

## **CHAPTER 14 Shoreland Overlay District "SH"**

### **SECTION 14.1 STATUTORY AUTHORIZATION**

The provisions of this section are adopted pursuant to Minnesota Statutes, Chapters 103F and 394, and Minnesota Regulations, Parts 6120.2500 - 6120.3900 as amended.

### **SECTION 14.2 GENERAL PROVISIONS**

#### **14.2.1 LAND TO WHICH THIS CHAPTER APPLIES**

This section shall apply to all land designated as shoreland area within the jurisdiction of Dodge County. This minimum area includes lands one thousand (1,000) feet landward from the Ordinary High Water Level (OHWL) of all protected water basins and three hundred (300) feet landward from the OHWL of all public watercourses, or the landward extent of the regulatory floodplain, whichever is greater. Basins and watercourse that are protected are identified on the Protected Waters and Wetlands Map and listed in Chapter 5 of this Ordinance.

#### **14.2.2 COMPLIANCE**

The use of any shoreland, the size and shape of lots, the building of new, the alteration of existing structures, the installation and maintenance of water supply or waste treatment systems shall be in full compliance with the terms of this Chapter and other applicable regulation of this Ordinance.

#### **14.2.3. 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.

#### **14.2.4 ADMINISTRATION**

Zoning, Conditional Use, Interim Use, Variances and Shoreland Alteration requests shall be processed in accordance with the administrative procedures of Chapter 18 of this Ordinance.

#### **A. CERTIFICATE OF COMPLIANCE**

A Certificate of Compliance, consistent with Chapter 21 and Minnesota Rules Chapter 7082.0700 Subp. 3, is required whenever a Variance, Conditional Use, Interim Use or Zoning Permit is required for any use of or improvement on the property. A sewage treatment system shall be considered compliant if the only deficiency is the system's improper setback from the ordinary high water level.

**B. MITIGATION FOR LAND USE PERMITS**

In evaluating all Variances, Conditional Uses, Interim Uses, and Zoning Permit applications, the Environmental Services Department shall require the property owner to address the following conditions, when related to and proportional to the impact, to meet the purpose of this ordinance, to protect adjacent properties, and the public interest:

- I. Advanced storm water runoff management treatment;
- II. Reducing impervious surfaces;
- III. Increasing setbacks from the ordinary high water level;
- IV. Restoration of wetlands;
- V. Limiting vegetation removal and/or riparian vegetation restoration;
- VI. Provisions for the location, design, and use of structures, sewage treatment systems, water supply systems, watercraft launching and docking areas, and parking areas; and
- VII. Other conditions the Department deems necessary.

**C. MITIGATION FOR LAND DISTURBING ACTIVITIES**

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.

**14.2. GREATER RESTRICTIONS**

Where conflict may exist between this Chapter and other ordinance provisions, the greater restrictions shall prevail when not contrary to law.

**SECTION 14.3 SHORELAND OVERLAY DISTRICTS (SH)**

**14.3.1 (SH) AGRICULTURAL PRIMARY**

**A. PERMITTED USES**

- I. One single family Primary Dwelling Unit on an individual parcel containing fifty-three (53) acres or more;
- II. One split of the existing building site which creates a new parcel containing a building site that is less than fifty-three (53) acres. This split will be counted as new single family Primary Dwelling Unit on less than fifty-three (53) acres and applies

towards the density limitation of no more than one (1) dwelling on less than fifty-three acres per quarter section (160 acres) of land. Splits shall meet all performance standards and sewage treatment requirements for newly created lots.

- III. Field crops, horticulture, nurseries, greenhouses, and tree farms;
- IV. Existing feedlots up to 500 animal units. Expansion of existing feedlots are subject to a variance. New feedlots are prohibited.
- V. Wildlife preserves, forest, and wetland management areas;
- VI. Home Occupations producing only domestic strength sewage and meeting all performance and sizing standards of Chapter 21 and Minnesota Rules Chapters 7080-7083, or successor
- VII. Public hiking and/or biking trails
- VIII. Minor Essential Services
- IX. Township Halls
- X. Accessory structures and uses customarily incidental to the above permitted uses when located on the same property.

