

SECTION 13 - SHORELAND MANAGEMENT STANDARDS

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Subdivision 1: Statutory Authorization and Policy

1. **Statutory Authorization.** This shore land Ordinance is adopted pursuant to the authorization and policies contained in Minnesota Statutes, Chapter 103F.201-.221, Minnesota Regulations, Parts 6120.2500 - 6120.3900, and the planning and zoning enabling legislation in Minnesota Statutes, Chapter 394.
2. **Policy.** The uncontrolled use of shore lands of McLeod County, Minnesota, affects the public health, safety and general welfare not only by contributing to pollution of public waters, but also by impairing the local tax base. Therefore, it is in the best interests of the public health, safety and welfare to provide for the wise subdivision, use and development of shore lands of public waters. The Legislature of Minnesota has delegated responsibility to local governments of the state to regulate the subdivision, use and development of the shore lands of public waters and thus preserve and enhance the quality of surface waters, conserve the economic and natural environmental values of shore lands, and provide for the wise use of waters and related land resources. This responsibility is hereby recognized by McLeod County.

Subdivision 2: Purpose

These standards are adopted for the purpose of:

1. Regulating suitable uses of land surrounding public water.
2. Regulating the size and shape of parcels, length of water frontage and alteration of shore lands of public water.

3. Regulating the location, installation and maintenance of sanitary facilities adjacent to public waters.
4. Preservation of the natural vegetation, natural topography and other natural resources to ensure a high standard of environmental quality.

Subdivision 3: Water Bodies to Which This Section Applies

1. The provisions of this Section shall apply to the shore lands of the public water bodies as classified in this section. Pursuant to Minnesota Regulations, Parts 6120.2500 - 6120.3900, no lake, pond, or flowage less than 25 acres in size in unincorporated areas need be regulated in a local government's shore land regulations. A body of water created by a private user where there was no previous shore land may, at the discretion of the governing body, be exempt from this Section.

1. **Shore land Classification System.** The public waters of McLeod County have been classified below consistent with the criteria found in Minnesota Regulations, Part 6120.3300, and the Protected Waters Inventory Map prepared in 1984 for McLeod County, Minnesota.

A. The shore land area for the water bodies listed in Subsections B and C, below, is defined as follows: "Shore land means land located within the following distances from public waters: 1,000 feet from the ordinary high water level of a lake, pond of 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. The limits of shore lands may be reduced whenever the waters involved are bounded by topographic divides that extend landward from the waters for lesser distances and when approved by the Commissioner.

B. Lakes

Natural Environment Lakes	Protected Waters Inventory I.D. #
Grass	43-13
South	43-14
Coon	43-20
Mud	43-33
Rice	43-42*
Unnamed	43-47
Bakers	43-48
King	43-50
Unnamed (Penn Marsh)	43-53
Mary	43-56
Unnamed	43-57
Ryan	43-58
Unnamed	43-59
Clear	43-60
Little Bear	43-67
Omera	43-68
Longanans	43-70
Todd	43-71

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Emily	43-74
Tomlinson	43-75
Bear	43-76
Sustacek	43-77*
Unnamed	43-78
Harrington	43-79
Unnamed	43-80*
Echo	43-81
Ward	43-88
Kujas	43-93
Whitney	43-97
Eagle	43-98
Ellen	43-99
Barber	43-100
Mud	43-101
Dettman's	43-102
Clear	43-103
Unnamed (Popp Slough)	43-105
Unnamed	43-106*
Unnamed	43-107*
Campbells	43-108
French	43-109
Ferrell	43-110
Pierce	43-112
Fernold	43-113
Cedar	43-115
Round Grove	43-116
Unnamed	43-117
Halva Marsh	43-129
Campbell	10-27
Byron	47-04
Unnamed	47-43
Mud	72-57*
Butternut	86-253
Shakopee	86-255

* Classified as a wetland on the 1984 DNR Protected Waters Inventory

C. Recreational Development Lakes	Protected Water Inventory I.D. #
Swan	43-40
Addie	43-61
Hook	43-73
Marion	43-84
Stahls	43-104
Belle	47-49

