

Chapter 13

Shoreland Regulations

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.

~~The regulations contained in this article are just incorporating the regulations from the existing Wabasha County Shoreland Management Ordinance that was originally adopted in 1992 as mandated by the Minnesota Department of Natural Resources.~~

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 following definitions found in Chapter 6120.2500 Minnesota Rules shall apply to this Article Chapter. ~~All other~~ Definitions contained in ~~Article 2~~ Chapter 2 of this Ordinance shall apply ~~here to this chapter also~~, except as they may be in conflict with those found in ~~this Section~~ Chapter 6120.2500, in which ~~case~~ the definitions found in ~~this Section shall~~ Chapter 6120.2500 shall ~~apply~~ prevail.

~~Subd. 1 — Accessory structure or facility means, any building or improvement subordinate to a principal use which, because of the nature of its use, can reasonably be located at or greater than normal structure setbacks.~~

~~Subd. 2 — Commercial planned unit developments are typically uses that provide transient, short-term lodging spaces, rooms, or parcels and their operations are essentially service-oriented. For example hotel/motel accommodations, resorts, recreational vehicles and camping parks, and other primarily service oriented activities are commercial planned unit developments.~~

~~Subd. 3 — Commissioner as referred to in this Article only shall mean the Commissioner of the Department of Natural Resources.~~

~~Subd. 4 — Dwelling site means a designated location for residential use by one or more persons using temporary or movable shelter, including camping and recreational vehicle sites.~~

~~Subd. 5 — Dwelling unit means 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.~~

~~Subd. 6 — Planned unit development means 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 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, campgrounds, recreational vehicle parks, resorts, hotels, motels, and conversions of structures and land uses to these uses.~~

~~Subd. 7 — Residential planned unit development means 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 5 dwelling units or sites.~~

~~Subd. 8 — Screened means when a structure is built or placed on a lot or vegetation is planted such that when the structure is built, it is visually inconspicuous as viewed from the river or valley during the summer months. Visually inconspicuous means difficult to see or not readily noticeable in summer months as viewed from the river.~~

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 Land Use Districts. 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.

The shoreland district for the waterbodies listed in 1 and 2 shall be as defined in Article 2 and as shown on the Official Zoning Map.

Subd. 1 Lakes:

	Protected Waters
Lakes	Inventory I.D. #
A. Natural Environment Lakes	
Half Moon	79002
Maloney	79004
McCarthy	79006
B. Recreational Development Lakes	
Prichards	79003
Zumbro	55004
C. General Development Lakes	
U.S. Lock & Dam #5 Pool	79001
U.S. Lock & Dam #4 Pool	79005
Pepin	25001

- (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.

Subd. 2 Rivers and Streams:

Rivers and Streams ————— Legal Description

A. Transition Rivers		Border of Wabasha & Winona Counties
Whitewater	From:	Confluence with U. S. Lock & Dam #5 Pool in T-109N, R9W, Section 33
	To:	

Zumbro	From:	Outlet of Zumbro Lake in T109N, R14W, Sec. 27
	To:	East section line of Sec. 9, T109N, R12W; and
	From:	Co. Rd. 86 bridge in T110N, R11W, Sec. 22
	To:	East section line of Sec. 19, T110N, R10W
B. Agricultural Rivers		
North Fork, Whitewater	From:	Border of Wabasha & Olmsted Counties
	To:	Border of Wabasha & Olmsted Counties
Zumbro	From:	West section line of Sec.10, T109N, R12W
	To:	Co. Rd. 86 bridge in T110N, R11W, Sec. 22; and
	From:	West section line of Sec. 20, T110N, R10W
	To:	Confluence with U.S. Lock & Dam #5 Pool in T110N, R9W, Section 32
North Fork, Zumbro	From:	Border of Wabasha and Goodhue Counties
	To:	Confluence with Zumbro R. in T109, R14W, Section 40
C. Tributary Streams*		
<p>* 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 Items A & B above shall be considered "Tributary".</p>		

13.08 Density standards. Zoning Provisions. The lot area (in square feet), lot width (in feet), and setback requirements for single lots created after the date of enactment of this chapter for the lake and river/stream classifications are as follows: The following density standards apply to all shoreland areas in Wabasha County.

