

**CITY OF VERGAS
SHORELAND MANAGEMENT ORDINANCE**

TABLE OF CONTENTS

SECTIONS

SECTION 1.0 STATUTORY AUTHORIZATION AND POLICY

- 1.1 Statutory Authorization
- 1.2 Policy
- 1.3 Amendments

SECTION 2.0 GENERAL PROVISIONS AND DEFINITIONS SECTION

- 2.1 Jurisdiction/Administrative Scope
- 2.2 Compliance
- 2.3 Legal Authority
- 2.4 Interpretation
- 2.5 Severability
- 2.6 Abrogation and Greater Restrictions
- 2.7 Definitions

SECTION 3.0 ADMINISTRATION

- 3.1 Permit Requirements
- 3.2 Certificates of Zoning Compliance
- 3.3 Conditional Uses
- 3.4 Variances
- 3.5 Notifications to DNR & Property Owners

SECTION 4.0 SHORELAND CLASSIFICATION SYSTEM AND LAND USES

- 4.1 Shoreland Classification System
- 4.2 Land Use District Description

SECTION 5.0 SPECIAL LAND USE PROVISIONS

- 5.1 Commercial Industrial, Public, and Semipublic Standards
- 5.2 Agricultural Use Standards
- 5.3 Forest Management Standards
- 5.4 Extractive Use Standards
- 5.5 Mining of Metallic Mineral and Peat

SECTION 6.0 DIMENSIONAL AND GENERAL PERFORMANCE STANDARDS

- 6.1 Lot Area and Width Standards
- 6.2 Special Residential Lot Provisions
- 6.3 Placement, Design, and Height of Structures
- 6.4 Lowest Floor Elevations
- 6.5 Water Supply and Sewage Treatment

SECTION 7.0 PERFORMANCE STANDARDS FOR PUBLIC AND PRIVATE FACILITIES

- 7.1 Stairways, Lifts, and Landings
- 7.2 Water-Oriented Accessory Structures
- 7.3 Non-Conformities

SECTION 8.0 SHORELAND ALTERATIONS

- 8.1 Vegetation Management
- 8.2 Topographical Management
- 8.3 Grading and Filling
- 8.4 Storm Water Management

SECTION 9.0 SUBDIVISION/PLATING PROVISIONS

- 9.1 Land Suitability
- 9.2 Consistencies and Other Controls
- 9.3 Water and Sewer Design Standards
- 9.4 Informational Requirements
- 9.5 Dedications
- 9.6 Platting
- 9.7 Controlled Access Lots

SECTION 10.0 PLANNED UNIT DEVELOPMENTS

- 10.1 Types of Planned Unit Developments Permissible
- 10.2 Processing of PUD's
- 10.3 Application for PUD's
- 10.4 Density Determination
- 10.5 Design Criteria
- 10.6 Conversions

CITY OF VERGAS SHORELAND MANAGEMENT ORDINANCE

SECTION 1.0 STATUTORY AUTHORIZATION AND POLICY

1.1 Statutory Authorization This shoreland ordinance is adopted pursuant to the authorization and policies contained in Minnesota Statutes, Chapter 105F; Minnesota Regulations, Parts 6120.2500-6120.3900; and the planning and zoning enabling legislation in Minnesota Statutes Chapter 462.

1.2 Policy The uncontrolled use of shorelands of the City of Vergas, Minnesota 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. It is in the best interest of the public health, safety and welfare to provide for the wise subdivision, use and development of shorelands 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 shorelands of public waters thus preserving and enhancing the quality of surface waters, conserving the economic and natural environmental values of shorelands, and providing for the wise use of waters and regulated land resources. This delegation of responsibility is hereby recognized by the city of Vergas.

1.3 Amendments This Ordinance may be amended in whole or in part by the City Council after proper public hearing conducted by the City Council and as provided in Minnesota Statutes. Effective May 5, 1992. * Last sentence omitted as it is 30 years old. Needs revision to be added*

SECTION 2.0 GENERAL PROVISIONS AND DEFINITIONS

2.1 Jurisdiction/Administrative Scope The provisions of this ordinance shall apply to the shorelands of public water bodies as classified in Section 4.0 of this ordinance. Pursuant to Minnesota Rules, Chapter 6120: No lake, pond, or flowage less than 10 acres in size is regulated. A body of water created by a private user where there was no previous shoreland may, at the discretion of the city, be exempt from this ordinance.

2.2 Compliance The use of any shoreland of public waters; the size and shape of the 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 ordinance and other applicable regulations.

2.3 Legal Authority The Zoning Administrator is responsible for the administration and enforcement of this ordinance. Any violation of the provisions of this ordinance or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or conditional uses) constitutes a misdemeanor and is punishable as defined by law. Violations of the ordinance can occur regardless of whether or not a permit is required for a regulated activity pursuant to Section 3.1 of this ordinance.

2.31 In the event of a violation or a threatened violation of this ordinance, the City Council and/or the Zoning Administrator may institute appropriate actions or proceedings to prevent, restrain, correct, or abate such violations. It shall be the duty of the City Council to institute such action. This will include, but not be limited to, actions for injunctive relief before a court of competent jurisdiction.

2.32 Any taxpayer or taxpayers of the City of Vergas may institute mandamus proceedings in District Court to compel specific performance by the proper officer or officers of any duty required by this ordinance.

2.33 The Zoning Administrator and City Council, in the performance of their duties, shall have free access on all land included in the Shoreland Management use districts.

2.4 Interpretation In their interpretation and application, the provisions of this ordinance 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.

2.5 Severability If any section, clause, provision, or portion of this ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected.

2.6 Abrogation and Greater Restrictions It is not intended by this ordinance to repeal, abrogate, or impair any existing ordinances, easements, covenants, or deed restrictions. However, where this or other ordinances impose greater restrictions, the provisions of this ordinance shall prevail. All other ordinances inconsistent with this ordinance are hereby repealed to the extent of the inconsistency only.

2.7 Definitions Unless specifically defined below, words or phrases used in this ordinance shall be interpreted to give them the same meaning they have in common usage and give this ordinance its most reasonable application. For the purpose of this ordinance, the words “must” and “shall” are mandatory and not permissive. All distances, unless otherwise specified, shall be measured horizontally.

2.711 Accessory Structure or Facility. Any building or improvement subordinate to a principal use which, because of the nature of its use, can reasonably be located at or greater than normal structure setbacks.

2.712 Bluff. A topographical feature such as a hill, cliff, or embankment having the following characteristics (an area with an average slope of less than 18% over a distance for 50 feet or more shall not be considered part of the bluff):

1. Part or all of the feature is located in a shoreland area;
2. The slope rises at least 25 feet above the ordinary high water level of the waterbody;
3. The slope must drain toward the waterbody; and
4. 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% or greater.
5. Toe of the bluff is the lower point of a 50 foot segment with an average slope exceeding 18% or the ordinary high water level, whichever is higher.
6. Top of the bluff, for the purpose of measuring setbacks, bluff impact zone, and administering vegetation management standards is the higher point of a 50 foot

segment with an average slope exceeding 18%. *MN & OT have Top & Toe here so I added it here instead of under T*

2.713 Bluff Impact Zone. A bluff and land located within 20 feet from the top of a bluff.

2.714 Boathouse. A structure designed and used solely for the storage of boats or boating equipment.

2.715 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.