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		Protected Waters Inventory I.D. #
D.	General Development Lakes	
	Winsted	43-12
	Silver	43-34
	Otter/Campbell	43-85
E.	Rivers and Streams	
a.	Agricultural Rivers	
	South Fork Crow River	From Section 19, Township 117, Range 30 to Section 12, Township 116, Range 27
	Buffalo Creek	From Section 30, Township 115, Range 30 to Section 24, Township 116, Range 27
	High Island Creek	From Section 20, Township 114, Range 30 to Section 25, Township 114, Range 29
	Boundaries of districts shown on official zoning map	
b.	Tributary Streams: All protected watercourses in McLeod County shown on the Protected Waters Inventory Map for McLeod County, a copy of which is hereby adopted by reference, not given a classification in (a) above shall be considered "Tributary."	

Subdivision 4: Abrogation and Greater Restrictions

1. It is not intended by this Section to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Section imposes greater restrictions, the provisions of this Section shall prevail. All other sections inconsistent with this Section are hereby repealed to the extent of the inconsistency only.
2. The Shore land Standards shall be in addition to any other provisions of this Ordinance.

Subdivision 5: Permits Required

A land use permit authorizing an addition to an existing structure or an accessory structure shall stipulate that an identified non-conforming sewage treatment system, as defined by Subdivision 13 of this section, shall be reconstructed or replaced in accordance with the provisions of this Ordinance.

Subdivision 6: Land Use District Descriptions

Use and Upgrading of Inconsistent Land Use Districts

1. The land use districts adopted in this Ordinance, as they apply to shore land areas, and their delineated boundaries on the Official Zoning Map, are not consistent with the land use district designation criteria specified in the Statewide Standards for “Management of Shore land Areas,” 6120.3200, effective July 3, 1989. 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 boundary shown on the Official Zoning Map or to modify the boundary of an existing land use district shown on the Official Zoning Map.
 - A. General Considerations and Criteria for All Land Use:
 - (1) preservation of natural areas;
 - (2) present ownership and development of shore land areas;
 - (3) shore land soil types and their engineering capabilities;
 - (4) topographic characteristics;
 - (5) vegetative cover
 - (6) in-water physical characteristics, values, and constraints;
 - (7) recreational use of the surface water;
 - (8) road and service center accessibility;
 - (9) socioeconomic development needs and plans as they involve water and related land resources;
 - (10) the land requirements of industry which, by its nature, requires location in shore land areas; and
 - (11) the necessity to preserve and restore certain areas having significant historical or ecological value.
2. When a revision is proposed to an inconsistent land use district provision, the following additional criteria and procedures shall apply:
 - A. 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 shore land areas within jurisdiction of this Ordinance on said lake must be revised to make them substantially compatible with the framework of part 6120.3200 of the Statewide Standards for “Management of Shore land Areas.”

- B. 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 provisions therein for all shore land 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 part 6120.3200 of the Statewide Standards for “Management of Shore land Areas.” If the same river classification is contiguous for more than a five-mile segment, only the shore land for a distance of 2.5 miles upstream and downstream, or to the class boundary if closer need be evaluated and revised.
- C. When an interpretation question arises about whether a specific land use fits within a given “use” category, the interpretation shall be made by the Board of Adjustment. When a question arises as to whether a land use district’s boundaries are properly delineated on the Official Zoning Map, this decision shall be made by the County Board.
- D. 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 County Board will direct the Zoning Administrator to provide such additional information for this water body as is necessary to satisfy Items A and B.
- E. The County Board must make a detailed finding of fact and conclusion when taking final action that this revision, and the upgrading of any inconsistent land use district designations on said water body, are consistent with the enumerated criteria and use provisions of part 6120.3200 of the Statewide Standards for “Management of Shore land Areas.”

Subdivision 7: Lakeshore Development Standards

1. Lot Width and Area

The lot area (in square feet) and lot width standards (in feet) for lots created after the date of enactment of this Ordinance for the lake and river/stream classifications are the following:

Lakes

- A. Natural Environment:***

	Riparian Lots		Non-riparian Lots	
	<u>Area</u>	<u>Width</u>	<u>Area</u>	<u>Width</u>
Single	87,120 (2 acres)	250	87,120 (2 acres)	250

B. Recreational Development:* **

	Riparian Lots		Non-riparian Lots	
	<u>Area</u>	<u>Width</u>	<u>Area</u>	<u>Width</u>
Single	54,450 (1.25 acres)	150	54,450 (1.25 acres)	150