Unsewered Lakes:

(1) Natural Environment:

	Riparian Lots		Nonriparian Lots	
	Area	Width	Area	Width
Single	80,000	200	80,000	200
Duplex	120,000	300	120,000	400

(2) Recreational Development:

	Riparian Lots		Nonriparian Lots	
	Area	Width	Area	Width
Single	40,000	150	40,000	150
Duplex	80,000	225	80,000	265

(3) General Development:

	Riparian Lots		Nonriparian Lots	
	Area	Width	Area	Width
Single	20,000	100	40,000	150
Duplex	40,000	180	80,000	265

	Riparian Lots		Nonriparian Lots	
	Area	Width	Area	Width
Single	15,000	75	15,000	75
Duplex	26,000	135	26,000	135

(4) ~~Transition Rivers.~~ There are no minimum lot area requirements for rivers and streams. The lot width standards for single and duplex residential developments for the six river/stream classifications are:

(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 requires 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.

	Transition	Agriculture	Unsewered Tributary
Single	250	150	100
Duplex	375	225	150

Additional Special Provisions.

A. ~~Residential subdivisions with dwelling unit densities exceeding those in the tables in Subd. 1 and 2 can only be allowed if designed and approved as residential planned unit developments under Section 16 of this Article. 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.~~

B. ~~One guest cottage may be allowed on lots meeting or exceeding the duplex lot area and width dimensions presented in Subd. 1 and 2, provided the following standards are met:~~

1. ~~For lots exceeding the minimum lot dimensions of duplex lots, the guest cottage shall be located within the smallest duplex sized lot that could be created including the principal dwelling unit;~~

- ~~2. A guest cottage shall not cover more than 700 square feet of land surface and must not exceed 15 feet in height; and~~
 - ~~3. A guest cottage shall be located or designed to reduce its visibility as viewed from public waters and adjacent shorelands by use of vegetation, topography, increased setbacks, or color (assuming summer leaf on conditions).~~
- ~~(1) Lots intended as controlled accesses to public waters or as recreation areas for use by owners of nonriparian lots within subdivisions are permissible and shall meet or exceed the following standards:~~
- ~~(a) They shall meet the width and size requirements of residential lots, and be suitable for their intended uses.~~
 - ~~(b) If docking, mooring, or over water storage of more than 6 watercraft is to be allowed at a controlled access lot, then the width of the lot (keeping the same lot depth) shall be increased by the percent of the requirements for riparian residential lots for each watercraft beyond 6, consistent with the following table:~~

~~Controlled Access Lot Frontage Requirements:~~

Ratio of lake size to shore length (acres/mile)	Required increase in frontage (percent)
Less than 100	25
100 - 200	20
201 - 300	15
301 - 400	10
greater than 400	5

- ~~(c) They shall be jointly owned by all purchasers of lots in the subdivision or by all purchasers of nonriparian lots in the subdivision who are provided riparian access rights on the access lot; and~~
- ~~(d) Covenants or other equally effective legal instruments shall 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 shall also 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 the nonsignificant conflict activities include swimming, sunbathing, or picnicking. The covenants shall 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 shall require centralization of all common facilities and activities in the most suitable locations on the lot to minimize topographic and vegetation alterations. They shall also require all parking areas, storage building, 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.~~

Placement and Design of Structures.

A. ~~Placement of Structures and Sewage Treatment Systems on Lots. When more than one setback applies to a site, structures and facilities shall be located to meet all setbacks. Where structures exist on the adjoining lots on both sides of a proposed building site, structure setbacks may be altered without a variance to conform to the adjoining setbacks from the ordinary high water level, provided the proposed building site is not located in a shore impact zone or in a bluff impact zone.~~

~~(1) Structure and Sewage Treatment System Setbacks.
(in feet from ordinary high water level)~~

Classes of	Structure	Sewage Treatment System
Natural Environment Lake	150	150
Recreational Development Lake	100	75
General Development Lake	75	50
Transition River	150	100
Agriculture and Tributary River	100	75

~~*One water-oriented accessory structure per residential lot designed in accordance with Subd. 5 of this Section may be set back a minimum distance of 10 feet from the ordinary high water level in all classes.~~

C. ~~Additional Structure setbacks. The following additional structure setbacks apply, regardless of the classification of the waterbody:~~

