

## Chapter 13

### Shoreland Regulations

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The Shoreland section of this Ordinance was adopted pursuant to the authorization and policies contained in Minnesota Statutes, Chapter 103F.201, Minnesota Regulations, Parts 6120.2500-6120.3900, and the county planning and zoning enabling legislation, Minnesota Statutes, Chapter 394.

**13.01 Purpose.** These Shoreland standards are adopted for the purpose of:

- Regulating suitable uses of land surrounding protected waters.
- Regulating the size of parcels, length of water frontage and alteration of shorelands of protected waters.
- Regulating the location of sanitary facilities adjacent to protected waters, topography, and other natural resources to insure a high standard of environmental quality.

**13.02 Statutory Authorization.** This Shoreland ordinance is adopted pursuant to the authorization and policies contained in Minnesota Statutes, Chapter 103F.201, Minnesota Regulations Parts 6120.2500-6120.3900, and the county planning and zoning enabling legislation, Minnesota Statutes, Chapter 394.

**13.03 Policy.** The uncontrolled use of shorelands of Wabasha County, Minnesota affects the public health, safety and general welfare by contributing to pollution of public waters and by impairing the local tax base. It is, therefore, in the best interests of the public health, safety and welfare to provide for the wise development of 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 utilization of waters and related land resources. The Legislature of Minnesota has delegated this responsibility to local governments. The responsibility is hereby recognized by Wabasha County.

**13.04 Definitions.** The definitions found in Chapter 6120.2500 Minnesota Rules shall apply to this Chapter. Definitions contained in Chapter 2 of this Ordinance shall apply to this chapter also, except as they may be in conflict with those found in Chapter 6120.2500, in which case the definitions found in Chapter 6120.2500 shall prevail.

**13.05 Shoreland Districts.** The shorelands within Wabasha County are hereby designated as shoreland districts and the requirements set forth in this Section shall govern development and other activities within these districts. The classification of the shoreland districts shall govern the use, alteration, and development of these areas according to said classification as per Minnesota Regulations Part 6120.3000.

**13.06 District Application.** The Shoreland District shall be applied to and superimposed upon all zoning districts as contained herein as existing or amended by the Zoning Ordinance text and official Zoning Map. The regulations and requirements imposed by the Shoreland District shall be in addition to those established for districts that jointly apply. Under the joint application of districts, the more restrictive requirements shall apply.

**13.07 Shoreland Classification System and Zoning Provisions.** The public waters of Wabasha County have been classified below consistent with the criteria found in Minnesota Regulations, Part 6120.3300, and the Protected Waters Inventory Map for Wabasha County, Minnesota. The Zoning provisions below are prescribed for any riparian or nonriparian lot located in a shoreland area. Additional setback requirements may apply as outlined in this Ordinance.

- (1) Natural Environment Lakes. Half Moon Lake, Maloney Lake, and McCarthy Lake are designated as Natural Environment Lakes.
  - (a) New lots: A minimum width of 200 feet; A minimum width of 200 feet at the Ordinary Highwater Level; Contain a minimum of two (2) dry buildable acres; Allow for an onsite septic disposal system as per Minnesota Rules 7080.
  - (b) Structure setback: 150' from the Ordinary Highwater Level.
  - (c) Septic system: 150' from the Ordinary Highwater Level.
- (2) Recreation Development Lakes. Prichards Lake and Lake Zumbro are designated as Recreational Development Lakes.
  - (a) New lots: A minimum width of 200 feet; A minimum width of 200 feet at the Ordinary Highwater Level; Contain a minimum of two (2) dry buildable acres; Allow for an onsite septic disposal system as per Minnesota Rules 7080.
  - (b) Structure setback: 100' from the Ordinary Highwater Level.
  - (c) Septic system: 75' from the Ordinary Highwater Level.
- (3) General Development Lakes. U.S. Lock & Dam Pool 5, U.S. Lock & Dam Pool 4, and Lake Pepin are designated as General Development Lakes.
  - (a) New lots: A minimum width of 200 feet; A minimum width of 200 feet at the ordinary highwater level; Contain a minimum of two (2) dry buildable acres. Allow for an onsite septic disposal system as per Minnesota Rules 7080.
  - (b) Structure setback: 75' from the Ordinary Highwater Level.
  - (c) Septic system: 50' from the Ordinary Highwater Level.
- (4) Transition Rivers. The Whitewater River from the Wabasha/Winona County boarder to the confluence with Pool 5 and the Zumbro River from the outlet of Lake Zumbro to the east section line of Section 9, Township 109 North, Range 12 West and again from the County Road 86 bridge to the east section line of Section 19, Township 110 North, Range 10 West are designated as transition rivers.
  - (a) New lots: A minimum width of 250 feet; A minimum width of 250 feet at the ordinary highwater level; Contain a minimum of two (2) dry buildable acres. Allow for an onsite septic disposal system as per Minnesota Rules 7080.
  - (b) Structure setback: 150' from the Ordinary Highwater Level.
  - (c) Septic system: 100' from the Ordinary Highwater Level.
- (5) Agricultural Rivers. The North Fork of the Whitewater River for the entire stretch in Wabasha County, the Zumbro River from the west section line of Section 10, Township 109 North, Range 12 West to the County Road 86 Bridge and again from the west section