C. General Development:* **

	Riparian Lots		Non-riparian Lots	
	<u>Area</u>	<u>Width</u>	<u>Area</u>	<u>Width</u>
Single	54,450 (1.25 acres)	150	54,450 (1.25 acres)	150

Rivers

D. Agricultural Rivers:* **

	Riparian Lots	Non-riparian Lots
	<u>Area</u>	<u>Area</u>
Single	54,450 (1.25 acres)	54,450 (1.25 acres)

River/Stream Lot Width Standards. The lot width standards for single residential developments for the river/stream classifications are:

Agricultural No sewer	
<u>Single</u>	<u>150</u>

* Only land above the ordinary high water level of public waters can be used to meet lot area standards, and lot width standards must be met at both the ordinary high water level and at the building line.

** Multiple family dwellings and Planned Unit Developments are not permitted within shore land areas.

2. **Controlled Accesses**

Lots intended as controlled accesses to public water recreation areas for use by owners of non-riparian lots within subdivisions are permissible and must meet or exceed the following standards.

- A. They must meet the width and size requirements for residential lots, and be suitable for the intended uses of controlled access lots.
- B. Docking, mooring, or over water storage of watercraft is limited to 6 or less

- C. They 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 lots; and
- D. Covenants or other equally effective legal instruments must be developed that specify which lot owners have authority to use the access lot and what activities are allowed. The activities may include watercraft launching, loading, storage, beaching, mooring, or docking. They may include other outdoor recreational activities that do not significantly conflict with general public use of the public water or the enjoyment of normal property rights by adjacent property owners. Examples of non-significant conflict activities include swimming, sunbathing, or picnicking. The covenants must 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, and must require centralization of all common facilities and activities in the most suitable locations on the lot to minimize topographic and vegetation alterations. They must also require all parking areas, storage buildings, and other facilities to be screened by vegetation or topography as much as practical from view from the public water, assuming summer, leaf-on conditions.

3. Placement, Design, and Height of Structures

- A. Placement of structures on lots. When more than one setback applies to a site, structures and facilities must be located to meet all setbacks. Proposed structures shall not be placed in a shore impact zone or in a bluff impact zone; excepting water oriented accessory structures shall be located as follows.

(1) Structure and On-site Sewage System Setbacks (in feet) from Ordinary High Water Level*.

Classes of Public Waters	Setbacks*	
	Structures	Sewage Treatment System
Lakes		
Natural Environment	200	150
Recreational Development	100	75
General Development	75	50
Rivers		
Agriculture, Urban and Tributary	100	75

* One water-oriented accessory structure designed in accordance with this section of the Ordinance may be set back a minimum distance of 20 feet from the ordinary high water level, on General Development, Recreation or Development Lakes.

- B. Additional structure setbacks. The following additional structure setbacks apply, regardless of the classification of the water body:

Setback from:	Setback (in feet)
(1) top of bluff;	30
(2) unplatted cemetery;	50
(3) centerline of federal, state, or county highway; and	130
(4) centerline of township road	100
(5) right-of-way line of minor street serving a residential subdivision.	40

- C. Bluff impact zones. Structures and accessory facilities, except stairways and landings, must not be placed within bluff impact zones.
- D. Uses without water-oriented needs. Uses without water-oriented needs must be located on lots or parcels without public waters frontage, or, if located on lots or parcels with public waters frontage, must either be set back double the normal ordinary high water level setback or be substantially screened from view from the water by vegetation or topography, assuming summer, leaf-on conditions.

4. **Design Criteria for Structures**

- A. High Water Elevations. 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:
- (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;
 - (2) for rivers and streams, by placing the lowest floor at least three feet above the flood of record, if data are available. 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 parts 6120.5000 to 6120.6200 governing the management of floodplain areas. If more than one approach is used, the highest flood protection elevation determined must be used for placing structures and other facilities; and

