

Ordinance No. 5

Ordinance for the Management of Shoreland

Areas of Kanabec County, Minnesota

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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 103F, Minnesota Regulations, Parts 6120.2500 - 6120.3900, and the planning and zoning enabling legislation in Minnesota Statutes, Chapter 394.

1.2 Policy. The Legislature of Minnesota has delegated responsibility to local governments of the state to regulate the subdivision, use and development of the shorelands of public waters and thus preserve and enhance the quality of surface waters, conserve the economic and natural environmental values of shorelands, and provide for the wise use of waters and related land resources. This responsibility is hereby recognized by Kanabec County.

2.0 GENERAL PROVISIONS AND DEFINITIONS

2.1 Jurisdiction. The provisions of this ordinance apply to the shorelands of the public water bodies as classified in Section 5.0 of this ordinance, and to the shorelands of public water bodies greater than 10 acres in unincorporated areas in which the city has, by ordinance, extended the application of its zoning regulations as provided by Minnesota Statute, Chapter 462.357 Subd 1. Pursuant to Minnesota Regulations, Parts 6120.2500 - 6120.3900, lakes, ponds, and flowages less than 10 acres in size in municipalities or 25 acres in size in unincorporated areas are exempt from this ordinance.

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

2.3 Enforcement. The Kanabec County Environmental Services Department 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 the failure to comply with conditions and safeguards established in connection with grants of variances, conditional uses, interim uses, or any other permit or approval granted under this ordinance constitutes a misdemeanor and is punishable as defined by law. The County may undertake enforcement proceedings in regard to any such violations as set forth within this ordinance.

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 thereby.

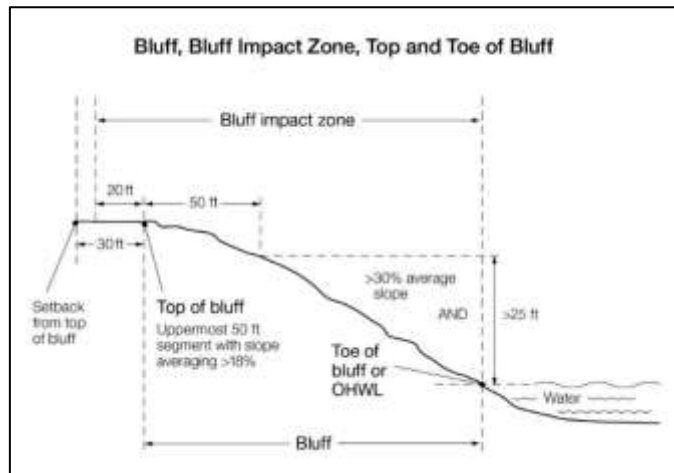
2.6 Abrogation and Greater Restrictions. It is not intended by this ordinance to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance imposes greater restrictions, the provisions of this ordinance shall prevail. All other ordinances inconsistent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

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 to give this ordinance its most reasonable application. For the purpose of this ordinance, the words "must" and "shall" are mandatory and not permissive. The word "may" is permissive. Words used in the present tense include the past tense, and words used in the singular also include the plural. All distances, unless otherwise specified, are measured horizontally.

- 2.7.1 **Accessory structure.** Any building or structure of a nature customarily incidental and subordinate to a principal use or structure
- 2.7.2 **Accessory Use.** A use incidental or subordinate to a principal use.
- 2.7.3 **Appurtenances.** Appurtenances means the visible, functional, or ornamental objects accessory to, and part of, buildings or structures.
- 2.7.4 **Agricultural Building or Structure.** Any buildings or structures existing or erected on agricultural land designed, constructed, and used principally for agricultural purposes, with the exception of dwelling units.
- 2.7.5 **Agricultural Business, Seasonal.** A seasonal business not exceeding six months in any calendar year operated on a rural farm as defined offering for sale to the general public produce or any derivative thereof grown or raised on the property.
- 2.7.6 **Agricultural Use.** The use of land for the growing and/or production of field crops, livestock, and livestock products for the production of income including, but not limited to, the following:
 - 2.7.6.1. Field crops including: barley, soybeans, corn, forage, oats, sugar beets, rye, sorghum, and sunflowers.
 - 2.7.6.2. Livestock including: dairy and beef cattle, sheep, swine, horses intended for slaughter, mules, farmed cervidae, llamas, ostriches, emus, rheas, bison, and goats.
 - 2.7.6.3. Poultry and game birds.
 - 2.7.6.4. Horticulture or nursery stock, fruit, vegetables, timber, trees, bees, and fur-bearing animals.
 - 2.7.6.5. Lands enrolled in a government conservation program.
 - 2.7.6.6. Incidental and accessory activities and uses including, but not limited to:
 - 2.7.6.6.1. Pasture, woodland or wetlands, or wildlife land held and/or operated in conjunction with other agriculture uses described in this definition.
 - 2.7.6.6.2. Preparing, packing, treating, storing, or disposing of the products or by-products raised on the premises described in this definition.
 - 2.7.6.6.3. Retail selling by the producer of products raised on premises described in this definition.
- 2.7.7 **Animal feedlot.** A facility as defined by Minnesota Rules, part 7020.0300.
- 2.7.8 **Bluff.** A topographic feature such as a hill, cliff, or embankment having the following characteristics:
 - 2.7.8.1. Part or all of the feature is located in a shoreland area;
 - 2.7.8.2. The slope rises at least 25 feet above the toe of bluff;
 - 2.7.8.3. The grade of the slope from the toe of the bluff to a point 25 feet or more above the toe of the bluff averages 30 percent or greater, except that an area

with an average slope of less than 18 percent over a distance of at least 50 feet shall not be considered part of the bluff; and

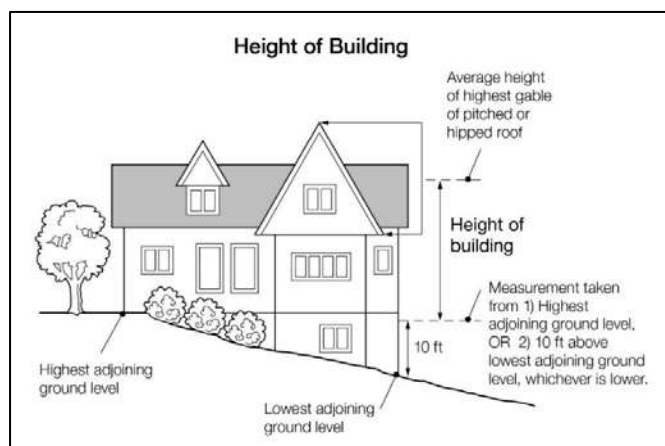
- 2.7.8.4. The slope must drain toward the waterbody.



- 2.7.9 **Bluff impact zone.** A bluff and land located within 20 feet of the top of a bluff.
- 2.7.10 **Bluff, Toe of.** The lower point of a 50-foot segment with an average slope exceeding 18 percent or the ordinary high water level, whichever is higher.
- 2.7.11 **Bluff, Top of.** For the purposes of measuring setbacks, the higher point of a 50-foot segment with an average slope exceeding 18 percent.
- 2.7.12 **Boathouse.** A facility as defined by Minnesota Statutes Section 103G.245.
- 2.7.13 **Buffer.** A vegetative feature as defined by Minnesota Statutes, Section 103F.48.
- 2.7.14 **Building.** Any structure, either temporary or permanent, for the shelter, support or enclosure of persons, animals, chattel or property of any kind; and when separated by party walls without openings, each portion of such building s so separated shall be deemed a separate building.
- 2.7.15 **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.
- 2.7.16 **Controlled access lot.** A lot used to access public waters or as a recreation area for owners of nonriparian lots within the same subdivision containing the controlled access lot.
- 2.7.17 **Commercial planned unit developments.** Developments that provide transient, short-term lodging spaces, rooms, or parcels and their operations are essentially service-oriented. For example, hotel/motel accommodations, resorts, recreational vehicle and camping parks, and other primarily service-oriented activities are commercial planned unit developments.
- 2.7.18 **Commercial use.** The principal use of land or buildings for the sale, lease, rental, or trade of products, goods, or services.
- 2.7.19 **Commissioner.** The commissioner of the Department of Natural Resources.
- 2.7.20 **Conditional use.** A land use or development as defined by ordinance and by Minnesota Statutes Section 394.22, subd. 7, or successor statutes, that would not be appropriate generally but may be allowed with appropriate restrictions upon a finding that: (1) certain conditions as detailed in the zoning ordinance exist, and (2) the use or development

conforms to the comprehensive land use plan of the community and (3) is compatible with the existing neighborhood.

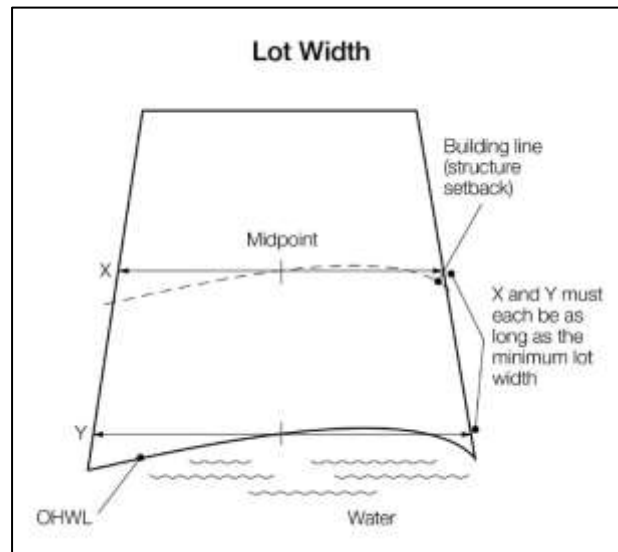
- 2.7.21 **Deck.** A horizontal, unenclosed platform with or without attached railings, seats, trellises, or other features, attached or functionally related to a principal use or site and at any point extending more than three feet above ground.
- 2.7.22 **Dock.** A platform extending along shore or protruding out from the shore into a body of water for the mooring, loading and use of boats or for recreational use.
- 2.7.23 **Duplex, triplex, and quad.** A dwelling structure on a single lot, having two, three, and four units, respectively, attached by common walls and each unit equipped with separate sleeping, cooking, eating, living, and sanitation facilities.
- 2.7.24 **Dwelling site.** A designated location for residential use by one or more persons using temporary or movable shelter, including camping and recreational vehicle sites.
- 2.7.25 **Dwelling unit.** Any structure or portion of a structure, or other shelter designed as short- or long-term living quarters for one or more persons, including rental or timeshare accommodations such as motel, hotel, and resort rooms and cabins.
- 2.7.26 **Expansion, enlargement, or intensification.** Any increase in a dimension, size, area, volume, or height; any increase in the area of use; any placement of a structure or part thereof where none existed before; any addition of a site feature such as a deck, platform, fence, driveway, parking area, or swimming pool; any improvement that would allow the land to be more intensely developed; any move of operations to a new location on the property; or any increase in intensity of use based on a review of the original nature, function or purpose of the nonconforming use, the hours of operation, traffic, parking, noise, exterior storage, signs, exterior lighting, types of operations, types of goods or services offered, odors, area of operation, number of employees, and other factors deemed relevant by the County.
- 2.7.27 **Extractive use.** The use of land for surface or subsurface removal of sand, gravel, rock, industrial minerals, other nonmetallic minerals, and peat not regulated under Minnesota Statutes, Sections 93.44 to 93.51.
- 2.7.28 **Forest land conversion.** The clear cutting of forested lands to prepare for a new land use other than reestablishment of a subsequent forest stand.
- 2.7.29 **Frost Free Footings.** Frost Free Footings means footing depth of five feet from the bottom of footing to grade
- 2.7.30 **Guest cottage.** A structure used as a dwelling unit that may contain sleeping spaces and kitchen and bathroom facilities in addition to those provided in the primary dwelling unit on a lot.
- 2.7.31 **Height of building.** The vertical distance between the highest adjoining ground level at the building or ten feet above the lowest adjoining ground level, whichever is lower, and the highest point of a flat roof or average height of the highest gable of a pitched or hipped roof.



- 2.7.32 **Impervious surface.** A constructed hard surface that prevents or retards entry of water into the soil and causes water to run off the surface in greater quantities and at an increased rate of flow than prior to development, including rooftops; decks; sidewalks; patios; swimming pools; parking lots; concrete, asphalt, or gravel driveways; and other similar surfaces.
- 2.7.33 **Improved Lot.** A lot that contains a single family dwelling ready for immediate use as determined by Kanabec County, which is served by a subsurface sewage treatment system or public sewer and water supply that provides running indoor water service.
- 2.7.34 **Industrial use.** The use of land or buildings for the production, manufacture, warehousing, storage, or transfer of goods, products, commodities, or other wholesale items.
- 2.7.35 **Intensive vegetation clearing.** The substantial removal of trees or shrubs in a contiguous patch, strip, row, or block.
- 2.7.36 **Interim Use.** An "interim use" is a temporary use of a property until a particular date, until the occurrence of a particular event, or until zoning regulations no longer permit it.
- 2.7.37 **Industrialized/modular building.** "Industrialized/modular building" means a building of closed construction, constructed so that concealed parts or processes of manufacture cannot be inspected at the site, without disassembly, damage, or destruction, and made or assembled in manufacturing facilities, off the building site, for installation, or assembly and installation, on the building site. "Industrialized/modular building" includes, but is not limited to, modular housing that is factory-built single-family and multifamily housing, including closed wall panelized housing, and other modular, nonresidential buildings. "Industrialized/modular building" does not include a structure subject to the requirements of the National Manufactured Home Construction and Safety Standards Act of 1974 or prefabricated buildings, as defined in part 1360.0200, subpart 15.
- 2.7.38 **Lot.** A parcel of land designated by plat, metes and bounds, registered land survey, auditors plot, or other accepted means and separated from other parcels or portions by said description for the purpose of sale, lease, or separation.
- 2.7.39 **Lot of Record.** Lot of record means a lot which is part of a subdivision approved in accordance with land subdivision requirements, a plat of which has been lawfully recorded; or a parcel of land, the deed of which was lawfully recorded in the same office prior to effective date of the first Kanabec County Shoreland Management Ordinance. January 1, 1972.

2.7.40 **Lot width.** The minimum distance between:

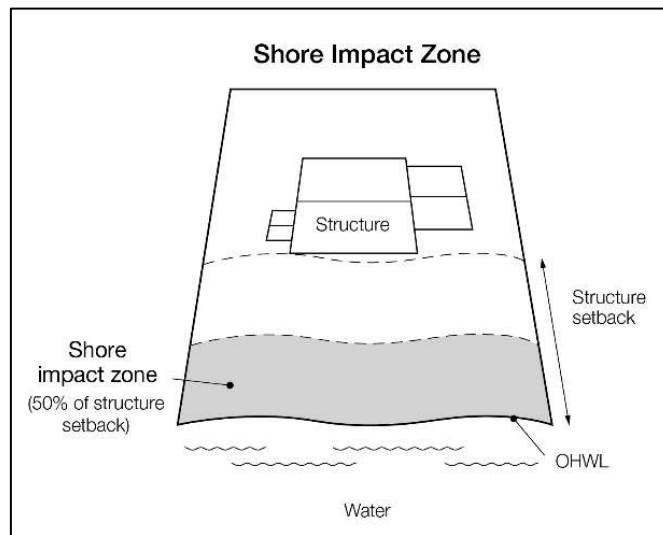
- 2.7.40.1. Side lot lines measured at the midpoint of the building line; and
- 2.7.40.2. Side lot lines at the ordinary high water level, if applicable.