line of Section 20, Township 110 North, Range 10 West to the confluence with Pool, and the North Fork of the Zumbro River from the Wabasha/Goodhue County border to the confluence with the Zumbro River are designated agricultural rivers.

- (a) New lots: A minimum width of 200 feet; A minimum width of 200 feet at the ordinary highwater level; Contain a minimum of two (2) dry buildable acres. Allow for an onsite septic disposal system as per Minnesota Rules 7080.
  - (b) Structure setback: 100' from the Ordinary Highwater Level.
  - (c) Septic system: 75' from the Ordinary Highwater Level.
- (6) Tributary Streams. All protected watercourses in Wabasha County shown on the Protected Waters Inventory map for Wabasha County, a copy of which is hereby adopted by reference, not given a classification in sections 1 through 5 above shall be considered "Tributary".
- (a) New lots: A minimum width of 200 feet; A minimum width of 200 feet at the ordinary highwater level; Contain a minimum of two (2) dry buildable acres. Allow for an onsite septic disposal system as per Minnesota Rules 7080.
  - (b) Structure setback: 100' from the Ordinary Highwater Level.
  - (c) Septic system: 75' from the Ordinary Highwater Level.

**13.08 Density standards.** The following density standards apply to all shoreland areas in Wabasha County.

- (1) Dwelling Density Standards. For a parcel in a shoreland area to be assigned a single dwelling density there shall be a parcel of minimum size and dimensions as outlined in this ordinance. Each additional dwelling would require additional width and area for each single dwelling (a duplex to be considered on a parcel located on a natural environment lake would require 400' of width at the ordinary highwater level, have four (4) buildable/dry acres, and all structures must be 150 feet from the ordinary highwater level as per Chapter 6120.3300 Minn. Rules). Existing nonconforming lots in shoreland areas that do not meet the standards of this ordinance may be allowed as a building site without a variance from lot size requirements provided the parcel adheres to Chapter 394.36, Subd. 5.

**13.09 Design Criteria for Structures.**

- (1) High Water Elevations. Structures shall 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 shall be determined as follows:
- (a) For lakes, by placing the lowest floor at a level at least 3 feet above the highest known water level, or 3 feet above the ordinary high water level, whichever is higher;
  - (b) For rivers and streams, by placing the lowest floor at least 3 feet above the flood of record, if data are available. If data are not available, by placing the lowest floor at least 3 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 evaluation shall 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 shall be used for placing structures and other facilities; and

- (c) 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.

- (2) Water-oriented Accessory Structures. Each lot may have one water-oriented accessory structure not meeting the normal structure setback from the Ordinary Highwater Level if the water-oriented accessory structure complies with the following provisions:

- (a) The structure or facility shall not exceed 10 feet in height, exclusive of safety rails, and cannot occupy an area greater than 250 square feet. Detached decks shall not exceed 8 feet above grade at any point;
- (b) The setback of the structure or facility from the ordinary high water level shall be at least 10 feet;
- (c) The structure or facility shall be treated to reduce visibility as viewed from public waters and adjacent shorelands by use of vegetation, topography, increased setbacks, or color (assuming summer, leaf-on conditions);
- (d) The roof may be used as a deck with safety rails, but shall not be enclosed or used as storage area;
- (e) The structure or facility shall not be designed or used for human habitation and shall not contain water supply or sewage treatment facilities; and
- (f) As an alternative for general development and recreational development waterbodies, water-oriented accessory structures used solely for watercraft storage, and including storage of related boating and water-oriented sporting equipment, may occupy an area up to 400 square feet provided the maximum width of the structure is 20 feet as measured parallel to the configuration of the shoreline.