- (3) water-oriented accessory structures may have the lowest floor placed lower than the elevation determined in this item 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.
5. **Water-oriented Accessory Structures.** Each lot, on General Development and Recreational Development Lakes, may have one water-oriented accessory structure not meeting the normal structure setback in Provision 3(A)(1) of this Subdivision if this water-oriented accessory structure complies with the following provisions:
- A. The structure or facility must not exceed ten feet in height, exclusive of safety rails, and cannot occupy an area greater than 120 square feet. Detached decks must not exceed three feet above grade at any point;
 - B. The setback of the structure or facility from the ordinary high water level must be at least ten feet;
 - C. The structure or facility must be treated to reduce visibility as viewed from public waters and adjacent shore lands by vegetation, topography, increased setbacks or color, assuming summer, leaf-on conditions;
 - D. The roof may be used as a deck with safety rails, but must not be enclosed or used as a storage area;
 - A. The structure or facility must not be designed or used for human habitation and must not contain water supply or sewage treatment facilities; and
6. **Stairways, Lifts, and Landings.** Stairways and lifts are the preferred alternative to major topographic alterations for achieving access up and down bluffs and steep slopes to shore areas. Stairways and lifts must meet the following design requirements:
- A. Stairways and lifts must not exceed four feet in width on residential lots. Wider stairways may be used for commercial properties, public open-space recreational properties
 - B. 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 open-space recreational properties;
 - C. Canopies or roofs are not allowed on stairways, lifts, or landings;
 - D. Stairways, lifts, and landings may be either constructed above the ground on posts or pilings, or placed into the ground, provided they are designed and built in a manner that ensures control of soil erosion; and do not exceed grading, filling and excavation, volumes allowed with no permit.
 - E. Stairways, lifts, and landings must be located in the most visually inconspicuous portions of lots, as viewed from the surface of the public water assuming summer, leaf-on conditions, whenever practical; and

- F. Facilities such as ramps, lifts, or mobility paths for physically handicapped persons are also allowed for achieving access to shore areas, provided that the dimensional and performance standards of sub items (A) to (E) are complied with in addition to the requirements of Minnesota Regulations, Chapter 1340.
- 7. **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.
- 8. **Steep Slopes.** The Zoning Administrator must evaluate possible soil erosion impacts and development visibility from public waters before issuing a permit for construction of sewage treatment systems, roads, driveways, structures, or other improvements on steep slopes. When determined necessary, conditions must be attached to issue permits to prevent erosion and to preserve existing vegetation screening of structures, vehicles, and other facilities as viewed from the surface of public waters, assuming summer, leaf-on vegetation.
- 9. **Height of Structures.** All structures in residential districts, except churches and nonresidential agricultural structures must not exceed 35 feet in height.

Subdivision 8: Shore land Alterations

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

- 1. **Vegetation Alterations**
 - A. Vegetation alteration necessary for the construction of structures and sewage treatment systems and the construction of roads and parking areas regulated by Subdivision 9 of this Ordinance are exempt from the vegetation alteration standards that follow. However, if screening, assuming summer leaf-on conditions is substantially reduced, a mitigation plan must be submitted at the time of the application for a permit.
 - B. Removal or alteration of vegetation, except for agricultural and forest management uses as regulated in Subdivision 11 (2) and (3) of this section, respectively, is allowed subject to the following standards:
 - (1) Intensive vegetation clearing within the shore and bluff impact zones and on steep slopes is not allowed. Intensive vegetation clearing for forest land conversion to another use outside of these areas is allowable as a conditional use if an erosion control and sedimentation plan is developed and approved by the soil and water conservation district in which the property is located.

- (2) In shore and bluff impact zones and on steep slopes, limited clearing of trees and shrubs and cutting, pruning, and trimming of trees is allowed to provide a view to the water from the principal dwelling site and to accommodate the placement of stairways and landings, picnic areas, access paths, livestock watering areas, beach and watercraft access areas, and permitted water-oriented accessory structures or facilities, provided that:
 - (a) The screening of structures, vehicles, or other facilities as viewed from the water, assuming summer, leaf-on conditions, is not substantially reduced;
 - (b) Along rivers, existing shading of water surfaces is preserved; and
 - (c) No cutting or removal of live trees over six (6) inches in diameter measured to a point two (2) feet above ground level shall take place until a Conditional Use Permit has been issued.
 - (d) The above provisions are not applicable to the removal of trees, limbs, or branches that are dead, diseased, or pose safety hazards.

