CREDIT RIVER SHORELAND ORDINANCE – CHANGES TO DEFINITIONS AND NEW SECTION 70
September 11, 2022 – Draft 1

NOTE: THE DEFINITION SECTION BELOW LISTS DEFINITIONS THAT NEED TO BE INCLUDED.
Definition in plain text – existing definition in Zoning Ordinance with no change proposed
Definition in bold text – proposed new definition
Definition in red text – proposed revised definition

1-6 DEFINITIONS

The following words or terms, whenever they occur in this Ordinance, are defined as follows:

Accessory Structure - A structure of secondary or subordinate use to the principal structure, located on the same lot.

Animal feedlot. A facility as defined by Minnesota Rules, part 7020.0300.

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

a) Part or all of the feature is located in a shoreland area;

b) The slope must drain toward the waterbody;

c) The slope rises at least 25 feet above the ordinary high water level; and

d) The grade of the slope from the toe of the bluff to a point 25 feet or more above the ordinary high water level averages 30 percent or greater (see Figure 1), except that an area with an average slope of less than 18 percent over a distance of at least 50 feet shall not be considered part of the bluff (see Figure 2).

Figure 1. Illustration of Bluff

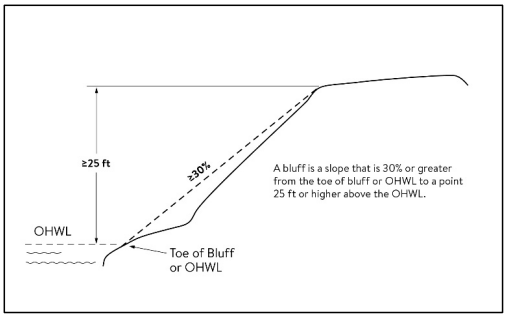
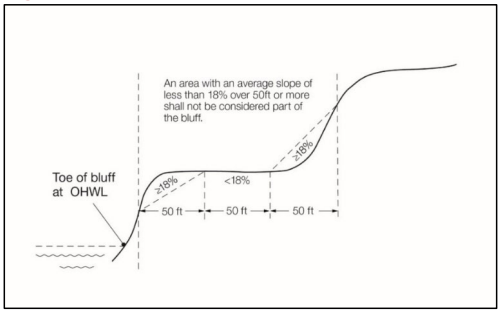
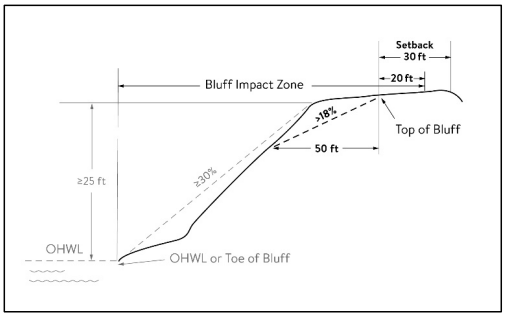


Figure 2. Exception to Bluff



Bluff impact zone. A bluff and land located within 20 feet of the top of a bluff. See Figure 3

Figure 3. Bluff Impact Zone and Top of Bluff



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

Bluff, Top of. For the purposes of measuring setbacks, bluff impact zone, and administering vegetation management standards, the higher point of a 50-foot segment with an average slope exceeding 18 percent. See Figure in definition for Bluff Impact Zone.

Boathouse. A facility as defined by Minnesota Statutes, Section 103G.245.

Buffer - The use of land, topography, difference in elevation, space, fences or landscape plantings to screen or partially screen a use or property from another use or property or to shield or mitigate noise, lights, or other impacts. OR When referenced in the shoreland district, a vegetative feature as defined by Minnesota Statutes, Section 103F.48.

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

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

Commercial planned unit developments. Developments that provide transient, short-term lodging spaces, rooms, or parcels and their operations are essentially service-oriented. For example, hotel/motel accommodations, resorts, recreational vehicle and camping parks, and other primarily service-oriented activities are commercial planned unit developments.

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

Commissioner. The commissioner of the Department of Natural Resources.

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

Conservation Easement - A legal agreement creating an interest in real property

Deck - A horizontal, unenclosed platform, with or without attached railings, seats or other features, attached or functionally related to a principal use.

Duplex, triplex, and quad. A dwelling structure on a single lot, having two, three, and four units, respectively, attached by common walls and each

unit equipped with separate sleeping, cooking, eating, living, and sanitation facilities.

Dwelling, Single Family – A building containing a single dwelling unit designed exclusively for and occupied exclusively by one (1) family.

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

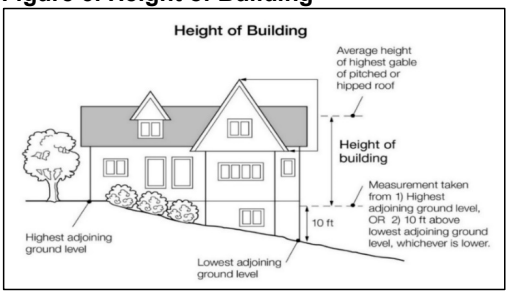
Dwelling Unit - A residential building or portion thereof intended for occupancy by one (1) or more persons with facilities for living, sleeping, cooking and eating.

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.

Forest land conversion. The clear cutting of forested lands to prepare for a new land use other than reestablishment of a subsequent forest stand.

Height of building. The vertical distance between the highest adjoining ground level at the building or ten feet above the lowest adjoining ground level, whichever is lower, and the highest point of a flat roof or average height of the highest gable of a pitched or hipped roof (see Figure 3).

Figure 3. Height of Building



Impervious surface. A constructed hard surface that prevents or retards entry of water into the soil and causes water to run off the surface in greater quantities and at an increased rate of flow than prior to development, including rooftops; decks; sidewalks; patios; swimming pools; parking lots; concrete, asphalt, gravel driveways, or permeable pavers; and other similar surfaces.

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

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

Lot - A parcel of land designated by metes and bounds, registered land survey, or other accepted means and separated from other parcels or portions by said description for the purpose of sale, lease, or separation thereof. In all cases, a road shall be considered a property line.

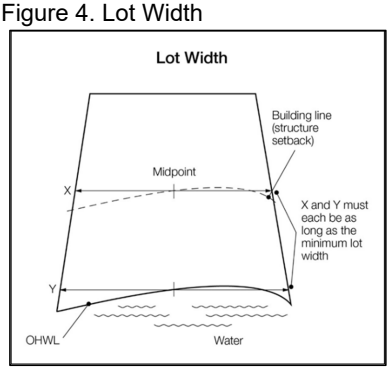
Lot Width – The minimum distance between:

a) Side lot lines measured at the midpoint of the building line; and

b) For cul-de-sac lots, lot width shall mean the minimum required horizontal distance between the side lot lines, measured along a straight line at the midpoint of the front setback line.

c) Side lot lines at the ordinary high water level, if applicable (see Figure 4).