#### B. CONDITIONAL USES

- I. Related agricultural sales business
- II. Major Essential Services
- III. Campgrounds
- IV. Golf courses and their accessory structures
- V. Gun clubs and their accessory structures
- VI. Commercial Kennels
- VII. Cemeteries
- VIII. Local government maintenance facilities
- IX. Fairgrounds
- X. Wind Energy Conversion Systems
- XI. Solar Energy Farms

#### C. INTERIM USES

- I. One Single Family Primary Dwelling Unit on less than 53 acres provided:
  - a. The quarter section has not previously received a CUP or IUP for a Non-Farm Dwelling, or
  - b. The quarter section had not been previously closed through the creation of a new parcel which contains a dwelling under Section 8.3.2 of Permitted Uses.
- II. One Temporary Second Dwelling Unit for a period of no more than five (5) years, provided:
  - a. The quarter section of land does not have an existing active IUP for a Temporary Second Dwelling Unit, or

- b. The quarter section of land has not previously received a CUP or IUP for a Second Farm or Non-Farm dwelling with a “sunset” provision as a condition of the permit, and
  - c. All performance standards for Temporary Second Dwelling Units listed in Chapter 16 can be met without the need for variances.
- III. Quarrying operations, sand and gravel extraction, other mineral or material excavation activities which exceed 50 cubic yards in total
  - IV. Temporary asphalt hot-mix plants or concrete plants utilized for specific road projects located within Dodge County, on land located outside of an existing mine permitted by Dodge County
  - V. Limited Rural Businesses
  - VI. Private Kennels

14.3.2 (SH) URBAN EXPANSION PRIMARY

A. PERMITTED USES

- I. One single family Primary Dwelling Unit on an individual parcel containing thirty-five (35) acres or more;
- II. One split of the existing building site which creates a new parcel containing a building site that is less than thirty-five (35) acres. This split will be counted as new single family Primary Dwelling Unit on less than thirty-five (35) acres and applies towards the density limitation of no more than one (1) dwelling on less than fifty-three acres per quarter section (160 acres) of land. Splits shall meet all performance standards and sewage treatment requirements for newly created lots.
- III. Field crops, horticulture, nurseries, greenhouses, and tree farms;
- V. Wildlife preserves, forest, and wetland management areas;
- VI. Home Occupations producing only domestic strength sewage and meeting all performance and sizing standards of Chapter 21 and Minnesota Rules Chapters 7080-7083, or successor
- VII. Public hiking and/or biking trails
- VIII. Minor Essential Services
- IX. Township Halls
- X. Accessory structures and uses customarily incidental to the above permitted uses when located on the same property.

B. CONDITIONAL USES

- I. Related agricultural sales business
- II. Major Essential Services

- III. Campgrounds
- IV. Golf courses and their accessory structures
- VI. Commercial Kennels
- VII. Cemeteries
- VIII. Local government maintenance facilities
- IX. Fairgrounds

C. INTERIM USES

- I. One Single Family Primary Dwelling Unit on less than 35 acres provided:
  - a. The quarter section has not previously received a CUP or IUP for a Non-Farm Dwelling, or
  - b. The quarter section had not been previously closed through the creation of a new parcel which contains a dwelling under Section 14.3.2.A.II of Permitted Uses.
- II. One Temporary Second Dwelling Unit for a period of no more than five (5) years, provided:
  - a. The quarter section of land does not have an existing active IUP for a Temporary Second Dwelling Unit, or
  - b. The quarter section of land has not previously received a CUP or IUP for a Second Farm or Non-Farm dwelling with a “sunset” provision as a condition of the permit, and
  - c. All performance standards for Temporary Second Dwelling Units listed in Chapter 16 can be met without the need for variances.
- V. Limited Rural Businesses
- VI. Private Kennels

14.3.3 (SH) RURAL RESIDENTIAL PRIMARY

A. PERMITTED USES

- I. Single family primary dwelling units;
- II. Limited agriculture, including livestock not to exceed one (1) animal unit per fenced acre to a maximum of 10 animal units. Site cannot meet the definition of a feedlot
- III. Public parks and recreation areas
- IV. Home Occupations producing only domestic strength sewage and meeting all performance and sizing standards of Chapter 21 and Minnesota Rules Chapters 7080-7083, or successor
- IV. Minor Essential Services
- V. Accessory structures and uses customarily incidental to any of the above permitted uses when located on the same property.