- 2.7.41 **Manufactured home.** "Manufactured home" means a structure, transportable in one or more sections, which in the traveling mode is eight body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein; except that the term includes any structure which meets all the requirements and with respect to which the manufacturer voluntarily files a certification required by the secretary and complies with the standards established under Minnesota Statutes, chapter 327.
- 2.7.42 **Metallic minerals and peat.** "Metallic minerals and peat" has the meaning given under Minnesota Statutes, Sections 93.44 to 93.51.
- 2.7.43 **Nonconformity.** This means the same as the term is defined in Minnesota Statutes Section 394.22, subdivision 8, and means 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.
- 2.7.44 **Ordinary high water level.** The boundary of public waters and wetlands, and shall be an elevation delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape, commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial. For watercourses, the ordinary high water level is the elevation of the top of the bank of the channel. For reservoirs and flowages, the ordinary high water level is the operating elevation of the normal summer pool.

- 2.7.45 **Planned unit development.** A type of development characterized by a unified site design for a number of dwelling units or dwelling sites on a parcel, whether for sale, rent, or lease, and also usually involving clustering of these units or sites to provide areas of common open space, density increases, and a mix of structure types and land uses. These developments may be organized and operated as condominiums, time-share condominiums, cooperatives, full fee ownership, commercial enterprises, or any combination of these, or cluster subdivisions of dwelling units, residential condominiums, townhouses, apartment buildings, dwelling grounds, recreational vehicle parks, resorts, hotels, motels, and conversions of structures and land uses to these uses.
- 2.7.46 **Patio.** An open recreation area that is made out of any material and within a foot of pre-existing grade. A patio may not have railings, trellises, seats or any other features that extend more than one foot above pre-existing or natural grade.
- 2.7.47 **Platform.** A horizontal, unenclosed structure without railings, seats, trellises or other features that is attached or functionally related to a principal use or structure at ground level, or at any point above ground level but less than three (3) feet above the ground. If a structure has railings, trellises, seats or other features then it shall be considered to be and regulated as a deck, regardless of the height above ground level.
- 2.7.48 **Principal Use.** Principal use means the primary or predominant use of any lot or parcel.
- 2.7.49 **Privacy Fence.** Privacy Fence means a fence that creates at least 50% opaque view.
- 2.7.50 **Public Open Spaces.** Parks, playgrounds, trails, paths, and other recreational areas and open spaces; scenic and historic sites and other places where the public is directly or indirectly invited to visit or permitted to congregate.
- 2.7.51 **Public waters.** Any water as defined in Minnesota Statutes, Section 103G.005, Subd. 15, 15a.
- 2.7.52 **Residential planned unit development.** A use where the nature of residency is nontransient and the major or primary focus of the development is not service-oriented. For example, residential apartments, manufactured home parks, time-share condominiums, townhouses, cooperatives, and full fee ownership residences would be considered as residential planned unit developments. To qualify as a residential planned unit development, a development must contain at least five dwelling units or sites.
- 2.7.53 **Riparian.** Riparian means a lot or parcel which has contiguous frontage on a river, stream or lake.
- 2.7.54 **Recreational vehicle.** Licensed recreational vehicles such as campers, travel trailers and wheel houses
- 2.7.55 **Resort.** "Resort" has the meaning in Minnesota Statute, Section 103F.227.
- 2.7.56 **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.
- 2.7.57 **Sensitive Resource Management.** Sensitive Resource Management means the preservation and management of areas unsuitable for development in their natural state due to constraints such as shallow soils over groundwater or bedrock, highly erosive or expansive soils, steep slopes, susceptibility to flooding, or occurrence of flora or fauna in need of special protection.

- 2.7.58 **Setback.** The minimum horizontal distance between a structure, sewage treatment system, or other facility and an ordinary high water level, sewage treatment system, top of a bluff, road, highway, property line, or other facility.
- 2.7.59 **Sewage treatment system.** “Sewage treatment system” has the meaning given under Minnesota Rules, part 7080.1100, Subp. 82.
- 2.7.60 **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.
- 2.7.61 **Shore impact zone.** Land located between the ordinary high water level of a public water and a line parallel to it at a setback of 50 percent of the structure setback.



- 2.7.62 **Shoreland.** “Shoreland” means land located within the following distances from public waters:
- 2.7.62.1. 1,000 feet from the ordinary high water level of a lake, pond, or flowage; and 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.



- 2.7.63 **Shore recreation facilities.** Swimming areas, docks, watercraft mooring areas and launching ramps and other water recreation facilities.
- 2.7.64 **Significant historic site.** Any archaeological site, standing structure, or other property that meets the criteria for eligibility to the National Register of Historic Places or is listed in the State Register of Historic Sites, or is determined to be an unplatted cemetery that falls under the provisions of Minnesota Statutes, Section 307.08. A historic site meets these criteria if it is presently listed on either register or if it is determined to meet the qualifications for listing after review by the Minnesota state archaeologist or the director of the Minnesota Historical Society. All unplatted cemeteries are automatically considered to be significant historic sites.
- 2.7.65 **Steep slope.** Lands having average slopes over 12 percent, as measured over horizontal distances of 50 feet or more, which are not bluffs.
- 2.7.66 **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.
- 2.7.67 **Subdivision.** Land that is divided for the purpose of sale, rent, or lease, including planned unit developments.
- 2.7.68 **Suitability analysis.** An evaluation of land to determine if it is appropriate for the proposed use. The analysis considers factors relevant to the proposed use and may include the following features: susceptibility to flooding; existence of wetlands; soils, erosion potential; slope steepness; water supply, sewage treatment capabilities; water depth, depth to groundwater and bedrock, vegetation, near-shore aquatic conditions unsuitable for water-based recreation; fish and wildlife habitat; presence of significant historic sites; or any other relevant feature of the natural land.
- 2.7.69 **Vacation Rental Homes.** Vacation rental homes renting for thirty (30) consecutive days or less (except those located within planned unit developments whose legal documents regulate unit rentals).
- 2.7.70 **Variance.** "Variance" means the same as is defined in Minnesota Statutes, Section 394.22, subd. 10
- 2.7.71 **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, saunas, 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.
- 2.7.72 **Water-dependent use.** The use of land for commercial, industrial, public or semi-public purposes, where access to and use of a public water is an integral part of the normal conduct of operation. Marinas, resorts, and restaurants with transient docking facilities are examples of commercial uses typically found in shoreland areas.
- 2.7.73 **Wetland.** "Wetland" has the meaning given under Minnesota Statutes Section 103G.005, subdivision 19, and Minnesota Rule, part 8420.0111.

3.0 ADMINISTRATION OF ORDINANCE

3.1 Environmental Services Department

- 3.1.1 **Creation of office.** The office of the Environmental Services Department is hereby established for which the Board of County Commissioners may appoint such employee or employees of the county as it may deem proper.

3.2 APPEALS AND THE BOARD OF ADJUSTMENT

- 3.2.1 **Creation and membership.** A Board of Adjustment has hereby been established by the Kanabec County Board of Commissioners. The Board of Adjustment shall be appointed by the County Board of Commissioners and shall consist of three members and one alternate, whereas one member must also be a member of the Planning Commission. The County Board shall appoint members to the Board of Adjustment for terms as follows:
- 3.2.1.1. Members of the Board shall be appointed for three-year terms beginning January 1. Members may be removed from office by the County Board for good cause shown. Every attempt shall be made to obtain a cross section of the county in appointing members to the Board, and at least two members of the Board of Adjustment must reside or own property in an unincorporated area of the county.
- 3.2.1.2. No elected officer of the county, nor any employee of the county, shall serve as a member of the Board of Adjustment. The members of the Board of Adjustment shall be compensated as determined by the County Board and shall be paid their necessary expenses in the conduct of the business of the Board.
- 3.2.1.3. Members shall not vote on issues on which they have a conflict of interest. Any question of whether a particular issue involves a conflict of interest sufficient to disqualify a regular Board member from voting thereon shall be decided by majority vote of regular Board members, except the member who is challenged.
- 3.2.1.4. The Board of Adjustment shall elect a Chairperson and Vice-Chairperson from among its members and it shall appoint a Secretary who need not be a member of the Board. It shall adopt rules for the transaction of its business. Such rules may include provisions for the giving of oaths to witness and the filing of written briefs by the parties. The Board shall provide a public record of its proceedings which shall include the minutes of its meetings, its findings and the action taken on each matter heard by it, including the final order.
- 3.2.1.5. Meetings of the Board of Adjustment shall be held at the call of the Chair and at such other times as the Board in its rules of procedure may specify.
- 3.2.2 **General duties and responsibilities; variances and administrative appeals.**
- 3.2.2.1. The Board of Adjustment shall act upon all requests for variances and upon all questions as they may arise in the administration of this chapter, including the interpretation of zoning maps, and it shall hear and decide appeals from and review any order, requirement, decision or determination made by any administrative official charged with enforcing this chapter. Such appeal may

be taken by any person, firm or corporation aggrieved, or by any officer, department, board or bureau of a town, municipality, county or state.

3.2.2.2. Hearings by the Board of Adjustment shall be held within such time and upon such notice to interested parties as is provided in its adopted rules of procedure. The Board of Adjustment shall establish criteria necessary in its rules of procedure for filing an application for a variance or an appeal. Written notice of hearings held by the Board of Adjustment shall be sent to affected property owners as provided by law. The Board of Adjustment shall make its decision at the hearing or within a reasonable period of time after the hearing, but may continue the hearing to such length of time as it deems necessary to properly consider each case.

3.2.2.3. The Board of Adjustment may reverse or affirm wholly or partly, or may modify the order, requirement, decision or determination appealed from and, to that end, shall have all powers of the officer to whom the appeal was taken and direct the issuance of a permit. The reasons for the Board's decision shall be stated in writing.

3.2.3 Variance authority.

3.2.3.1. The Board of Adjustment shall have the exclusive power to order issuance of variances from the terms of any official control including restrictions placed on non-conformities. Variances shall only be permitted when they are in harmony with the general purpose and intent of the official control, and when the variances are consistent with the Comprehensive Plan. Variances may be granted when the applicant for the variance establishes the criteria under 3.2.4 are met and there are practical difficulties in complying with the official control.

3.2.3.2. Practical difficulties, as used in connection with the granting of a variance, means that the property owner proposes to use the property in a reasonable manner not permitted by an official control; the plight of the landowner is due to circumstances unique to the property not created by the landowner; and the variance, if granted, will not alter the essential character of the locality. Economic considerations alone do not constitute practical difficulties. Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems.

3.2.3.3. Variances shall be granted for earth sheltered construction as defined by M.S. § 216C.06, subd. 14, as it may be amended from time to time, when in harmony with the official controls.

3.2.3.4. No variance may be granted that would allow any use that is not allowed in the zoning district in which the subject property is located.

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

3.2.3.6. For properties with existing sewage treatment systems, a certificate of compliance, consistent with Minnesota Rules Chapter 7082.0700 Subp. 3, is required for variance approval. A sewage treatment system shall be

considered compliant if the only deficiency is the system's improper setback from the ordinary high water level.

3.2.4 Findings.

3.2.4.1. The Board of Adjustment will review variance petitions and consider the following factors prior to finding that a practical difficulty has been presented. The applicant must provide a statement of evidence addressing the following elements to the extent they are relevant to the applicant's situation.

3.2.4.1.1. The granting of the variance will be in harmony with the County Comprehensive Plan.

3.2.4.1.2. The property owner proposes to use the property in a reasonable manner not permitted by an official control.

3.2.4.1.3. The plight of the owner is due to circumstances unique to the property not created by the owner.

3.2.4.1.4. The proposal does not alter the essential character of the locality.

3.2.4.1.5. The practical difficulty cannot be alleviated by a method other than a variance; and

3.2.4.1.6. The granting of the variance will not adversely affect the environmental quality of the area.

3.2.4.2. The Board of Adjustment may grant a variance if it finds that all of the above factors have been established. The Board of Adjustment must not approve a variance request unless the applicant proves all of the above factors and established that there are practical difficulties in complying with official controls. The burden of proof of these matters rests completely on the applicant.

3.2.4.3. In addition to applying the factors above, in all situations where an applicant has applied for any variance "after-the-fact", the Board may factor into its decision any elements of "bad faith".

3.2.5 Procedure.

3.2.5.1. The person applying for a hearing before the Board of Adjustment shall fill out and submit to the Environmental Services Department a hearing application form as required by the Department, and fee as determined by the County Board. It shall be the responsibility of the applicant to provide all information necessary for the Board of Adjustment to reach a decision. All applications for variances must be accompanied by the following, unless the Environmental Services Department determines it is not needed for a proper review:

3.2.5.1.1. A certificate of survey and a site plan which shows all existing and proposed structures, well, septic systems and other pertinent data;

3.2.5.1.2. A topographic grading plan showing all grading, surface water flow and erosion control; and

- 3.2.5.1.3. A certificate of compliance for the septic system. If the system is non-compliant, needs to be enlarged, or a new system is proposed, a full design for the system may be needed.
- 3.2.5.2. The Environmental Services Department shall refer the application to the Board of Adjustment for review. Notice shall be provided as required by M.S. § 394.26, as it may be amended from time to time.
- 3.2.5.3. The Board of Adjustment shall hold a public hearing on the proposal. The petitioner or his or her representative shall appear before the Board in order to answer questions concerning the proposal.
- 3.2.5.4. The Board of Adjustment may approve, approve with modifications or conditions or deny an application based on the information available and findings of the Board. All decisions by the Board of Adjustment shall be final; except that, any aggrieved person or persons, or any department, board or commission of the jurisdiction or of the state shall have the right to appeal within 30 days, after receipt of notice of the decision, to the District Court in the county in which the land is located on questions of law and fact.
- 3.2.5.5. A certified copy of any order issued by the Board of Adjustment acting upon an appeal from an order, requirement or decision or determination by an administrative official, or a request for a variance, shall be filed with the County Recorder. The order issued by the Board of Adjustment shall include the legal description of the property involved. The Environmental Services Department shall be responsible for the document recording requirements of this section.
- 3.2.5.6. Any violation of a condition or ruling made by the Board of Adjustment shall be a violation of this chapter. Failure to comply with any ruling of the Board of Adjustment shall void any variance or special permit granted by the Board of Adjustment.
- 3.2.5.7. A variance shall be valid for a period of one year and, if not acted upon by the applicant or his or her assigns within that time, the variance shall be void.

3.3 PLANNING COMMISSION.

- 3.3.1 The County Board of Commissioners shall appoint a Planning Commission. The Planning Commission shall consist of not less than five members and not more than eleven members as determined from time to time by the County Board of Commissioners. At least two members shall be residents of the portion of the county outside of the corporate limits of municipalities. No more than one member shall be an officer or employee of the County. At least one member shall be a shoreland resident. Terms of office shall be as follows:
 - 3.3.1.1. One member from the Board of County Commissioners serving a one-year term; and
 - 3.3.1.2. Other county representatives (residents) shall serve a three-year term (a three-year staggered term; two members each year).
- 3.3.2 The removal of any member for non-performance of duty or misconduct in office shall be by resolution of the County Board of Commissioners

- 3.3.3 Vacancies shall be filled in the same manner as a new member; except that, the term of office shall be for the remainder of the term of the vacated commission member.