Figure 4. Lot Width



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.

Ordinary High Water Level - The boundary of public waters and wetlands, and shall be an elevation delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape, commonly that point where the natural vegetation changes from predominantly

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

Planned Unit Development - A type of development characterized by a unified site design for a number of dwelling units or dwelling sites on a parcel, whether for sale, rent, or lease; 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; and whereby internal site design standard deviations from this Ordinance may be allowed to improve site design and operation. Where appropriate this development control advocates: (1) a mixture of land uses, (2) the clustering of residential land uses providing common and public open space, and (3) increased administrative discretion to a local professional planning staff and the setting aside of present land use regulations and rigid plat approval processes.

Public Waters - Any "public waters" as defined in Minnesota Statutes Section 103G.005, subdivision 15.

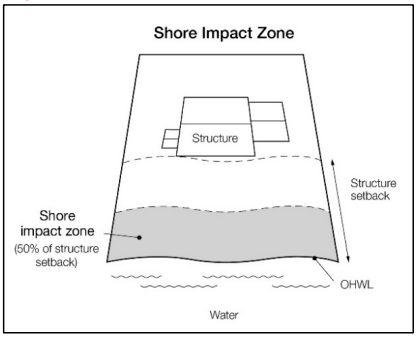
Semi-Public Use - The use of land by a private, non-profit organization to provide a public service that is ordinarily open to some persons outside the regular constituency of the organization.

Setback - The minimum horizontal distance between a structure, individual sewage treatment system, or other facility, and a road, road right-of-way, property line, top of bluff, or the ordinary high water level of a lake, stream, river, or other protected water.

Sewage Treatment System - "Sewage treatment system" has the meaning given under Minnesota Rules, part 7080.1100, Subp. 82.

Shore Impact Zone - Land located between the ordinary high water level of a public water and a line parallel to it at a setback of 50 percent of the structure setback (see Figure 5).

Figure 5. Shore Impact Zone

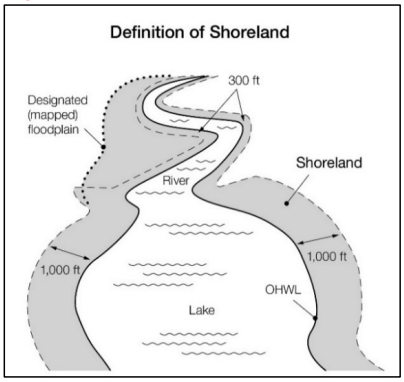


Shoreland - "Shoreland" means land located within the following distances from public waters:

a) 1,000 feet from the ordinary high water level of a lake, pond, or flowage; and

d) 300 feet from a river or stream, or the landward extent of a floodplain designated by ordinance on a river or stream, whichever is greater (see Figure 6).

Figure 6. Definition of Shoreland



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Shoreland Alteration - Grading and filling in shoreland areas or any alteration of the natural topography where the slope of the land is toward a public water or a watercourse leading to a public water.

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.

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

Structure - Anything constructed or installed, the use of which requires more or less permanent location on the ground; or attached to something having a permanent location on the ground, , including decks and pools, except aerial or underground utility lines, such as sewer, electric, telephone, telegraph, gas lines, towers, poles, and other supporting facilities.

Subdivision - The creation of one or more lots under the provisions of the Credit River Subdivision Regulations.

Suitability analysis. An evaluation of land to determine if it is appropriate for the proposed use. The analysis considers factors relevant to the proposed use and may include the following features: susceptibility to flooding; existence of wetlands; soils, erosion potential; slope steepness; water supply, sewage treatment capabilities; water depth, depth to groundwater and bedrock, vegetation, near-shore aquatic conditions unsuitable for water-based recreation; fish and wildlife habitat; presence of significant historic sites; or any other relevant feature of the natural land.

Variance - A modification or variation of the provisions of this Ordinance. A variance shall not be granted allowing a use prohibited in the district in which the structure, use or lot are located.

Water-oriented accessory structure or facility. A small, above ground building or other improvement, except stairways, fences, docks, and retaining walls, which, because of the relationship of its use to surface water, reasonably needs to be located closer to public waters than the normal structure setback. Examples of such structures and facilities include, watercraft and watercraft equipment storage structures, gazebos, screen houses, fish houses, pump houses, patios, and detached decks. Boathouses and boat storage structures given the meaning under Minnesota Statutes, Section 103G.245 are not a water-oriented accessory structures.

Water-dependent use. The use of land for commercial, industrial, public or semi-public purposes, where access to and use of a public water is an integral part of the normal conduct of operation. Marinas, resorts, and restaurants with transient docking facilities are examples of uses typically found in shoreland areas.

Wetland - Lands 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. For purposes of this definition, wetlands must have the following three attributes:

1. Have a predominance of hydric soils; and

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.

Wetland (DNR Protected) - All type 3, 4, and 5 wetlands as defined in United States Fish and Wildlife Service Circular No. 39 (1971 edition), not protected by Chapter 70 of this Ordinance, included within the definition of public waters, that are ten (10) or more acres in size in unincorporated areas of 2.5 or more acres in incorporated areas.

CHAPTER 70: SL, SHORELAND DISTRICT

70-1 PURPOSE

The uncontrolled use of shoreland within Credit River affects the public health, safety and general welfare not only by contributing to pollution of public waters, but also by impairing the local tax base. Therefore, it is in the best interest of the public health, safety and welfare to provide for the wise subdivision, use and development of shoreland of public waters. The Legislature of Minnesota has delegated responsibility to local governments of the State to regulate the subdivision, use and development of the shoreland of public waters and thus preserve and enhance the quality of surface waters, conserve the economic and natural environmental values of shoreland and provide for the wise use of waters and related land resources.

70-2 JURISDICTION

The provisions of this Chapter shall apply to the shoreland of the public water bodies as classified in Section 70-6 of this Chapter within Credit River. No lake, pond or flowage less than ten (10) acres in size need be regulated in the shoreland regulations. A body of water created by a private user where there was no previous shoreland may, at the discretion of Scott County, be exempted from this Chapter.

70-3 COMPLIANCE

The use of any shoreland of public waters; the size and shape of lots; the use, size, type and location of structures on lots; the installation and maintenance of water supply and waste treatment systems; the grading and filling of any shoreland area; the cutting of shoreland vegetation; and the subdivision of land shall be in full compliance with the terms of this Chapter and other applicable regulations.