B. CONDITIONAL USES

- I. Churches, chapels, temples, and synagogues and other similar places of worship
- II. Golf courses, clubhouses, and golf course accessory buildings;
- III. Major Essential Services

C. INTERIM USES

- I. Limited Rural Businesses

14.3.4 (SH) HAMLET PRIMARY

A. PERMITTED USES

- I. Single family primary dwelling units;
- II. Existing pasture operations or other animal husbandry operations which do not meet the definition of a “feedlot” and/or exceed more than one (1) Animal Unit per acre of grazing or confinement area
- III. Government owned lands and facilities, subject to performance standards for the specific use, when applicable;
- IV. Public hiking/biking trails, parks and other non-motorized recreation areas;
- V. Home Occupations producing only domestic strength sewage and meeting all performance and sizing standards of Chapter 21 and Minnesota Rules Chapters 7080-7083, or successor
- VI. Minor Essential Services
- VII. Accessory structures customarily incidental to any of the above permitted uses when located on the same property.

B. CONDITIONAL USES

There are no Conditional Uses allowed in the Shoreland Overlay of the Hamlet District.

C. INTERIM USES

- I. Limited Rural Business

14.3.5 (SH) COMMERCIAL PRIMARY

A. PERMITTED USES

There are no Commercial Uses which are considered "Permitted" within the Shoreland Overlay District.

B. CONDITIONAL USES

- I. Commercial greenhouses
- II. Lumber yards, landscaping materials sales, or sales of other types of construction materials;
- III. Cabinet or carpenter shops
- IV. Governmental buildings
- V. Minor Essential services;
- VI. Commercial Kennels
- V. Contractors yards
- VI. Major Essential Services
- VII. Temporary Meteorological Towers less than two hundred (200) feet in total height and removed in five (5) years or less
- VIII. Accessory structures and uses customarily incidental to any of the above permitted uses when located on the same property.

14.3.6 (SH) INDUSTRIAL PRIMARY

A. DISTRICT USE LIMITATIONS

- I. New Permitted, Conditional, and/or Interim Industrial Uses are not allowed within the Shoreland Overlay District
- II. Expansion of existing Industrial Uses or structures requires a variance to be issued by the BOA

**SECTION 14.4 SPECIAL LAND USE PROVISIONS**

14.4.1 STANDARDS FOR COMMERCIAL, INDUSTRIAL, PUBLIC AND SEMIPUBLIC USES

Surface water oriented commercial uses and industrial, public, or semipublic uses with similar needs to have access to and use of public waters may be located on parcels or lots with frontage on public waters. Those uses with water oriented needs must meet the following standards:

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

#### 14.4.2 AGRICULTURAL USE STANDARDS

##### A. BUFFERS

- I. 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 (OHWL).
- II. 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 consistent with the Field Office Technical Guides of the USDA Natural Resource Conservation Service, and as approved by the Dodge County Soil and Water Conservation District.

##### B. FEEDLOTS

New animal feedlots are prohibited in the Shoreland Overlay District Modifications or expansions to existing feedlots or resumption of old feedlots require a variance to be issued by the Board of Adjustment. In addition to variance criteria of Chapter 18, variance requests, if approved, must meet the following standards:

- I. Feedlots must be designed consistent with Minnesota Rules, Chapter 7020, as amended.
- II. Feedlots must not further encroach into the existing OHWL setback or the Bluff Impact Zone and must not expand to a capacity of 1,000 animal units or more; and,
- III. Old feedlots not currently in operation may resume operation consistent with Minnesota Statutes, Section 116.0711 or successor.

#### 14.4.3 FOREST MANAGEMENT STANDARDS

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

- C. 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 Dodge County Soil and Water Conservation District.

14.4.4 EXTRACTIVE USE STANDARDS

A. PERFORMANCE AND DEVELOPMENT STANDARDS

All extractive uses shall meet the siting, setbacks and performance standards of Section 16.38 and the applicable development standards of Chapter 17.

**SECTION 14.5 DIMENSIONAL AND GENERAL PERFORMANCE STANDARDS**

14.5.1 LOT AREA REQUIREMENTS

- A. Lot area required shall meet the minimum requirements of the primary zoning district. Only land above the ordinary high water level (OHWL) can be used to meet lot area standards.
- B. An increase in the minimum lot size shall be required if it is determined that additional area is needed to meet Chapter 21 of the Ordinance, environmental quality regulations, subdivision regulations of Chapter 20, or any other applicable regulations of the County.