- (3) 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 shall meet the following design requirements:

- (a) Stairways and lifts shall not exceed 4 feet in width on residential lots. Wider stairways may be used for commercial properties, public open-space recreational properties, and planned unit developments;
- (b) Landings for stairways and lifts on residential lots shall not exceed 32 square feet in area. Landings larger than 32 square feet may be used for commercial properties, public open-space recreational properties, and planned unit developments;
- (c) Canopies or roofs are not allowed on stairways, lifts, or landings;
- (d) Stairways, lifts, and landings may be either constructed above the ground on posts or pilings, or placed into the ground, provided they are designed and built in a manner that ensures control of soil erosion;

- (e) Stairways, lifts, and landings shall be located, whenever practical, 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 person are also allowed for achieving access to shore areas, provided that the dimensional and performance standards of sub-items (1) to (5) are complied with in addition to the requirements of Minnesota Regulations, Chapter 1340.
  - (g) The construction of a new stairway or the replacement of a stairway shall require the issuance of a land alteration permit if the stairway is excavated into the in-situ soil.
  - (h) The construction of a new stairway or the replacement of a stairway that is elevated above the in-situ soil shall require the issuance of a land use permit.
- (4) 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.
- (5) Steep Slopes. The Zoning Administrator shall 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 shall be attached to issued 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.
- (6) Retaining Walls. New retaining walls or the replacement of existing retaining walls located in the shore impact zone shall require the issuance of a land use permit prior to construction and shall adhere to the provisions as follows:
- (a) The retaining wall shall be only constructed of native limestone so as to maintain the natural characteristics of the shore impact zone.
  - (b) Native vegetation shall be incorporated into the design of the retaining wall to the extent practicable. A vegetation plan shall be submitted with the land use permit application.
  - (c) No deck or patio area shall be established using a retaining wall within the shore impact zone.
  - (d) Retaining walls that require the use of fill are subject to the floodplain provisions of this Ordinance. The replacement of existing retaining walls are subject to the same standards if they were constructed after the adoption of the Wabasha County Floodplain Regulations.
- (7) Uses Without Water-oriented Needs. Uses without water-oriented needs shall be located on lots or parcels without public waters frontage, or, if located on lots or parcels with public waters frontage, shall 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.

### **13.10 SHORELAND ALTERATIONS**

- (1) Vegetative buffer zone. The purpose of these vegetation buffer standards is to reduce erosion and sedimentation to surface waters, filter stormwater runoff, protect water

quality by controlling nutrient movement, protect riparian habitats, protect stream banks, maintain stability of bluffs and steep slopes, and provide natural screening of shoreland development to protect natural resources.

(a) Vegetation alteration necessary for the construction of legally permitted structures and sewage treatment systems and the construction of legally permitted roads and parking areas regulated by this Ordinance are exempt for the vegetation alteration standards that follow.

(b) Removal or alteration of vegetation in shoreland areas, except for agricultural and forest management uses as regulated in this Chapter, 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. Cutting of trees and shrubs within the shore impact zone, bluff impact zone, or on steep slopes is not allowed, except only as provided for in subparagraph two (2) below. 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.

2. A Land Alteration Permit is required prior to vegetative clearing in the shore impact zone and bluff impact zone and on steep slopes. A Shoreland Vegetation Plan shall be submitted with the Land Alteration Permit and shall be approved by the Wabasha County Zoning Department prior to any clearing or cutting of trees or shrubs. The approval of the plan may require re-vegetation to meet the intent of this Chapter. Limited 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;

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

(c) Use of fertilizers and pesticides in all districts shall minimize runoff into shore impact zones and public waters by use of earth, vegetation, or both.

(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 permits for these facilities do not require the issuance of a Land Alteration Permit. However, the grading and filling standards in this Section shall be incorporated into the issuance of permits for construction of structures, sewage treatment systems, and driveways.

- (b) Public roads and parking areas are regulated by Chapter 13.10(3).
- (c) A Land Alteration Permit shall be required for:
  - 1. The movement of more than 10 cubic yards of material on steep slopes or within shore or bluff impact zones; and
  - 2. The movement of more than 50 cubic yards of material outside of steep slopes and shore and bluff impact zones.
- (d) The following considerations and conditions shall be adhered to during the issuance of Land Use Permits, Land Alteration Permits, Conditional Use Permits, variances and subdivision approvals:
  - 1. Grading or filling in any type 2, 3, 4, 5, 6, 7, or 8 wetland shall 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 shall 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.