Setback From:	Setback (in feet)
1. top and toe of bluff:	30
2. unplatted cemetery:	50
3. right of way line of federal, state, or county highway; and	50
4. right of way line of town road, public street, or other roads or streets	30

D. ~~Bluff Impact Zones. Structures and accessory facilities, except stairways and landings, shall not be placed within bluff impact zones.~~

E. ~~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.~~

13.09 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 ~~in Section 8 Subd. 4 of this Article 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.**

13.10 SHORELAND ALTERATIONS

- (1) Vegetative buffer zone.~~Vegetation Alterations.~~ 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 ~~Section 9 Subd. 3 of this Article~~ **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 ~~Section 10 Subd. 2 and 3 of this Article, respectively, 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 and bluff impact zones and 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. 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;
 - (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 ~~construction permits for these facilities do not require the issuance of a separate grading and filling permit~~ 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).Section 9 Subd. 3 of this Article.~~
- (c) ~~Notwithstanding items A. and B. above, a grading and filling~~ 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 ~~construction~~ Land Use Permits, ~~grading and filling~~ 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.~~
1. 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;
 2. 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;
 3. Methods to minimize soil erosion and to trap sediments before they reach any surface water feature shall be used;
 4. 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;

5. Fill or excavated material shall not be placed in a manner that creates an unstable slope;
6. 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;
7. Fill or excavated material shall not be placed in bluff impact zones;
8. Any alterations below the ordinary high water level of public waters shall first be authorized by the Commissioner under Minnesota Statutes, Section 103G.245;
9. 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
10. 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 finished slope does not exceed 3 feet horizontal to one foot vertical~~, the landward extent of the riprap is within 10 feet of the ordinary high water level, and ~~the height of the riprap above the ordinary high water level does not exceed 3 feet~~ natural 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. ,and shall be designed to minimize adverse impacts.**
- (c) Public and private watercraft access ramps, approach roads, and access-related parking areas may be placed within shore impact zones provided the vegetative screening and erosion control conditions of this subpart are met. For private facilities, the grading and filling provisions of **Chapter 13.10(2) Section 9 Subd. 2 of this Article** shall be met.

(4) Stormwater Management –~~General Standards.~~

- (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.

Subd. 5 Stormwater Management –~~Specific Standards~~

- (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, ~~truck farming~~, sod farming, and wild crop harvesting are permitted uses if steep slopes and shore and bluff impact zones are maintained in accordance with the Laws of Minnesota 2016, Chapter 85 (S.F. 2503). ~~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 district or the United States Soil Conservation Service, as provided by a qualified individual or agency. The shore impact zone boundary 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 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 restoration shall be conducted consistent with the provisions of the Minnesota Nonpoint Source Pollution Assessment - Forestry and the provisions of Water Quality in Forest Management “Best Management Practices in Minnesota.”

~~Subd. 4 Extractive Use Standards.~~

- ~~A. Site Development and Restoration Plan. An extractive use site development and restoration plan shall be developed, approved, and followed over the course of operation of the site. The plan shall address dust, noise, possible pollutant discharges, hours and duration of operation, and anticipated vegetation and topographic alterations. It shall also identify actions to be taken during operation to mitigate adverse environmental impacts, particularly erosion, and shall clearly explain how the site shall be rehabilitated after extractive activities end.~~
- ~~B. Setbacks for Processing Machinery. 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 ~~Article 18~~ of 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 ~~Article 19~~ 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. ~~In considering a variance request, the Board of Adjustment shall also consider whether the property owner has reasonable use of the land without the variance, whether the variance is being requested solely on the basis of economic considerations, and the characteristics of development an adjacent properties.~~
 - (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.~~

~~All legally established noneonconformities as of the date of this ordinance may continue, but they shall 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 shall also apply in shoreland areas:~~

~~Subd. 1 Construction on Nonconforming Lots of Record.~~

- ~~A. Lots of record in the office of the County Recorder on the date of initial enactment of County Shoreland controls that do not meet the requirements of Section 8 of this Article may be allowed as building sites without variances from lot size requirements provided the use is permitted in the zoning district, the lot has been in separate ownership from abutting lands at all times since it became substandard, was created compliant with official controls in effect at the time, and sewage treatment and setback requirements of this Article are met.~~
- ~~B. A variance from setback requirements, if necessary, shall 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 2 or more contiguous lots under the same ownership, any individual lot does not meet the requirements of Section 8 of this Article the lot shall not be considered as a separate parcel of land for the purposes of sale or development. The lot shall be combined with the one or more contiguous lots so~~