14.5.2 LOT WIDTH REQUIREMENTS

- A. Only lands above the ordinary high water level (OHWL) can be used to meet lot area standards. Every lot shall have a minimum lot width at the building setback line as indicated below:

<b>PUBLIC WATERS</b>	<b>Minimum Lot Width</b>
<b>Rivers- Transition</b>	250 ft
<b>Rivers- Agricultural</b>	150 ft
<b>Rivers- Tributary</b>	100 ft

14.5.3 PLACEMENT OF STRUCTURES ON LOTS

- A. When more than one (1) setback applies to a site, structures and facilities must be located to meet all setbacks. Where 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 setbacks from the ordinary high water level, provided the proposed building site is not located in a shore impact zone or in a bluff impact zone.

**14.5.4 SETBACKS**

When more than one setback applies to the use or structure under ordinance provisions, the most restrictive setback applies.

**A. OTHER DISTRICT SETBACKS**

Refer to the underlying Primary Zoning District or Overlay Districts of this ordinance.

**B. USE SETBACKS**

Refer to the performance standards for the Use identified in Chapter 16 of this ordinance.

**C. OHWL SETBACKS**

<b>PUBLIC WATERS</b>	<b>STRUCTURES UNSEWERED</b>	<b>STRUCTURES SEWERED</b>	<b>SEWAGE TREATMENT SYSTEM</b>
<b>Lakes-Natural Env.</b>	150 ft	150 ft	150 ft
<b>Rivers-Ag/Trib</b>	100 ft	50 ft	75 ft
<b>Rivers-Transition</b>	150 ft	150 ft	100 ft

**D. SETBACKS 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:

- I. The structure existed on the date the structure setbacks were established;
- II. 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;
- III. The deck encroachment toward the OHWL does not exceed 15 percent 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

IV. The deck is constructed primarily of wood, and is not roofed, enclosed with sidewalls or screened.

E. ADDITIONAL SETBACKS

FEATURE	MINIMUM SETBACK
Top of Bluff	30 ft
OHWL- 1 Water Oriented Accessory Structure	10 ft
New Feedlot from public watercourse	300 ft
New Feedlot from public basin	1000 ft
Unplatted cemetery	50 ft

F. IMPACT ZONES

Structures and accessory facilities, except stairways and landings, must not be placed within Bluff or Shoreland Impact Zones.

14.5.5 HEIGHT REQUIREMENTS

A. Refer to the Primary Zoning District and any performance standards for the Use specified in Chapter 16.

14.5.6 HIGH WATER ELEVATIONS

Structures must be placed in compliance with the floodplain regulations of Chapter 15 when applicable.

14.5.7 WATER SUPPLY AND SEWAGE TREATMENT

A. WATER SUPPLY

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

Private wells must be located, constructed, maintained, and sealed in accordance with or more restrictive than the water well construction code of the Minnesota Department of Health.

B. SEWAGE TREATMENT

Any premises used for human occupancy must be provided with an adequate method of sewage treatment, as follows:

I. Publicly owned sewer systems must be used where available.

- II. All private sewage treatment systems must meet or exceed the standards contained in Chapter 21 of this ordinance, or successor.
- III. On-site sewage treatment systems must be set back a minimum of 75 feet from the OHWL.
- IV. All proposed sites for individual sewage treatment systems shall be evaluated to determine the potential treatment capability of the soils on site. If the determination of a site's suitability cannot be made with publicly available information, borings or percolation tests shall be provided before approvals of splits or land use permits are granted.
- V. Nonconforming/noncompliant sewage treatment systems shall be regulated and upgraded in accordance with Chapter 21 of this Ordinance.

## **SECTION 14.6 PERFORMANCE STANDARDS FOR PUBLIC AND PRIVATE FACILITIES**

### **14.6.1 ROADS, DRIVEWAYS AND PARKING AREAS**

Public and private roads and parking areas must be designed to take advantage of natural vegetation and topography to achieve maximum screening from view from public waters and comply with the following standards

- A. Documentation must be provided by a qualified individual that all roads and parking areas are designed and constructed to minimize and control erosion.
- B. 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.
- C. 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.
- D. Private facilities must comply with the grading and filling provisions of Section 14.7.2 of this Chapter.