  - 2. Alterations shall 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 shall be used, where necessary, for temporary bare soil coverage, and a permanent vegetation cover shall be established as soon as possible;
  - 4. Methods to minimize soil erosion and to trap sediments before they reach any surface water feature shall be used;
  - 5. Altered areas shall 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 shall not be placed in a manner that creates an unstable slope;
  - 7. Plans to place fill or excavated material on steep slopes shall be reviewed by qualified professionals for continued slope stability and shall not create finished slopes of 30 percent or greater;
  - 8. Fill or excavated material shall not be placed in bluff impact zones;

9. Any alterations below the ordinary high water level of public waters shall first be authorized by the Commissioner under Minnesota Statutes, Section 103G.245;
  10. Alterations of topography shall only be allowed if they are accessory to permitted or conditional uses and do not adversely affect adjacent or nearby properties; and
  11. Placement of natural rock riprap above the Ordinary Highwater Level, including associated grading of the shoreline and placement of a filter blanket, is permitted if the landward extent of the riprap is within 10 feet of the ordinary high water level and vegetation is retained to the extent practicable. A Land Alteration Permit will be required for the placement of riprap and the issuance of any permit may require the restoration of the vegetative buffer.
- (e) Permits for excavations where the intended purpose is connection to a public water, such as boat slips, canals, lagoons, and harbors, may be issued only after the Commissioner has approved the proposed connection to public waters.

(3) Placement and Design of Roads, Driveways, and Parking Areas.

- (a) Public and private roads and parking areas shall be designed to take advantage of natural vegetation and topography to achieve maximum screening from view from public waters. Documentation shall 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.
- (b) Roads, driveways, and parking areas shall meet structure setbacks and shall 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 through the issuance of a conditional/interim use permit. An application for a conditional/interim use permit to place a road, driveway, or parking area in a bluff impact zone shall include a design from a MN licensed engineer that minimizes failure and erosion potential. No road, driveway, or parking area shall be located on any slope greater than thirty (30) percent.
- (c) Public and private watercraft access ramps, approach roads, and access-related parking areas may be placed within shore impact zones provided the vegetative screening and erosion control conditions of this subpart are met. For private facilities, the grading and filling provisions of Chapter 13.10(2) shall be met.

(4) Stormwater Management.

- (a) When possible, existing natural drainageways, wetlands, and vegetated soil surfaces shall be used to convey, store, filter, and retain stormwater runoff before discharge to public waters.
- (b) Development shall 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 shall be stabilized and protected as soon as possible and facilities or methods used to retain sediment on the site.

- (c) When development density, topographic features, and soil and vegetation conditions are not sufficient to adequately handle stormwater runoff using natural features and vegetation, various types of constructed facilities such as diversions, settling basins, skimming devices, dikes, waterways, and ponds may be used. Preference shall be given to designs using surface drainage, vegetation, and infiltration rather than buried pipes and man-made materials and facilities.
- (d) Impervious surface coverage of lots shall not exceed twenty-five (25) percent of the lot area. Impervious surface means a constructed hard surface that either prevents or retards the 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. Examples include rooftops, sidewalks, patios, driveways, parking lots, storage areas, and concrete, asphalt, or gravel roads.
- (e) When constructed facilities are used for stormwater management, documentation shall 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.
- (f) New constructed stormwater outfalls to public waters shall provide for filtering or settling of suspended solids and skimming of surface debris before discharge.

### **13.11 OTHER PROVISIONS FOR VARIOUS USES**

- (1) Standards for Commercial, Industrial, Public, and Semipublic Uses. Surface water-oriented commercial uses and industrial, public, or semipublic uses with similar needs to have access to and use of public waters may be located on parcels or lots with frontage on public waters. Those uses with water-oriented needs shall meet the following standards:
  - (a) In addition to meeting impervious coverage limits, setbacks, and other zoning standards in this ordinance, the uses shall be designed to incorporate topographic and vegetative screening of parking areas and structures.
  - (b) Uses that require short-term watercraft mooring for patrons shall centralize these facilities and design them to avoid obstructions of navigation and to be the minimum size necessary to meet the need.
  - (c) 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:
    - 1. No 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.
    - 2. 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 shall only convey the location and name of the establishment and the general types of goods or services available. The signs shall not contain other detailed information such as product brands and prices, shall not be located higher than 10 feet above the ground, and shall not exceed 32 square feet in size. If illuminated by artificial lights, the lights shall be shielded or directed to prevent illumination out across public waters; and

3. 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.

(2) Agricultural Use Standards.

(a) General cultivation farming, grazing, nurseries, horticulture, sod farming, and wild crop harvesting are permitted uses if steep slopes and shore and bluff impact zones are maintained in accordance with Chapter 103F.48, Subd. 3, Minnesota Statutes.

(b) Animal feedlots shall meet the following standards:

1. New feedlots shall not be located in the shoreland of watercourses or in bluff impact zones and shall meet a minimum setback of 300 feet from the ordinary high water level of all public water basins: and
2. Modifications or expansions to existing feedlots that are located within 300 feet of the ordinary high water level or within a bluff impact zone are allowed if they do not further encroach into the existing ordinary high water level setback or bluff impact zone.