70-4 APPLICATION OF RULES

In their interpretation and application, the provisions of this Chapter shall be held to be minimum requirements and shall be liberally construed in favor of the governing body and shall not be deemed a limitation or repeal of any other powers granted by State Statutes.

70-5 ADMINISTRATION

70-5-1 Permits Required

A permit is required for the construction of buildings or building additions (and including such related activities as construction of decks and signs), the installation and/or alteration of individual sewage treatment systems, and those grading and filling activities not exempted by Section 70-8-7 of this Chapter. Application for a permit shall be made to the Zoning Administrator on the forms provided. The application shall include the necessary information so that the Zoning Administrator can evaluate how the application complies with the provisions of this ordinance.

A permit authorizing an addition to an existing structure shall stipulate that an identified nonconforming sewage treatment system, as defined by Scott County shall be reconstructed or replaced in accordance with the Scott County ordinances.

70-5-2 Variances

Variances may only be granted in accordance with Minnesota State Statutes Chapter 462.387, and Section 2-3 of this Ordinance, as applicable. A variance may not circumvent the general purposes and intent of this Chapter. No variance may be granted that would allow any use that is prohibited in the zoning district in which the subject property is located. Conditions may be imposed in the granting of a variance to ensure compliance and to protect adjacent properties and the public interest. In considering a variance request, the Board of Adjustment must also consider whether the property owner has reasonable use of the land without the variance, whether the property is used seasonally or year-round, whether the variance is being requested solely on the basis of economic considerations and the characteristics of development on adjacent properties.

The Board of Adjustment shall hear and decide requests for variances in accordance with the rules that it has adopted for the conduct of business. When a variance is approved after the Department of Natural Resources has formally recommended denial in the hearing record, the notification of the approved variance required in Section 70-5-3 shall also include the Board of Adjustment's summary of the public record/testimony, the findings of facts and conclusions which supported the issuance of the variance.

For properties with existing sewage treatment systems, a certificate of compliance, consistent with Minnesota Rules Chapter 7082.0700 Subp. 3, is required for variance approval. A sewage treatment system shall be considered compliant if the only deficiency is the system’s improper setback from the ordinary high water level.

70-5-3 Conditional Use Permits

Conditional uses allowable within shoreland areas shall be subject to the review and approval procedures, and criteria and conditions for review of conditional uses established in Section 2-6 of this Ordinance. The following additional evaluation criteria and conditions apply within shoreland areas:

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

1. The prevention of soil erosion or other possible pollution of public waters, both during and after construction;

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

3. The site is adequate for water supply and individual sewage treatment system; and

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

70-5-4 Mitigation

1. In evaluating all variances, conditional uses, zoning and building permit applications, the zoning authority shall require the property owner to address~~, when appropriate,~~ the following conditions, when related to and proportional to the impact, to meet the purpose of this ordinance, to protect adjacent properties, and the public interest:

   b) Advanced storm water runoff management treatment;

   e) Reducing impervious surfaces;

   f) Increasing setbacks from the ordinary high water level;

   g) Restoration of wetlands;

   h) Limiting vegetation removal and/or riparian vegetation restoration;

   i) Provisions for the location, design, and use of structures, sewage treatment systems, water supply systems, watercraft launching and docking areas, and parking areas; and

   j) Other conditions the zoning authority deems necessary.

2. In evaluating plans to construct sewage treatment systems, roads, driveways, structures, or other improvements on steep slopes, conditions to prevent erosion and to preserve existing vegetation screening of structures, vehicles, and other facilities as viewed from the surface of public waters assuming summer, leaf-on vegetation shall be attached to permits.

70-5-5 Noncormities

1. All legally established nonconformities as of the date of this ordinance may continue, but will be managed according to Minnesota Statutes, Section 462.357 Subd. 1e and other regulations of Credit River for alterations and additions; repair after damage; discontinuance of use; and intensification of use.

2 All additions or expansions to the outside dimensions of an existing nonconforming structure must meet the setback, height, lowest floor elevations, and other requirements of Chapter 70 of this ordinance. Any deviation from these requirements must be authorized by a variance.

70-5-6 Notifications to the Department of Natural Resources

1. All amendments to this shoreland ordinance must be submitted to the Department of Natural Resources for review and approval for compliance with the statewide shoreland management rules. Credit River will submit the proposed ordinance amendments to the commissioner or the commissioner's designated representative at least 30 days before any scheduled public hearings.
2. All notices of public hearings to consider variances, ordinance amendments, or conditional uses under shoreland management controls must be sent to the commissioner or the commissioner's designated representative at least ten (10) days before the hearings. Notices of hearings to consider proposed subdivisions/plats must include copies of the subdivision/plat.
3. All approved ordinance amendments and subdivisions/plats, and final decisions approving variances or conditional uses under local shoreland management controls must be sent to the commissioner or the commissioner's designated representative and postmarked within ten days of final action. When a variance is approved after the Department of Natural Resources has formally recommended denial in the hearing record, the notification of the approved variance shall also include the summary of the public record/testimony and the findings of facts and conclusions which supported the issuance of the variance.

4. Any request to change the shoreland management classification of public waters within Credit River must be sent to the commissioner or the commissioner's designated representative for approval, and must include a resolution and supporting data as required by Minnesota Rules, part 6120.3000, subp.4.
5. Any request to reduce the boundaries of shorelands of public waters within Credit River must be sent to the commissioner or the commissioner's designated representative for approval and must include a resolution and supporting data The boundaries of shorelands may be reduced when the shoreland of water bodies with different classifications overlap. In these cases, the topographic divide between the water bodies shall be used for adjusting the boundaries.

70-5-6 Mandatory EAW.

An Environmental Assessment Worksheet consistent with Minnesota Rules, Chapter 4410 must be prepared for projects meeting the thresholds of Minnesota Rules, part 4410.4300, Subparts 19a, 20a, 25, 27, 28, 29, and 36a.

70-6 SHORELAND CLASSIFICATION SYSTEM AND LAND USE DISTRICTS

70-6-1 Shoreland Classification System

The public waters of Credit River as classified below are regulated consistent with the classifications assigned by the commissioner under Minnesota Rules, part 6120.3300.