### **14.6.2 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 and public open-space recreational properties.
- B. Landings for stairways and lifts on residential lots must not exceed thirty two (32) square feet in area. Landings larger than thirty two (32) square feet may be used for commercial properties and public open space recreational properties;
- 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. 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 Section 14.6.2 and the requirements of Minnesota Rules Chapter 1341 or successor.
- F. 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.

#### 14.6.3 WATER ORIENTED ACCESSORY STRUCTURES

Each lot may have one (1) water oriented accessory structure not meeting the normal structure setback in this Chapter if this water oriented accessory structure complies with the following provisions:

- A. The structure or facility must not exceed ten (10) feet in height, exclusive of safety rails, and cannot occupy an area greater than 250 square feet;
- B. The setback of the structure or facility from the OHWL must be at least ten (10) feet;
- C. The structure is not in the Bluff Impact Zone;
- D. 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;

- E. The structure or facility must not be designed or used for human habitation and must not contain water supply or sewage treatment facilities.
- F. The structure is not a boathouse or boat storage structure as defined under Minnesota Statutes 103G.245 or successor.

#### 14.6.4 USES WITHOUT WATER ORIENTED NEEDS

Uses without water-oriented needs must be located on lots or parcels without public waters frontage, or, if located on lots or parcels with public waters frontage, must either be set back double the normal OHWL setback or be substantially screened from view from the water by vegetation or topography, assuming summer, leaf-on conditions.

### **SECTION 14.7 VEGETATION AND LAND 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, sustain water quality and protect fish and wildlife habitat.

#### 14.7.1 VEGETATION MANAGEMENT

- A. Removal or alteration of vegetation must comply with the provisions of this subsection except for:
  - I. Vegetation alteration necessary for the construction of structures and sewage treatment systems under validly issued permits for these facilities;
  - II. The construction of public roads and parking areas if consistent with Section 14.6.1 of this Chapter;
  - III. Forest management uses consistent with Section 14.4.3 of this Chapter; and
  - IV. Agricultural uses consistent with Section 14.4.2 of this Chapter.
- B. 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 14.4.3 of this Chapter.

- C. Limited clearing and trimming of trees and shrubs in the Shore and Bluff Impact Zones and on Steep Slopes, is allowed to provide a view to the water from the principal dwelling and to accommodate the placement of stairways and landings, picnic areas, access paths, livestock watering areas, beach and watercraft access areas, and permitted water-oriented accessory structures or facilities, provided that:
  - I. The screening of structures, vehicles, or other facilities as viewed from the water, assuming summer, leaf-on conditions, is not substantially reduced;
  - II. Existing shading of water surfaces along rivers is preserved;
  - III. Cutting debris or slash shall be scattered and not mounded on the ground; and
  - IV. Perennial ground cover is retained.
  - V. Picnic areas, access paths, livestock watering areas, beaches and watercraft access areas are prohibited in bluff impact zones.
- C. 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 use of vegetation, topography or both.

#### 14.7.2 GRADING AND FILLING

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 14.6.1 of this Chapter.

##### A. NO SHORELAND ALTERATION PERMIT REQUIRED

Grading, filling and excavations necessary for the construction of structures, sewage treatment systems, and driveways, if part of an approved permit, do not require a separate grading and filling permit. However, the standards in Section 14.7.3.B of this Chapter must be incorporated into the permit

##### B. SHORELAND ALTERATION PERMIT REQUIRED

For all other work, including driveways not part of another permit, a Shoreland Alteration Permit is required for:

