaults, pipelines, laterals of any other similar distributing equipment of a public utility; road projects by a Road Authority within an existing road right-of-way; railroad projects by a Railroad Authority within an existing right-of-way; County Ditch projects approved by the Drainage Authority; and provided further that hedges or shrubbery may be erected, placed, maintained or grown except as they may constitute a safety hazard.

B. A structure may be erected on a lot of less than the established minimum area and width, provided the lot existed by virtue of a recorded plat or deed before October 15, 1971, or a lot existing by virtue of a recorded plat or deed before October 15, 1971 has been increased in area by a conveyance subsequent to October 15, 1971, provided a Site Permit for the structure is obtained, all sanitary requirements are complied with and the proposed use is permitted within the district. However, effective February 5, 1992, if in a group of two or more contiguous lots under the same ownership, any individual lot does not meet the established minimum area or width, the lot may not be considered a separate parcel of land for the purposes of conveyance or development. The lot must be combined with one or more contiguous lots so they equal one or more parcels of land and each parcel must meet, or more closely approach, the established minimum lot size requirements of this Ordinance. This restriction shall not apply to the following circumstances:

1. Where each contiguous substandard lot is an improved lot, as defined herein.
2. Where each contiguous substandard lot complies with the requirements of Minnesota Statute 394.36, Subd. 5.
3. Where a lot, or a portion of a lot, is to be conveyed to the owner of a contiguous lot for the purpose of increasing lot size, and no residual lot is left unattended. The deed must contain restrictive covenants requiring legal joinder to a contiguous parcel and a permanent prohibition against separate residential development.

### **14. Wind Energy Conversion Systems:**

A. The wind energy standards for this Ordinance are set forth in the Wind Energy Conversion Systems Ordinance of Otter Tail County, which is incorporated herein by reference, an official copy of which is on file for use and examination by the public in the office of the County Auditor.

## **V. ADMINISTRATION**

### **1. Site Permits:**

A. A Site Permit shall be obtained prior to:

1. Erecting or installing a new structure.
2. Relocating an existing structure.
3. Altering any existing structure or part thereof.
  - a. Alterations include projects which make structural changes, alter outside dimensions of a structure or the cost of which exceeds 50 percent of the market value of the structure.

4. Erecting or installing fences in excess of three feet in height, except non-vision obstructing wire or rail fences.

B. The applicant, for a Site Permit, shall file a complete Application, which must include a scale drawing (see definition) of the proposal, in the office of the Administrative Officer and pay a fee as determined in the Fee Schedule.

1. Before a Site Permit is issued, the terms of this Ordinance shall be met. This shall include having a currently valid Certificate of Compliance for the sewage system located upon the property for which the Site Permit is filed.

2. The Administrative Officer may require an onsite inspection prior to issuing such a Permit. It is the applicant's responsibility to identify and stake all lot lines and road right-of-ways prior to applying for a Site Permit.

C. The Administrative Officer must make such inspections as are necessary to determine compliance with this Ordinance. It is the applicant's responsibility to notify the Administrative Officer when the project is ready for inspection.

D. A Site Permit is not required for the following structures provided all other requirements of this Ordinance are met:

1. Satellite Dishes (in excess of 1 meter in diameter).
2. Licensed (most recent season) Fish Houses, no larger than 130 square feet in area and 10 feet in height.
3. Currently Licensed Recreational Camping Units located at a currently Licensed Resort.
4. One storage structure per permitted dwelling site, no larger than 20 square ft. in area and 6 ft. in height (except for W.O.A.S.).
5. A solar panel that is part of a dwelling or other building.

E. Unless otherwise indicated, a Site Permit shall be valid for a period of twelve months from the date of issue.

**2. Administrative Officer:**

The Board of County Commissioners hereby delegates to the Administrative Officer the duties and responsibilities as follows:

A. Issue Site Permits and inspect building location following notification by applicant.

B. Administer the terms of this Ordinance subject to any required approval of the Planning Commission.

C. Keep necessary records.

D. May issue Lot Alteration Permits for grading and filling projects of not more than 1,000 cubic yards, for conservation projects approved by a Soil and Water Conservation District, Minnesota Department of Natural Resources, or the United States Fish and Wildlife Service, or installation or alteration of impervious surface. The Administrative Officer may require an onsite inspection prior to issuing such a Permit. Within 3 days of completion, the Applicant for a Lot Alteration Permit must notify the Administrative Officer that the project is ready for inspection.