2. Topographic Alterations/Grading and Filling

- A. Grading and filling and excavations necessary for the construction of structures, sewage treatment systems, and driveways under validly issued land use permits for these facilities do not require the issuance of a conditional use permit. However, the grading and filling standards in this Subdivision must be incorporated into the issuance of any permit, variance, or Conditional Use permit for construction of structures, accessory structures, subdivisions, sewage treatment systems and driveways.
- B. Public roads and parking areas are regulated by Subdivision 9 of this Ordinance.
- C. Notwithstanding Items A. and B. above, a conditional use permit will be required for:
 - (1) The movement of more than ten (10) cubic yards of material on steep slopes or within shore or bluff impact zones; and
 - (2) The movement of more than 50 cubic yards of material outside of steep slopes and shore and bluff impact zones.

D. The following considerations and conditions must be adhered to during the issuance of land use permits, conditional use permits, variances and subdivision approvals:

(1) Grading or filling in any type 2, 3, 4, 5, 6, 7, or 8 wetland must be evaluated to determine how extensively the proposed activity would affect the following functional qualities of the wetland*:

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

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

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

(3) Mulches or similar materials must be used, where necessary, for temporary bare soil coverage, and a permanent vegetation cover must be established as soon as possible;

(4) Methods to minimize soil erosion and to trap sediments before they reach any surface water feature must be used;

(5) Altered areas must be stabilized to acceptable erosion control standards consistent with the field office technical guides of the local soil and water conservation districts and the United States Soil Conservation Service;

(6) Fill or excavated material must not be placed in a manner that creates an unstable slope;

(7) 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;

- (8) Fill or excavated material must not be placed in bluff impact zones;
- (9) Any alterations below the ordinary high water level of public waters must first be authorized by the commissioner under Minnesota Statutes, Section 103G.245;
- (10) Alterations of topography must only be allowed if they are accessory to permitted or conditional uses and do not adversely affect adjacent or nearby properties; except excavation in bluff impact zone and shore impact zone areas for the purpose of walkouts or landscaping is prohibited.
- (11) Placement of natural rock riprap, including associated grading of the shoreline and placement of a filter blanket, is permitted if the finished slope does not exceed three feet horizontal to one foot vertical, riprap placed above (landward) the OHW must be limited to 10 cubic yards and not to exceed 3' above the OHW. A Conditional Use Permit is required for more extensive grading/filling.

E. **Connections to public waters.** Excavations where the intended purpose is connection to a public water, such as boat slips, canals, lagoons, and harbors, shall require a land use permit from the Zoning Administrator before construction is begun. Permission for excavations may be given only after the Commissioner of the Department of Natural Resources has approved the proposed connection to public waters.

Subdivision 9: Placement and Design of Roads, Driveways, and Parking Areas

1. **Visual Screening.** Public and private roads and parking areas must be designed to take advantage of natural vegetation and topography to achieve maximum screening from view from public waters. Documentation must be provided by a qualified individual that all roads and parking areas are designed and constructed to minimize and control erosion to public waters consistent with the field office technical guides of the local soil and water conservation district, or other applicable technical materials.
2. **Setbacks.** 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 by variance, and must be designed to minimize adverse impacts.
3. **Watercraft Access.** Public and private watercraft access ramps, approach roads, and access-related parking areas may be placed within shore impact zones provided the vegetative screening and erosion control conditions of this subpart are met. For private facilities, the grading and filling provisions of Subdivision 8 of this section must be met and filling and grading is limited to 10 cubic yards.

Subdivision 10: Storm Water Management.

The following general and specific standards shall apply:

1. **General Standards**

- A. When possible, existing natural drainage ways, wetlands, and vegetated soil surfaces must be used to convey, store, filter, and retain storm water runoff before discharge to public waters.
- B. Development must be planned and conducted in a manner that will minimize the extent of disturbed areas, runoff velocities, erosion potential, and reduce and delay runoff volumes. Disturbed areas must be stabilized and protected as soon as possible and facilities or methods used to retain sediment on the site.
- C. When development density, topographic features, and soil and vegetation conditions are not sufficient to adequately handle storm water runoff using natural features and vegetation, various types of constructed facilities such as diversions, settling basins, skimming devices, dikes, waterways, and ponds may be used. Preference must be given to designs using surface drainage, vegetation, and infiltration rather than buried pipes and man-made materials and facilities.