3.4 ZONING AMENDMENTS.

3.4.1 **Criteria for granting zoning amendments:**

- 3.4.1.1. The County Board of Commissioners may adopt amendments to this chapter and in relation both to land uses within a particular district or to the location of the district lines.
- 3.4.1.2. Such amendments shall not be issued indiscriminately, but shall only be used as a means to reflect changes in the goals and policies of the community as reflected in changes in conditions in the county.

3.4.2 **Procedure.**

- 3.4.2.1. An amendment to the text of this chapter or the zoning map may be initiated by the County Board of Commissioners, the Planning Commission or by application of a property owner. Any amendment not initiated by the Planning Commission shall be referred to the Planning Commission for review and may not be acted upon by the Board until it has received the Planning Commission recommendations. Individuals wishing to initiate an amendment application form shall submit it to the Environmental Services Department.
- 3.4.2.2. Written notice of public hearings on the proposed amendment shall be sent to the governing bodies of towns and municipalities located within two miles of the property to be rezoned within the county. In unincorporated areas, the property owners of record within one-half mile of the property zoning amendment. In incorporated areas, the property owners within 500 feet of the property in question shall be notified in writing of the proposed zoning amendment.
- 3.4.2.3. The County Board shall hold a public hearing on any request for a zoning amendment, in the manner specified by Minnesota law. Notice of said hearing shall be published in the official newspaper designated by the County Board.
- 3.4.2.4. The County Board must take action on the application within 60 days following referral by the Planning Commission. The person making the application shall be notified of the action taken. The Environmental Services Department shall maintain records of amendments to the text and zoning map of this chapter.
- 3.4.2.5. No application of a property owner for an amendment to the text of this chapter or the zoning map shall be considered by the Planning Commission within one-year period following denial of such request; except, the Planning Commission may permit a new application, if in the opinion of the Planning Commission, new evidence or a change of circumstances warrant it.

3.4.3 **OFFICIAL MAPS**

- 3.4.3.1. **Development Procedure.** The Planning Commission may develop and recommend for adoption by the board official maps and amendments thereto covering all or a portion of the unincorporated area of the County. Public hearings on proposed official maps and amendments thereto shall be held in accordance with the provisions of Minnesota Statutes Section 394.26. The

official map and amendments thereto may be adopted and amended by the board.

- 3.4.3.2. All official maps shall be prepared in sufficient detail to permit the establishment of future acquisition lines on the ground. In unplatted areas a minimum of a centerline survey shall have been made prior to the preparation of the final draft of the official map. The accuracy of the future acquisition lines shall be attested to by the county surveyor.
- 3.4.3.3. Copies of official maps and amendments shall be filed in accordance with Minnesota Statutes Section 394.35.
- 3.4.3.4. One copy of the official map shall be furnished to the town clerk of each affected town.

3.5 PERMITS REQUIRED.

- 3.5.1 A permit is required for the construction of buildings or building additions (and including such related activities as construction of decks and signs), the installation and/or alteration of sewage treatment systems, and those grading and filling activities not exempted by Section 9.3 of this ordinance. Application for a permit shall be made to the Environmental Services Department on the forms provided. The application shall include the necessary information so that the Environmental Services Department can determine the sites suitability for the intended use and that complaint sewage treatment system will be provided. Permits expire after one year, however a six month extension may be granted by the Environmental Services Department upon written request.
- 3.5.2 A permit authorizing an addition to an existing structure shall stipulate that an identified nonconforming sewage treatment system, as defined by Section 7.5, shall be reconstructed
- 3.5.3 or replaced in accordance with the provisions of this ordinance.

3.6 CONDITIONAL USE PERMITS

- 3.6.1 **Criteria for granting conditional use permits.** In considering a conditional use permit, the County Planning Commission shall consider the effect of the proposed use upon the health, safety, morals and general welfare of occupants of surrounding lands. Among other things, the County Planning Commission shall make the following findings where applicable:
 - 3.6.1.1. The conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the immediate vicinity.
 - 3.6.1.2. The establishment of the conditional use will not impede the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.
 - 3.6.1.3. Adequate utilities, access roads, drainage and other necessary facilities have been or are being provided.
 - 3.6.1.4. Adequate measures have been or will be taken to provide sufficient off-street parking and loading space to serve the proposed use.
 - 3.6.1.5. The use is not in conflict with the Comprehensive Plan of the county.

- 3.6.1.6. Adequate measures have been taken or will be taken to prevent or control offensive odor, fumes, dust, noise and vibration, so that none of these will constitute a nuisance, and to control lighted signs and other lights in such a manner that no disturbance to neighboring properties will result.

3.6.2 **Additional Factors to consider.**

- 3.6.2.1. In evaluating the proposed conditional use the planning commission will consider the waterbody and the topographic, vegetation, and soil conditions of the site to ensure, to the extent possible:
- 3.6.2.2. The prevention of soil erosion or other possible pollution of public waters, both during and after construction;
- 3.6.2.3. The visibility of structures and other facilities as viewed from public waters is limited;
- 3.6.2.4. There is adequate water supply and on-site sewage treatment; and
- 3.6.2.5. The types, uses, and numbers of watercraft that the project will generate are compatible in relation to the suitability of public waters to safely accommodate these watercraft.

3.6.3 **Additional Conditions.**

- 3.6.3.1. In considering a new conditional use or the alteration of an existing conditional use, the Planning Commission may recommend to the County Board, and the County Board may impose, in addition to these standards and requirements expressly specified by this chapter, additional conditions which the County Board considers necessary to protect the best interest of the surrounding area or the community as a whole. These conditions may include, but are not limited to, the following:
 - 3.6.3.1.1. Increasing the required lot size or yard dimension;
 - 3.6.3.1.2. Limiting the height, size or location of buildings;
 - 3.6.3.1.3. Controlling the location and number of vehicle access points;
 - 3.6.3.1.4. Increasing the street width;
 - 3.6.3.1.5. Increasing the number of required off-street parking spaces;
 - 3.6.3.1.6. Limiting the number, size, location or lighting of signs;
 - 3.6.3.1.7. Requiring diking, fencing, screening, landscaping or other facilities to protect adjacent or nearby property; and
 - 3.6.3.1.8. Designating sites for open space.
- 3.6.3.2. Any change involving structural alterations, enlargements, intensification of use or similar change not specifically permitted by the conditional use permit issued shall require an amended conditional use permit and all procedures shall apply as if a new permit were being issued. The County Environmental Services Department shall maintain a record of all conditional use permits.

3.6.4 Procedure.

- 3.6.4.1. The person applying for a conditional use permit shall fill out and submit to the Environmental Services Department a conditional use application form.
- 3.6.4.2. The Environmental Services Department shall refer the application to the Planning Commission for review.
- 3.6.4.3. The Planning Commission shall hold a public hearing on the proposal. Notice of the public hearing shall be published in the official newspaper designated by the County Board at least ten days prior to the hearing. Notice of the hearing shall also be submitted to the governing bodies of all towns and municipalities within two miles of the property under consideration located within the county. In unincorporated areas of the county, property owners of record within one-quarter mile of the affected property or the ten properties nearest to the affected property, whichever is the greatest number of property owners shall be notified in writing of the public hearing on the request for conditional use permit.
- 3.6.4.4. The petitioner or his or her representative shall appear before the Planning Commission in order to answer questions concerning the proposed conditional use.
- 3.6.4.5. An amended conditional use permit application shall be administered in a matter similar to that required for a new special use permit. Amended special use permit shall include requests for changes in conditions.
- 3.6.4.6. No application for a conditional use permit shall be resubmitted for a period of six months from the date of said order of denial. Conditional use permits shall be valid for six months unless otherwise specified. All conditions in a conditional use permit shall be commenced within six months and shall be complied with within one year unless otherwise specified.
- 3.6.4.7. If a time limit or periodic review is included as a condition by which a conditional use permit is granted, the conditional use permit may be reviewed at a public hearing with notice of said hearing published at least ten days prior to the review.
- 3.6.4.8. The Planning Commission shall send its recommendation and findings to the County Board.
- 3.6.4.9. The County Board will consider the Planning Commission's recommendation and make a final decision on the application and place any appropriate conditions on approved applications.
- 3.6.4.10. In the event that the applicant violates any of the conditions set forth in this permit, the County Board shall have the authority to revoke the conditional use permit.
- 3.6.4.11. A certified copy of any conditional use permit shall be filed with the County Recorder. The conditional use permit shall include the legal description of the property involved. The Environmental Services Department shall be responsible for the document recording requirements of this section.

3.7 INTERIM USE PERMITS

3.7.1 General

- 3.7.1.1. Interim use permits (IUP) may be issued for the uses or purposes for which such permits are required or permitted by provisions of this Ordinance.
- 3.7.1.2. Any IUP issued under this Ordinance is granted solely to the applicant and/or the business entity named in the application, and for the premises named in the IUP application. No IUP of any sort granted pursuant to this Ordinance is transferable to any other person or premises. If a change of ownership, control, or location of any licensed premises occurs, whether pursuant to move, sale, transfer, assignment, or otherwise, the owner or proposed new owner must complete a new application subject to approval pursuant to this Ordinance.
- 3.7.1.3. Interim use permits shall be valid for a period of time specified by the conditions of the IUP. Interim use permits shall expire after the specified period of time in the conditions, unless renewed before the expiration date. Once an IUP is renewed, it will have to be renewed annually to prevent expiration of the IUP.

3.7.2 Application

- 3.7.2.1. Applications for interim use permits along with the accompanying fee shall be submitted to the Environmental Services Department on forms supplied by the Environmental Services Department for that purpose.
- 3.7.2.2. The application must include sufficient information to allow the Environmental Services Department to find that the standards and criteria stated in this ordinance for the granting of such permit can or cannot be satisfied, including but not limited to a description of the proposed use, site plans, and surrounding land use.

3.7.3 Procedure upon application

- 3.7.3.1. Upon receipt of an application, the Environmental Services Department shall respond in accordance with Minnesota Statute 15.99.
- 3.7.3.2. Upon receipt of an application, the Environmental Services Department shall review the application as to form, completeness, and compliance with the provisions of this ordinance. If found to be complete, the Environmental Services Department shall process the application.
- 3.7.3.3. An application deemed complete by the Environmental Services Department will be considered at the next appropriate Planning Commission meeting as an application for an Interim Use Permit. The Planning Commission shall conduct a public hearing on the application and make a recommendation on the application to the County Board.
- 3.7.3.4. The County Board will consider the Planning Commission's recommendation and make a final decision on the application and place any appropriate conditions on approved applications.

3.7.4 **Review Procedure.** In all cases the County shall consider whether:

- 3.7.4.1. The proposed use is an interim use expressly designated in the ordinance; and,
- 3.7.4.2. The proposed interim use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish or impair property values within the immediate vicinity; and,
- 3.7.4.3. The establishment of the interim use will not impede the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area; and,
- 3.7.4.4. Adequate utilities, access roads, drainage and other necessary facilities have been or are being provided; and,
- 3.7.4.5. Adequate measures have been or will be taken to provide sufficient off-street parking and loading space to serve the proposed use; and,
- 3.7.4.6. Adequate measures have been or will be taken to prevent or control offensive odor, fumes, dust, noise and vibration, so that none of these will constitute a nuisance, and to control lighted signs and other lights in such a manner that no disturbance to neighboring properties will result.
- 3.7.4.7. Applicants must submit evaluations performed by qualified individuals for the following:
 - 3.7.4.7.1. The prevention of soil erosion or other possible pollution of public waters, both during and after construction; and,
 - 3.7.4.7.2. The visibility of structures and other facilities as viewed from public waters is limited; and,
 - 3.7.4.7.3. The site is adequate for water supply and on-site sewage treatment; and,
 - 3.7.4.7.4. The types, uses, and numbers of watercraft that the project will generate are compatible in relation to the suitability of public waters to safely accommodate these watercraft.

3.7.5 **Conditions Attached to Interim Use Permits**

- 3.7.5.1. The County, upon consideration of the criteria listed above and the purposes of this ordinance, shall consider the attachment of such conditions to the interim use permit as it deems necessary to fulfill the purposes of this ordinance. Such conditions may include, but are not limited to, the following:
 - 3.7.5.1.1. Increased setbacks from the ordinary high water level;
 - 3.7.5.1.2. Limitations on the natural vegetation to be removed or the requirement that additional vegetation be planted; and
 - 3.7.5.1.3. Special provisions for the location, design, and use of structures, sewage treatment systems, watercraft launching and docking areas, and vehicle parking areas.
 - 3.7.5.1.4. Modification of waste treatment and water supply facilities.

- 3.7.5.1.5. Limitations on period of use, occupancy, and operation.
 - 3.7.5.1.6. Imposition of operational controls, sureties, and deed restrictions.
 - 3.7.5.2. Violation of any conditions, limitations, restrictions, or other safeguards, written into the terms of approval under which an Interim Use Permit has been granted, shall be deemed a violation of this Ordinance.
- 3.7.6 **Duration.** The IUP shall expire with a change of ownership, or unless otherwise required by the IUP's conditions as determined by the County Board. The IUP shall expire if the approved use is inactive for one (1) year or longer as determined by the Environmental Services Department. Interim use permits shall expire after the period of time specified by the conditions of the IUP.
- 3.7.7 **Mitigation.**
 - 3.7.7.1. In evaluating all variances, conditional uses, interim uses, and zoning and building permit applications, the County may require the property owner to address, when appropriate, the following conditions, when related to and proportional to the impact, to meet the purpose of this ordinance, to protect adjacent properties, and the public interest:
 - 3.7.7.1.1. Advanced storm water runoff management treatment;
 - 3.7.7.1.2. Reducing impervious surfaces;
 - 3.7.7.1.3. Increasing setbacks from the ordinary high water level;
 - 3.7.7.1.4. Restoration of wetlands;
 - 3.7.7.1.5. Limiting vegetation removal and/or riparian vegetation restoration;
 - 3.7.7.1.6. Provisions for the location, design, and use of structures, sewage treatment systems, water supply systems, watercraft launching and docking areas, and parking areas; and
 - 3.7.7.1.7. Other conditions the zoning authority deems necessary.
 - 3.7.7.2. In evaluating plans to construct sewage treatment systems, roads, driveways, structures, or other improvements on steep slopes, conditions to prevent erosion and to preserve existing vegetation screening of structures, vehicles, and other facilities as viewed from the surface of public waters assuming summer, leaf-on vegetation shall be attached to permits.
- 3.7.8 **Notifications to the Department of Natural Resources.**
 - 3.7.8.1. All notices of public hearings to consider variances, ordinance amendments, or conditional uses under shoreland management controls must be sent to the commissioner or the commissioner's designated representative at least thirty days before the hearings. Notices of hearings to consider proposed subdivisions/plats must include copies of the subdivision/plat.
 - 3.7.8.2. All approved ordinance amendments and subdivisions/plats, and final decisions approving variances or conditional uses under local shoreland management controls must be sent to the commissioner or the

commissioner's designated representative and postmarked within ten days of final action. When a variance is approved after the Department of Natural Resources has formally recommended denial in the hearing record, the notification of the approved variance shall also include the summary of the public record/testimony and the findings of facts and conclusions which supported the issuance of the variance.

3.7.8.3. Any request to change the shoreland management classification of public waters within Kanabec County will be sent to the commissioner or the commissioner's designated representative for approval, and will comply with Minnesota Rules, part 6120.3000, subp.4.