E. Issue Site Permits for structures with less than the OHWL setback under the following conditions:

1. The proposed structure will be on a lot that existed by virtue of a recorded plat or deed before October 15, 1971.
2. The proposed structure is not located in a SIZ or a BIZ.
3. In areas where an existing non-conforming structure exists on each immediately adjoining lot of a proposed building site, public water setback may be varied to conform to the existing setback of like use. In no instance, can the proposed structure extend closer to the public water than the closest point of the existing non-conforming structures of like use. It is the Applicant's responsibility to provide an accurate depiction of the existing non-conforming structures' location on the adjoining lots.

F. May extend a Conditional Use Permit or an Interim Use Permit expiration date upon receipt of the Applicant's written request. The Administrative Officer may require an onsite inspection prior to approving an extension.

G. May require a professional drawing as part of an application where clarification of issues such as; lotline, impervious surface, OHWL, drainage or topography is needed by the County.

**3. Conditional Use Permits (see Sections III. and IV.):**

Any proposed conditional use shall be presented to the Planning Commission for the determination of its applicability to the Shoreland Management District wherein proposed. The Planning Commission may impose conditions when granting Conditional Use Permits that specify: increased setbacks from public waters; vegetation allowed to be removed or required to be established; sewage treatment system location, design or use; location, design and use requirements for watercraft launching or docking and for vehicular parking; structure or other facility design, use and location; phasing of construction and other conditions considered necessary.

A. The applicant for a Conditional Use Permit shall file his complete Application along with an original scale drawing(s) or any required professional drawing(s), and 10 copies (if Applicant provides a color coded original scale drawing, it is the Applicant's responsibility to color code all copies) in the office of the Administrative Officer not less than 21 days prior to the next scheduled meeting of the Planning Commission and pay a fee as determined in the Fee Schedule when the application is filed. In addition to the scale drawing requirements (see definition), these drawings must also specifically indicate any proposed land use change including, but not limited to, structure location(s), sewage treatment system(s), and topographic alteration(s). In addition, the applicant must provide his (or next closest) E-911 address. In the absence of such number, detailed directions to the property must be provided with the application.

B. When administrative staff and Planning Commission members may not be able to view the property for which a Conditional Use Permit is requested, due to snow cover, it may not be possible to meet the legal requirement to take final action within 60 days of receipt of a completed Application. Therefore, an Applicant shall be required, as part of completing the application process in the months of October through March, to indicate by written acknowledgment whether the Applicant is willing to waive the 60 day time limit and allow time for the Planning Commission to view the property, if necessary. The acknowledgment shall inform the Applicant that the absence of a waiver of the 60 day requirement may leave the Planning Commission no alternative but to deny the Application. Circumstances may require the Planning Commission to cancel its regular meeting in one or more of the months of January through April. If meetings are canceled, no Application for a Conditional Use Permit/Preliminary Plat will be accepted as final until 21 days prior to the next scheduled meeting of the Planning Commission.

C. Within 3 days of making an application for a Conditional Use Permit, the applicant shall stake the lot lines, road right-of-ways and area under consideration in such a way as to demonstrate the area to be topographically altered or the location of a proposed structure and post his name and address in a clearly visible location on the property.

D. The Administrative Officer shall refer the Application to the Planning Commission. (See Section V.7, Notification Procedures.)

E. The Planning Commission shall consider the Application at its next regular meeting at which time is available, following compliance with the provisions of notice above specified.

F. If an EAW, EIS or any other study such as a soil test, drainage or erosion control plan is required for any proposed Conditional Use Application, the applicant shall assume all costs associated with the preparation, review and presentation of the document.

G. The applicant or his representative shall appear before the Planning Commission and answer any questions concerning the proposed Conditional Use Application.