2. **Specific Standards**

- A. Impervious surface coverage of lots must not exceed 25 percent of the lot area.
- B. When constructed facilities are used for storm water 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 districts.
- C. New constructed storm water outfalls to public waters must provide for filtering or settling of suspended solids and skimming of surface debris before discharge.

Subdivision 11: Special Provisions for Commercial, Industrial, Public/Agricultural, Forestry and Extractive Uses and Mining of Metallic Minerals and Peat

1. **Standards for Commercial, Industrial, Public, and Semipublic Uses**

- A. Surface water-oriented commercial uses and industrial, public, or semipublic uses with similar needs to have access to and use of public waters may be located on parcels or lots with frontage on public waters. Those uses with water-oriented needs must meet the following standards:
 - (1) In addition to meeting impervious coverage limits, setbacks, and other zoning standards in this Ordinance, the uses must be designed to incorporate topographic and vegetative screening of parking areas and structures;

- (2) Uses that require short-term watercraft mooring for patrons must centralize these facilities and design them to avoid obstructions of navigation and to be the minimum size necessary to meet the need; and
- (3) Uses that depend on patrons arriving by watercraft may use signs and lighting to convey needed information to the public, subject to the following general standards:
 - (a) No off-site advertising signs or supporting facilities for signs may be placed in or upon public waters. Signs conveying information or safety messages may be placed in or on public waters by a public authority or under a permit issued by the county sheriff;
 - (b) On-site signs may be placed, when necessary, within the shore impact zone if they are designed and sized to be the minimum necessary to convey needed information. They must only convey the location and name of the establishment and the general types of goods or services available. The signs must not contain other detailed information such as product brands and prices, must not be located higher than ten feet above the ground, and must not exceed 32 square feet in size. If illuminated by artificial lights, the lights must be shielded or directed to prevent illumination out across public waters; and
 - (c) Other outside lighting may be located within the shore impact zone or over public waters if it is used primarily to illuminate potential safety hazards and is shielded or otherwise directed to prevent direct illumination out across public waters. This does not preclude use of navigational lights.
- B. Uses without water-oriented needs must be located on lots or parcels without public waters frontage, or, if located on lots or parcels with public waters frontage, must either be set back double the normal ordinary high water level setback or be substantially screened from view from the water by vegetation or topography, assuming summer, leaf-on conditions.

2. **Agriculture Use Standards**

- A. 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 permanent 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 United States Natural Resource Conservation Service, as provided by a qualified individual or agency. The shore impact zone for parcels with permitted agricultural land uses is equal to a line parallel to and 50 feet from the ordinary high water level.

- B. Animal feedlots must meet the following standards and the McLeod County Feedlot Management Ordinance.
 - (1) New permitted feedlots must not be located in the shore land of watercourses, basins, or public waters.
- 3. **Forest Management Standards.** The harvesting of timber and associated reforestation must be conducted consistent with the provisions of the Minnesota Non-point Source Pollution Assessment-Forestry and the provisions of Water Quality in Forest Management "Best Management Practices in Minnesota" or its successor publications.
- 4. **Extractive Use Standards**
 - A. **Site Development and Restoration Plan.** An extractive use site development and restoration plan must be developed, approved, and followed over the course of operation of the site. The plan must address dust, noise, possible pollutant discharges, hours and duration of operation, and anticipated vegetation and topographic alterations. It must also identify actions to be taken during operation to mitigate adverse environmental impacts, particularly erosion, and must clearly explain how the site will be rehabilitated after extractive activities end. A Conditional Use Permit and restoration bond are required for any extractive uses. Additional extractive use standards in the land use Ordinance shall be adhered to.
 - B. **Setbacks.** Processing machinery must be located consistent with setback standards for structures from ordinary high water levels of public waters and from bluffs. Mining activities must be setback equal with shore impact standards or 150 feet on natural environment lakes.
- 5. **Mining of Metallic Minerals and Peat.** Mining of metallic minerals and peat, as defined in Minnesota Statutes, Sections 93.44 to 93.51 shall be a permitted use provided the provisions of Minnesota Statutes, Sections 93.44 to 93.51, are satisfied.