3.7.8.4. Any request to reduce the boundaries of shorelands of public waters within Kanabec County will be sent to the commissioner or the commissioner's designated representative for approval. The boundaries of shorelands may be reduced when the shoreland of water bodies with different classifications overlap. In these cases, the topographic divide between the water bodies shall be used for adjusting the boundaries.

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

4.0 NONCONFORMITIES

All legally established nonconformities existing as of the date of enactment of this Ordinance may continue provided that they are managed in accordance with applicable state statutes and the following standards. No nonconformity can be expanded, extended, or enlarged except as set forth in this Article.

4.1 NONCONFORMING USES

Any use legally established as of the effective date of this Ordinance which is not in conformity with the regulations contained in this Ordinance shall be considered a nonconforming use. A nonconforming use may be allowed to continue subject to the following conditions:

- 4.1.1 No nonconforming use shall be expanded, enlarged, or altered, including any increase in volume, intensity, or frequency of use of the property where a nonconforming use exists. Structural alterations, expansions, and additions to a structure devoted in whole or part to a nonconforming use are prohibited.
- 4.1.2 A change from one nonconforming use to another nonconforming use is prohibited.
- 4.1.3 A nonconforming use of a parcel of land may not be extended to cover more land than was occupied by that use when it became nonconforming.
- 4.1.4 A nonconforming use shall not be moved to any other part of the property on which it is located or to another property where it would still constitute a nonconforming use.
- 4.1.5 A lawful, nonconforming use of a structure or parcel of land may be changed to lessen the nonconformity of use. Once a nonconforming use has been so changed, it shall not thereafter be so altered to increase the nonconformity.
- 4.1.6 If a nonconforming use is replaced by a permitted use, the nonconforming status and any rights that arise under the provisions of this section of the Ordinance are terminated.

- 4.1.7 A nonconforming use that has been discontinued for a period of twelve consecutive months shall not be re-established, and any further use shall be in conformity with this Ordinance. Time will be calculated as beginning on the day following the last day in which the use was in normal operation and will run continuously thereafter.
- 4.1.8 If a structure used for a nonconforming use is damaged to the extent that the cost of replacement, reconstruction, or restoration would exceed 50 percent of its estimated market value, as indicated in the records of the County Assessor at the time of damage, then the damaged structure shall not be replaced, reconstructed, or restored except in conformity with this Ordinance.

4.2 NONCONFORMING STRUCTURES

Any structure legally established as of the effective date of this Ordinance which is not in conformity with the regulation contained in this Ordinance is a nonconforming structure and may be allowed to continue including through repair, replacement, restoration, maintenance, or improvement, but not including expansion, except in conformity with the following conditions:

- 4.2.1 No nonconforming structure shall be expanded, enlarged, or intensified without first obtaining a variance unless each of the following conditions can be met:
 - 4.2.1.1. The expansion, enlargement or intensification does not violate any other standards of this Ordinance other than regulation(s) that made the structure nonconforming in the first place.
 - 4.2.1.2. An onsite sewage treatment system can be installed in accordance with Kanabec County Septic Regulations or the nonconforming structure is connected to a public sewer.
 - 4.2.1.3. The expansion, enlargement, or intensification does not occur within a bluff or shore impact zone.
 - 4.2.1.4. Should such structure be moved for any reason for any distance whatsoever other than in a manner that brings the structure more into compliance with this Ordinance, it shall thereafter conform to this Ordinance in its entirety after the structure is moved.
- 4.2.2 A nonconforming structure that has been damaged by fire, explosion, natural disaster, or other peril to the extent of greater than 50 percent of its estimated market value, as indicated in the records of the County Assessor at the time of damage, shall not be replaced, reconstructed, restored, expanded, enlarged, or intensified except in conformity with this Ordinance with the exception that homestead and non-homestead residential real estate and seasonal residential real estate occupied for recreational purposes may be continued including through repair, replacement, restoration, maintenance, or improvement, but not including expansion, if a land use permit has been applied for within 180 days of when the property was damaged. The Department may impose reasonable conditions on the land use permit in order to mitigate any newly created impact on an adjacent property or water body.
- 4.2.3 If a nonconforming structure, which is located less than 50 percent of the required setback from the ordinary high water mark, has been damaged by fire, explosion, natural disaster, or other peril to the extent of greater than 50 percent of its estimated market value, as indicated in the records of the County Assessor at the time of damage, the Department may require an increased setback from the ordinary high water mark, if practicable and

reasonable conditions are placed on the land use permit, to mitigate created impacts on the adjacent property or water body.

- 4.2.4 Normal maintenance of a nonconforming structure including nonstructural maintenance and repair is permitted.
- 4.2.5 Any construction project for which a valid land use permit was granted before the effective date of this Ordinance may be completed although the structure would not meet newly established standards of this Ordinance.

4.3 DECK AND PLATFORM ADDITIONS

- 4.3.1 A deck or platform that does not meet setback requirements from public waters may be allowed without a variance to be added to dwelling unit structures existing on the date the shoreland structure setbacks were established by ordinance on January 1, 1972 if all of the following criteria and standards are met:
 - 4.3.1.1. A thorough evaluation of the property and structure by the Environmental Services Department reveals no reasonable location for a deck or platform meeting or exceeding the existing ordinary high water level setback of the structure;
 - 4.3.1.2. The deck or platform encroachment toward the ordinary high water level does not exceed fifteen (15) percent of the existing setback of the principal residential dwelling from the ordinary high water level, or does not encroach closer than thirty (30) feet, whichever is more restrictive.
 - 4.3.1.3. The deck or platform is constructed of environmentally friendly materials, and the deck or platform is not roofed or screened;
 - 4.3.1.4. Only one deck or platform per this Section is allowed for a dwelling unit on a lot.

4.4 NONCONFORMING LOTS OF RECORD

- 4.4.1 All lots or tracts, the plat or deed to which has been recorded in the Office of the County Recorder on or before the effective date of this Ordinance shall be considered a lot of record. Any such unimproved lot or tract may be used for the legal use for which it is zoned subject to the following conditions:
 - 4.4.1.1. The use is permitted in the shoreland district;
 - 4.4.1.2. The lot has been in separate ownership from abutting lands at all times since it became substandard;
 - 4.4.1.3. The lot was created compliant with official controls in effect at that time;
 - 4.4.1.4. The applicable setback requirements of this Ordinance are met;
 - 4.4.1.5. The lot contains a minimum contiguous lawn area, that is free of limiting factors, sufficient for the construction of two standard onsite sewage treatment systems;
 - 4.4.1.6. The lot contains an adequate supply of water for domestic purposes that meets or exceeds standards of the Minnesota Department of Health.
 - 4.4.1.7. Maximum impervious surface coverage shall be less than 25%; and

- 4.4.2 In a group of two or more contiguous lots of record under a 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:
- 4.4.2.1. The lot must be at least 66 percent of the dimensional standard for lot width and lot size for the shoreland classification consistent with Minnesota Rules, Chapter 6120.
 - 4.4.2.2. The lot must be connected to a public sewer, if available, or must be suitable for the installation of a Type I subsurface sewage treatment system in accordance with Kanabec County Septic Ordinance.
 - 4.4.2.3. Impervious surface coverage must not exceed 25 percent of each lot.
 - 4.4.2.4. Development of the lot must be consistent with the intent, purpose, and objectives of this Ordinance and the Kanabec County Comprehensive Land Use Plan.
- 4.4.3 If, in a group of two or more contiguous lots under the same ownership, any individual lot does not meet the requirements of Section 4.4.2 of this Ordinance, the lot shall not be considered as a separate parcel of land for the purposes of sale or development. The lot must be combined with one or more contiguous lots so that they equal one or more parcels of land, each meeting the lot area and lot width requirements of Section 7.2.5 of this Ordinance as much as possible.
- 4.4.4 Contiguous nonconforming lots of record under a common ownership must be able to be sold or purchased individually if each lot met the “improved lot” definition of this Ordinance at the time the lots came under common ownership and the lots are suitable for, or served by, a subsurface sewage treatment system consistent with Minnesota Rules Chapter 7080 or connected to a public sewer.
- 4.4.5 Development on lots which do not meet the development standards detailed in this section must be authorized by a variance pursuant to Section 3.2 of this Ordinance. In evaluating the variance, the Board of Adjustment shall consider sewage treatment and water supply capabilities or constraints of the lot and shall deny the variance if adequate facilities cannot be provided.
- 4.4.6 In evaluating all variances, zoning and land use permit applications, or conditional use permit applications, the County shall require the property owner to address, when appropriate, storm water runoff management, reducing impervious surfaces, increasing setback, restoration of wetlands, vegetative buffers, sewage treatment and water supply capabilities, and other conservation-designed actions.
- 4.4.7 A portion of a conforming lot may be separated from an existing parcel as long as the remainder of the existing parcel meets the lot size and sewage system requirements of the zoning district for a new lot and the newly created parcel is combined with an adjacent parcel.

4.5 NONCONFORMING SEWAGE TREATMENT SYSTEMS.

- 4.5.1 A sewage treatment system not meeting the requirements of Section 7.52 of this ordinance must be upgraded, at a minimum, at any time a permit or variance of any type is required for any improvement on, or use of, the property. Alternate septic systems installed under PCA guidelines are considered to be conforming systems.

The governing body of Kanabec County has by formal resolution notified the commissioner of its program to identify nonconforming system identified by this program within a reasonable period of time which will not exceed one year. Sewage systems installed according to all applicable local shoreland management standards adopted under Minnesota Statutes, section 105.485, in effect at the time of installation may be considered as conforming unless they are determined to be failing, systems using cesspools; leaching pits, seepage pits, or other deep disposal methods, or systems with less soil treatment area separation above groundwater than required by the Minnesota Pollution Control Agency Chapter 7080 for design of on-site sewage treatment systems, shall be considered failing.

5.0 SHORELAND CLASSIFICATION SYSTEM AND LAND USES

5.1 Shoreland Classification System.

Shoreland Classification System: Classes. The classes of public waters are natural environment lakes, recreational development lakes, general development lakes, remote river segments, agricultural river segments, urban river segments, and tributary river segments. All of the river classes except tributary consist of watercourses that have been identified as being recreationally significant on a statewide basis. The tributary class consists of all other watercourses identified in the protected waters inventory. A general description of each class follows.

“Natural environment lakes” are generally small, often shallow lakes with limited capacities for assimilating the impacts of development and recreational use. They often have adjacent lands with substantial constraints for development such as high water tables, exposed bedrock, and unsuitable soils. These lakes, particularly in rural areas, usually do not have much existing development or recreational use.

“Recreational development lakes” are generally medium-sized lakes of varying depths and shapes with a variety of landform, soil, and groundwater situations on the lands around them. They often are characterized by moderate levels of recreational use and existing year round residences and recreationally oriented commercial uses. Many of these lakes have capacities for accommodating additional development and use.

“General development lakes” are generally large, deep lakes or lakes of varying sizes and depths with high levels and mixes of existing development. These lakes often are extensively used for recreation and, except for the very large lakes, are heavily developed around the shore. Second and third tiers of development are fairly common. The larger examples in this class can accommodate additional development and use.

“Remote river segments” are primarily located in roadless, forested, sparsely populated areas of the northeastern part of the state. Common land uses include multiple-use forestry, some recreation facilities, and occasional seasonal or year- round residential. Low intensity recreational uses of these river segments and adjacent lands are common. This class has limited potential for additional development and recreational use due to land suitability and road access constraints.

“Forested river segments” are located in forested, sparsely to moderately populated areas with some roads in the north-central part of the state. Predominant land uses include multiple-use forestry, some recreation facilities, seasonal residential, and, within commuting distances of several cities, some year-round residential. Low-intensity recreational uses of these rivers and adjacent lands are common. This class has substantial potential for additional development and recreational use.

“Transition river segments” are generally either located within the Minnesota and Mississippi river valleys, or within the middle reaches of several rivers in all regions except the north central and northeast. Common land uses include forested within riparian strips and mixtures of cultivated, pasture

and forested beyond. Some seasonal and year-round residential development exists, particularly within commuting distance of major cities. The types and intensities of recreational uses within this class vary widely.

“Tributary river segments” consist of watercourses mapped in the Protected Waters Inventory that have not been assigned one of the river classes in items 5.1.4. These segments have a wide variety of existing land and recreational use characteristics. The segments have considerable potential for additional development and recreational use, particularly those located near roads and cities.

The public waters of Kanabec County have been classified below consistent with the criteria found in Minnesota Regulations, Part 6120.3000, and the Protected Waters Inventory Map for Kanabec County, Minnesota.

- 5.1.1 Purpose. To ensure that shoreland development on the public waters of Kanabec County are regulated consistent with the classifications assigned by the commissioner under Minnesota Rules, part 6120.3300.
- 5.1.2 The shoreland area for the waterbodies listed in Sections 5.1.3 to 5.1.5 are defined in Section 2.7.62 and are shown on the Zoning Map.
- 5.1.3 Lakes are classified as follows:

Lake Classification	DNR Public Waters I.D. #	Section	Township	Range
General Development				
Lake Mora (Protected Wetland)	33-34	11,12	39	24
Recreational Development				
Eleven	33-1	2,11	42	22
Pomroy	33-9	19,30;24,25	41	22;23
Mud (Quamba)	33-15	1,2,3	39	23
Spring	33-27	1,12	39	24
Knife	33-28	Various	40;41	23;24
Lewis	33-32	29,30,31,32	38	24
Devils	33-33	4;33	38;39	24
Fish	33-36	23,26,27,28 33,34	39	24
Ann	33-40	1,2,3;30:25, 35,36	39;40	25;24
Bass(Boundary lake)	58-137	6;1;31	42;43	21;22
Lory	30-96	32	38	24
Natural Environment				
Beauty	33-2	3,10	42	22
Five	33-3	4,5,8	42	22
Twelve(Protected Wetland)	33-4	12	42	22
Thirteen	33-5	12,13	42	22
Featherbed	33-6	13,24	42	22
White Lily	33-8	27,34	42	22
Peace	33-10	6;31;1,36	41;42	22;23

<i>Rice</i>	33-11	4;28,33	37;38	23
<i>Grass(Protected Wetland)</i>	33-13	13,14,23,24	38	23
<i>-Unnamed-(Protected Wetland)</i>	33-14	26	38	23
<i>Spence</i>	33-16	20,29	39	23
<i>-Unnamed-</i>	33-17	22	39	23
<i>Sells</i>	33-18	22,27	39	23
<i>*Twin or East Lake (Protected Wetland)</i>	33-19	23,26	39	23
<i>Luchts(Protected Wetland)</i>	33-21	32	40	23
<i>Full of Fish</i>	33-24	10,15	41	23
<i>Pocket Knife(Protected Wetland)</i>	33-25	32	41	23
<i>Snowshoe(protected Wetland)</i>	33-26	33	42	23
<i>Pennington</i>	33-30	13	38	24
<i>Erickson(Protected Wetland)</i>	33-31	20	38	24
<i>Kent</i>	33-35	16,21	39	24
<i>Telander(Protected Wetland)</i>	33-37	12,13	40	24
<i>Lindgren(Boundary Lake)</i>	30-144	1,2;35,36	37;38	25
<i>Long Lake(Protected Wetland)</i>	33-44	4	42	22

5.1.4 Rivers and Streams are classified as follows:

River and Stream Classification		Legal Description
Urban		
None Classified within Kanabec County		n/a
Agricultural		
None Classified Within Kanabec County		n/a
Transition		
Snake		From North Section line, Sec. 30, T40N, R23W, to Border of Pine and Kanabec Counties.
Groundhouse		From the confluence with S. Fork of Grounhouse River in Sec.7, T38N,R24W to the confluence with Snake River in Sec.6, T38N, R23W.
Ann		From outlet Fish Lake in Sec. 28, T39N,R24W to the confluence with Snake River in Sec. 24, T39N, R24W
Southfork of Groundhouse		From Mille Lacs Co. line in Sec.18, T39N,R25W to the confluence with the Groundhouse River in Sec.7, T38N, R24W
Forested		

<i>Snake</i>	<i>From North section line, Sec. 11, T41N, R23W to South Section line, Sec. 19, T40N, R23W</i>
<i>Groundhouse</i>	<i>From border of Mille Lacs and Kanabec Counties to confluence with S. Fork Groundhouse R. in Sec. 7, T38N, R24W.</i>
<i>Knife</i>	<i>All</i>
<i>Ann</i>	<i>From Ann Lake in Sec.29, T40N, R25W to Fish Lake in Sec.28, T39N, R24W.</i>
Remote	
<i>Snake</i>	<i>From border of Aitkin and Kanabec Counties to South section line, Sec. 2, T41N, R23W</i>
Tributary Streams	

- 5.1.5 All public rivers and streams shown on the Public Waters Inventory Map for Kanabec County a copy of which is adopted by reference, not given a classification in Section 5.14 shall be considered "Tributary."