H. Otter Tail County reserves the right to require performance bonds and establish the amount of a bond for any one or all Conditional Use Application approvals. All bonds shall be payable to Otter Tail County and shall be filed with the County Auditor prior to the issuance of the Conditional Use Permit.

I. The Planning Commission shall consider a Conditional Use Permit if the proposed change is found to be consistent with the general purposes of this Ordinance and the intent of this and all other applicable state and local regulations and laws. The Planning Commission may consider the following:

1. Compatibility with the surrounding area; both on land and water.
2. Environmental impact, including soils, topography, vegetation (land and water), fish, and wildlife.
3. Any hazards that may be created; both on land and water.
4. Density and location of development.
5. Suitability of the area, in its existing state, for the proposed use.
6. Near shore water depth.
7. Sensitive Areas may be protected through the use of Natural Environment Standards.
8. Adequate parking and traffic control.

9. Amount of noise generated.
10. Hours of proposed use.
11. Lighting.
12. Signage (number, size, lighting, and location).
13. Time frame and/or phasing.
14. Adequate lot area and water frontage for the proposed use.
15. Minimal change in the existing topography necessary to allow for the proposed use.
16. Any other possible adverse effects of the proposed Conditional Use Application and what additional requirements may be necessary to prevent such adverse effects.

J. The report of the Planning Commission shall be referred to the County Board and placed on the agenda of the Board at its first regular meeting following referral from the Planning Commission.

K. The County Board shall take action on the Application within 60 days after receiving the report of the Planning Commission. If it grants the Conditional Use Permit, the Board may impose any special conditions it considers necessary to protect the public welfare. A copy of all granted Conditional Use Permits shall be forwarded to the Commissioner within 10 days of such action.

L. The Planning Commission shall establish the valid period for each Conditional Use Permit granted.

M. After approval of the Conditional Use Application by the County Board the applicant shall secure from the Administrative Officer a written Conditional Use Permit before initiating the project.

N. Within 3 days of completion, the applicant, for a Conditional Use Permit, shall notify the Administrative Officer that the project is completed and ready for an inspection.

O. The Administrative Officer shall inspect after notification and inform the applicant in writing whether the project complies with the approved Conditional Use Permit. The purpose of the Conditional Use Permit shall not be put to use until written approval has been granted by the Administrative Officer.

#### **4. Interim Use Permits:**

A. An Interim Use Permit may be issued for a replacement dwelling on a lot with an existing dwelling, and the continued use of the existing dwelling will be temporarily authorized during construction or in cases where the impervious surface requirements will be met upon project completion, as authorized by MS 394.303.

B. Applications for Interim Use Permits must be made by an owner of the lot and are processed in the same manner and with the same considerations as a Conditional Use Permit.

C. Otter Tail County reserves the right to require performance bonds and establish the amount of a bond for any one or all Interim Use Application approvals. All bonds shall be payable to Otter Tail County and shall be filed with the County Auditor prior to the issuance of the Interim Use Permit.

1. The prior dwelling structure shall be completely removed from the lot or the impervious surface will be compliant, within one (1) year of the issuance of the Interim Use Permit.

2. The Interim Use Permit may authorize repurposing of the prior dwelling where it will no longer meet the definition of a dwelling and cannot be reused as a dwelling.

3. Only one (1) dwelling may be occupied.

#### **5. Appeals:**

A. The Board of Adjustment shall hear and decide appeals from and review any order, requirements, decisions or determinations made by any Administrative Officer charged with enforcing any provision of this Ordinance.

B. Any appeal from any decision, order, requirement or determination within the jurisdiction of the Board of Adjustment shall be taken by the filing of a notice of appeal with the secretary of the Board within 10 days from the date on which the appellant was notified in writing by the officer making such decision of the decision. No such appeal shall be filed by the secretary of the Board unless accompanied by the Appeal Fee established in the Fee Schedule.

C. The Board of Adjustment shall fix a reasonable time for the hearing of the appeal and give due notice thereof to the applicant and the officer from whom the appeal is taken and decide the same within a reasonable time. The Board of Adjustment may reverse, affirm wholly or partly, or may modify the order, requirements, decisions or determinations as in its opinion ought to be made in the premises and to that end shall have all powers of the officer from whom the appeal was taken and may issue or direct the issuance of a permit. The reason for the Board's decision shall be stated in writing. The decision of the Board shall be final unless appealed to the District Court in Otter Tail County by a person having an interest affected by such decision.