~~they equal one or more parcels of land, each meeting the requirements of Section 8 of this Article as much as possible.~~

~~Subd. 2 Deck Additions to Nonconforming Structures. A deck addition to a structure not meeting the required setback from the ordinary high water level may be allowed without a variance if all of the following criteria and standards are met:~~

- ~~A. The structure existed on the date the structure setbacks were established;~~
- ~~B. 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;~~
- ~~C. 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~~
- ~~D. The deck is constructed primarily of wood, and is not roofed or screened.~~

~~Subd. 3 Nonconforming Sewage Treatment Systems.~~

- ~~A. A sewage treatment system not meeting the requirements of Section 14 of this Article shall be upgraded, when 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 nonconforming if the only deficiency is its improper setback from the ordinary high water level.~~
- ~~B. Sewage systems installed according to County shoreland management standards adopted under Minnesota Statutes, section 103F.201, in effect at the time of installation may be considered as conforming unless they are determined to be failing, except that systems using cesspools, leaching pits, seepage pits, or other deep disposal methods, or systems with insufficient separation from groundwater shall be considered nonconforming.~~

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, ~~including planned unit developments authorized under Section 16 of this Article,~~ 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 ~~consistent with Section 8 Subd. 4 and Section 14 of this Article~~ can be provided for every lot. Each lot shall meet the minimum lot size requirements ~~of Section 8 Subd. 1 of this Article, including at least a minimum contiguous lawn area that is free of limiting factors sufficient for the construction of two standard soil treatment systems.~~ Lots that would require use of holding tanks shall not be approved.

~~Subd. 3 — Information Requirements. Sufficient information shall be submitted by the applicant to make a determination of land suitability. The information shall include at least the following:~~

- ~~A. — Topographic contours at 10 foot intervals or less from United States Geographical 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 Geographical 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 stormwater runoff and erosion, both during and after construction activities.~~
- ~~E. — Location of 100 year floodplain areas and floodway districts from existing adopted maps or data; and~~
- ~~F. — Lines or contours 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.~~

- (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. ~~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.~~

~~SECTION 16. PLANNED UNIT DEVELOPMENTS (PUDS)~~

~~Planned unit developments (PUDs) are allowed for new projects on undeveloped land, redevelopment of previously built sites, or conversions of existing buildings and land.~~

~~Subd. 1 Processing of PUDs. PUDs shall be processed as conditional uses, except that an expansion to an existing commercial PUD involving 6 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 Subd. 4 of this Section. Approval cannot occur until the environmental review process (EAW/EIS) is complete.~~

~~Subd. 2 Application for a PUD. The applicant for a PUD shall submit the following documents prior to final action being taken on the application request:~~

- ~~A. A site plan and/or plat for the project showing locations of property boundaries, surface water features, existing and proposed structures and other facilities, land alterations, sewage treatment and water supply systems (where public systems will not be provided), and topographic contours at ten foot intervals or less. When a PUD is a combined commercial and recreational development, the site plan and/or plat shall indicate and distinguish which buildings and portions of the project are residential, commercial, or a combination of the two.~~
- ~~B. A property owners association agreement (for residential PUDs) with mandatory membership, and all in accordance with the requirements of Subd. 5 of this Section.~~
- ~~C. Deed restrictions, covenants, permanent easements or other instruments that: 1) properly address future vegetative and topographic alterations, construction of additional buildings, beaching of watercraft, and construction of commercial buildings in residential PUDs and 2) ensure the long term preservation and maintenance of open space in accordance with the criteria and analysis specified in Subd. 5 of this Section.~~
- ~~D. When necessary, a master plan/drawing describing the project and the floor plan for all commercial structures to be occupied.~~
- ~~E. Those additional documents as requested by the Zoning Administrator that are necessary to explain how the PUD will be designed and will function.~~

~~Subd. 3 Site "Suitable Area" Evaluations. Proposed new or expansions to existing planned unit developments shall be evaluated using the following procedures and standards to determine the suitable area for the dwelling unit/dwelling site density evaluation in Subd. 4.~~