2.716 Commercial Planned Unit Developments (PUD's). 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.

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

2.718 Commissioner. The Commissioner of the Department of Natural Resources or his or her designated representative.

2.719 Conditional Use. A land use or development as defined by ordinance that would not be appropriate generally but may be allowed with appropriate restrictions as provided by official controls 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.

2.720 Deck. A horizontal, unenclosed platform with or without attached railings, seats, trellises, or other features attached or functionally related to a principal use or site; and at any point extending more than 3 feet above ground.

2.721 Duplex, Triplex, Quad. Dwelling structure/s on a single lot, having 2, 3, and/or 4 units, respectively; attached by common walls and each unit equipped with separate sleeping, eating, living and sanitation facilities.

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

2.723 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, *pg7 OT has added "which may include areas serving as a kitchen, bathroom and at least one bedroom", including rental or timeshare accommodations such as a motel, hotel, and resort rooms and cabins.

2.724 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, section 93.44 – 93.51.

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

2.726 **Guest Cottage.** A structure used as a dwelling unit **that may contain sleeping spaces, kitchen and bathroom facilities** in addition to those provided in the primary dwelling unit on a lot. **Not in either OT or MN.**

2.727 **Hardship. Neither listed in OT or MN** – Term defined in Minnesota Statutes, Chapter 462.

2.728 **Height of building.** The vertical distance between the highest adjoining ***original*** OT pg 7 ground level at the building or 10 feet above the lowest 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.

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

2.730 **Intensive vegetation clearing.** The complete removal of trees or shrubs in a contiguous patch, strip, row or block.

2.731 **Lot.** A parcel of land designed 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.

2.732 **Lot width.** The minimum distance between lot lines measured at the midpoint of the building line and side lot lines at the ordinary high water level, if applicable.

2.733 **Nonconformity.** Any legal use, structure or parcel of land already in existence, recorded, or authorized before the adoption of official controls or amendments to those controls that would not have been permitted to become established under the terms of the official controls as now written.

2.734 **Ordinary high water level.** The boundary of public waters and wetlands shall be an elevation delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape, commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial. For watercourses, the ordinary high water level is the elevation of the top of the bank of the channel. For reservoirs and flowages, the ordinary high water level is the operating elevation of the normal summer pool.

2.735 **Planned unit development. (PUD's).** 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, timeshare condominiums, cooperatives, full fee ownership, commercial enterprises, or any combination of these, or cluster subdivisions of dwelling units, residential condominiums, townhomes, apartment buildings, campgrounds, recreational vehicle parks, resorts, hotels, motels and conversions of structures and land uses to these uses.

2.736 **Public Waters.** Any waters as defined in Minnesota Statutes, Section 103G.005, Subd. 15, 15a.

2.737 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 (PUD's). To qualify as a residential PUD, a development must contain at least five dwelling units or sites.

2.738 Semipublic use. The use of land by a private, nonprofit organization to provide a public service that is ordinarily open to some persons outside the regular constituency of the organization.

2.739 Sensitive area. Areas which due to steep slopes, bluffs, flooding, erosion, limiting soil conditions (shallow soils over groundwater 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 the development. **updated to newer language taken directly from Ottertail.*

2.740 Setback. The minimal horizontal distance between a structure, sewage treatment system, or other facility and an ordinary high water level, sewage treatment system, top of bluff, road, highway, property line, or other facility.

2.741 Sewage treatment system. Meaning given under Minnesota Rules, part 7080.1100, Subp.82.

2.742 Sewer system. Pipelines or conduits, pumping stations, and force main, and all other construction, devices, appliances, or appurtenances used for conducting sewage or industrial waste or other wastes to a point of ultimate disposal.

2.743 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% of the structure setback.

2.744 Shoreland. Land located within the following distances from public waters:

- A. 1000 feet from the ordinary high water level of a lake, pond, or flowage; and
- B. 300 feet from a river or stream, or the landward extent of a floodplain designated by ordinance on a river or stream, whichever is greater.

The limits of shorelands may be reduced whenever the waters involved are bounded by topographical divides which extend landward from the waters for lesser distances and when approved by the Commissioner.

2.745 Significant historic site. Any archeological site, standing structure, or other property that meets the criteria for eligibility to the National Register of Historic Places or listed in the State Register of Historical 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 of the director of the Minnesota Historical Society. All unplatted cemeteries are automatically considered significant historical sites.

2.746 **Steep slopes.** Lands having average slopes over 12%, as measured over horizontal distances of 50 feet or more, which are not bluffs.

2.747 **Structure.** Any building or appurtenance, including decks, except aerial or underground utility lines, such as sewer, electric, telephone, telegraph, gas lines, towers, poles, and other supporting facilities.

2.748 **Subdivision.** Land that is divided for the purpose of sale, rent, or lease, including planned unit developments. **Ottertail says: "Any parcel of land that is divided." Do we want to change?*

OT & MN both have a definition included Sustainability Analysis, do we want to add this?

2.749 **Variance.** Defined in Minnesota Statutes, Section 462.357 Subd. 6 (2).

2.750 **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.

2.751 **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.

2.752 **Wetland.** Meaning is given under Minnesota Rule, part 8420.0111.

2.753 **Zoning Administer.** The person appointed from time to time by the Vergas City Council to administer this ordinance.

SECTION 3.0 ADMINISTRATION

3.1 Permits Required A permit is required for the construction of buildings or building additions (including construction of decks and signs), the installation and/or alteration of sewage treatment systems, and those grading and filling activities not exempted by Section 5.3 of this ordinance. A site permit shall also be obtained prior to moving a structure.

***OT lists in numerical order...1) A new Structure; 2) An expansion to an existing structure; 3) The relocation of an existing structure that exceeds 120 square feet. – it goes into depth for requirements on Shoreland Alteration Permit; movement of any material on slopes and shore impact zone; and states the Permit validity (12 months from date of issue). Do we want to add these? Or replace above?*

3.11 Applications/Inspections. Application for permits shall be made to the Zoning Administrator on the forms provided. The applicant for a Structure or Shoreland Alteration Permit shall file a complete application, which must include a scaled drawing of the proposal, and pay a fee as determined in the Fee Schedule. An onsite inspection may be required prior to issuing permit. *It is the*

applicant's responsibility to identify and stake all lot lines and road right-of-ways prior to applying for a permit, as well as notifying the Zoning Administrator when the project is ready for inspection. The applicant shall notify the Zoning Administrator once the building footings have been constructed and upon completion of project.

3.12 Sewage Treatment. Before a site permit is issued, the terms of this Ordinance shall be met. A permit authorizing as addition to an existing structure shall stipulate that an identified nonconforming sewage treatment system, as defined by Section 5.8, shall be reconstructed or replaced in accordance with the provisions of this Ordinance. The Zoning Administrator shall require use of the city sewer system unless a variance has been issued for an on-site sewage treatment system.