Subdivision 12: Conditional Uses

Conditional uses allowable within shore land areas shall be subject to the review and approval procedures, and criteria and conditions for review of conditional uses established community-wide. The following additional evaluation criteria and conditions shall apply within shore land areas:

- 1. **Evaluation criteria.** A thorough evaluation of the water body and the topographic, vegetation, and soils conditions on the site must be made to ensure:
 - A. the prevention of soil erosion or other possible pollution of public waters, both during and after construction;
 - B. the visibility of structures and other facilities as viewed from public waters is limited;
 - C. the site is adequate for water supply and on-site sewage treatment; and

- D. 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.
2. **Conditions attached to conditional use permits.** The County Board, upon consideration of the criteria listed above and the purposes of this Ordinance, shall attach such conditions to the issuance of the conditional use permits as it deems necessary to fulfill the purposes of this Ordinance. Such conditions may include, but are not limited to, the following:
- A. Increased setbacks from the ordinary high water level;
 - B. Limitations on the natural vegetation to be removed or the requirement that additional vegetation be planted; and
 - C. Special provisions for the location, design, and use of structures, sewage treatment systems, watercraft launching and docking areas, and vehicle parking areas.

Subdivision 13: Water Supply and Sewage Treatment

- 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.
- 2. **Sewage treatment.** Any premises used for human occupancy must be provided with an adequate method of sewage treatment, as follows:
 - A. Publicly-owned sewer systems must be used where available.
 - B. All private sewage treatment systems must meet or exceed the Minnesota Pollution Control Agency's standards for individual sewage treatment systems contained in the McLeod County ISTS Ordinance.
 - C. On-site sewage treatment systems must be set back from the ordinary high water level in accordance with the setbacks contained in Subdivision 7, Subsection 3, of this Section.
 - D. All proposed sites for individual sewage treatment systems shall be evaluated in accordance with the criteria in sub items (1) - (4). It shall then be the responsibility of the applicant to provide sufficient soil borings and/or percolation tests from on-site field investigations.

Evaluation Criteria:

- (1) Depth to the highest observable saturated soil condition or bedrock;
- (2) Soil conditions, properties, and permeability;
- (3) Slope;
- (4) The existence of lowlands, local surface depressions, and rock outcrops;

- E. Nonconforming sewage treatment systems shall be regulated and upgraded in accordance with Subdivision 14(3) of this section.

Subdivision 14: Nonconformities

All legally established nonconformities as of the date of this Ordinance may continue, but they will be managed according to applicable state statutes and other regulations of this community for the subjects of alterations and additions, repair after damage, discontinuance of use, and intensification of use; except that the following standards will also apply in shore land areas:

1. Construction on Nonconforming Lots of Record (Substandard Lots)

- A. Lots of record in the office of the county recorder on the date of enactment of local shore land controls that do not meet the requirements of Subdivision 7 of this section may be allowed as building sites without variances from lot size requirements provided the use is permitted in the zoning district, the lot has been in separate ownership from abutting lands at all times since it became substandard, it was created compliant with official controls in effect at the time, and sewage treatment and setback requirements of this Ordinance are met.
- B. A variance from setback requirements must be obtained before any use, sewage treatment system, or building permit is issued for a lot. In evaluating the variance, the 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.
- C. If, in a group of two or more contiguous lots under the same ownership, any individual lot does not meet the requirements of Subdivision 7 of this section, the lot must not be considered as a separate parcel of land for the purposes of sale or development. The lot must be combined with the one or more contiguous lots so they equal one or more parcels of land, each meeting the requirements of Subdivision 7 of this section as much as possible.

2. Additions/Expansions to Nonconforming Structures

- A. All additions or expansions to the outside dimensions of an existing nonconforming structure must meet the setback, height, and other requirements of Subdivision 7 of this section. Any deviation from these requirements must be authorized by a variance pursuant to Section 23.
- B. Deck additions may be allowed without variance to a structure not meeting the required setback from the ordinary high water level if all of the following criteria and standards are met:
 - (1) The structure existed on the date the structure setbacks were established;
 - (2) A thorough evaluation of the property and structure reveals no reasonable location for a deck meeting or exceeding the existing ordinary high water level setback of the structure;

- (3) The deck encroachment toward the ordinary high water level does not exceed 15 percent of the existing setback of the structure from the ordinary high water level or does not encroach closer than 30 feet, whichever is more restrictive; and

3. Nonconforming Sewage Treatment Systems

- A. A sewage treatment system not meeting the requirements of Subdivision 13 of this Section 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. For the purposes of this provision, a sewage treatment system shall not be considered failing if the only deficiency is the sewage treatment system's improper setback from the ordinary high water level.
- B. It is the intent of McLeod County not to encourage the survival of failing septic systems.