~~A. The project parcel shall be divided into tiers by locating one or more lines approximately parallel to a line that identifies the ordinary high water level at the following intervals, proceeding landward:~~

	Unsewered	Sewered
	(feet)	(feet)
General Development Lakes First Tier	200	200
General Development Lakes		
Second and Additional Tiers	267	267
Recreational Development Lakes	267	267
Natural Environment Lakes	400	320
All River Classes	300	300

~~B. The suitable area within each tier is next calculated by excluding from the tier area all wetlands, bluffs, or land below the ordinary high water level of public waters. This suitable area and the proposed project are the subject to either the residential or commercial planned unit development density evaluation steps to arrive at an allowable number of dwelling units or sites.~~

~~Subd. 4 Residential and Commercial PUD Density Evaluation. The procedures for determining the "base" density of a PUD and a density increase multipliers as follows. Allowable densities may be transferred from any tier to any other tier further from the water body, but shall not be transferred to any other tier closer.~~

~~A. Residential PUD "Base" Density Evaluation.~~

~~1. The suitable area within each tier is divided by the single residential lot size standard for lakes or, for rivers, the single residential lot width standard times the tier depth, unless the local unit of government has specified an alternative minimum lot size for rivers which shall then be used to yield a base density of dwelling units or sites for each tier. Proposed locations and numbers of dwelling units or sites for the residential planned unit developments are then compared with the tier, density, and suitability analysis herein and the design criteria in Subd. 5.~~

~~B. Commercial PUD "Base" Density Evaluation.~~

~~1. Determine the average inside living area size of dwelling units or sites within each tier, including both existing and proposed units and sites. Computation of inside living area sizes need not include decks, patios, stoops, steps, garages, or porches and basements, unless they are habitable space.~~

~~2. Select the appropriate floor area ratio from the following table:~~

~~Commercial PUD Floor Area Ratios*
Public Waters Classes~~

Average Natural Unit Floor Area (sq. ft.)	Sewered general development lakes; first tier on unsewered general development lakes agricultural, tributary or rive segments	Second and additional tiers on unsewered general development lakes; recreational development lakes; transition river segments	Natural environment lakes
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

~~*For average unit floor areas less than shown, use the floor area ratios listed for 200 square feet. For areas greater than shown, use the ratios listed for 1,500 square feet. For recreational camping areas, use the ratios listed at 400 square feet. Manufactured home sites in recreational camping areas shall use a ratio equal to the size of the manufactured home, or if unknown, the ratio listed for 1,000 square feet.~~

- ~~3. Multiply the suitable area within each tier by the floor area ratio to yield total floor area for each tier allowed to be used for dwelling units or sites.~~
- ~~4. Divide the total floor area by tier computed in Item 3. above by the average inside living area size determined in Item 1. above. This yields a base number of units and sites for each tier.~~
- ~~6. Proposed locations and numbers of dwelling units or sites for the commercial planned unit development are then compared with the tier, density and suitability analyses herein and the design criteria in Subd. 5.~~

~~C. Density Increase Multipliers:~~

- ~~1. Increases to the dwelling unit or dwelling site base densities previously determined are allowable if the dimensional standards in Section 8 are met or exceeded and the design criteria in Subd. 5 are satisfied. The allowable density increases in Item 2 below shall only be allowed if structure setbacks from the ordinary high water level are increased to at least fifty (50) percent greater than the minimum setback, or the impact on the water body is reduced an equivalent amount through vegetative management, topography, or additional means~~

~~acceptable to the local unit of government and the setback is at least twenty five (25) percent greater than the minimum setback.~~

~~2. Allowable Dwelling Unit or Dwelling Site Density Increases for Residential or Commercial PUDs:~~

~~Maximum Density Increase by Tier
(percent)~~

First	50
Second	100
Third	200
Fourth	200
Fifth	200

~~Subd. 5 Maintenance and Design Criteria:~~

~~A. Maintenance and Administration Requirements:~~

~~1. Before final approval of a planned unit development, adequate provisions shall be developed for preservation and maintenance in perpetuity of open spaces and for the continued existence and functioning of the development.~~

~~B. Open Space Criteria. PUDs shall contain open space meeting all of the following criteria:~~