3.13 Zoning Administrator. The Vergas City Council shall from time to time appoint a Zoning Administrator to administer this ordinance. The person appointed need not be a resident of the City of Vergas, and shall serve under the control and at the discretion of the City Council. The City Council hereby delegates to the Zoning Administrator the following duties and responsibilities:

- A. Issue Site Permits and inspect building location following notification by an applicant.
- B. Administer the terms of this Ordinance subject to any required approval of the City Council.
- C. Keep necessary records.
- D. May issue Conditional Use Permits for grading and filling projects of not more than 300 cubic yards for landscaping purposes. He or she may require onsite inspection prior to issuing such a permit.
- E. Where structures exist on the adjoining lots on both sides of a proposed building site, water and road setbacks may be altered without a variance to conform to the adjoining setbacks ("string test"), provided the proposed building site is not located in a shore impact zone or in a bluff impact zone.

3.2 Certificate of Zoning Compliance. The Zoning Administrator shall issue a certificate of zoning compliance for each activity requiring a permit as specified in Subdivision 1. This certificate will specify that the use of land conforms to the requirements of this ordinance. Any use, arrangement, or construction at variance with that authorized by permit shall be deemed a violation of this Ordinance and shall be punishable as provided in Section 2.3 of this Ordinance.

3.3 Conditional Uses. Any proposed conditional use must be presented to the City Council for the determination of its applicability to the Shoreland Management District wherein proposed. City Council may require preliminary scale drawings or sketches of all buildings or groups of buildings showing the front, side and rear elevations of the proposed buildings, structures, or other improvements and the proposed location of each on the lot.

3.31 If either an EAW (?) or an EIS (?) is required for any proposed conditional use application, the applicant shall assume all costs associated with preparation, review, and presentation of these documents. The applicant or applicant's representative needs to appear before the City Council to answer questions concerning the proposed application.

3.32 The City of Vergas has the right to require performance bonds and establish the amount of the bond for any one or all Conditional Use Application approvals. All bonds should be made payable to the City of Vergas and should be filed with the Zoning Administrator prior to City Council's approval.

3.33 The City Council may issue a Conditional Use Permit if the proposed change is found to be consistent with the general purpose of this Ordinance and the intent of this and all other applicable state and local regulations and laws, taking into consideration the following:

- A. Adequate parking and traffic control.
- B. Amount of noise generated.
- C. Environmental impact.
- D. Any hazards created, both of land and water.
- E. Compatibility with surrounding areas, both on land and water.
- F. Density and location of development.
- G. Suitability of the area for the proposed use.
- H. The prevention of soil erosion or other possible pollution of public waters both during and after construction.
- I. The visibility of structures and other facilities as viewed from public waters.
- J. Site adequacy for on-site water supply and/or on-site sewage treatment (if allowed).
- K. Types, uses and number of watercraft the project will generate related to the compatibility and the suitability of the public waters to safely accommodate these watercraft.
- L. Whether a conditional use is appropriate based on existing uses in the area.
- M. Considerations of any possible adverse effects of the proposed Conditional Use Application and what additional requirements might be necessary to prevent them.

3.34 Conditions Attached to Conditional Use Permits:

- A. Increased setbacks from the ordinary high water level (OHWL);
- B. Limitations on the natural vegetation to be removed or the requirements that additional vegetation be planted; and
- C. Special provisions for the location, design, and use of structures, sewage treatment systems, watercraft launching and docking areas, and vehicle parking areas.

3.35 The City Council will take action on the Application within sixty (60) days after the meeting. The City Council will establish the valid period for each Conditional Use Permit granted. After approval, the applicant shall secure from the Zoning Administrator, a written Conditional Use Permit before initiating the project. Within three (3) days of completion of the project, the applicant should notify the Zoning Administrator to schedule an inspection. Once project is inspected, the Zoning Administrator will inform the applicant, in writing, of project compliance status.

3.36 Nonconforming uses on lots of record may be allowed to be replaced, established or expanded by conditional use permit and/or variance provided the replacement, establishment or expansion is consistent with existing uses in the area.

3.4 Variances. Variances may only be granted in accordance with Minnesota Statutes, Section 462 and are subject to the following:

A. A variance may not circumvent the general purposes and intent of this ordinance.

B. No variance may be granted that would allow any use prohibited in the zoning district in which the subject property is located.

3.41 General Provisions. 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 City Council must 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.

3.42 Application, Notice and Hearing. The applicant for a variance shall file an application at the City Office not less than twenty (20) days prior to the next scheduled meeting of the City Council and pay a fee as set forth in the Fee Schedule when the application is filed. Each application for variance shall be accompanied by a scale drawing of the area under consideration showing the location of any existing structures and any proposed structures. The drawing needs to indicate all setback distances in feet. In addition, the applicant must provide the property's fire or lake association number when available. In absence of such number, detailed directions to the property must be provided with the application.

A. Within three (3) days of **submitting** an application for a variance, the applicant shall stake the area under consideration and post **their** name and address in a clearly visible location on the property.

B. The Zoning Administrator shall refer the application to the City Council and give notices required by Section 3.5.

C. The City Council shall consider the application at its next regular meeting at which time is available, following compliance with the notice requirements above specified.

3.43 Sewage Treatment. For existing developments, the application for variance must clearly demonstrate whether a conforming sewage treatment system is present for the intended use of the property. The variance, if issued, must require nonconforming sewage treatment systems to be abandoned, and replaced by connection to the city sewer system. Reconstruction or replacement of an existing non-conforming sewage treatment system may be allowed only by variance. Non-conforming uses on lots of record may be allowed to be replaced, established or expanded by conditional use permit and/or variance provided that they are consistent with the existing uses in the area.

3.5 Notifications to the Department of Natural Resources and Property Owners

3.51 Conditional Use Permit Applications. Written notice shall be sent to property owners of record within 1/4 mile of the affected property or to the 10 properties nearest the affected property, whichever will provide the greater number of owners. The written notice provided for the above shall be given not less than 14 days prior to the date the City Council will consider said application, although failure of any property owner to receive such notification shall not invalidate the proceedings.

3.52 Variance Applications. Written notice of each hearing on a variance application shall be sent to property owners of record within 500 feet of the affected property. Written notice shall be sent to the City Administrator for the City Council approval. The written notice provided for the above shall be given not less than 14 days prior to the date the City Council for consideration of said application. And again, failure of any property owner to receive such notification shall not invalidate proceedings.

3.53 Amendments. Written notice of each hearing for consideration of amendment/s to the existing controls shall be sent to the City Administrator for the City Council Approval. This shall be given not less than 14 days prior to the hearing at which the amendment/s will be considered.

3.54 Plats. Written notice of each hearing on a proposed plat shall be sent to the property owners of record within ½ mile of a proposed plat. Written notice shall also be sent to the City Administrator (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 City Council will consider said plat, although failure of any property owner to receive such notification shall not invalidate the proceedings.