70-6-2 Lakes

Natural Environment Lakes

ID #	NAME	OHWL	SECTION	TOWNSHIP	RANG
70-10	Murphy Lake		3, 4	114	21
70-11	Unnamed		10, 11	114	21
70-22	Cleary Lake	937.8	7	114	21
70-23	Unnamed		19	114	21
70-24	Kane Lake		19, 30	114	21
70-120	Unnamed		x	114	21
70-200	Unnamed		x	114	21
70-290	Unnamed		x	114	21

Recreational Development Lakes

ID #	NAME	OHWL	SECTION	TOWNSHIP	RANG
70-21	Markley Lake	893.2	6	114	21

General Development Lakes

ID #	NAME	OHWL	SECTION	TOWNSHIP	RANG
None					

70-6-3 Rivers and Streams

Urban Rivers

River	From	To
None		

Agricultural Rivers

River	From	To
None		

Transition Rivers

River	From	To
None		

Forested Rivers

River	From	To
None		

Remote Rivers

River	From	To
None		

Tributary Rivers

All public rivers and streams shown on the Public Waters Inventory Map for Scott County, a copy of which is hereby adopted by reference, not given a classification in Section 70-6-3 above shall be considered "Tributary".

70-7 LAND USE DISTRICT DESCRIPTIONS

The land use districts in Chapters 25 through 60 of this Zoning Ordinance are delineated on the Official Zoning Map or in this Ordinance for the shoreland in Credit River. For any property located within the shoreland overlay district, both the standards of the underlying zoning district and the shoreland overlay district shall apply.

70-8 ZONING AND WATER SUPPLY/SANITARY PROVISIONS

70-8-1 Lot Area and Width Standards

The lot area and lot width standards for single family homes created after the date of enactment of this Chapter for the lake and river/stream classifications are the following:

1. For all lake and river/stream classifications, the minimum lot size and lot width shall meet the requirements of the zoning district in which the shoreland lot is located, or the requirements of this section, whichever is greater.

2. Only land above the ordinary high water level of public waters and excluding right-of-way shall be used to meet lot area and lot width standards.

3. Lot width standards must be met at both the ordinary high water level and at the building line.

4. The sewer lot area dimensions can only be used if publicly owned sewer system service is available to the property.

5. Residential subdivisions with dwelling unit densities exceeding those in paragraphs 6. And 7. Below are allowed only if designed and approved as residential PUDS under Section _____ of this ordinance.

6. Lake Minimum Lot Area and Width Standards:

    c) Recreational development lake – **No sewer**

Lot Type	Riparian Lot Area (sf)	Riparian Lot Width (ft)	Nonriparian Lot Area (sf)	Nonriparian Lot Width (ft)
Single	40,000	150	40,000	150
Duplex	80,000	225	80,000	265
Triplex	120,000	300	120,000	375
Quad	160,000	375	160,000	490

d) Recreational development lake – **Sewer**

Lot Type	Riparian Lot Area (sf)	Riparian Lot Width (ft)	Nonriparian Lot Area (sf)	Nonriparian Lot Width (ft)
Single	20,000	75	15,000	75
Duplex	35,000	135	26,000	135
Triplex	50,000	195	38,000	190
Quad	65,000	255	49,000	245

e) Natural environment lake – **No sewer**

Lot Type	Riparian Lot Area (sf)	Riparian Lot Width (ft)	Nonriparian Lot Area (sf)	Nonriparian Lot Width (ft)
Single	80,000	200	80,000	200
Duplex	120,000	300	160,000	400
Triplex	160,000	400	240,000	600
Quad	200,000	500	320,000	800

f) Natural environment lake – **Sewer**

Lot Type	Riparian Lot Area (sf)	Riparian Lot Width (ft)	Nonriparian Lot Area (sf)	Nonriparian Lot Width (ft)
Single	40,000	125	20,000	125
Duplex	70,000	225	35,000	220
Triplex	100,000	325	52,000	315
Quad	130,000	425	65,000	410

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

Lot Type	Remote	Forested	Transition	Agriculture	Urban & Tributary No Sewer	Urban & Tributary Sewer
Single	300	200	250	150	100	75
Duplex	450	300	375	225	150	115
Triplex	600	400	500	300	200	150
Quad	750	500	625	375	250	190

8. Subdivisions of duplexes, triplexes, and quads are conditional uses on Natural Environment Lakes and must also meet the following additional standards:
    a) Each building must be set back at least 200 feet from the ordinary high water level;
    b) Each building must have common sewage treatment and water systems in one location and serve all dwelling units in the building;
    c) Watercraft docking facilities for each lot must be centralized in one location and serve all dwelling units in the building; and
    d) No more than 25 percent of a lake's shoreline can be in duplex, triplex, or quad developments.
9. Water-oriented Accessory Structures or Facilities. Each residential lot may have one water-oriented accessory structure or facility if it complies with the following provisions:
    a) The structure or facility must not exceed ten feet in height, exclusive of safety rails, and cannot occupy an area greater than 250 square feet. The structure or facility may include detached decks not exceeding eight feet above grade at any point or at-grade **patios**;
    b) The structure or facility is not in the Bluff Impact Zone;
    c) The setback of the structure or facility from the ordinary high water level must be at least ten feet;
    d) The structure is not a boathouse or boat storage structure as defined under Minnesota Statutes, Section 103G.245;
    e) The structure or facility must be treated to reduce visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks or color, assuming summer, leaf-on conditions;
    f) The roof may be used as an open-air deck with safety rails, but must not be enclosed **with a roof or sidewalls** or used as a storage area;

g) The structure or facility must not be designed or used for human habitation and must not contain water supply or sewage treatment facilities;

h) As an alternative for general development and recreational development waterbodies, water-oriented accessory structures used solely for storage of watercraft and boating-related equipment may occupy an area up to 400 square feet provided the maximum width of the structure is 20 feet as measured parallel to the shoreline; and

i) Water-oriented accessory structures may have the lowest floor placed lower than the elevation specified in Section 6.43 if the structure is designed to accommodate internal flooding, 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.

70-8-2 Access to Public Waters

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

3. The lot must meet the area and width requirements for residential lots, and be suitable for the intended uses of controlled access lots as provided in item D;

4. If docking, mooring, or over-water storage of more than six (6) watercraft is to be allowed at a controlled access lot, then the width of the lot (keeping the same lot depth) must be increased by a percentage of the requirements for riparian residential lots for each watercraft beyond six, consistent with the following table:

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

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

70-8-3 **Placement, Design, and Height of Structures**

1. OHWL Setback for Structures and Sewage Treatment Systems. When more than one setback applies to a site, structures and facilities must be located to meet all setbacks, and comply with the following OHWL setback provisions. The structure setback standards for sewered properties can only be used if publicly owned sewer system service is available.