**6. Variances from Standards:**

The Board of Adjustment shall have the exclusive power to order the issuance of variances from the requirements of the Ordinance including restrictions placed on nonconformities.

A. Variances shall only be permitted when they are in harmony with the general purposes and intent of the Ordinance.

B. Variances may be granted when the applicant for the variance establishes that there are practical difficulties in complying with the ordinance. "Practical difficulties," as used in connection with the granting of a variance, means that the property owner proposes to use the property in a reasonable manner not permitted by the ordinance; the plight of the landowner is due to circumstances unique to the property not created by the landowner; and the variance, if granted, will not alter the essential character of the locality.

C. Economic considerations alone do not constitute practical difficulties.

D. Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems.

E. Variances shall be granted for earth sheltered construction as defined in Section 216C.06, subdivision 14, when in harmony with the Ordinance.

F. No variance may be granted that would allow any use that is not allowed.

G. The Board of Adjustment may impose conditions in the granting of variances. A condition must be directly related to and must bear a rough proportionality to the impact created by the variance.

H. In considering variance requests, the Board of Adjustment may also consider:

1. Whether the variance will secure for the applicant a right or rights that are enjoyed by other owners in the same area;

2. Whether existing sewage treatment systems on the property need upgrading before additional development is approved;

3. Whether granting the variance will be contrary to the public interest or damaging to the rights of other persons or to property values in the neighborhood.

4. No variance shall be granted simply because there are no objections or because those who do not object outnumber those who do.

I. The applicant for a variance shall file his complete Application in the office of the Administrative Officer not less than 21 days prior to the next scheduled meeting of the Board of Adjustment and pay a fee as indicated on the Fee Schedule when the application is filed. Each application for variance shall be accompanied by a scale drawing (see definition) and 6 copies (if the Applicant provides a color coded original scale drawing, it is the Applicant's responsibility to color code all copies) of the area under consideration showing the location of any existing structures and any proposed structures. The drawing shall also indicate all setback distances in feet. In addition, the applicant must provide his (or next closest) E-911 address. In absence of such number, detailed directions to the property must be provided with the application.

J. When administrative staff and Board of Adjustment members may not be able to view the property for which a variance is requested, due to snow cover, it may not be possible to meet the legal requirement to take final action within 60 days of receipt of a completed Application. Therefore, an Applicant shall be required, as part of completing the application process in the months of October through March, to indicate by written acknowledgment whether the Applicant is willing to waive the 60 day time limit and allow time for the Board of Adjustment to view the property, if necessary. The acknowledgment shall inform the Applicant that the absence of a waiver of the 60 day requirement may leave the Board of Adjustment no alternative but to deny the Application. Circumstances may require the Board of Adjustment to cancel its regular meeting in one or more of the months of January through April. If meetings are canceled, no Application for a Variance will be accepted as final until 21 days prior to the next scheduled meeting of the Board of Adjustment.

K. Within 3 days of making an application for a variance the applicant shall stake the lot lines, road right-of-ways, and area under consideration and post the name and address in a clearly visible location on the property.

L. The Administrative Officer shall refer the application to the Board of Adjustment (See Section V.7., Notification Procedures.)

M. The Board of Adjustment shall consider the application at its next regular meeting at which time is available, following compliance with the provisions of notice above specified.

#### **7. Shoreland Management By Townships:**

Townships may adopt shoreland management controls under authority of Minnesota Statutes, Section 462 if the controls are not inconsistent with or less restrictive than the controls adopted by Otter Tail County.

A. Shoreland management controls adopted by townships will only be considered to be consistent with County controls if they cover the same full range of shoreland management provisions covered by the County controls, contain dimensional standards at least as restrictive as those in the County controls, and do not allow land uses in particular areas that are not allowed under the County's official controls.