3.55 Approvals. A copy of approved amendments, plats, and final decisions granting variances or conditional uses under local shoreland management controls must be sent to the City Administrator and postmarked within 10 days of final action. * check use of City Administrator vs Commissioner.

SECTION 4.0 SHORELAND CLASSIFICATION SYSTEM AND LAND USES

4.1 Shoreland Classification System The public waters of the City of Vergas have been classified consistent with the criteria found in Minnesota Regulations, Part 6120.3300, and the Protected Waters Inventory Map for Otter Tail County, Minnesota. Lakes are classified as Recreational Development, General Development or Natural Environment.

4.11 Vergas Lakes. The shoreland area for the waterbodies listed below shall be defined in Section 2 *(don't see listed; shouldn't we add these?) and shown on the official Zoning Map.

Recreational Development Lakes:

Long Lake and Loon Lake

Protected Waters ID# 56-523 *(only 1 # ?)

General Development Lakes:

Lawrence Lake

Protected Water ID# 56-555

4.2 Land Use District Descriptions Identifies land uses that are compatible with the protection and preservation of shoreline resources in order to conserve the economic and environmental values of shoreland and sustain water quality. (pg 10 MN) (pg 95 OT)

4.21 Descriptions. Shoreland district land uses listed in (Table 1) are regulated as:

- 1) Permitted Use (P) Allowed provided all standards in this ordinance are followed.
- 2) Conditional Use (C) Allowed through a conditional use permit.
- 3) Not Permitted Use (N) Uses are prohibited. (Pg 10 MN & Pg 95 OT)

4) A use not listed or that does not have a designated type of use, may be allowed as a conditional use if it is of the same general character as those uses listed as Permitted, or Conditional, provided the use is deemed fitting and compatible to the City of Vergas Planning Commission and the City's Zoning Ordinances, and it is not listed as a Not Permitted use. (or should this be City Council ?)

LAND USES	General	Recreational	Natural (pg 96OT) (pg 11 MN)
Agricultural/Crop/Pasture	P	P	
Agricultural/Feedlot	C	C	
Bed & Breakfast			
Boat Access			
Cemetery			
Controlled Access			
Commercial			
Duplex, Triplex, Quad Residential	C	C	
Extractive			
Forest Land Conversion			
Historical Sites	C	C	
Industrial			
Parks, Playgrounds	C	C	
Places of Worship	C	C	
Planned Unit Developments	C	C	
Single Family Residential	C	C	

4.22 Criteria for Designation. The land use districts and the delineation of a land use district's boundaries on the Official Zoning Map must be consistent with the goals, policies and objectives of the comprehensive land use plan when available and should follow criteria and considerations listed below:

A. General for All Land Use:

1. Preservation of natural areas.
2. Present ownership and development of shoreland areas
3. Shoreland soil types and their engineering capabilities.
4. Topographical characteristics.

5. Vegetative cover.
6. In-water physical characteristics, values and constraints.
7. Recreational use of the surface water.
8. Road and service center accessibility
9. Socioeconomic development needs and plans as they involve water and related land resources.
10. The land requirements of industry which, by its nature, requires location in the shoreland areas
11. The necessity to preserve and restore certain areas having significant historical or ecological value.

B. Factors and Criteria for Planned Unit Development:

1. Existing recreational use of the surface waters and likely increases in use associated with planned use developments.
2. Physical and aesthetic impacts of increased density.
3. Suitability of lands for the planned unit developments approach.
4. Level of current development in the area.
5. Amounts and types of ownership of undeveloped lands.
6. Limited expansion of a commercial planned unit development involving up to 6 additional dwelling units or sites may be allowed as a permitted use provided the provisions of Section 8.0 of this ordinance are satisfied.

4.23 Use and Upgrading of Inconsistent Land Use Districts.

A. The land use districts adopted in ordinances not specifically dealing with shoreland, as they apply to shoreland areas, and their delineated boundaries on the Official Zoning Map, may not be consistent with the land use district designation criteria specified above. These may continue until revisions are proposed to change or to modify the boundary.

B. When a revision is proposed to an inconsistent land use district provision, the following additional criteria and procedures shall apply:

When a revision to a land use district designation on a lake is considered, the land use district boundaries and the use provisions therein for all the shoreland areas within the jurisdiction of this ordinance on said lake must be revised to make them substantially compatible with the framework in Sections 4.21 and 4.22, except that nonconforming uses on lots of record with the Otter Tail County Recorder may be allowed to be replaced, established or expanded by conditional use permit and/or variance provided that the replacement establishment or expansion is consistent with existing uses in the area.

C. When an interpretation question arises about whether a specific land use fits within a given “use” category, the interpretation shall be made by the City Council. When a question arises whether a land use district’s boundaries are properly delineated on the Official zoning Map, this decision shall be made by the City Council.

D. When a revision is proposed to an inconsistent land use district provision by an individual party or landowner, they will only be responsible to provide the supporting and/or substantiating information for the specific parcel in question. The City Council will direct the Zoning Administrator to provide such additional information for this waterbody as is necessary to satisfy Items A and B, above.

E. The City Council must make a detailed finding of fact and conclusion when taking final action that this revision and the upgrading of any inconsistent land use district designation on said waterbody, are consistent with the enumerated criteria and use provisions of Section 4.2.

SECTION 5.0 SPECIAL LAND USE PROVISIONS

5.1 Commercial, Industrial, Public and Semipublic Standards

5.11 Water-dependent uses may be located on parcels or lots with frontage on public waters provided that:

1. The use complies with provisions of Section 7;
2. The use is designed to incorporate topographic and vegetative screening of parking areas and structures;
3. Uses that require short-term watercraft mooring for patrons must centralize these facilities and design them to avoid obstruction of navigation and to be the minimum size necessary to meet the need; and
4. Uses that depend on patrons by arriving watercraft may use signs and lighting provided that:
 - a) Signs placed in or on public waters must convey directional or safety measures 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 no higher than 10 feet above the ground and no greater than 32 sq. feet in size. If illuminated by artificial lights, the lights may be shielded or directed to prevent illumination across public waters. This does not preclude use of navigational lights.

5.12 Uses not water-dependent must be located on lots or parcels without public water frontage, or, if located on lots or parcels with public waters frontage, must with be set back double the ordinary high-water level setback or be substantially screened from view from the water by vegetation or topography, assuming summer leaf-on conditions.

5.2 Agricultural Use Standards

5.21 Buffers

1. The shore impact zone for parcels with permitted agriculture land uses is equal to a line parallel to and 50 feet from the ordinary high-water level.
2. General cultivation farming, grazing, nurseries, horticulture, truck farming, sod farming, and wild crop harvesting are permitted uses if steep slopes and shore and buff impact zones are maintained in perennial vegetation or operated under an approved conservation plan consistent with **Natural Resource Conservation Service office technical guide**, and as approved by the local soil and water conservation district.