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

14.7.3 STANDARDS FOR GRADING, FILLING AND/OR EXCAVATION ACTIVITIES

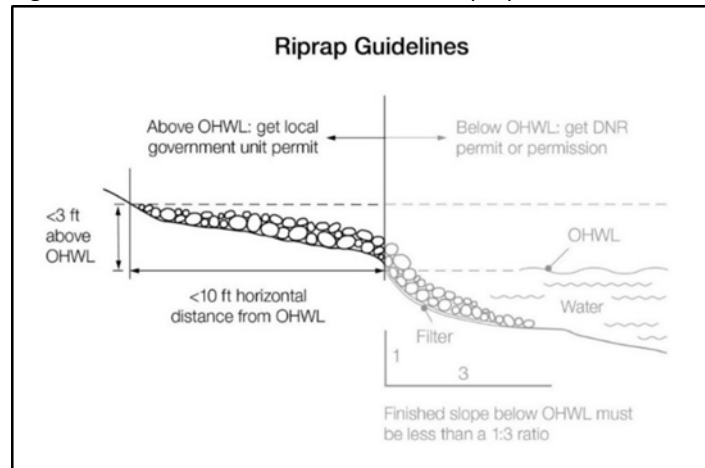
Grading, filling and excavation activities must meet the following standards:

- A. Grading or filling of any wetland must meet or exceed the wetland protection standards under Minnesota Rules, Chapter 8420, as amended 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:
  - I. Limiting the amount and time of bare ground exposure;
  - II. Using temporary ground covers such as mulches or similar materials;
  - III. Establishing permanent, deep-rooted and dense vegetation cover as soon as possible;
  - IV. Using sediment traps, vegetated buffer strips or other appropriate techniques;
  - V. Stabilizing altered areas to acceptable erosion control standards consistent with the field office technical guides of the soil and water conservation district;
  - VI. 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;
  - VII. Fill or excavated material must not be placed in Bluff Impact Zones;
  - VIII. Any alterations below the ordinary high water level of public waters must first be authorized by the Department of Natural Resources under Minnesota Statutes, Section 103G or successor;



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

Figure 10. Riprap Guidelines



### C. CONNECTIONS TO PUBLIC WATERS

Excavations to connect to public waters require a public waters permit and must comply with Minnesota Rules, Chapter 6115, or successor.

### D. SLOPES

The Zoning Administrator must evaluate possible soil erosion impacts and development visibility from public waters before a permit can be issued for construction of sewage treatment systems, roads, driveways, structures, or other improvements on steep slopes. When determined necessary, conditions must be attached to issued permits to prevent erosion and to preserve existing vegetation for the screening of structures, vehicles, and other facilities as viewed from the surface of public waters, assuming summer, leaf-on vegetation.

## **SECTION 14.8                      STORMWATER MANAGEMENT**

All applicants shall comply with the MPCA's applicable stormwater permit requirements. In addition, the following general and specific standards shall apply:

### **14.8.1      GENERAL STANDARDS**

- A.      When possible, existing natural drainage ways, vegetated soil surfaces and stormwater basins must be used to convey, store, filter, and retain stormwater run-off before discharge to public waters.
- B.      Development must be planned and conducted in a manner that will minimize the extent of disturbed areas, run-off velocities, erosion potential, and reduce and delay run-off 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 run-off 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.

### **14.8.2      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 qualified individual that they are designed and installed consistent with the field office technical guide of the Dodge County Soil and Water Conservation District, the Minnesota Stormwater Manual, and the applicable MPCA stormwater permit.
- C.      New constructed stormwater outfalls to public waters must be consistent with Minnesota Rules 6115.0231 as amended.

## **SECTION 14.9                      NONCONFORMITIES IN THE SHORELAND OVERLAY DISTRICT**

The Shoreland Overlay District shall be superimposed on all other Primary and Overlay Zoning Districts. All legally established nonconformities within the Shoreland Overlay

District may continue when not contrary to law. Existing nonconformities will be managed according to Minnesota Statutes 394.36, Subd. 5, Chapter 6 and Section 15.9 of this Ordinance, where applicable. In the event the standards or processes of this Section conflict with the standards or processes of Chapter 6 or Section 15.9, the more restrictive shall apply.

#### 14.9.1 NONCONFORMING USES

Existing Animal Feedlots located within the Shoreland Overlay District shall be managed in accordance with the primary zoning district, Minnesota Rules Chapter 7020 and Minnesota Statutes, section 116.0711; or successor statutes.

All other nonconforming uses shall be administered in accordance with the provisions of Chapter 6 and Section 15.9 of this Ordinance.