(3) Forest Management Standards. The harvesting of timber and associated reforestation shall 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.

(4) Extractive Use Standards. Processing machinery shall be located consistent with setback standards for structures from ordinary high water levels of public waters and from bluffs.

### **13.12 CONDITIONAL USES**

(1) Conditional uses allowable within shoreland areas shall be subject to the review and approval procedures, and criteria and conditions for review of conditional uses as found in this Ordinance. The following additional evaluation criteria and conditions shall apply within shoreland areas:

(a) Evaluation Criteria. A thorough evaluation of the waterbody and the topographic, vegetation, and soils conditions on the site shall be made to ensure:

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

2. The visibility of structures and other facilities as viewed from public waters is limited.
  3. The site is adequate for water supply and on-site sewage treatment; and
  4. The types, uses, and numbers of watercraft that the project will generate are compatible to in relation to the suitability of public waters to safely accommodate these watercraft.
- (b) Stipulations Attached to Conditional Use Permits. The County Board, upon consideration of the criteria listed above and the purposes of this Article, shall attach such stipulations to the issuance of the conditional use permits as it deems necessary to fulfill the purposes of this Ordinance and Article. Such stipulations may include, but are not limited to, the following:
1. Increased setbacks from the ordinary high water level;
  2. Limitations on the natural vegetation to be removed or the requirement that additional vegetation be planted; and
  3. Special provisions for the location, design, and use of structures, watercraft launching and docking areas, and vehicle parking areas.

### **13.13 VARIANCES**

- (1) Provisions. Variances may only be granted in accordance with Minnesota Statutes, Chapter 394 and provisions of this Ordinance.
  - (a) A variance shall not circumvent the general purposes and intent of this ~~Article~~ Chapter. No variance may be granted that would allow any use that is prohibited in the zoning district in which the subject property is located. Conditions may be imposed in the granting of a variance to ensure compliance and to protect adjacent properties and the public interest.
  - (b) For existing developments, the application for variance shall clearly demonstrate whether a conforming sewage treatment system is present for the intended use of the property. The variance, if issued, shall require reconstruction of a nonconforming sewage treatment system.

### **13.14 NONCONFORMITIES**

- (1) Nonconformities and nonconforming lots shall be regulated as per Chapter 394.36 Minn. Stats and as per Chapter 20 of this Ordinance.

### **13.15 WATER SUPPLY AND SEWAGE TREATMENT**

- (1) Water Supply. Any public or private supply of water for domestic purposes shall meet or exceed standards for water quality of the Minnesota Department of Health and the Wabasha County Water Quality Ordinance.
- (2) Sewage Treatment. Any premises used for human occupancy shall be provided with a sewage treatment system meeting or exceeding the Minnesota Pollution Control

Agency's standards for individual sewage treatment systems contained in the document titled "Individual Sewage Treatment Systems Standards, chapter 7080", a copy of which is hereby adopted by reference and declared to be a part of this Article.

### **13.16 SUBDIVISION / PLATTING PROVISIONS**

- (1) Land Suitability. Each lot created through subdivision shall be suitable in its natural state for the proposed use with minimal alteration. Suitability analysis 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 be harmful to the health, safety, or welfare of future residents of the proposed subdivision or of the community.
- (2) Consistency With Other Controls. Subdivisions shall conform to all official controls of the County. A subdivision shall not be approved where later variances from one or more standards in official controls would be needed to use the lots for their intended purpose. A Subdivision shall not be approved unless domestic water supply is available and a sewage treatment system can be provided for every lot. Each lot shall meet the minimum lot size requirements. Lots that would require use of holding tanks shall not be approved.
- (3) Dedications. When a land or easement dedication is a condition of subdivision approval, the approval shall provide easements over natural drainage or ponding areas for management of stormwater and significant wetlands.
- (4) Platting. Any subdivision that creates 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.

### **13.17 NOTIFICATION TO THE DEPARTMENT OF NATURAL RESOURCES**

- (1) Copies of all notices of any public hearings to consider variances, amendments, or conditional uses shall be sent to the Commissioner or the Commissioner's designated representative and postmarked at least ten (10) days before the hearings. Notices of hearings to consider proposed subdivisions/plans shall include copies of the subdivision/plat.
- (2) A copy of approved amendments and subdivisions/plats, and final decisions granting variances or conditional uses under this Shoreland Chapter shall be sent to the Commissioner or the Commissioner's designated representative and postmarked within - ten (10) days of final action.