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

1. **Feedlots must be designed consistent with Minnesota Rules, Chapter 7020**
2. **Feedlots must not further encroach into existing ordinary high-water level setback or the bluff impact zone and must not expand capacity of 1,000 animal units or more**
3. **Feedlots not currently in operation may resume operation consistent with Minnesota Statute 116.0711. (in both OT & MN).**

5.23 Use of fertilizer, herbicides, pesticides, animal wastes or other chemicals within shorelands must be applied in such a way as to minimize runoff into the shore impact zone, or public water by the use of earth or vegetation. (in both OT & MN).

5.3 Forest Management Standards

5.31 The harvesting of timber and associated reforestation must be conducted consistent with the applicable provisions of the **Sustaining Minnesota Forest Resources: Voluntary Site-Level Forest management Guidelines for Landowners, Loggers and Resource Managers**.

5.32 Intensive vegetation clearing for forest land conversion to another use is a conditional use subject to an erosion control and sedimentation plan developed and approved by the soil and water conservation district. (in both OT & MN).

5.4 Extractive Use Standards

5.41 Extractive uses are not allowed. Both MN & OT say:

5.41 Extractive uses are conditional uses and must meet the following standards:

A. A site development and restorative plan must be developed, approved, and followed over the course of the operation. The plan must:

1. Address dust, noise, possible pollutant discharges; hours and duration of operation; and anticipated vegetation and topographical alterations;

2. Identify actions to be taken during operation to mitigate environmental impacts, particularly erosion; and
3. Clearly explain how the site will be rehabilitated after extraction activities end.

B. Processing machinery must meet structure setback standards from ordinary high-water levels and bluffs.

5.5 Mining of Metallic Minerals and Peat

5.51 Mining of metallic minerals and peat, as defined in Minnesota Statutes, Section 93.44 – 93.51 is not allowed. Both MN & OT say: **5.51 Mining of metallic minerals and peat is a permitted use provided the provisions of Minnesota Statutes 93.44 – 93.51 are satisfied.**

SECTION 6.0 DIMENSIONAL AND GENERAL PERFORMANCE STANDARDS

6.1 Lot area and Width Standards After the effective date of this ordinance, all new lots must meet the minimum lot area and lot width requirements in Section _____, subject to the following standards:

- A. Only lands above the ordinary high water level and excluding right-of-way can be used to meet lot area and width standards;
- B. Lot standard widths must be met at both the ordinary high water level and at the building line;
- C. The sewer lot area dimensions can only be used if publicly owned sewer system service is available to the property; and
- D. Residential subdivisions with dwelling unit densities exceeding those listed below are allowed only if designed and approved as residential PUD's under Section ____ of this ordinance.
(this has been added in both OT and MN)

6.11 Lake Minimum Lot Area and Width Standards:

A. Recreational Development Lake – No Sewer (Long & Loon Lakes)

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

B. Recreational Development Lake – Sewer (Long & Loon Lakes)

Lot Type	Riparian	Riparian	Nonriparian	Nonriparian
	Lot Area (sf)	Lot Width (ft)	Lot Area (sf)	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

C. General Development Lake – No Sewer (Lawrence Lake)

Lot Type	Riparian	Riparian	Nonriparian	Nonriparian
	Lot Area (sf)	Lot Width (ft)	Lot Area (sf)	Lot Width (ft)
Single	20,000 (was 40)	100 (was 150)	40,000	150
Duplex	40,000 (was 80)	180 (was 225)	80,000	265 (was 225)
Triplex	60,000 (was 120)	260 (was 300)	120,000	375 (was 300)
Quad	80,000 (was 160)	340 (was 375)	160,000	490 (was 375)

D. General Development Lake – Sewer (Lawrence Lake)

Lot Type	Riparian	Riparian	Nonriparian	Nonriparian
	Lot Area (sf)	Lot Width (ft)	Lot Area (sf)	Lot Width (ft)
Single	15,000 (was 20)	75	10,000 (was 15)	75
Duplex	26,000 (was 35)	135	17,500 (was 26)	135
Triplex	38,000 (was 50)	195	25,000 (was 38)	190
Quad	49,000 (was 65)	255	32,500 (was 49)	245

*MN and OT both have “Natural Environment” in categories above. Do we want to add that?

*They both have “River/Stream” added. Do we have any of those?

6.2 Special Residential Lot Provisions

6.21 Subdivisions of duplexes, triplexes, and quads are conditional uses and must meet the following standards:

- A. Each building must be set back at least 200 feet from the ordinary high water level;
- B. Each building must have common sewage treatment and water systems in one location and serve all dwelling units in the building;
- C. Watercraft docking facilities for each lot must be centralized in one location and serve all dwelling units in the building; and
- D. No more than 25 percent of a lake’s shoreline can be in duplex, triplex or quad developments.

6.22 One guest cottage may be allowed on lots meeting or exceeding the duplex lot area and width dimensions presented in Section ____ and ____, provided the following standards are met:

- A. For lots exceeding the minimum lot dimensions of duplex lots, the guest cottage must be located within an area equal to the smallest duplex-sized lot that could be created including the principal dwelling unit;
- B. A guest cottage must not cover more than 700 square feet of land surface and must not exceed 15 feet in height; and
- C. A guest cottage must be located or designed to reduce its visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks or color, assuming summer leaf-on conditions.

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

- A. The lot must meet the area and width requirements for residential lots, and be suitable for the intended uses of controlled access lots as provided in item D (below);
- B. If docking, mooring, or over-water storage of more than six (6) watercraft is to be allowed at a controlled access lot, then the width of the lot (keeping the same lot depth) must be increased by a percentage of the requirements for riparian residential lots for each watercraft beyond six, consistent with 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%

- C. 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
- D. Covenants or other equally effective legal instruments must be developed that:
 - (1) Specify which lot owners have authority to use the access lot;
 - (2) Identify what activities are allowed. The activities may include watercraft launching, loading, storage, beaching, mooring, docking, swimming, sunbathing, or picnicking;
 - (3) 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;
 - (4) Require centralization of all common facilities and activities in the most suitable locations on the lot to minimize topographical and vegetation alterations; and

- (5) 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.

6.24 Access Easements. Easements providing access to boat docking and mooring facilities to non-riparian property owners are prohibited. **(We do not have this; Do we want to add it?)**

6.3 Placement, Design and Height of Structures

6.31 Placement of Structures and Sewage Treatment Systems on Lots. Structures and accessory structures must be located to meet all setbacks, and comply with the following ordinary high water level (OHWL) setback provisions: **(MN adds: “The structure setback standards for sewerer properties can only be used if publicly owned sewer system service is available).**

Class of Public Waters	Unsewered Structures	Sewer Structures	Sewage Treatment System
Recreational (Loon & Long)	100ft	75ft	75ft
General (Lawrence)	(MN 75) 100 (OT has 75)	75 (OT has 50)	75 (OT has 50)

- A. OHWL Setbacks. Structures, impervious surfaces, and sewage treatment systems must meet setbacks from the ordinary high water level (listed above), except that one water-oriented accessory structure or facility may be set back a minimum distance of ten (10) feet from the OHWL. (MN pg 16)
- B. Setback Averages. 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 shore impact zone or in a bluff impact zone. (MN pg 16). (Table drawing needs to be added - pg 16 figure 7).
- C. Setback Sight Line. Where nonconforming structures exist on the adjoining lots on both sides of a proposed building site, structure setbacks may be altered, using the sight line method, without a variance to conform to the adjoining setbacks from the OHWL, provided the proposed structure is not located in a shore impact or a bluff impact zone. A water-oriented accessory structure cannot be used to establish a sight line. (OT pg 28).
- D. Setback of Decks. Deck additions may be allowed without a variance to a structure not meeting the required setback from the OHWL if all of the following criteria are met: (1) The structure existed on the date the structure setbacks were established (add date here); (2) 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; (3) The deck encroachment toward the OHWL does not exceed 15% of the existing setback of the structure from the OHWL 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. (add figure 8 Deck Encroachment).