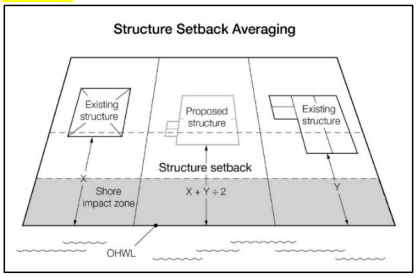
Waterbody Classification	Structures with No Sewer	Structures with Sewer	Sewage Treatment Systems
Natural Environment Lakes	150	150	150
Recreational Development Lakes	100	75	75
General Development Lakes	75	50	50

Waterbody Classification	Structures with No Sewer	Structures with Sewer	Sewage Treatment Systems
Remote Rivers	200	200	150
Forested and Transition Rivers	150	150	100
Agriculture, Urban, & Tributary Rivers	100	50	75

a) *OHWL Setbacks.* Structures, **impervious surfaces**, and sewage treatment systems must meet setbacks from the Ordinary High Water Level (OHWL), except that one water-oriented accessory structure or facility, designed in accordance with Section 7.3 of this ordinance, may be set back a minimum distance of ten (10) feet from the OHWL:

b) *Setback averaging.* Where **principal** structures exist on the adjoining lots on both sides of a proposed building site, structure setbacks may be altered without a variance to conform to the adjoining **principal structure** setbacks from the OHWL, provided the proposed structure is not located in a shore impact zone or in a bluff impact zone (see Figure 7);

Figure. 7 Structure Setback Averaging



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

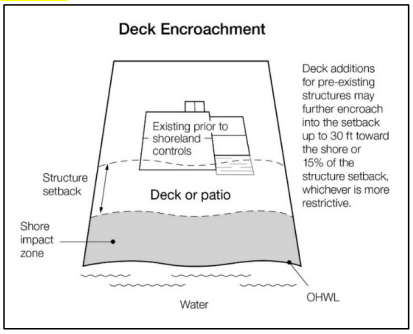
(1) The structure existed on the date the structure setbacks were established;

(2) A thorough evaluation of the property and structure reveals no reasonable location for a deck meeting or exceeding the existing ordinary high water level setback of the structure;

(3) The deck encroachment toward the ordinary high water level does not exceed 15 percent of the existing setback of the structure from the ordinary high water level or is no closer than 30 feet from the OHWL, whichever is more restrictive; and

(4) The deck is constructed primarily of wood, and is not roofed or screened (see Figure 8).

Figure 8. Deck Encroachment



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

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

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

70-8-4 Design Criteria for Structures

1. Lowest Floor Elevation.

a) Determining elevations. Structures must be placed at an elevation consistent with the applicable floodplain regulatory elevations. Where these elevations are not known, the lowest floor, including basement,

must be placed or flood-proofed at an elevation determined using the following methodology:

(1) For lakes, by placing the lowest floor at a level at least three feet above the highest known water level, or three feet above the ordinary high water level, whichever is higher (see Figure 9);

(2) For rivers and streams, by placing the lowest floor at least three feet above the highest known flood elevation. If highest known flood elevation is not available, by placing the lowest floor at least three feet above the ordinary high water level (see Figure 9), or by conducting a technical evaluation to establish a flood protection elevation. Technical evaluations must be done by a qualified engineer or hydrologist consistent with Minnesota Rules, parts 6120.5000 to 6120.6200.

Methods for placement.

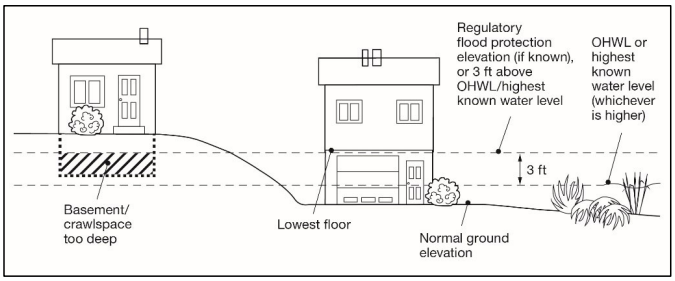
(1) In addition to the lowest floor, all service utilities must be elevated or water-tight to the elevation determined in part A.

(2) If elevation methods involving fill would result in filling in the shore impact zone, then structures must instead be elevated through floodproofing methods in accordance with 6.43(B)(3) below;

Commented [CN1]: Note -- paragraph is optional

(3) If the structure is floodproofed, then it must be built to resist hydrostatic pressure through elevation methods such as blocks, pilings, filled stem walls, elevated concrete pad, internally flooded enclosed areas, or through other accepted engineering practices consistent with FEMA technical bulletins 1, 2 and 3.

Figure 9. Lowest Floor Elevation



2. Stairways, Lifts, and Landings. Stairways and lifts are the preferred alternative to major topographic alterations for achieving access up and down bluffs and steep slopes to shore areas. Stairways and lifts must meet the following design requirements:

    a. Stairways and lifts must not exceed four (4) feet in width on residential lots. Wider stairways may be used for commercial properties, public open-space recreational properties and planned unit developments;

    b. Landings for stairways and lifts on residential lots must not exceed 32 square feet in area. Landings larger than thirty-two (32) square feet may be used for commercial properties, public open-space recreational properties and planned unit developments;

    c. Canopies or roofs are not allowed on stairways, lifts or landings;

    d. Stairways, lifts, and landings may be either constructed above the ground on posts or pilings, or placed into the ground, provided they are designed and built in a manner that ensures control of soil erosion;

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

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

3. Significant Historic Sites. No structure may be placed on a significant historic site in a manner that affects the values of the site unless adequate information about the site has been removed and documented in a public repository.

4. All buildings and structures must be in accordance with the State Building Code.

70-8-5 Height of Structures

All structures in zoning districts, except churches and agricultural structures, must not exceed thirty-five (35) feet in height.

70-8-6 Shoreland Alterations

Alterations of vegetation and topography are regulated to prevent erosion into public waters, fix nutrients, preserve shoreland aesthetics, preserve historic values, prevent bank slumping and protect fish and wildlife habitat.

1. Removal or alteration of vegetation must comply with the provisions of this subsection except for:
    a. Vegetation alteration necessary for the construction of structures and sewage treatment systems under validly issued permits for these facilities;
    b. The construction of public roads and parking areas if consistent with Section _____ of this ordinance;
    c. Forest management uses consistent with Section _____ of this ordinance; and
    d. Agricultural uses consistent with Section _____ of this ordinance.

2. Removal or alteration of vegetation, except for agricultural uses as regulated in Section 70-8-11 is allowed subject to the following standards:
    a. Intensive vegetation clearing in the shore and bluff impact zones and on steep slopes is prohibited. Intensive clearing outside of these areas is allowed if consistent with the forest management standards in Section _____ of this ordinance.
    b. In shore and bluff impact zones and on steep slopes, limited clearing of trees and shrubs and cutting, pruning and trimming of trees is allowed to provide a view to the water from the principal dwelling site and to accommodate the placement of stairways and landings, picnic areas, access paths, livestock watering areas, beach and watercraft access areas, provided that:
        (1) The screening of structures, vehicles, or other facilities as viewed from the water, assuming summer, leaf-on conditions, is not substantially reduced;

(2) Along rivers, existing shading of water surfaces is preserved; and

(3) The above provisions are not applicable to the removal of trees, limbs, or branches that are dead, diseased or pose safety hazards.