B. The township must demonstrate to the County Board that their proposed Ordinance and administration is at least as restrictive as the County's prior to final adoption by the township. Townships must provide for administration and enforcement of shoreland management controls at least as effective as County implementation. Townships that adopt adequate shoreland controls must follow all of the notification procedures in Subpart 7. After adequate shoreland management controls are adopted by a township, property owners must only obtain necessary permits and approvals as required in the township shoreland management controls. Property owners do not have to obtain similar permits or approvals under the County's shoreland controls.

#### **8. Notification Procedures:**

##### **A. Conditional Use Permit Applications:**

Written notice shall be sent to property owners of record within one quarter (1/4) mile of the affected property or to the 10 properties nearest the affected property, whichever will provide the greater number of owners. Written notice shall also be sent to the Town Board of the Township wherein the conditional use is proposed, the governing body of any city or village of which the incorporated limits lie within 2 miles of the proposed conditional use and the Commissioner. The written notice provided for the above shall be given not less than 14 days prior to the date the Planning Commission will consider said application, although failure of any property owner to receive such notification shall not invalidate the proceedings.

##### **B. Variance Applications:**

Written notice shall be sent to property owners of record within 500 ft. of the affected property. Written notice shall also be sent to the Town Board of the Township wherein the variance is proposed, the governing body of any city or village of which the incorporated limits lie within 2 miles of the proposed variance and the Commissioner. The written notice provided for the above shall be given not less than 14 days prior to the date the Board of Adjustment will consider said application, although failure of any property owner to receive such notification shall not invalidate the proceedings.



C. Amendments:

Written notice of hearing for consideration of amendment(s) to the existing controls shall be sent to the Commissioner and the governing body of all towns and municipalities within Otter Tail County. This written notice shall be given not less than 14 days prior to the hearing at which the amendment(s) will be considered.

D. Plats:

Written notice shall be sent to the property owners of record within one half (1/2) mile of a proposed subdivision. Written notice shall also be sent to the Town Board of the Township wherein the proposed subdivision lies, the governing body of any city or village of which the incorporated limits lie within 2 miles of the proposed subdivision and the Commissioner (must include a copy of the proposed subdivision). The written notice provided for the above shall be given not less than 14 days prior to the date the Planning Commission will consider said subdivision, although failure of any property owner to receive such notification shall not invalidate the proceedings.

E. A copy of approved amendments and plats and final decisions granting Variances or Conditional Uses under local shoreland management controls must be sent to the Commissioner and postmarked within 10 days of final action.

F. Townships with shoreland management controls adopted under Section V.6. must also provide these materials to the zoning official of Otter Tail County.

**9. Amendments:**

This Ordinance may be amended in whole or in part by the Board of County Commissioners after proper public hearing conducted by the Planning Commission and as provided in Minnesota Statutes 394.26.

**10. Enforcements And Penalties:**

A. This Ordinance shall be administered and enforced by the Administrative Officer who is hereby designated the enforcing officer.

B. Any violation of the terms and provisions of this Ordinance, including the terms of a Permit, shall constitute a misdemeanor. All fines paid for violations shall be credited to the County General Revenue Fund. Each 24 hour day that a violation continues shall constitute a separate offense.

C. In the event of a violation or a threatened violation of this Ordinance, the County Board and/or the Administrative Officer, in addition to other remedies may institute appropriate actions or proceedings to prevent, restrain, correct or abate such violations or threatened violations, and it shall be the duty of the County Attorney to institute such action. This will include, but not be limited to, actions for injunctive relief before a court of competent jurisdiction.

D. Any taxpayer or taxpayers of the County may institute mandamus proceedings in District Court to compel specific performance by the proper officer or officers of any duty required by this Ordinance.

E. All employees of the Otter Tail County Land and Resource Management Office, members of the County Board of Commissioners, Planning Commission and Board of Adjustment, in the performance of their duties, shall have free access on all land included in Shoreland Management use districts.

F. All public bodies of water not specifically designated or enumerated in "Waters of Otter Tail County Classification" are hereby given the classification of Natural Environment.

G. Effective Date:

This Ordinance as amended shall be in full force and in effect April 8, 2016.

Unless otherwise authorized by permit, any construction or grading and filling not completed by the effective date of this Ordinance, must comply with all the amended requirements.

**EFFECTIVE DATE: January 15, 2017**