5.2 Land Uses.

- 5.2.1 **Purpose.** To identify land uses that are compatible with the protection and preservation of shoreline resources in order to conserve the economic and environmental values of shoreland and sustain water quality. The following are general considerations and criteria for all land uses:

- 5.2.1.1. Preservation of natural areas;
- 5.2.1.2. Present ownership and development of shoreland areas;
- 5.2.1.3. Shoreland soil types and their engineering capabilities;
- 5.2.1.4. Topographic characteristics;
- 5.2.1.5. Vegetative cover;
- 5.2.1.6. In-water physical characteristics, values, and constraints;
- 5.2.1.7. Recreational use of the surface water;
- 5.2.1.8. Road and service center accessibility;
- 5.2.1.9. Socioeconomic development needs and plans as they involve water and related land resources;
- 5.2.1.10. The land requirements of industry which, by its nature, requires location in shoreland areas; and
- 5.2.1.11. The necessity to preserve and restore certain areas having significant historical or ecological value.

- 5.2.2 **Land Use District Descriptions.** The land use districts provided below, and the allowable land uses therein for the given classifications of water bodies, shall be properly delineated on the Zoning Map for the shorelands of this community. These land use districts are in conformance with the criteria specified in Minnesota Regulations, Part 6120.3200, Subd. 3:

Land Use District Descriptions are as follows:

- 5.2.2.1. A special protection district is intended to be used for two basic purposes. The first purpose is to limit and properly manage development in areas that are generally unsuitable for development or uses due to flooding, erosion, limiting soil conditions, steep slopes, or other major physical constraints. A second purpose is to manage and preserve areas with special historical, natural, or biological characteristics.
- 5.2.2.2. A residential district is primarily intended to allow low to medium density seasonal and year round residential uses on lands suitable for such uses. It is also intended to prevent establishment of various commercial, industrial, and other uses in these areas that cause conflicts or problems for residential uses. Some nonresidential uses with minimal impacts on residential uses are allowed if properly managed under conditional use procedures.
- 5.2.2.3. A mixed use district is intended to be used to provide for existing or future commercial and/or residential uses in the shoreland district.
- 5.2.3 Shoreland district land uses listed in Sections 5.2.2 are regulated as:
 - 5.2.3.1. **Permitted uses (P).** These uses are allowed, provided all standards in this ordinance are followed;
 - 5.2.3.2. **Conditional uses (C).** These uses are allowed through a conditional use permit. The use must be evaluated according to the criteria in Section 3.6 of this ordinance and any additional conditions listed in this ordinance; and
 - 5.2.3.3. **Not permitted uses (N).** These uses are prohibited.
- 5.2.4 The shorelands of Kanabec County, Minnesota, are hereby designated with the following land use district(s):
 - 5.2.4.1. Residential District
 - 5.2.4.2. Mixed Use District
 - 5.2.4.3. Special Protection District

RESIDENTIAL LAND USE DISTRICT (LAKES)		
C-Conditional Use P-Permitted N-Non-Permitted		
Land Uses	Recreational Development	Natural Environment
Single residential	P	P
Duplex, triplex, quad residential	N	N
Residential PUD	N	N
Water-dependent commercial - As accessory to a residential planned unit development	N	N
Commercial	N	N
Commercial PUD - Limited expansion of a commercial planned unit development involving up to six additional dwelling units or sites may be allowed as a permitted use provided the provisions of Section 11.0 of this ordinance are satisfied.	N	N
Parks & historic sites	C	C

Public, semipublic	C	C
Industrial	N	N
Agricultural: cropland and pasture	P	P
Agricultural feedlots – New	N	N
Agricultural feedlots - Expansion or resumption of existing	N	N
Forest management	P	P
Forest land conversion	C	C
Extractive use	N	N
Mining of metallic minerals and peat	N	N

MIXED USE LAND USE DISTRICT (LAKES)		
C-Conditional Use P-Permitted N- Non-permitted		
Land Uses	Recreational Development	Natural Environment
Single residential	P	P
Duplex, triplex, quad residential	C	N
Residential PUD	C	N
Water-dependent commercial - As accessory to a residential planned unit development	C	N
Commercial	C	N
Commercial PUD - Limited expansion of a commercial planned unit development involving up to six additional dwelling units or sites may be allowed as a permitted use provided the provisions of Section 11.0 of this ordinance are satisfied.	C	N
Parks & historic sites	C	C
Public, semipublic	C	C
Industrial	N	N
Agricultural: cropland and pasture	P	P
Agricultural feedlots – New	N	N
Agricultural feedlots - Expansion or resumption of existing	N	N
Forest management	P	P
Forest land conversion	C	C
Extractive use	N	N
Mining of metallic minerals and peat	N	N

SPECIAL PROTECTION LAND USE DISTRICT (LAKES)		
C- Conditional Use P-permitted N-Non-permitted		
Land Uses	Recreational Development	Natural Environment
Single residential	C	C
Duplex, triplex, quad residential	N	N
Residential PUD	N	N

Water-dependent commercial - As accessory to a residential planned unit development	N	N
Commercial	N	N
Commercial PUD - Limited expansion of a commercial planned unit development involving up to six additional dwelling units or sites may be allowed as a permitted use provided the provisions of Section 11.0 of this ordinance are satisfied.	N	N
Parks & historic sites	C	C
Public, semipublic	C	C
Industrial	N	N
Agricultural: cropland and pasture	C	C
Agricultural feedlots – New	N	N
Agricultural feedlots - Expansion or resumption of existing	N	N
Forest management	P	P
Forest land conversion	C	C
Extractive use	N	N
Mining of metallic minerals and peat	N	N

RESIDENTIAL LAND USE DISTRICT (RIVERS)				
C- Conditional Use P-Permitted Use N-Non- permitted				
Land Uses	Remote	Forested	Transition	Tributary
Single residential	P	P	P	P
Duplex, triplex, quad residential	N	N	N	N
Residential PUD	N	N	N	N
Water-dependent commercial - As accessory to a residential planned unit development	N	N	N	N
Commercial	N	N	N	N
Commercial PUD - Limited expansion of commercial PUDs involving up to six additional dwelling units or sites may be allowed as a permitted use provided the provisions of Section 11.0 of this ordinance are satisfied.	N	N	N	N
Parks & historic sites	C	C	C	C
Public, semipublic	C	C	C	C
Industrial	N	N	N	N
Agricultural: cropland and pasture	P	P	P	P
Agricultural feedlots - New	N	N	N	N
Agricultural feedlots - Expansion or resumption of existing	N	N	N	N
Forest management	P	P	P	P
Forest land conversion	C	C	C	C
Extractive use	N	N	N	N
Mining of metallic minerals and peat	N	N	N	N

MIXED USE LAND USE DISTRICT (RIVERS)				
C-Conditional Use P-Permitted Use N-Non-permitted				
Land Uses	Remote	Forested	Transition	Tributary
Single residential	P	P	P	P
Duplex, triplex, quad residential	N	N	N	N
Residential PUD	N	N	N	N
Water-dependent commercial - As accessory to a residential planned unit development	N	N	N	N
Commercial	C	C	C	C
Commercial PUD - Limited expansion of commercial PUDs involving up to six additional dwelling units or sites may be allowed as a permitted use provided the provisions of Section 11.0 of this ordinance are satisfied.	N	N	N	N
Parks & historic sites	C	C	C	C
Public, semipublic	C	C	C	C
Industrial	N	N	N	N
Agricultural: cropland and pasture	P	P	P	P
Agricultural feedlots - New	N	N	N	N
Agricultural feedlots - Expansion or resumption of existing	N	N	N	N
Forest management	P	P	P	P
Forest land conversion	C	C	C	C
Extractive use	N	N	N	N
Mining of metallic minerals and peat	N	N	N	N

SPECIAL PROTECTION LAND USE DISTRICT (RIVERS)				
C-Conditional Use P-Permitted N-Non-Permitted				
Land Uses	Remote	Forested	Transition	Tributary
Single residential	C	C	C	C
Duplex, triplex, quad residential	N	N	N	N
Residential PUD	N	N	N	N
Water-dependent commercial - As accessory to a residential planned unit development	N	N	N	N
Commercial	N	N	N	N

Commercial PUD - Limited expansion of a commercial PUDs involving up to six additional dwelling units or sites may be allowed as a permitted use provided the provisions of Section 11.0 of this ordinance are satisfied.	N	N	N	N
Parks & historic sites	C	C	C	C
Public, semipublic	C	C	C	C
Industrial	N	N	N	N
Agricultural: cropland and pasture	C	C	C	C
Agricultural feedlots - New	N	N	N	N
Agricultural feedlots - Expansion or resumption of existing	N	N	N	N
Forest management	P	P	P	P
Forest land conversion	C	C	C	C
Extractive use	N	N	N	N
Mining of metallic minerals and peat	N	N	N	N

5.2.5 Use and Upgrading of Inconsistent Land Use Districts.

- 5.2.5.1. The land use districts adopted in Kanabec County, as they apply to shoreland areas, and their delineated boundaries on the Zoning Map, are not consistent with the land use district designation criteria specified in Section 5.2.2 herein. These inconsistent land use district designations may continue until revisions are proposed to change either the land use district designation within an existing land use district boundary shown on the Zoning Map or to modify the boundary of an existing land use district shown on the Zoning Map.
- 5.2.5.2. When a revision is proposed to an inconsistent land use district provision, the following additional criteria and procedures shall apply:
 - 5.2.5.2.1. For Lakes -When a revision to a land use district designation on a lake is considered, the land use district boundaries and 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 5.2.2 of this ordinance.
 - 5.2.5.2.2. For Rivers and Streams -. When a revision to a land use district designation on a river or stream is proposed, the land use district boundaries and the use provisions therein for all shoreland on both sides of the river or stream within the same classification within the jurisdiction of this ordinance must be revised to make them substantially compatible with the framework in Section 5.2.2 of this ordinance. If the same river classification is contiguous for more than a five-mile segment, only the shoreland for a distance of 2.5 miles upstream and downstream, or to the class boundary if closer, need be evaluated and revised.
- 5.2.5.3. When an interpretation question arises about whether a specific land use fits within a given use category, the interpretation shall be made by the Board of

Adjustments. When a question arises as to whether a land use district's boundaries are properly delineated on the Zoning Map, this decision shall be made by the Environmental Services Department, Zoning Administrator for Kanabec County, with appeals to the County Board.

- 5.2.5.4. When a revision is proposed to an inconsistent land use district provision by an individual party or landowner, this individual party or landowner will only be responsible to provide the supporting and/or substantiating information for the specific parcel in question- The Kanabec County Board will direct the Environmental Services Department to provide such additional information for this water body as is necessary to satisfy Items 5.2.5.2.1 and 5.2.5.2.2.
- 5.2.5.5. The Kanabec County Board must make a detailed finding of fact and conclusion when taking action that this revision, and the upgrading of any inconsistent land use district designations on said water body, are consistent with the enumerated criteria and use provisions of Section 5.2.

6.0 SPECIAL LAND USE PROVISIONS

6.1 Mixed Use, Public, and Semipublic Use Standards.

- 6.1.1 Water-dependent uses may be located on parcels or lots with frontage on public waters provided that:
 - 6.1.1.1. The use complies with provisions of Section 5.2;
 - 6.1.1.2. The use is designed to incorporate topographic and vegetative screening of parking areas and structures;
 - 6.1.1.3. Uses that require short-term watercraft mooring for patrons must centralize these facilities and design them to avoid obstructions of navigation and to be the minimum size necessary to meet the need; and
 - 6.1.1.4. Uses that depend on patrons arriving by watercraft may use signs and lighting, provided that:
 - 6.1.1.4.1. Signs placed in or on public waters must only convey directional information or safety messages and may only be placed by a public authority or under a permit issued by the county sheriff; and
 - 6.1.1.4.2. Signs placed within the shore impact zone are:
 - (a) No higher than ten feet above the ground, and no greater than 32 square feet in size; and
 - (b) If illuminated by artificial lights, the lights must be shielded or directed to prevent illumination across public waters; and
 - 6.1.1.5. Other lighting may be located within the shore impact zone or over public waters if it is used to illuminate potential safety hazards and is shielded or otherwise directed to prevent direct illumination across public waters. This does not preclude use of navigational lights.
- 6.1.2 Commercial, public, and semi-public uses that are not water-dependent must be located on lots or parcels without public waters frontage.

6.2 Vacation Rental Home. Vacation/Private Home Rental

The following standards apply to vacation/private homes renting for thirty (30) days or less except those located within Planned Unit Developments whose legal documents regulate unit rentals.

- 6.2.1 The owner of a vacation/private home rental must apply for and receive an Interim Use Permit from the County in order to rent the property. The initial Interim Use Permit will be valid for two (2) years in order to determine the compliance level of the owner with the conditions of approval. For vacation/private home rentals with compliance issues during the initial term of their IUP, subsequent renewals shall be for five (5) years or less as established by the Kanabec County Planning Commission. The home owner must inhabit the home for no less than 30 days per year. All vacation/private home rentals are required to have a Minnesota Department of Health Lodging license. Termination of the IUP will be when there is a change of ownership of the vacation/private home rental property; or if compliance issues occur during the lodging license period, the IUP may be revoked or amended after a hearing before the Planning Commission with a recommendation to the County Board to revoke the IUP.
- 6.2.2 The application for an Interim Use Permit shall include:
 - a. All information required for a conditional use permit,
 - b. Floor plan of the structure, including the number of bedrooms with dimensions and all other sleeping accommodations,
 - c. A to-scale site plan which shows locations and dimensions of property lines, the structure intended for licensing, accessory structures, parking areas, shore recreational facilities (docking plan, fire pit area, swim beach, etc.) and sewage treatment systems.
 - d. Emergency contact information (police, fire, hospital, septic tank pumper) be posted in the home.
 - e. Current compliance inspection on the septic system.
 - f. Current water test from an accredited laboratory with test results for nitrate-nitrogen and coliform bacteria.
 - g. Plan for garbage disposal.
 - h. Applicant must submit a pet policy.
 - i. In each bedroom and any room used for sleeping, show the dimensions of egress windows on the drawing and the style (double hung, sliding or casement).
- 6.2.3 The occupancy (overnight occupants) of a vacation/private home rental shall be limited to no more than two (2) persons per bedroom plus two (2) additional persons per building, or no more than one (1) person for every seventy-five (75) gallons of water per day that the building subsurface sewage treatment system (SSTS) is designed to handle, whichever is less. The maximum number of occupants, including both overnight and non-overnight occupants shall not exceed twice the approved overnight occupancy.
- 6.2.4 The vacation/private home rental shall be connected to an approved SSTS. The SSTS shall be designed and constructed with a design flow of seventy-five (75) gallons of water per person per day to handle the maximum number of guests for which the facility is permitted. The SSTS shall include a flow measuring device. Flow measurement readings and monitoring of the SSTS shall be recorded monthly and provided to the Department. The use of holding tanks for vacation/private home rental units shall be prohibited.