- ~~1. At least 50 percent of the total project area shall be preserved as open space;~~
- ~~2. Dwelling units or sites, road right of way, or land covered by road surfaces, parking area, or structures, except water oriented accessory structures or facilities, are developed areas and shall not be included in the computation of minimum open space;~~
- ~~3. Open space shall include areas with physical characteristics unsuitable for development in their natural state, and areas containing significant historic sites or unplatted cemeteries;~~
- ~~4. Open space may include outdoor recreational facilities for use by owners of dwelling units or sites, by guests in commercial PUDs, and by the general public;~~
- ~~5. Open space may include sewage treatment systems if the use of the space is restricted to avoid adverse impacts of the systems;~~
- ~~6. Open space may contain water oriented accessory structures or facilities if they meet or exceed design standards of Section 8 Subd. 4 of this Article and are centralized;~~
- ~~7. The shore impact zone, based on normal structure setbacks, shall be included as open space. For residential PUDs, at least 50 percent of the shore impact zone area of existing developments or at least 70 percent of the area of new developments shall be preserved in its natural or existing state. For commercial PUDs, at least 50 percent of the shore impact zone shall be preserved in its natural state.~~

~~C. Open Space Preservation. Deed restrictions, covenants, permanent easements, public dedication and acceptance, or other equally effective and permanent means shall be provided to ensure long-term preservation and maintenance of open space. The instruments shall include all of the following protections:~~

- ~~1. Commercial uses prohibited (for residential PUDs);~~
- ~~2. Vegetation and topographic alterations other than routine maintenance prohibited;~~
- ~~3. Construction of additional buildings or storage of vehicles and other materials prohibited; and~~
- ~~4. Uncontrolled beaching of watercraft prohibited.~~

~~D. Development Organization and Functioning. Unless an equally effective alternative community framework is established, all residential PUDs shall use an owners association with the following features:~~

- ~~1. Membership shall be mandatory for each dwelling unit or site purchaser and any successive purchasers;~~
- ~~2. Each member shall pay a pro rata share of the association's expenses, and unpaid assessments can become liens on units or sites;~~
- ~~3. Assessments shall be adjustable to accommodate changing conditions; and~~
- ~~4. The association shall be responsible for insurance, taxes, and maintenance of all commonly owned property and facilities.~~

~~E. Erosion Control and Storm Water Management. Erosion control and storm water management plans shall be developed and the PUD must:~~

- ~~1. Be designed, and the construction managed, to minimize the likelihood of serious occurring either during or after construction. This shall be accomplished by limiting the amount and length of time of bare ground exposure. Temporary ground covers, sediment entrapment facilities, vegetated buffer strips, or other appropriate techniques shall be used to minimize erosion impacts on surface water features. Erosion control plans approved by a soil and water conservation district may be required if project size and site physical characteristics warrant; and~~
- ~~2. PUDs shall be designed and constructed to effectively manage reasonably expected quantities and qualities of stormwater runoff. Impervious surface coverage within any tier shall not exceed 25 percent of the tier area, except that for commercial PUDs 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 of this Article.~~

~~F. Centralization and Design of Facilities. Centralization and design of facilities and structures shall be done according to the following standards:~~

- ~~1. Planned unit developments shall be connected to publicly owned water supply and sewer systems, if available. On-site water supply and sewage treatment systems shall be centralized and designed and installed to meet or exceed applicable standards or rules of the Minnesota Department of~~

~~Health and Sections 8 and 14 of this Article. On-site sewage treatment systems shall be located on the most suitable areas of the development, and sufficient law area free of limiting factors shall be provided for a replacement soil treatment system for each sewage system;~~

~~2. Dwelling units or sites shall be clustered into one or more groups and located on suitable areas of the development. They shall be designed and located to meet or exceed the following dimensional standards for the relevant shoreland classification; setback from the ordinary high water level, elevation above the surface water features, and maximum height. Setbacks from the ordinary high water level shall be increased in accordance with Section 16 Subd. 4 of this Article for developments with density increases.~~

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 ~~resulting from controls of Articles 18, 19, 20, and 21~~ 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 ~~Article~~ Chapter shall be sent to the Commissioner or the Commissioner's designated representative and postmarked within - ten (10) days of final action.