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

70-8-7 Topographic Alterations/Grading and Filling

1. Grading and filling and excavations necessary for the construction of structures, individual sewage treatment systems, and driveways under validly issued construction permits for these facilities do not require the issuance of a separate grading and filling permit. However, the grading and filling standards in this Section must be incorporated into the issuance of permits for construction of structures, individual sewage treatment systems and driveways. Land disturbing activity regulations of Chapter 6 of this Ordinance shall apply, if applicable.

2. Public roads and parking areas are regulated by Section 70-8-8 of this Chapter.

3. For all other work not included in paragraphs 1 or 2 above, a grading and filling permit will be required for:

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

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

g. The placement of retaining walls, including border walls, within the shore impact zone or bluff impact zone provided that:

(1) if the project includes work at or below the OHWL, the commissioner has already approved or permitted the project.

(2) the structures are used only to correct a documented existing erosion problem and not for aesthetic reasons.

(3) the height and length are the minimum necessary to control the erosion problem and are not higher than 4 feet or longer than 10

feet, unless the zoning administrator determines that a larger wall is necessary to correct the erosion problem.

Commented [CN2]: This paragraph is optional

h. The placement of natural rock rip rap, including associated grading of the shoreline and placement of a filter blanket is permitted if:

(1) if the project includes work at or below the OHWL, the commissioner has already approved or permitted the project;

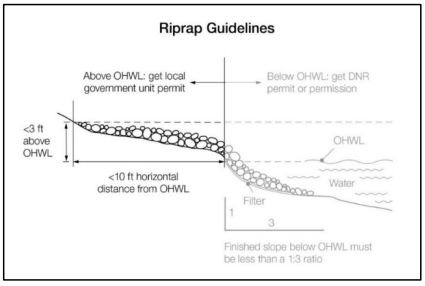
(2) the finished slope does not exceed three feet horizontal to one-foot vertical;

(3) the landward extent of the riprap is within ten feet of the ordinary high water level; and

(4) the height of the riprap above the ordinary high water level does not exceed three feet (see Figure 10).

(5) A vegetative buffer, consisting of deep rooted and woody vegetation, is to be established at a distance no less than ten feet from the landward extent of the riprap.

Figure 10. Riprap Guidelines



4. Grading, filling and excavation activities must meet the following standards:

g) Grading or filling of any wetland must meet or exceed the wetland protection standards under Minnesota Rules, Chapter 8420 and any other permits, reviews, or approvals by other local state, or federal agencies such as watershed districts, the DNR or US Army Corps of Engineers;

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

(6) Limiting the amount and time of bare ground exposure;

(7) Using temporary ground covers such as mulches or similar materials;

(8) Establishing permanent, **deep-rooted and dense** vegetation cover as soon as possible;

(9) Using sediment traps, vegetated buffer strips or other appropriate techniques;

(10) Stabilizing altered areas to acceptable erosion control standards consistent with the field office technical guides of the soil and water conservation district;

(11) Not placing fill or excavated material in a manner that creates unstable slopes. Plans to place fill or excavated material on steep slopes must be reviewed by qualified professionals for continued slope stability and must not create finished slopes of 30 percent or greater;

(12) Fill or excavated material must not be placed in bluff impact zones;

(13) Any alterations below the ordinary high water level of public waters must first be authorized by the commissioner under Minnesota Statutes, Section 103G; and

(14) Alterations of topography are only allowed if they are accessory to permitted or conditional uses and do not adversely affect adjacent or nearby properties

5. Connections to public waters. Excavations to connect boat slips, canals, lagoons, and harbors to public waters require a public waters permit and must comply with Minnesota Rules, Chapter 6115.

70-8-8 Placement and Design of Roads, Driveways, and Parking Areas

1. Public and private roads and parking areas must be designed to take advantage of natural vegetation and topography to achieve maximum screening from view from public waters. Documentation must be provided

by a licensed professional that all roads and parking areas are designed and constructed to minimize and control erosion to public waters consistent with the field office technical guides of the Soil and Water Conservation District or other applicable technical materials.

2. Roads, driveways, and parking areas must meet structure setbacks and must not be placed within bluff and shore impact zones, when other reasonable and feasible placement alternatives exist. If no alternatives exist, they may be placed within these areas and must be designed to minimize adverse impacts.

3. Public and private watercraft access ramps, approach roads, and access-related parking areas may be placed within shore impact zones provided the vegetative screening and erosion control conditions of this subpart are met. For private facilities, the grading and filling provisions of Section 70-8-7 of this Chapter must be met.

70-8-9 Stormwater Management

The following general and specific standards shall apply, as well as those in Chapter 6 of this Ordinance.

1. General Standards

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

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

   c. When development density, topographic features, and soil and vegetation conditions are not sufficient to adequately handle stormwater runoff using natural features and vegetation, various types of constructed facilities such as 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.

2. Specific Standards

a. Impervious surface coverage of lots must not exceed twenty-five percent (25%) of the lot area.

b. When constructed facilities are used for stormwater management, documentation must be provided by a licensed professional that they are designed and installed consistent with the field office technical guide of the Soil and Water Conservation District or the Minnesota Stormwater Manual, as applicable.

c. New constructed stormwater outfalls to public waters must be consistent with Minnesota Rules, part 6115.0231.

70-8-10 Standards for Commercial, Industrial, Public, and Semipublic Uses

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

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. Those uses with water-oriented needs must meet the following standards:

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

2. Uses that require short-term watercraft mooring for patrons must centralize these facilities and design them to avoid obstructions of navigation and to be the minimum size necessary to meet the need; and

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

    a. Signs placed in or on public waters must only convey directional information or safety messages and may only be placed by a public authority or under a permit issued by the county sheriff; and

b. Signs placed within the shore impact zone are:

(a) No higher than ten feet above the ground, and no greater than 32 square feet in size; and

(b) If illuminated by artificial lights, the lights must be shielded or directed to prevent illumination across public waters; and

c. Other outside lighting may be located within the shore impact zone or over public waters if it is used primarily to illuminate potential safety hazards and is shielded or otherwise directed to prevent direct illumination out across public waters. This does not preclude use of navigational lights.