McLeod County has set in ordinance a time frame to bring failing septic systems into compliance. The amount of time has been established by the McLeod County ISTS Committee, this time period will not exceed 2 years in a shore land area. Sewage systems installed according to all applicable local shore land management standards adopted under

Minnesota Statutes, Section 103.F.201-.221, in effect at the time of installation may be considered in compliance unless they are determined to be failing, except that systems using cesspool, 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's Chapter 7080 for design of on-site sewage treatment systems shall be considered failing.

Subdivision 15: Subdivision/Platting Provisions

1. **Land Suitability.** Each lot created through subdivision must be suitable in its natural state for the proposed use with minimal alteration. Suitability analysis by the local unit of government shall consider susceptibility to flooding, existence of wetlands, soil and rock formations with severe limitations for development, severe erosion potential, steep topography, inadequate water supply or sewage treatment capabilities, near-shore aquatic conditions unsuitable for water-based recreation, important fish and wildlife habitat, presence of significant historic sites, or any other feature of the natural land likely to impair the health, safety, or welfare of future residents of the proposed subdivision or of the community. Each lot created must have a suitable building pad capable of construction of a primary structure without filling or requiring a variance.

2. **Consistency with Other Controls.** Subdivisions must conform to all official controls of McLeod County. A subdivision will not be approved where a later variance from one or more standards in official controls would be needed to use the lots for their intended purpose. In areas not served by publicly owned sewer and water systems, a subdivision will not be approved unless domestic water supply is available and a sewage treatment system consistent with Subdivision 13 of this section can be provided for every lot. Each lot shall meet the minimum lot size and dimensional requirements of Subdivision 13, including at least a minimum contiguous lawn area that is free of limiting factors sufficient for the construction of two standard sewage treatment systems. Lots that would require use of holding tanks must not be approved.
3. **Information Requirements.** Sufficient information must be submitted by the applicant for the community to make a determination of land suitability. The information shall include at least the following:
 - A. Topographic contours at two-foot intervals or less from United States Geological Survey maps or more accurate sources, showing limiting site characteristics;
 - B. The surface water features required in Minnesota Statutes, Section 505.02, Subdivision 1, to be shown on plats, obtained from United States Geological Survey quadrangle topographic maps or more accurate sources;
 - C. Adequate soils information to determine suitability for building and on-site sewage treatment capabilities for every lot from the most current existing sources or from field investigations such as soil borings, percolation tests, or other methods;
 - D. Information regarding adequacy of domestic water supply; extent of anticipated vegetation and topographic alterations; near-shore aquatic conditions, including depths, types of bottom sediments, and aquatic vegetation; and proposed methods for controlling storm water runoff and erosion, both during and after construction activities;
 - E. Location of 100-year flood plain areas and floodway districts from existing adopted maps or data; and regulatory flood protection elevation.
 - F. 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.
 - G. Wetland delineation report that follows standards of the Minnesota Wetland Conservation Act.
4. **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 storm water, wetlands or for conservation purposes.

5. **Platting.** All subdivisions that 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 and the McLeod County Subdivision Ordinance. No permit for construction of buildings or sewage treatment systems shall be issued for lots created after these official controls were enacted unless the lot was approved as part of a formal subdivision.

Subdivision 16: Procedures for Submitting a Plat

1. Whenever any subdivision of land is proposed to be made, the sub divider or his duly authorized agent must apply in writing for subdivision approval in accordance with the McLeod County Subdivision Ordinance. This application must be received before any contract for the sale of, or any offer to sell any lots in the subdivision is made, and before any permit for the construction of a structure or sewage treatment system in the subdivision is granted.
2. **Controlled Access for Recreational Lots.** Lots intended as controlled accesses to public waters or for recreational areas for use by non-riparian lots within a subdivision must meet or exceed the dimensional standards in Subdivision 7.1 of this Section.