#### 14.9.2 NONCONFORMING STRUCTURES

##### A. SUBSTANTIAL DAMAGE ON NONCONFORMING STRUCTURES WITH LESS THAN 50% REQUIRED SETBACK.

When a nonconforming structure in the Shoreland Overlay District with less than fifty percent (50%) of the required setback from the water is destroyed by fire or other peril to greater than fifty percent (50%) of its estimated market value, as indicated in the records of the Dodge County Assessor's Office at the time of damage. the structure setback may be increased if practicable and reasonable conditions are placed upon a zoning or building permit to mitigate created impacts on the adjacent property or water body

#### 14.9.3 LOTS OF RECORD THE SHORELAND OVERLAY DISTRICT

##### A. CRITERIA FOR LOT SIZE VARIANCE EXEMPTION. Lots of record in the office of the County Recorder on the date of enactment of local shoreland controls that do not meet the requirements of Section 14.6 this Chapter may be allowed as building sites without variances from lot size requirements provided:

- I. All structure and sewage treatment setback distance requirements can be met;
- II. A Type 1 sewage treatment system consistent with the Chapter 21 of this ordinance, or successor, can be met or the lot is connected to a public sewer; and
- III. The impervious surface coverage does not exceed twenty-five percent (25%) of the lot.

- B. **CONTIGUOUS LOTS OF RECORD UNDER COMMON OWNERSHIP.** In a group of two or more contiguous Lots of Record under common ownership, an individual lot must be considered as a separate parcel of land for the purpose of sale or development, if it meets the following requirements:
- I. The lot must be at least sixty-six percent (66%) of the dimensional standard for lot width and lot size for the Shoreland classification consistent with MN Rules chapter 6120;
  - II. The lot must be connected to a public sewer, if available, or must be suitable for the installation of a Type 1 sewage treatment system consistent within Chapter 21 of this ordinance, or successor;
  - III. The impervious surface coverage must not exceed twenty-five percent (25%) of each lot; and
  - IV. Development of the lot must be consistent with the Dodge County Comprehensive Land Use Plan.

A lot subject to, but not meeting the requirements of Section 14.9.3.B must be combined with one or more contiguous lots so they equal one or more conforming lots to the extent possible.

- C. Notwithstanding Section 14.9.3.B, contiguous nonconforming Lots of Record in the Shoreland Overlay District under a common ownership must be able to be sold or purchased individually if each lot contained a habitable residential dwelling at the time the lots came under common ownership and the lots are suitable for, or served by, a sewage treatment system consistent with the requirement of Chapter 21 of this ordinance, or successor, or connected to a public sewer.
- D. In evaluating all land use approvals for nonconformities within the Shoreland Overlay District, the Department shall require the applicant to address when appropriate:
- I. Storm water runoff management,
  - II. Reducing impervious surfaces,
  - III. Increasing setback,
  - IV. Restoration of wetlands,
  - V. Vegetative buffers,
  - VI. Sewage treatment capability
  - VII. Water supply capability, and
  - VIII. Other conservation-designed actions
- E. A portion of a conforming lot may be separated from an existing parcel as long as:

- I. The remainder of the existing parcel meets the lot size requirements of the zoning district for new lots;
- II. Meets the sewage treatment system requirements for a new lot; and
- III. The newly crated parcel is combined with an adjacent parcel

## **SECTION 14.10 SUBDIVISION/PLATTING PROVISIONS**

### **14.10.1 LAND SUITABILITY**

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

### **14.10.2 CONSISTENCY WITH OTHER CONTROLS**

Subdivisions must conform to all official controls of this county. A subdivision will not be approved where a later variance from one or more standards in official controls would be needed to use the lots for their intended purpose. All subdivisions shall meet the requirements of Chapter 20 of this Ordinance.

### **14.10.3 ADDITIONAL SHORELAND REQUIRMENTS FOR SUBDIVISIONS**

Lots intended as controlled accesses to public waters or for recreational use areas for use by non-riparian lots within a subdivision must meet or exceed the sizing criteria of the Primary Zoning District.

- A. 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. Easements providing access to boat docking or mooring facilities to non-riparian property owners are prohibited; and
- B. Covenants or other equally effective legal instruments must be developed that:
  - I Specify which lot owners have authority to use the access lot;
  - II. Identify what activities are allowed. The activities may include watercraft launching, loading, storage, beaching, mooring, docking, swimming, sunbathing, or picnicking;

- III. 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;
- IV. Require centralization of all common facilities and activities in the most suitable locations on the lot to minimize topographic and vegetation alterations; and
- V. 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.