- 6.2.5 On-site parking shall be provided which is sufficient to accommodate the occupants of the vacation/private home rental. On-site parking shall be on an improved surface (gravel, asphalt, recycle or concrete). Public streets and septic systems may not be used for calculating parking by renters or guests. Parking areas must be setback a minimum distance of five (5) feet from the property lines.
- 6.2.6 Attempting to obtain additional occupancy by use of recreational vehicles, tents, accessory structures or fish houses is prohibited.
- 6.2.7 Rooms used for sleeping shall be provided with egress windows that comply with the Minnesota State Building Code and with smoke detectors in locations that comply with MN Statute Chapter 299F or the requirements of the Department, whichever is more restrictive. Carbon monoxide detectors shall be installed in locations that comply with MN Statute Section 299F.51. Every room occupied for sleeping purposes by one person shall contain at least 70 square feet of usable floor space, and every room occupied for sleeping purposes by more than one person shall contain not less than 60 square feet of usable floor space for each occupant thereof.
- 6.2.8 On premise advertising signs are prohibited.
- 6.2.9 The owner shall provide a visual demarcation of the property lines.
- 6.2.10 The owner shall keep a report, detailing use of the home by recording the full name, address, phone number and vehicle license number of guests using the property. A copy of the report shall be provided to the Department upon request.
- 6.2.11 No more than two (2) vacation/private home rentals will be allowed on a parcel. More than two (2) vacation/private home rentals on the same parcel or on contiguous parcels under common ownership shall constitute a resort.
- 6.2.12 The Planning Commission may recommend conditions that will reduce the impacts of the proposed use on neighboring properties, public services, and nearby water bodies as well as other concerns including, but not limited to, public safety, and safety of guests. Said conditions may include but not be limited to – fencing or vegetative screening, native buffer along the shoreline, noise standards, duration of permit, restrictions as to the docking of watercraft, and number of guests.
- 6.2.13 A vacation/private home rental shall be licensed by the County and shall meet the requirements of all statutes, rules, regulations, and ordinances
- 6.2.14 The Planning Commission may recommend noise standards in order to assist in reducing potential impacts on neighboring properties.
- 6.2.15 Websites and all other advertising of the rental property must be in compliance with the occupancy allowance and all other conditions per approved application.
- 6.2.16 The applicant shall keep on file with the County Environmental Services Department the name and telephone number of a contact person who is responsible for responding to questions or concerns regarding the operation of the vacation/private home rental. This information must be kept current. This information shall also be posted in a conspicuous location within the dwelling unit. The contact person must be available to accept phone calls on a 24 hour basis at all times that the vacation/private home rental is rented or occupied. The contact person must have a key to the vacation/private home rental and be able to respond to the vacation/private home rental within 60 minutes to address issues or must have arranged for another person to address issues within the same time frame.

- 6.2.17 Each vacation rental must have a property information handbook available for renters that include the name and contact information for the owner and/or caretaker; quiet hours as per approved IUP; maximum number of overnight occupants; maximum number of non-overnight occupants; property rules related to the use of outdoor features such as decks, patios, fire pit, sauna and other recreational facilities; list of conditions that were placed on the approved IUP; and a notice that all ordinance and IUP conditions will be enforced by the Kanabec County Sheriff's Office and the Kanabec County Environmental Services Department.

6.3 Agriculture Use Standards.

- 6.3.1 Buffers.
- 6.3.1.1. 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 (Resource Management Systems) consistent with the field office technical guides of the local Soil and Water Conservation Districts or the Natural Resource Conservation Service, as provided by a qualified individual or agency.
- 6.3.1.2. 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.
- 6.3.2 New animal feedlots are not allowed in shoreland. Expansions to existing feedlots or resumption of old feedlots are not allowed in shoreland.

6.4 Forest Management Standards.

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

- 6.5 Metallic Mining Standards.** Mining of metallic minerals and peat is not permitted within the shoreland districts of Kanabec County. Peat may be removed for purposes of road construction as designed by a professional engineer licensed in the State of Minnesota. No peat shall be stockpiled within any shoreland district.

7.0 DIMENSIONAL AND GENERAL PERFORMANCE STANDARDS

- 7.1 Purpose.** To establish dimensional and performance standards that protect shoreland resources from impacts of development.
- 7.2 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 Sections 7.25 and 7.26, subject to the following standards:
- 7.2.1 Only lands above the ordinary high water level can be used to meet lot area and width standards;

- 7.2.2 Lot width standards must be met at both the ordinary high water level and at the building line;
- 7.2.3 The sewer lot area dimensions can only be used if publicly owned sewer system service is available to the property;
- 7.2.4 Residential subdivisions with dwelling unit densities exceeding those in Sections 7.25 and 7.26 are allowed only if designed and approved as residential PUDs under Section 10.0 of this ordinance; and
- 7.2.5 Lake Minimum Lot Area and Width Standards

Recreational Development – No Sewer				
	Riparian		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
Triplex	120,000	300	120,000	375
Quad	160,000	375	160,000	490
Recreational Development – Sewer				
	Riparian		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
Natural Environment – No Sewer				
	Riparian		Nonriparian	
	Lot Area (sf)	Lot Width (ft)	Lot Area (sf)	Lot Width (ft)
Single	80,000	200	80,000	200

Natural Environment – Sewer				
	Riparian		Nonriparian	
	Lot Area (sf)	Lot Width (ft)	Lot Area (sf)	Lot Width (ft)
Single	40,000	125	20,000	125

7.2.6 River/Stream Minimum Lot Width Standards. The minimum lot size for rivers and streams is 80,000 square feet. The lot width standards in feet are:

	Remote	Forested	Transition	Agricultural	Urban & Tributary	
					No Sewer	Sewer
	Lot Area(sf)	Lot Area (sf)	Lot Area (sf)	Lot Area (sf)	Lot Area (sf)	Lot Area (sf)
Single	300	200	250	150	100	75

7.3 Special Residential Lot Provisions.

7.3.1 Subdivisions of duplexes, triplexes, and quads must also meet the following standards:

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

7.3.2 One guest cottage may be allowed on lots meeting or exceeding the duplex lot area and width dimensions presented in Sections 7.2.5 and 7.2.6, provided the following standards are met:

- 7.3.2.1. 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;
- 7.3.2.2. A guest cottage must not cover more than five hundred (500) square feet of land surface and must not exceed 15 feet in height; and
- 7.3.2.3. 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.

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

- 7.3.3.1. 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;
- 7.3.3.2. 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:

Controlled Access Lot Frontage Requirements	
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%

- 7.3.3.3. The lot must be jointly owned by all purchasers of lots in the subdivision or by all purchasers of non-riparian lots in the subdivision who are provided riparian access rights on the access lot; and
- 7.3.3.4. Covenants or other equally effective legal instruments must be developed that:
 - 7.3.3.4.1. Specify which lot owners have authority to use the access lot;
 - 7.3.3.4.2. Identify what activities are allowed. The activities may include watercraft launching, loading, storage, beaching, mooring, docking, swimming, sunbathing, or picnicking;
 - 7.3.3.4.3. 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;
 - 7.3.3.4.4. Require centralization of all common facilities and activities in the most suitable locations on the lot to minimize topographic and vegetation alterations; and
 - 7.3.3.4.5. Require all parking areas, storage buildings, and other facilities to be screened by

7.3.3.4.6. vegetation or topography as much as practical from view from the public water, assuming summer, leaf-on conditions.

7.4 Placement, Height, and Design of Structures.

7.4.1 Placement of Structures and Sewage Treatment Systems on Lots. When more than one setback applies to a site, structures and facilities must be located to meet all setbacks, and comply with the following provisions:

7.4.1.1. OHWL Setbacks. Structures, impervious surfaces, and sewage treatment systems must meet the following setbacks from the Ordinary High Water Level (OHWL), except that one water-oriented accessory structure or facility, designed in accordance with Section 8.3 of this ordinance, may be set back a minimum distance of ten (10) feet from the OHWL:

7.4.1.2. Setback averaging. 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 OHWL, provided the proposed structure is not located in a shore impact zone or in a bluff impact zone;

	Structures		Sewage Treatment System
	No Sewer	Sewer	
Lakes			
	Setback from OHW (ft)	Setback from OHW (ft)	Setback from OHW (ft)
Natural Environment	150	150	150
Recreational Development	100	75	75
Rivers and Streams			
	Setback from OHW (ft)	Setback from OHW (ft)	Setback from OHW (ft)
Remote	200	200	150
Forested and Transition	150	150	100
Tributary	100	50	75

7.4.2 Building Standards

7.4.2.1. Primary Dwelling Size. All primary dwellings shall have a minimum floor area of at least five hundred (500) square feet. Additions to manufactured homes shall not be considered in determining area requirements.

- 7.4.2.2. Frost Free Footings. All dwellings, including manufactured homes, must be placed on frost free footings, foundations, pillars or engineered concrete slabs designed to withstand frost action.
 - 7.4.2.3. Manufactured Homes. Any manufactured home placed on a lot shall be a U. S. Department of Housing and Urban Development certified unit as evidenced by the HUD certification seal affixed to the unit and not more than 20 years old.
 - 7.4.2.4. Not more than one (1) principal dwelling shall be located on a lot, except as described in 7.32. In case of doubt or on any question of interpretation, the decision of the Environmental Services Department shall be final, subject to the right of appeal to the Board of Adjustment and Appeals.
 - 7.4.2.5. On conforming and nonconforming lots of record, structures normally considered to be accessory structures are permitted without a primary permitted use first being established, when all setbacks are met. When two lots are under same ownership and has a primary permitted structure located there on, and the structure is of a type normally subordinate to the primary dwelling accessory structures are permitted. Structures should be designed to be compatible with the principal building and general neighborhood environment.
- 7.4.3 Nuisances. Any visual appearance, noise, odor, heat, dust, vibration, smoke, air pollution, glare, electrical interferences, or other such objectionable influences, or the storage of refuse or disposal of wastes that are construed by the Environmental Services Department to be a menace or nuisance to the public health, safety or general welfare of the County, or to have a depressing influence upon property values in the area shall be prohibited.
- 7.4.3.1. The pollution of any well, stream, lake or body of water by sewage, industrial waste, or other substance is prohibited.
 - 7.4.3.2. All carcasses of animals shall be buried or destroyed or otherwise disposed of within forty-eight (48) hours after death.
 - 7.4.3.3. The ownership, possession or control of any unused appliances or other containers with doors which fasten automatically when closed and of sufficient size to retain any person, that are exposed and accessible to the public without the removal of the doors, lids, hinges, or latches or the locking thereof to prevent access by the public, is prohibited.
 - 7.4.3.4. No person in charge or control of any property shall allow any unlicensed, partially dismantled, inoperative, wrecked or junked vehicles to remain on the property longer than thirty (30) days where said vehicle is visible from a public road or adjacent residence.
 - 7.4.3.5. Alternate structures, landscaping, and fencing shall be reasonably maintained so as to avoid health or safety hazards and prevent degradation in the value of adjacent property.
 - 7.4.3.6. A property owner may store up to (2) two recreational vehicles, campers, travel trailers or other such vehicles on a lot, any more than (2) two would need to be screened from public view

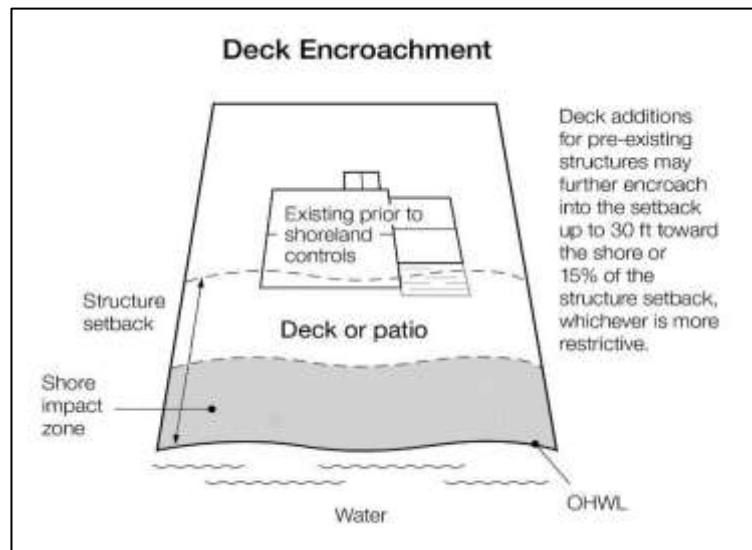
7.4.3.7. Setbacks of decks. Deck additions may be allowed without a variance to a structure not meeting the required setback from the ordinary high water level if all of the following criteria are met:

7.4.3.7.1. The structure existed on the date the structure setbacks were established;

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

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

7.4.3.7.4. The deck is constructed primarily of wood, and is not roofed or screened.



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

Setback from:	Setback (ft)
Top of bluff	30
Unplatted cemetery	50
Right-of-way line of federal, state, or county highway	50
Right-of-way line of town road, public street, or other roads not classified	30
Side lot lines	10

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

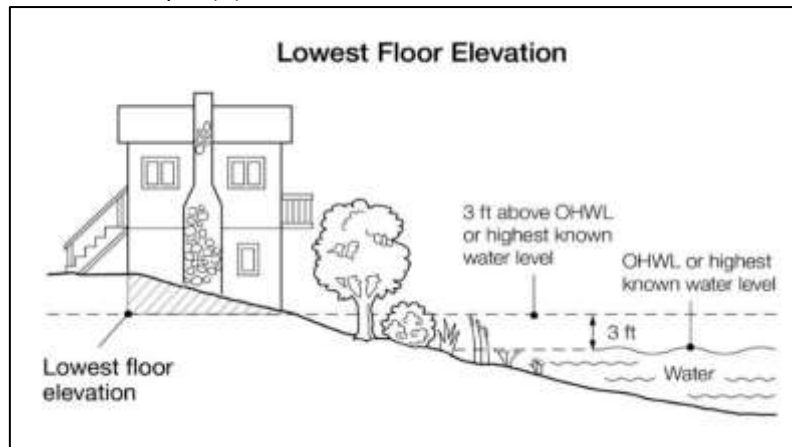
7.4.4 Height of Structures. All structures in residential districts, except churches and nonresidential agricultural structures must not exceed 25 feet in height.