70-8-11 Agriculture Use Standards

1. Buffers.

a. The shore impact zone for parcels with permitted agricultural land uses is equal to a line parallel to and 50 feet from the ordinary high water level.

b. General cultivation farming, grazing, nurseries, horticulture, truck farming, sod farming, and wild crop harvesting are permitted uses if steep slopes and shore and bluff impact zones are maintained in perennial vegetation or operated under an approved conservation plan ~~that includes alternative riparian water quality practices~~ consistent with the field office technical guides of the local soil and water conservation district or the Natural Resource Conservation Service, and as approved by the local soil and water conservation district.

2. New animal feedlots are not allowed in shoreland. Modifications or expansions to existing feedlots or resumption of old feedlots are conditional uses and must meet the following standards:

a. Feedlots must be designed consistent with Minnesota Rules, Chapter 7020;

b. Feedlots must not further encroach into the existing ordinary high water level setback or the bluff impact zone and must not expand to a capacity of 1,000 animal units or more; and,

c. Old feedlots not currently in operation may resume operation consistent with Minnesota Statutes, Section 116.0711.

70-8-12 Forest Management Standards.

1. The harvesting of timber and associated reforestation must be conducted consistent with the applicable provisions of the Sustaining Minnesota Forest Resources: Voluntary Site-Level Forest Management Guidelines for Landowners, Loggers and Resource Managers.
2. Intensive vegetation clearing for forest land conversion to another use is a conditional use subject to an erosion control and sedimentation plan developed and approved by the soil and water conservation district.

70-8-13 Extractive Use Standards. Extractive uses are interim uses in the shoreland district. In addition to complying with Section _____ of this ordinance, extractive uses must meet the following additional standards:

1. Site Development and Reclamation Plan. A mining and reclamation plan must be developed, approved, 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 mining activities end.

2. Setbacks for Processing Machinery. Processing machinery must be located consistent with setback standards for structures from ordinary high water levels of public waters and from bluffs.

70-8-14 Water Supply and Sewage Treatment

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.
Any premises used for human occupancy must either be connected to a publicly-owned sewer system where available or comply with following if the property is served by an Individual Sewage Treatment System:

1. All Individual Sewage Treatment Systems shall meet the requirements of the Scott County Individual Sewage Treatment System Ordinance No. 4.

2. Individual Sewage Treatment Systems must be set back from the ordinary high water level in accordance with the setbacks contained in Section 70-8-3 of this Chapter.

3. Nonconforming sewage treatment systems shall be regulated and upgraded in accordance with the ordinances of Scott County.

70-9 SUBDIVISION/PLATTING PROVISIONS

70-9-1 Land Suitability

Each lot created through subdivision, including planned unit developments authorized under Section 10.0 of this ordinance, must be suitable in its natural state for the proposed use with minimal alteration A suitability analysis must be conducted for each proposed subdivision, including planned unit developments, to determine if the subdivision is suitable in its natural state for the proposed use with minimal alteration and whether any feature of the land is likely to be harmful to the health, safety, or welfare of future residents of the proposed subdivision or of the community.

70-9-2 Consistency with Other Controls

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

70-9-3 Water and Sewer Design Standards

1. A potable water supply and a sewage treatment system consistent with Minnesota Rules, Chapters 7080 – 7081 must be provided for every lot.
2. Each lot must include at least two soil treatment and dispersal areas that support systems described in Minnesota Rules, parts 7080.2200 to 7080.223 or site conditions described in part 7081.0270, subparts 3 to 7, as applicable.
3. Lots that would require use of holding tanks are prohibited.

70-9-4 Information Requirements

Sufficient information shall be submitted by the applicant for Credit River to make a determination of land suitability. The information shall include at least the following:

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

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

3. Adequate soils information to determine suitability for building and on-site sewage treatment capabilities for every lot from soil borings and percolation tests performed in accordance with the Scott County Individual Sewage Treatment System Ordinances;

4. Information regarding adequacy of domestic water supply; extent of anticipated vegetation and topographic alterations; near-shore aquatic conditions, including depths, types of bottom sediments, and aquatic vegetation; and proposed methods for controlling stormwater runoff and erosion, both during and after construction activities;

5. Location of 100-year floodplain areas and floodway districts from existing adopted maps or data; and

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

70-9-5 Dedications

When a land or easement dedication is a condition of subdivision approval, the approval must provide easements over natural drainage or ponding areas for management of stormwater and significant wetlands.

70-9-6 Platting
All subdivisions that create lots or parcels for building permit purposes shall be processed as a plat pursuant to Credit River ordinances.

70-10 PLANNED UNIT DEVELOPMENTS (PUDS)

70-10-1 Types of PUDs Permissible.

Planned unit developments (PUDs) are allowed for new projects on undeveloped land, redevelopment of previously built sites, or conversions of existing buildings and land. Deviation from the minimum lot size standards of Section 6.2 of this ordinance is allowed if the standards in this Section are met.

70-10-2 Processing of PUDs.

Planned unit developments in the shoreland district must be processed as a conditional use and comply with the provisions of this section in addition to those standards outlined elsewhere in the zoning and subdivision regulations. When there is a conflict in requirements, the more stringent of the requirements shall be applied. An expansion to an existing commercial PUD involving 6 or less new dwelling units or sites since the date this ordinance was adopted is permissible as a permitted use provided the total project density does not exceed the allowable densities calculated in the project density evaluation procedures in Section _____. Approval cannot occur until all applicable environmental reviews are complete.

70-10-3 Application for a PUD.

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

1. Site plan and/or plat showing:
   a) Locations of property boundaries;
   b) Surface water features;
   c) Existing and proposed structures and other facilities;
   d) Land alterations;
   e) Sewage treatment and water supply systems (where public systems will not be provided);
   f) Topographic contours at ten-foot intervals or less; and
   g) Identification of buildings and portions of the project that are residential, commercial, or a combination of the two (if project combines commercial and residential elements).
2. A property owner's association agreement (for residential PUD's) with mandatory membership, and consistent with Section 10.6 of this ordinance.
3. Deed restrictions, covenants, permanent easements or other instruments that:
   a) Address future vegetative and topographic alterations, construction of additional buildings, beaching of watercraft, and construction of commercial buildings in residential PUDs; and
   b) Ensure the long-term preservation and maintenance of open space in accordance with the criteria and analysis specified in Section 10.6 of this ordinance.
4. A master plan/site plan describing the project and showing floor plans for all commercial structures.

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

70-10-4 **Density Determination**.

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

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

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

2. Step 2. Calculate Suitable Area for Development.

   Calculate the suitable area within each tier by excluding all **road rights-of way or easements**,wetlands, bluffs, or land below the ordinary high water level of public waters.

3. Step 3. Determine Base Density:

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

   b. For commercial PUDs:

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

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

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

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

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

(2) Select the appropriate **floor area/dwelling site area ratio** from the following table for the floor area or dwelling site area determined in Section 70-10-4 3.a.