- E. 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 federal, state or county highway	50
Right of way line of town road, public street, or other roads not classified	20
Lot line (doesn't apply to fences not greater than 6ft) (ours pg 16)	10
Property line for accessory structures equal to or less than 120ft (OTpg28)	5
Property line for water-oriented accessory structures (OT pg28)	10

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

6.32 Design Criteria for Structures.

A. High Water Elevations. Structures must be placed in accordance with any floodplains regulations applicable to the site. Where these controls do not exist, elevation of the lowest floor (including basement) must be determined as follows: For lakes, by placing the lowest floor at a level at least 3 feet above the highest known water level, or 3 feet above the OHWL, whichever is higher. Water-oriented accessory structures may have the lowest floor placed lower than the elevation determined if the structure is constructed of flood resistant materials and the electrical and mechanical equipment are placed above the high water elevation.

B. Significant Historical Sites. No structure may be placed on a significant historical 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.

C. Steep Slopes. The planning and zoning commission must evaluate possible soil erosions impacts and development visibility from public waters before any issuing of permits for construction of sewage treatment systems, roads, driveways, structures or other improvements on steep slopes. When determined necessary, conditions must be attached to permits to prevent erosion, to preserve existing vegetation, screening of structures, vehicles, and other facilities as viewed from the surface of public waters (assuming summer leaf on vegetation).

6.33 Height of Structures. All structures (MN adds: "in residential districts in cities" OT does not state that), except places of worship, nonresidential agricultural structures, and accessory structures greater than 400 feet from the ordinary high-water level (OHWL) of a lake must not exceed the following height requirements:

- A. A dwelling unit must not exceed a height 35 feet; (was 25 ft)
- B. An accessory structure on a non-dwelling unit must not exceed a height of 25 feet. (Our ordinance and MN both state 25 feet, OT states 20 feet)

The height must be measured from the highest adjoining original ground level at the building foundation.

6.4 Lowest Floor Elevation

6.41 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: For lakes, by placing the lowest floor at least 3 feet above the highest known level, or 3 feet above the OHWL, whichever is higher.

6.42 Methods for placement. In addition to the lowest floor, all service utilities must be elevated or water-tight to the elevation determined in 6.41. If the structure is flood-proofed, 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. (Wasn't in ours but in both OT & MN).

6.5 Water Supply and Sewage Treatment

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

6.52 Sewage Treatment. Any premises used for human occupancy must be connected to a publicly-owned sewer system, where available or comply with Minnesota Rules, Chapter 7080-7081 and the Otter Tail County Sanitation Code.

Section 7 Performance Standards for Public and Private Facilities.

(Placement of design of roads, driveways & parking now under topographical alterations 8.21, 8.22, and 8.23.)

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

1. Must not exceed 4 feet in width on residential lots. (Wider stairways, **no wider than 8 feet (OTpg31)** may be used for commercial properties, public open-space recreational properties, and planned unit developments,
2. Landings on residential lots must not exceed 32 square feet in area. (Landings larger than this may be used for commercial properties, public open space recreational properties and planned unit developments but **must not exceed 64 square feet OT pg 31**);
3. Canopies or roofs are not allowed;
4. May be either constructed above the ground on posts or pilings, or placed in the ground provided they are designed and built in a manner that ensures

control of soil erosion, and authorized by a conditional use permit or Shoreland Alteration Permit (OT pg 31).

5. Must be located in the most visually conspicuous portions of lots, as viewed from the surface of public waters (assuming summer leaf-on conditions); and
6. Ramps, lifts or mobility paths for physically handicapped persons are allowed for achieving access to shore areas provided the dimensional performance standards comply with requirements of Minnesota Rules, Chapter 1341.

MN has added FENCES and LIGHTING (pg19) We may want to consider this

7.2 Water-Oriented Accessory Structures. Each lot may have one water oriented accessory structure which does not meet the normal structure setback if it complies with the following provisions:

1. The structure must not exceed 10 feet in height, exclusive of safety rails, and cannot occupy an area greater than 250 square feet. Detached decks must not exceed 8 feet above grade at any point.
2. The setback of the structure from the OHWL must be at least 10 feet.
3. The structure 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).
4. The roof may be used as a deck with safety rails, but must not be enclosed or used as a storage area.
5. The structure must not be designed or used for human habitation and must not contain water supply or sewage treatment facilities; and
6. As an alternative for general development and recreational development waterbodies. Water oriented accessory structures used solely for watercraft storage (including storage of related boating and water-oriented sporting 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 configuration of the shoreline.

7.3 Nonconformities

7.31 All legally established nonconformities as of March 5, 1992 may continue. Except as otherwise set forth in this subpart, all such nonconformities will be managed, regulated, and controlled as allowed and set forth in Minnesota Statute subpart 394.36. A nonconforming use is any continuous use of land established before the effect date of this 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.

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

7.33 Nonconforming uses on lots of record may be allowed to be replaced, established or expanded by conditional use permit and/or variance provided the replacement, establishment or expansion is consistent with existing uses in the area.

7.34 A variance from setback requirements must be obtained before any use, sewage treatment system, or building permit is issued for a lot. In evaluating the variance, the city council shall consider sewage treatment and water supply capabilities or constraints of the lot and shall deny the variance if adequate facilities cannot be provided.

7.35 Lots of record in the office of the county recorder on the date of local shoreland controls that do not meet the requirement of this ordinance may be allowed as building sites without variances from lot size requirements provided the use is permitted in the zoning district, the lot has been in separate ownership from abutting lands at all times since it became substandard, was created compliant with official controls in effect at the time, and sewage treatment and setback requirements of this ordinance are met. (This is not in either OT or MN ordinances) (Can we make it clearer if we want to keep it in this ordinance?)

7.36 An exemption effective March 5th, 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 her 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, Sub. 5; and
3. Where a lot, or 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. (Worded more specifically than ours)

(Pg 18 OT has under Subp. 14 - #C, #E, and #F – that we might want to add)

SECTION 8.0 SHORELAND ALTERATIONS – Alterations of vegetation and topography are regulated to prevent erosion into public waters, fix nutrients, preserve shoreland aesthetics, preserve historic values, prevent back slumping, sustain water quality, and protect fish and wildlife habitat.