7.4.5 Lowest Floor Elevation. Structures must be placed in accordance with any floodplain regulations applicable to the site. Where these controls do not exist, the elevation to which the lowest floor, including basement, is placed or flood-proofed must be determined as follows:

7.4.5.1. For lakes, by placing the lowest floor at a level at least three feet above the highest known water level, or three feet above the ordinary high water level, whichever is higher;

7.4.5.2. For rivers and streams, by placing the lowest floor at least three feet above the highest known flood elevation. If data are not available, by placing the lowest floor at least three feet above the ordinary high water level, or by conducting a technical evaluation to determine effects of proposed construction upon flood stages and flood flows and to establish a flood protection elevation. Under all three approaches, technical evaluations must be done by a qualified engineer or hydrologist consistent with Minnesota Rules, parts 6120.5000 to 6120.6200 governing the management of flood plain areas. If more than one approach is used, the highest flood protection elevation determined must be used for placing structures and other facilities; and

7.4.5.3. If the structure is floodproofed instead of elevated under items A and B above, then it must be floodproofed in accordance with Minnesota Rules, part 6120.5900 Subp. 3 (D).



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

7.5 Water Supply and Sewage Treatment.

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

- 7.5.2 Sewage treatment. Any premises used for human occupancy must be connected to a publicly-owned sewer system, where available or comply with Minnesota Rules, Chapters 7080 – 7081.

8.0 PERFORMANCE STANDARDS FOR PUBLIC AND PRIVATE FACILITIES

8.1 Placement and Design of Roads, Driveways, and Parking Areas. Public and private roads and parking areas must be designed to take advantage of natural vegetation and topography to achieve maximum screening as viewed from public waters and comply with the following standards:

- 8.1.1 Roads, driveways, and parking areas must meet structure setbacks and must not be placed within bluff and shore impact zones, when other reasonable and feasible placement alternatives exist. If no alternatives exist, they may be placed within these areas, and must be designed to minimize adverse impacts;
- 8.1.2 Watercraft access ramps, approach roads, and access-related parking areas may be placed within shore impact zones provided the vegetative screening and erosion control conditions of this subpart are met;
- 8.1.3 Private facilities must comply with the grading and filling provisions of Section 9.3 of this ordinance; and
- 8.1.4 For public roads, driveways and parking areas, documentation must be provided by a qualified individual that they are designed and constructed to minimize and control erosion to public waters consistent with the field office technical guides of the local soil and water conservation district, or other applicable technical materials.

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

- 8.2.1 Stairways and lifts must not exceed four feet in width on residential lots. Wider stairways may be used for commercial properties, public recreational uses, and planned unit developments;
- 8.2.2 Landings for stairways and lifts on residential lots must not exceed 32 square feet in area. Landings larger than 32 square feet may be used for commercial properties, public-space recreational uses, and planned unit developments;
- 8.2.3 Canopies or roofs are not allowed on stairways, lifts, or landings;
- 8.2.4 Stairways, lifts, and landings may be either constructed above the ground on posts or pilings, or placed into the ground, provided they are designed and built in a manner that ensures control of soil erosion;
- 8.2.5 Stairways, lifts, and landings must be located in the most visually inconspicuous portions of lots, as viewed from the surface of the public water assuming summer, leaf-on conditions, whenever practical; and
- 8.2.6 Facilities such as ramps, lifts, or mobility paths for physically handicapped persons are also allowed for achieving access to shore areas, if they are consistent with the dimensional and performance standards of subitems 7.21 to 7.25 and the requirements of Minnesota Rules, Chapter 1341.

- 8.2.7 Docks. At public boat ramps or launch areas, no swimming or sunbathing is allowed on either side of dock or ramp for 30'. No private docks or boat launching areas are allowed on county lands.

8.3 Water-oriented Accessory Structures or Facilities. Each lot may have one water-oriented accessory structure or facility if it complies with the following provisions:

- 8.3.1 The structure or facility must not exceed ten feet in height, exclusive of safety rails, and cannot occupy an area greater than 250 square feet. The structure or facility may include patios or detached decks not exceeding eight feet above grade at any point;
- 8.3.2 The structure or facility is not in the Bluff Impact Zone;
- 8.3.3 The setback of the structure or facility from the ordinary high water level must be at least ten(10) feet;
- 8.3.4 The structure is not a boathouse or boat storage structure as defined under Minnesota Statutes, Section 103G.245;
- 8.3.5 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;
- 8.3.6 The roof may be used as an open-air deck with safety rails, but must not be enclosed or used as a storage area;
- 8.3.7 The structure or facility must not be designed or used for human habitation and must not contain water supply or sewage treatment facilities;
- 8.3.8 Water-oriented accessory structures may have the lowest floor placed lower than the elevation specified in Section 7.4.5 if the structure is constructed of flood-resistant materials to the elevation, electrical and mechanical equipment is placed above the elevation and, if long duration flooding is anticipated, the structure is built to withstand ice action and wind-driven waves and debris.

8.4 Home Occupations. It is the purpose of this subdivision to provide for the use of the home as a place for the operation of a business or profession as an interim use provided the occupation is clearly secondary to the principal use of the home as a residence. All home occupations within the shoreland district shall require an interim use permit and shall meet the performance standards in section 8.4.1.

8.4.1 Performance Standards.

All home occupations shall conform to the following standards:

- 8.4.1.1. Conduct of the home occupation does not require alterations to the exterior of the residence, which substantially alter the appearance of the dwelling as a residence.
- 8.4.1.2. On-site parking shall be provided which is sufficient to accommodate the proposed occupation. On-site parking shall be on an improved surface (gravel, asphalt, recycle or concrete). Public streets and septic systems may not be used for calculating parking. Parking areas must be setback a minimum distance of five (5) feet from property lines.
- 8.4.1.3. Only those persons residing in the home and two other persons employed in the home occupation may be permitted as an interim use.

- 8.4.1.4. Signage consists of no more than one single or double-faced sign with a maximum of sixteen (16) square feet per side.
- 8.4.1.5. The activities, equipment and materials involved in the home occupation shall be conducted and contained within the home or accessory structure to the principal use; except in those cases when such activities, equipment and materials are not visible from a public road or adjacent residences. Such activities and items shall be screened by buildings or natural vegetation.
- 8.4.1.6. The home occupation shall not generate sewage of a nature or type that cannot be treated by a standard on-site sewage system, or hazardous wastes without an approved plan for off-site disposal.
- 8.4.1.7. Traffic from the proposed home occupation shall not cause a health, public safety or nuisance issue.

8.5 Sale without Certificate Prohibited. No owner or agent of owner shall sell by conveyance or contract for conveyance, or a lease of a term of three (3) years or more, any dwelling located within Shoreland District (S) without first providing a Certificate of Septic System Compliance to the buyer or lessee, prior to the time of transaction, or providing satisfactory agreements, as follows:

- 8.5.1 Escrow agreements are allowed as an alternative to an incomplete Certificate of Compliance provided they meet the following criteria:
 - 8.5.1.1. The seller(s) of the property as well as all other parties with title or interest to the property to be sold shall be clearly identified.
 - 8.5.1.2. The buyer(s) of the property shall be clearly identified.
 - 8.5.1.3. The escrow agent shall be clearly identified.
 - 8.5.1.4. The seller(s) or lessor(s) shall provide a written agreement with an installer, licensed for Kanabec County, Minnesota, for the installation of a septic system designed by a licensed designer for the project at that site.
 - 8.5.1.5. There shall be deposited pursuant to the escrow agreement, one and one-half (1 1/2) of the amount of the installation contract price as set forth in 8.5.1.4 above.
 - 8.5.1.6. The escrow agreement must clearly state the terms under which the escrow money is to be dispersed but only after a passing Certificate of Compliance is provided to the Environmental Services Department.
 - 8.5.1.7. A passing Certificate of Compliance on the septic system must be provided within ten (10) months of the escrow agreement.
 - 8.5.1.8. The escrow agreement must provide that in the event a passing Certificate of Compliance is not provided to the Environmental Services Department within 10 months of the date of the escrow agreement, that the Environmental Services Department may utilize said funds to bring about the systems compliance.
- 8.5.2 A Certificate of Compliance Agreement to Subject Property to Septic Compliance inspection, or an approved escrow agreement shall accompany the deed for recording. The County Recorder shall note on a copy of each deed when the required forms are not submitted. Nothing in this Section precludes the County Recorder from recording a deed.

9.0 VEGETATION AND LAND ALTERATIONS

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

9.2 Vegetation Management.

- 9.2.1 Removal or alteration of vegetation must comply with the provisions of this subsection except for:
 - 9.2.1.1. Vegetation alteration necessary for the construction of structures and sewage treatment systems under validly issued permits for these facilities;
 - 9.2.1.2. The construction of public roads and parking areas if consistent with Section 8.1 of this ordinance;
 - 9.2.1.3. Forest management uses consistent with Section 6.3 of this ordinance; and
 - 9.2.1.4. Agricultural uses consistent with Section 6.2 of this ordinance.
- 9.2.2 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 6.3 of this ordinance.
- 9.2.3 Limited clearing and trimming of trees and shrubs in the shore and bluff impact zones and on steep slopes, is allowed to provide a view to the water from the principal dwelling and to accommodate the placement of stairways and landings, picnic areas, access paths, livestock watering areas, beach and watercraft access areas, and permitted water-oriented accessory structures or facilities, provided that:
 - 9.2.3.1. The screening of structures, vehicles, or other facilities as viewed from the water, assuming summer, leaf-on conditions, is not substantially reduced;
 - 9.2.3.2. Existing shading of water surfaces along rivers is preserved;
 - 9.2.3.3. Cutting debris or slash shall be scattered and not mounded on the ground; and
 - 9.2.3.4. Perennial ground cover is retained.
- 9.2.4 Removal of trees, limbs, or branches that are dead, diseased, dying, or pose safety hazards is allowed without a permit.
- 9.2.5 Fertilizer and pesticide runoff into surface waters must be minimized through use of vegetation, topography or both per MN Statute 103E.021 "Buffer Law"

9.3 Grading and Filling.

- 9.3.1 Grading and filling activities must comply with the provisions of this subsection except for the construction of public roads and parking areas if consistent with Section 8.1 of this ordinance.
- 9.3.2 Permit Requirements.
 - 9.3.2.1. Grading, filling and excavations necessary for the construction of structures and sewage treatment systems, if part of an approved permit, do not require a

separate grading and filling permit. However, the standards in Section 9.3.3 of this ordinance must be incorporated into the permit.

9.3.2.2. For all other work, a grading and filling permit is required for:

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

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

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

9.3.3.1. All land disturbance activities that require coverage of the State Construction Stormwater General Permit shall adhere to the provisions set forth in said permit and shall submit a copy of the stormwater pollution prevention plan to the Environmental Services Department.

9.3.3.2. All construction activity disturbing one half acre or more shall, at a minimum, develop a storm water pollution prevention plan that addresses erosion prevention and sediment control, with best management practices outlined in the latest version of the Minnesota Stormwater Manual published by Minnesota Pollution Control Agency.

9.3.3.3. Any development that results in one half to one acre of new impervious surface shall provide permanent stormwater treatment for increased runoff volume created by the new impervious surfaces with a rain garden, infiltration basin or other best management practice as outlined in the Minnesota Stormwater Manual.

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

9.3.3.5. 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:

9.3.3.5.1. Limiting the amount and time of bare ground exposure;

9.3.3.5.2. Using temporary ground covers such as mulches or similar materials;

9.3.3.5.3. Establishing permanent vegetation cover as soon as possible;

9.3.3.5.4. Using sediment traps, vegetated buffer strips or other appropriate techniques;

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

9.3.3.5.6. Not placing fill or excavated material in a manner that creates unstable slopes. Plans to place fill or excavated material on steep slopes must be reviewed by qualified professionals for continued

slope stability and must not create finished slopes of 30 percent or greater;

9.3.3.5.7. Fill or excavated material must not be placed in bluff impact zones;

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

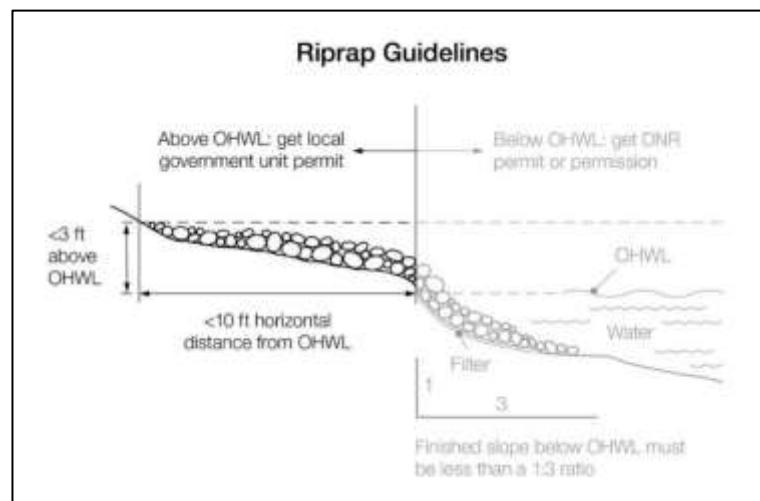
9.3.3.5.9. Alterations of topography are only allowed if they are accessory to permitted or conditional uses and do not adversely affect adjacent or nearby properties; and

9.3.3.6. Placement of natural rock riprap, including associated grading of the shoreline and placement of a filter blanket, is permitted with a land alteration permit if:

9.3.3.6.1. the finished slope does not exceed three feet horizontal to one foot vertical;

9.3.3.6.2. the landward extent of the riprap is within ten feet of the ordinary high water level; and

9.3.3.6.3. the height of the riprap above the ordinary high water level does not exceed three feet.



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

9.4 Stormwater Management.

9.4.1 General Standards:

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

- 9.4.1.2. Development must be planned and conducted in a manner that will minimize the extent of disturbed areas, runoff velocities, erosion potential, and reduce and delay runoff volumes. Disturbed areas must be stabilized as soon as possible and appropriate facilities or methods used to retain sediment on the site.
- 9.4.1.3. When development density, topography, soils, and vegetation are not sufficient to adequately handle stormwater runoff, constructed facilities such as settling basins, skimming devices, dikes, waterways, ponds and infiltration may be used. Preference must be given to surface drainage, vegetation, and infiltration rather than buried pipes and man-made materials and facilities.
- 9.4.2 Specific Standards:
 - 9.4.2.1. Impervious surfaces of lots must not exceed 25 percent of the lot area.
 - 9.4.2.2. 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.
 - 9.4.2.3. New constructed stormwater outfalls to public waters must be consistent with Minnesota Rules, part 6115.0231.

10.0 SUBDIVISION/PLATTING PROVISIONS

10.1 Purpose. To ensure that new development minimizes impacts to shoreland resources and is safe and functional.

10.2 Land suitability. Each lot created through subdivision, including planned unit developments authorized under Section 11.0 of this ordinance, must be suitable in its natural state for the proposed use with minimal alteration. A suitability analysis must be conducted for each proposed subdivision, including planned unit developments, to determine if the subdivision is suitable in its natural state for the proposed use with minimal alteration and whether any feature of the land is likely to be harmful to the health, safety, or welfare of future residents of the proposed subdivision or of the community.