Inside Living Floor Area or Dwelling Site Area (sf)	**General Development Lakes w/Sewer – all tiers** **General Development Lakes w/no sewer – 1st tier** **Agricultural, Urban and Tributary Rivers**	**General Development Lakes w/no sewer – all other tiers** **Recreational Development Lakes** **Forested and Transition Rivers**	**Natural Environment Lakes** **Remote Rivers**
≤ 200	.040	.020	.010
300	.048	.024	.012
400	.056	.028	.014
500	.065	.032	.016
600	.072	.038	.019
700	.082	.042	.021
800	.091	.046	.023
900	.099	.050	.025
1,000	.108	.054	.027
1,100	.116	.058	.029
1,200	.125	.064	.032
1,300	.133	.068	.034
1,400	.142	.072	.036
≥ 1,500	.150	.075	.038

(3) Multiply the suitable area within each tier determined in Section 10.52 by the floor area or dwelling site area ratio to yield the total

floor area or dwelling site area for each tier to be used for dwelling units or dwelling sites.

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

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

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

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

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

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

b. Structure setbacks from the ordinary high water level:

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

(2) The impact on the waterbody is reduced an equivalent amount through vegetative management, topography, or additional acceptable means and the setback is at least 25 percent greater than the minimum setback.

70-10-5 Design Criteria. All PUDs must meet the following design criteria.

1. General Design Standards.

a. All residential planned unit developments must contain at least five dwelling units or sites.

b. On-site water supply and sewage treatment systems must be centralized and meet the standards in Section ___ of this ordinance. Sewage treatment systems must meet the setback standards of Section ____ of this ordinance.

c. Dwelling units or dwelling sites must be clustered into one or more groups and located on suitable areas of the development.

d. Dwelling units or dwelling sites must be designed and located to meet the dimensional standards in Sections ____, ____, and ___.

e. Shore recreation facilities:

(1) Must be centralized and located in areas suitable for them based on a suitability analysis.

(2) The number of spaces provided for continuous beaching, mooring, or docking of watercraft must not exceed one for each allowable dwelling unit or site in the first tier (notwithstanding existing mooring sites in an existing commercially used harbor).

(3) Launching ramp facilities, including a small dock for loading and unloading equipment, may be provided for use by occupants of dwelling units or sites located in other tiers.

f. Structures, parking areas, and other facilities must be treated to reduce visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks, color, or other means acceptable to the local unit of government, assuming summer, leaf-on conditions. Vegetative and topographic screening must be preserved, if existing, or may be required to be provided.

g. Accessory structures and facilities, except water oriented accessory structures, must meet the required structure setback and must be centralized.

h. Water-oriented accessory structures and facilities may be allowed if they meet or exceed design standards contained in Section 7.3 of this ordinance and are centralized.

1. Open Space Requirements.

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

(1) Areas with physical characteristics unsuitable for development in their natural state;

(2) Areas containing significant historic sites or unplatted cemeteries;

(3) Portions of the shore impact zone preserved in its natural or existing state as follows:

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

(b) For new residential PUDs, at least 70 percent of the shore impact zone.

(c) For all commercial PUD's, at least 50 percent of the shore impact zone.

b. Open space may include:

(1) Outdoor recreational facilities for use by owners of dwelling units or sites, by guests staying in commercial dwelling units or sites, and by the general public;

(2) Subsurface sewage treatment systems if the use of the space is restricted to avoid adverse impacts on the systems; and

(3) Non-public water wetlands.

c. Open space shall not include:

(1) Dwelling sites or lots, unless owned in common by an owners association;

(2) Dwelling units or structures, except water-oriented accessory structures or facilities;

(3) Road rights-of-way or land covered by road surfaces and parking areas;

(4) Land below the OHWL of public waters; and

(5) Commercial facilities or uses.

2. Open Space Maintenance and Administration Requirements.

a. Open space preservation. The appearance of open space areas, including topography, vegetation, and allowable uses, must be preserved and maintained by use of deed restrictions, covenants, permanent easements, public dedication, or other equally effective and permanent means. The instruments must prohibit:

(1) Commercial uses (for residential PUD's);

(2) Vegetation and topographic alterations other than routine maintenance;

(3) Construction of additional buildings or storage of vehicles and other materials; and

(4) Uncontrolled beaching of watercraft.

b. Development organization and functioning. Unless an equally effective alternative community framework is established, all residential planned unit developments must use an owners association with the following features:

(1) Membership must be mandatory for each dwelling unit or dwelling site owner and any successive owner;

(2) Each member must pay a pro rata share of the association's expenses, and unpaid assessments can become liens on units or dwelling sites;

(3) Assessments must be adjustable to accommodate changing conditions; and

(4) The association must be responsible for insurance, taxes, and maintenance of all commonly owned property and facilities.

3. Erosion Control and Stormwater Management.

a. Erosion control plans must be developed and must be consistent with the provisions of Section 8.3 of this ordinance. Erosion control plans approved by a soil and water conservation district may be required if project size and site physical characteristics warrant.

b. Stormwater management facilities must be designed and constructed to manage expected quantities and qualities of stormwater runoff.

(1) For residential PUDs, impervious surface for the entire project site must not exceed 25%.

(2) For commercial PUDs, impervious surfaces within any tier must not exceed 25 percent of the tier area~~.~~

70-10-6 Conversions.

Local governments may allow existing resorts or other land uses and facilities to be converted to residential PUDs if all of the following standards are met:

1. Proposed conversions must be evaluated using the same procedures for residential PUDs involving new construction. Inconsistencies between

existing features of the development and these standards must be identified;

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

3. Shore and bluff impact zone deficiencies must be evaluated and reasonable improvements made as part of the conversion. These improvements must include, where applicable, the following:

   a. Removal of extraneous buildings, docks, or other facilities that no longer need to be located in shore or bluff impact zones;

   b. Remedial measures to correct erosion, improve vegetative cover and improve screening of buildings and other facilities as viewed from the water; and

   c. Conditions attached to existing dwelling units located in shore or bluff impact zones that preclude exterior expansions in any dimension or substantial alterations. The conditions must also provide for future relocation of dwelling units, where feasible, to other locations, meeting all setback and elevation requirements when they are rebuilt or replaced.

4. Existing dwelling unit or dwelling site densities that exceed standards in Section 10.5 of this ordinance may be allowed to continue but must not be allowed to be increased, either at the time of conversion or in the future. Efforts must be made during the conversion to limit impacts of high densities by requiring seasonal use, improving vegetative screening, centralizing shore recreation facilities, installing new sewage treatment systems, or other means.