8.1 Vegetation Management

A. Removal or alteration of vegetation must comply with the provisions of this Subsection except for:

1. Vegetation alteration necessary for the construction of structures and sewage treatment systems under validly issued permits for these facilities;
2. The construction of public roads and parking areas if consistent with Section 7 of this ordinance; and
3. Forest and agricultural management uses consistent with Section 5 of this ordinance.

B. Intensive vegetation clearing within the shore and bluff impact zones and on steep slopes is prohibited. Intensive clearing outside of these areas is allowed if consistent with the forest management standards in Section 5 of this ordinance.

C. Limited clearing and trimming of trees and shrubs in the shore and bluff impact zones and on steep slopes are allowed to provide a view to the water from the principal dwelling and to accommodate the placement of stairways and landings, picnic areas, access paths, livestock watering areas, beach and watercraft access areas, and permitted water-oriented accessory structures or facilities, provided that:

1. The screening of structures, vehicles, or other facilities as viewed from the water, assuming summer leaf-on conditions, is not substantially reduced;
2. Existing shading of water surfaces are preserved; and
3. Removal of trees, limbs or branches that are dead, diseased, dying or pose safety hazards is allowed without a permit.

D. Fertilizer and pesticide runoff into surface waters must be minimized through the use of vegetation, topography or both. Use of fertilizer containing phosphorus is prohibited except for agricultural purposes more than 300 feet away from the ordinary high water line of any shoreland. (In both OT an MN; shouldn't we add ?)

8.2 Topographical Management

8.21 Public and private roads and parking areas must be designed to take advantage of natural vegetation and topography to achieve maximum screening from public waters. Documentation must be provided by a qualified individual 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 local soil and water conservation district, or other applicable technical materials (Do we want to say DNR? Or designee?)

8.22 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 there are no alternatives, they must be placed or designed to minimize adverse impacts.

8.23 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 (Section 8.3) must be met.

8.3 Grading and Filling (Lots of new added by both OT and MN)

8.31 Grading and filling activities must comply with the provisions of this subsection except for the construction of public roads and parking areas if consistent with Section (?)

8.32 Permit requirements:

A. Grading, filling and excavations necessary for the construction of structure, sewage treatment systems, and driveways, **if part of an approved permit**, do not require a separate grading and filling permit. However, the standards of Section 8.33 of this ordinance must be incorporated into the permit.

B. For all other work, **including driveways not part of another permit**, a grading and filling permit is required for:

1. The movement of more than 10 cubic yards of material on steep slopes or within shore or bluff impact zones; and
2. The movement of more than 50 cubic yards of material outside of steep slopes and shore and bluff impact zones.

3. Placement of retaining walls...a, b, c, and d. (Pg 21 MN)

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

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

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

1. Limiting the amount and time of bare ground exposure;
2. Using temporary ground covers such as mulches or similar materials;
3. Establishing permanent **deep-rooted and dense** vegetation cover as soon as possible;
4. Using sediment traps, vegetation buffer strips or other appropriate techniques;

5. Stabilizing altered areas to acceptable erosion control standards consistent with Natural Resource Conservation Service office technical guides; (or soil and water conservation district)
6. Not placing fill or excavated material in a manner that creates unstable slopes. Plans to place fill or excavated material on steep slopes must be reviewed by qualified professionals for continued slope stability and must not create finished slopes of 30% or greater;
7. Fill or excavated material must not be placed in bluff impact zones;
8. Any alteration below the ordinary high water level of public waters must first be authorized by the commissioner under Minnesota Statutes, Section 103G; and
9. Alterations of topography are only allowed if they are accessory to permitted or conditional uses and do not adversely affect adjacent or nearby properties.
10. Placement of natural rock rip rap, including associated grading of the shoreline and placement of a filter blanket is permitted if:
 - a. the finished slope does not exceed 3 feet horizontal to 1 foot vertical;
 - b. the landward extent of the rip rap is within 10 feet of the ordinary high water level; and
 - c. the height of the rip rap above the OHWL does not exceed 3 feet.

(Do we want to add RIPRAP GUIDELINES diagram?)

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

8.4 Stormwater Management.

8.41 General Standards:

- A. When possible, existing natural drainageways, and vegetated soil surfaces must be used to convey, store, filter, and retain stormwater runoff before discharge to public waters.
- B. Development must be planned and conducted in a manner that will minimize the extent of disturbed areas, runoff velocities, erosion potential, and reduce and delay runoff volumes. Disturbed areas must be stabilized as soon as possible and appropriate facilities or methods used to retain sediment on the site.

C. When development density, topography, soils, and vegetation are not sufficient to adequately handle stormwater runoff, constructed facilities such as settling basins, skimming devices, dikes, waterways, ponds and infiltration may be used. Preference must be given to surface drainage, vegetation, and infiltration rather than buried pipes and manmade materials and facilities.

8.42 Specific Standards

A. Impervious surfaces of lots must not exceed 25% of the lot area.

B. When constructed facilities are used for stormwater management, documentation must be provided by a qualified individual that they are designed and installed consistent with the field office technical guide of the local soil and water conservation district or the Minnesota Stormwater Manual, as applicable.

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

SECTION 9.0 SUBDIVISION/PLATTING PROVISIONS

9.1 Land Suitability. Each lot created through subdivision, including planned unit developments (PUDS) authorized under Section 10 of this ordinance, must be suitable in its natural state for the proposed use with minimal alteration. **A suitability analysis must be conducted for each proposed subdivision, including PUD's to determine if the subdivision is suitable in its natural state for the proposed use with minimal alterations and whether any feature of the land is likely to be harmful to the health, safety, and welfare of future residents of the proposed subdivision of the community. (Both OT and MN state this way.) (Ours more specifically says)** 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, and any 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. **(Which is preferred?)**

9.2 Consistency with other Controls. **(MN and OT both simply say) 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. (Ours has much more details added to this)** In areas not served by publicly owned sewer and water systems, a subdivision will not be approved unless public

sewer and water are made available and installed to the lot line, or adequate private sewer and water services are available or can be provided for every lot consistent with Sections ____ (was 5.2) and ____ (was 5.8). Use of city sewer system shall be required, unless a conditional use permit and/or variance is granted for on-site private sewage treatment systems. Each lot shall meet the minimum lot size and dimensional requirements of Section ____ (5.1), including at least a minimum contiguous lawn area, that is free of limiting factors sufficient for the construction of two standard soil treatment systems. Lots that would require use of holdintanks shall not be approved. (OT and MN have instead added a section see below...)

9.3 Water and Sewer Design Standards.

- A. A potable water supply and a sewage treatment system consistent with Minnesota rules, Chapters 7080-7081 must be provided for every lot.
- B. Each lot must include at least two soil treatments and dispersal areas that support systems in accordance with the Otter Tail County Sanitation Code.
- C. Lots that would require use of holding tanks are prohibited.