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

10.4 Water and Sewer Design Standards.

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

10.5 Information requirements.

- 10.5.1 Topographic contours at ten-foot intervals or less from United States Geological Survey maps or more current sources, showing limiting site characteristics;

- 10.5.2 The surface water features required in Minnesota Statutes, section 505.021, Subd. 1, to be shown on plats, obtained from United States Geological Survey quadrangle topographic maps or more current sources;
- 10.5.3 Adequate soils information to determine suitability for building and sewage treatment capabilities for every lot from the most current existing sources or from field investigations such as soil borings, percolation tests, or other methods;
- 10.5.4 Information regarding adequacy of domestic water supply; extent of anticipated vegetation and topographic alterations; near-shore aquatic conditions, including depths, types of bottom sediments, and aquatic vegetation; and proposed methods for controlling stormwater runoff and erosion, both during and after construction activities;
- 10.5.5 Location of 100-year flood plain areas and floodway districts from existing adopted maps or data; and
- 10.5.6 A line or contour representing the ordinary high water level, the “toe” and the “top” of bluffs, and the minimum building setback distances from the top of the bluff and the lake or stream.

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

10.7 Platting. All subdivisions that cumulatively create five or more lots or parcels that are 2-1/2 acres or less in size shall be processed as a plat in accordance with Minnesota Statutes, Chapter 505. No permit for construction of buildings or sewage treatment systems shall be issued for lots created after the adoption of this ordinance unless the lot was previously approved as part of a formal subdivision.

10.8 Controlled Access Lots. Controlled access lots within a subdivision must meet or exceed the lot size criteria in Section 7.3.3 of this ordinance.

11.0 PLANNED UNIT DEVELOPMENTS (PUDS) WITHIN MIXED USE ZONES

11.1 Purpose. To protect and enhance the natural and scenic qualities of shoreland areas during and after development and redevelopment of high density residential and commercial uses.

11.2 Types of PUDs Permissible. Planned unit developments (PUDs) are allowed for new projects on undeveloped land, redevelopment of previously built sites, or conversions of existing buildings and land. Deviation from the minimum lot size standards of Section 7.2 of this ordinance is allowed if the standards in this Section are met.

11.3 Processing of PUDs. Planned unit developments must be processed as a conditional use. An expansion to an existing commercial PUD involving 5 or less new dwelling units or sites since the date this ordinance was adopted is permissible as a permitted use provided the total project density does not exceed the allowable densities calculated in the project density evaluation procedures in Section 11.5. Approval cannot occur until all applicable environmental reviews are complete.

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

- 11.4.1 Site plan and/or plat showing:
 - 11.4.1.1. Locations of property boundaries;
 - 11.4.1.2. Surface water features;

- 11.4.1.3. Existing and proposed structures and other facilities;
- 11.4.1.4. Land alterations;
- 11.4.1.5. Sewage treatment and water supply systems (where public systems will not be provided);
- 11.4.1.6. Topographic contours at two-foot intervals or less; and
- 11.4.1.7. Identification of buildings and portions of the project that are residential, commercial, or a combination of the two (if project combines commercial and residential elements).
- 11.4.2 Deed restrictions, covenants, permanent easements or other instruments that:
 - 11.4.2.1. Address future vegetative and topographic alterations, construction of additional buildings, beaching of watercraft, and construction of commercial buildings in residential PUDs; and
 - 11.4.2.2. Ensure the long-term preservation and maintenance of open space in accordance with the criteria and analysis specified in Section 11.6 of this ordinance.
- 11.4.3 A master plan/site plan describing the project and showing floor plans for all commercial structures.
- 11.4.4 Additional documents necessary to explain how the PUD will be designed and will function.

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

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

Classification	Tier Depth	
	No Sewer (ft)	Sewer (ft)
Recreational Development Lakes	267	267
Natural Environment Lakes	400	320
All Rivers	300	300

- 11.5.2 Step 2. Calculate Suitable Area for Development. Calculate the suitable area within each tier by excluding all wetlands, bluffs, or land below the ordinary high water level of public waters.
- 11.5.3 Step 3. Determine Base Density:
 - 11.5.3.1. For residential PUDs, divide the suitable area within each tier by the minimum single residential lot area for lakes to determine the allowable number of dwelling units, or base density, for each tier. For rivers, if a minimum lot area

is not specified, divide the tier width by the minimum single residential lot width.

11.5.3.2. For commercial PUDs:

- (1) Determine the average area for each dwelling unit or dwelling site within each tier. Include both existing and proposed dwelling units and sites in the calculation.
 - (a) For dwelling units, determine the average inside living floor area of dwelling units in each tier:
 - I. For average floor area less than 200 sf, use 200 sf.
 - II. For average floor area greater than 1,500 sf, use 1,500 sf.
 - (b) For dwelling sites (campgrounds), determine the area of each dwelling site as follows:
 - I. For manufactured homes, use the area of the manufactured home, if known, otherwise use 1,000 sf.
 - II. For recreational vehicles, campers or tents, use 400 sf.
- (2) Select the appropriate floor area/dwelling site area ratio from the following table for the floor area or dwelling site area determined in Section 11.5.3

Inside Living Floor Area or Dwelling Site Area (sf)	Floor Area/Dwelling Site Area Ratio		
	Tributary Rivers	Recreational Development Lakes Forested and Transition Rivers	Natural Environment Lakes Remote Rivers
200	.040	.020	.010
300	.048	.024	.012
400	.056	.028	.014
500	.065	.032	.016
600	.072	.038	.019
700	.082	.042	.021
800	.091	.046	.023
900	.099	.050	.025
1,000	.108	.054	.027
1,100	.116	.058	.029
1,200	.125	.064	.032
1,300	.133	.068	.034
1,400	.142	.072	.036
1,500	.150	.075	.038

- (3) Multiply the suitable area within each tier determined in Section 11.5.2 by the floor area or dwelling site area ratio to yield the total floor area or dwelling site area for each tier to be used for dwelling units or dwelling sites.

- (4) Divide the total floor area or dwelling site area for each tier calculated in Section 11.5.3 by the average inside living floor area for dwelling units or dwelling site area determined in 11.5.3. This yields the allowable number of dwelling units or dwelling sites, or base density, for each tier.
- 11.5.3.3. 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.
- 11.5.3.4. All PUDs with densities at or below the base density must meet the design standards in Section 11.6

11.6 Design Criteria. All PUDs must meet the following design criteria.

11.6.1 General Design Standards.

- 11.6.1.1. On-site water supply and sewage treatment systems must be centralized and meet the standards in Section 7.5 of this ordinance. Sewage treatment systems must meet the setback standards of Section 7.5.2 of this ordinance.
- 11.6.1.2. Dwelling units or dwelling sites must be clustered into one or more groups and located on suitable areas of the development.
- 11.6.1.3. Dwelling units or dwelling sites must be designed and located to meet the dimensional standards in Sections 7.3 and 7.4:
- 11.6.1.4. Shore recreation facilities:
 - 11.6.1.4.1. Must be centralized and located in areas suitable for them based on a suitability analysis.
 - 11.6.1.4.2. 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).
 - 11.6.1.4.3. 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.
- 11.6.1.5. Structures, parking areas, and other facilities must be treated to reduce visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks, color, or other means acceptable to the local unit of government, assuming summer, leaf-on conditions. Vegetative and topographic screening must be preserved, if existing, or may be required to be provided.
- 11.6.1.6. Accessory structures and facilities, except water oriented accessory structures, must meet the required structure setback and must be centralized.
- 11.6.1.7. Water-oriented accessory structures and facilities may be allowed if they meet or exceed design standards contained in Section 8.3 of this ordinance and are centralized.

11.6.2 Open Space Requirements.

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

11.6.2.1.1. Areas with physical characteristics unsuitable for development in their natural state;

11.6.2.1.2. Areas containing significant historic sites or unplatted cemeteries;

11.6.2.1.3. Portions of the shore impact zone preserved in its natural or existing state as follows:

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

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

11.6.2.2. Open space may include:

11.6.2.2.1. 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; and

11.6.2.2.2. Subsurface sewage treatment systems if the use of the space is restricted to avoid adverse impacts on the systems.

11.6.2.3. Open space shall not include:

11.6.2.3.1. Dwelling units or sites and residential lots; road rights-of-way, or land covered by road surfaces; parking areas, or structures, except water-oriented accessory structures or facilities; and land below the Ordinary High Water Level

11.6.2.3.2. Commercial facilities or uses.

11.6.3 Open Space Maintenance and Administration Requirements.

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

11.6.3.1.1. Commercial uses (for residential PUD's);

11.6.3.1.2. Vegetation and topographic alterations other than routine maintenance;

11.6.3.1.3. Construction of additional buildings or storage of vehicles and other materials; and

11.6.3.1.4. Uncontrolled beaching of watercraft.

- 11.6.3.2. Development organization and functioning. Unless an equally effective alternative community framework is established, all residential planned unit developments must use an owners association with the following features:
 - 11.6.3.2.1. Membership must be mandatory for each dwelling unit or dwelling site owner and any successive owner;
 - 11.6.3.2.2. Each member must pay a pro rata share of the association's expenses, and unpaid assessments can become liens on units or dwelling sites;
 - 11.6.3.2.3. Assessments must be adjustable to accommodate changing conditions; and
 - 11.6.3.2.4. The association must be responsible for insurance, taxes, and maintenance of all commonly owned property and facilities.
- 11.6.4 Erosion Control and Stormwater Management.
 - 11.6.4.1. Erosion control plans must be developed and must be consistent with the provisions of Section 9.3.3 of this ordinance. Erosion control plans approved by a soil and water conservation district may be required if project size and site physical characteristics warrant.
 - 11.6.4.2. Stormwater management facilities must be designed and constructed to manage expected quantities and qualities of stormwater runoff. For commercial PUDs, impervious surfaces within any tier must not exceed 25 percent of the tier area, except that 35 percent impervious surface coverage may be allowed in the first tier of general development lakes with an approved stormwater management plan and consistency with Section 9.4 of this ordinance.

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

- 11.7.1 Proposed conversions must be evaluated using the same procedures for residential PUDs involving new construction. Inconsistencies between existing features of the development and these standards must be identified;
- 11.7.2 Deficiencies involving water supply and sewage treatment, structure color, impervious coverage, open space, and shore recreation facilities must be corrected as part of the conversion or as specified in the conditional use permit;
- 11.7.3 Shore and bluff impact zone deficiencies must be evaluated and reasonable improvements made as part of the conversion. These improvements must include, where applicable, the following:
 - 11.7.3.1. Removal of extraneous buildings, docks, or other facilities that no longer need to be located in shore or bluff impact zones;
 - 11.7.3.2. Remedial measures to correct erosion, improve vegetative cover and improve screening of buildings and other facilities as viewed from the water; and
 - 11.7.3.3. 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.

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

12.0 FEES

- 12.1 Fees.** Fees will be as established by resolution of the County Board.
- 12.2 Penalties.** Penalties for pre-construction without notification or permit application will be double the permit costs in effect at that time.

13.0 ENFORCEMENT

- 13.1 Circumstances Constituting a Violation/Violations Misdemeanors.** Any person, firm, or corporation who violates any of the provisions of this Ordinance, or who fails, neglects, or refuses to comply with the provisions of this Ordinance, including violations of conditions established in connection with the granting of Variances, land use permits, land alteration and grading permits, Conditional Use and Interim Use Permits, or fails to comply with restoration orders, or who knowingly makes any false statement in any document required to be submitted under the provisions hereof, shall be considered to be in violation of the ordinance shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine not to exceed \$1,000 or by imprisonment not to exceed 90 days, or both. Each day that a violation continues shall constitute a separate offense.
- 13.2 Administrative Enforcement upon Determination of a Violation.** Whenever the Environmental Services Department determines that any work, activity, construction, installation or use is being done or conducted contrary to the provisions of this Ordinance or any permit issued pursuant to this ordinance, the Environmental Services Department may issue a stop work order directing such work, activity, construction, installation or use be stopped. The Environmental Services Department will notify the owner of the property and/or the permit holder of the violation through the stop work order, which will be sent or delivered to the owner and/or permit holder. The stop work order will identify, at a minimum, the following:
- 13.2.1 The nature of the violation;
 - 13.2.2 The action required on the part of the property owner and/or permit holder to eliminate or resolve the violation;
 - 13.2.3 A reasonable time in which the violation must be remedied; and
 - 13.2.4 Inform the property owner and/or permit holder of their right to appeal the order and determination of the Environmental Services Department to the Board of Adjustment
 - 13.2.4.1. When any work has been stopped by the Environmental Services Department under a stop work order, it shall not again be resumed until the reason for the work stoppage has been completely satisfied.

- 13.2.4.2. Violation of a stop work order issued under this ordinance shall constitute a misdemeanor violation.
- 13.2.4.3. The failure of a property owner and/or permit holder to appeal the stop work order of the Environmental Services Department shall result in the stop work order being considered final under this ordinance.
- 13.2.4.4. If compliance with the stop work order is not obtained within a reasonable period of time, the Environmental Services Department will report such violations to the County Attorney, who shall take appropriate action on the matter.

13.3 Civil Enforcement Procedures. In the event of a violation or a threatened violation of this Ordinance, any permit issued under this ordinance, or any regulation or other official control adopted by the Board, the Environmental Services Department, in addition to other remedies, may institute appropriate civil actions or proceedings to prevent, prosecute, restore, restrain, correct, or abate such violations or threatened violations, and it shall be the duty of the County Attorney to institute such action.

13.4 Other Enforcement Options and Remedies Available. None of the enforcement options set forth in this section are meant to be the sole or exclusive means of enforcement procedures that the County may follow. The administrative enforcement process and the other enforcement procedures referred to in this section are in addition to any other right, remedy, or cause of action the County may have under Minnesota law to take actions, either civilly or criminally, to eliminate or resolve violations of this Ordinance. All such rights, remedies, and causes of action may, in the County's sole discretion, be exercised separately or in conjunction with one another and with such frequency as the County deems appropriate.

13.5 Application to County Personnel. The failure of any officer or employee of the County to perform any duty imposed by this ordinance shall not subject the officer or employee to a penalty imposed for violation unless a penalty is specifically provided for such failure.

14.0 CONSIDERATIONS FOR TOWNSHIP ZONING

Townships may adopt shoreland management controls under authority of Minn. Stat. §394.33, subd. 1, if the controls are not inconsistent with, or less restrictive than, the controls adopted by the county in which the township is located. This must be accomplished in accordance with the following conditions:

For the purposes of Minnesota Regulations, Parts 6120.2500 to 6120.3900, shoreland management controls adopted by townships will only be considered to be consistent with county controls if they cover the same full range of shoreland management provisions covered by the county controls, contain dimensional standards at least as restrictive as those in the county controls, and do not allow land uses in particular areas that are not allowed under the county's official controls.

The township must demonstrate to the county board that its proposed ordinance and administration is at least as restrictive as the county's prior to final adoption by the township. This will include, at a minimum, that the township has the staff necessary to administer the ordinance, has sufficient building permit application and certification forms and procedures, and an enforcement mechanism to enforce the ordinance should violations occur.

Townships must provide for administration and enforcement of shoreland management controls at least as effective as county implementation. Townships that adopt shoreland controls must provide the notifications in Section 3.7.8 of the sample ordinance to the Commissioner or the Commissioner's designee and to the zoning official of the county.

After adequate shoreland management controls are adopted by township, property owners must only obtain necessary permits and approvals as required in the township shoreland management controls. Property owners do not have to obtain similar permits or approvals under the county's shoreland controls.

The Commissioner of the Department of Natural Resources must also approve a township's shoreland ordinance. The DNR and the respective county should work together to make a joint determination as to whether the townships ordinance is in compliance with state and county standards.