9.4 Information Requirements. Sufficient information must be submitted by the applicant for the city to make a determination of land suitability. The information shall include at least the following:

- A. Topographical contours at 10 foot intervals or less from U.S. Geological Survey Maps or more current sources, showing limiting site characteristics;
- B. The surface water features required in Minnesota Statutes, section 505.021, Subd. 1. To be shown on plats, obtained from the U.S. Geological Survey quadrangle topographical maps or more current source.
- C. Adequate soils information to determine suitability for building and sewage treatment capabilities for every lot from the most current existing sources or from field investigations such as soil borings, percolation tests, or other methods;
- D. Information regarding adequacy of domestic water supply; extent of anticipated vegetation and topographical 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;

E. Location of 100 year flood plain areas and floodway districts from existing adopted maps or data; and

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

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

9.6 Platting. All subdivisions that **cumulatively** create five or more lots or parcels that are 2 ½ acres or less in size shall be processed as a plat in accordance with Minnesota Statutes, Chapters 462.358 Subd. 3a (cities) and 505. No permit for construction of buildings or sewage system treatments systems shall be issued for lots created after the adoption of this ordinance unless the lot was previously approved as part of the formal subdivision.

9.7 Controlled Access Lots. Lots intended as controlled accesses to public waters or for recreational use areas by nonriparian lots within a subdivision must meet or exceed the sizing criteria in Section 6.23 of this ordinance. **(OT says “Not Allowed”; MN is same as ours).**

Section 10 PLANNED UNIT DEVELOPMENTS (PUDs)

10.1 Types of PUD’s Permissible. Planned unit developments 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 are allowed if the standards in this section, and the official zoning map are met.

10.2 Processing of PUD’s. 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 conflict in requirements, the more stringent of the requirements shall apply.** An expansion to an existing commercial PUD involving 6 or less new dwelling units or sites since the date of 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 10.5. Approval cannot occur until all applicable environmental reviews are complete.

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

10.31 Site plan and/or plat showing:

A. Location 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. Topographical contours at 10 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 the project combines commercial and residential elements).

10.32 A. property owner's association agreement (for residential PUD's) with mandatory membership, and consistent with Section 10.5 of this ordinance.

10.33 Deed restrictions, covenants, permanent easements or other instruments that:

- A. Address future vegetation and topographical alterations, construction of additional buildings, beaching of watercraft, and construction of commercial buildings in residential PUD's; and
- B. Ensure the long-term preservation and maintenance of open space in accordance with the criteria and analysis specified in Section 10.5 of this ordinance.

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

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

10.4 Density Determination. Proposed new or expansions to existing planned unit developments (PUD's) must be evaluated using the following procedures.

10.41 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 (OHWL) at the following intervals, proceeding landward:

WATERBODY CLASSIFICATION	No Sewer (ft)	Sewer (ft)
General Development Lakes – 1 st tier	200	200
General Development Lakes – all other tiers	267	200
Recreational Development Lakes	267	267

10.42 Step 2. Calculate Suitable Area for Development. Calculate the suitable area within each tier by excluding all **road rights-of way or easements, (added in both OT & MN, see side note 10.52 in MN pg 35)** wetlands, bluffs, or land below the OHWL of public waters.

10.43 Step 3. Determine Base Density.

A. For residential PUD's, 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.

B. For commercial PUD's:

1. Determine the average area for each dwelling unit or site within each tier. Include both existing and proposed dwelling units and sites in the calculation. Determine the average inside living floor area of dwelling units in each tier.

2. Do not include decks, patios, garages, porches, or basements, unless they are habitable space.

3. Select the appropriate **floor area/dwelling site area ratio** from the following table for the floor area or dwelling site:

Commercial PUD Floor Area Ratios - Public Water Classification

Inside Living Floor Area Or Dwelling Site in Square Feet	Sewered General Development Lakes; 1 st Tier on Unsewered General Development Lakes	2 nd & Add'l Tiers on Unsewered General Development Lakes; Recreational Development Lakes
200 (or less)	.040	.020
300	.048	.024
400	.056	.028
500	.065	.032
600	.072	.038
700	.082	.042
800	.091	.046
900	.099	.050
1000	.108	.054
1100	.116	.058
1200	.125	.064
1300	.133	.068

1400	.142	.072
1500 & greater	.150	.075

4. Multiply the suitable area within each tier determined by the floor area or dwelling site area ratio to yield the total floor area or dwelling site for each tier to be used for swelling units or sites.

5. Divide the total floor area or dwelling site area for each tier calculated by the average inside living floor area for dwelling units or sites area. This yields the allowable number of dwelling units or 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 PUD's with densities at or below the base density must meet the design standards in Section 10.5 of this ordinance.

10.44 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 10.2 are allowed if the design criteria in Section 10.5 of this ordinance are satisfied as well as the standards in Section 10.44, Item B. (below).

Shoreland Tier	Maximum Density Increase within Each Tier %
1 st	50
2 nd	100
3 rd	200
4 th	200
5 th	200

B. Structure setbacks from the ordinary high water level:

1. Are increased to at least 50% 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% greater than the minimum setback.

10.5 Design Criteria All PUD's must meet the following design criteria.

10.51 General Design Standards.

A. All residential PUD's 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 6.5 of this ordinance. Sewage treatment systems must meet the setback standards of Section 6.31, Item A (assumes we adopt that item).

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

D. Dwelling units or dwelling sites must be designed and located to meet the dimensional standards in Sections 6.3.

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 topographical 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 structured setback and must be centralized.

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

10.52 Open Space Requirements.

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

1. Areas with physical characteristics unsuitable for development in their natural state;
2. Areas containing significant historical 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% of the shore impact zone.
 - b) For new residential PUD's, at least 70% of the shore impact zone.
 - c). For all commercial PUD's, at least 50% 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. Nonpublic 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 right-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.

10.53 Open Space Maintenance and Administration Requirements.

A. Open Space Preservation. The appearance of open space area, 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 PUD's must use an owner's 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 in units or dwelling sites;
3. Assessments must be adjustable to accommodate changing conditions; and

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

10.54 Erosion Control and Stormwater Management

A. Erosion control plans must be developed and must be consistent with the provisions of Sections 8.3 and 8.4 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 of stormwater runoff. For residential PUD's, impervious surface for the entire project must not exceed 25%. For commercial PUD's, impervious surfaces within any tier must not exceed 25%. (We had: "...except that commercial PUD's 35% impervious surface may be allowed in the 1st tier of general development lakes with an approved stormwater management plan and consistency with Section 9).

10.6 Conversions. Local governments may allow existing resorts or other land uses and facilities to be converted to residential PUD's if all of the following standards are met:

10.61 Proposed conversions must be evaluated using the same procedures for residential PUD's involving new construction. Inconsistencies between existing features of the development and these standards must be identified;

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

10.63 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 screenings of buildings and other facilities as viewed from the water; and
- C. Conditions attached to existing dwelling units located in shore or bluff impact zones that preclude exterior expansions in any

dimension or substantial alterations. The conditions must also provide for future relocation of dwelling units, where feasible, to other locations, meeting all setback and elevation requirements when they are rebuilt or replaced.

10.64 Existing dwelling unit or dwelling site densities that exceed standards in Section 10.4 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 recreational facilities, installing new sewage treatment systems, or other means.