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SUGGESTED SHORELAND MANAGEMENT ORDINANCES FOR MUNICIPALITIES

SHORELAND MANAGEMENT

Supplementary
Report
No. 7

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November

1976



MINNESOTA
DEPARTMENT OF NATURAL RESOURCES
Division of Waters

STATE OF MINNESOTA

Preface

This report is to be used in conjunction with shoreland supplementary report No. 6 "Procedural Guide for the Implementation of Municipal Shoreland Ordinances." It is primarily intended for those communities which do not face the complex land use problems associated with metropolitan development and have little or no previous experience in zoning. The report contains a suggested shoreland management ordinance which may be adopted "as is" in order to comply with the requirements of Minnesota Statutes 1976, Section 105.485. This suggested ordinance offers two options which a municipality may choose from. Option 1 is a "multiple" land use district approach which allows a municipality to exercise a wide latitude in managing the use of its shorelands. Option 2 is a more simplified "single" land use district approach which does not allow as much planning discretion as option 1, but is somewhat simpler to administer. For those communities which already have a basic zoning ordinance, a third option is offered. Option 3 sets forth the basic language to create a "Shoreland Overlay District" which may be included as part of an existing zoning ordinance.

Before a community decides to adopt one of these suggested ordinances they should carefully consider the information and discussion set forth in supplementary report No. 6. Since there are a great many approaches which a community may take in complying with the Shoreland Management Act, they should carefully weigh their needs, problems and long range planning objectives before adopting this or any other land use control.

Env... Land
Shoreland Water
Municipal Govt.

Planning

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ORDINANCE FOR THE MANAGEMENT
OF SHORELAND AREAS OF THE
MUNICIPALITY OF _____

1.0 GENERAL PROVISIONS

1.1 STATUTORY AUTHORIZATION

This Shoreland Management Ordinance is adopted pursuant to the authorization contained in the Laws of Minnesota 1973, Chapter 379, and in furtherance of the policies declared in Minnesota Statutes 1976, Chapters 105, 115, 116, and 462.

1.2 POLICY

The uncontrolled use of shorelands of the Municipality of _____, Minnesota affects the public health, safety and general welfare not only by contributing to pollution of public waters, but also by impairing the local tax base. Therefore, it is in the best interests of the public health, safety and welfare to provide for the wise development of shorelands of public waters. The Legislature of Minnesota has delegated responsibility to the municipalities of the state to regulate the subdivision, use and development of the shorelands of public waters and thus preserve and enhance the quality of surface waters, preserve the economic and natural environmental values of shorelands, and provide for the wise utilization of waters and related land resources. This responsibility is hereby recognized by the Municipality of _____, Minnesota.

1.3 STATEMENT OF PURPOSE:

To achieve the policies described in Section 1.2 and to:

1.31 Designate suitable land use zoning districts compatible with the shoreland management classification;

1.32 Regulate the minimum dimensions for the size and length of water frontage of lots suitable for building sites;

1.33 Regulate the placement of structures in relation to shorelines and roads;

1.34 Regulate the amount of impervious surface allowed on each lot;
1.35 Regulate the type and placement of sanitary and waste disposal facilities;
1.36 Regulate alterations of the natural shorelands in municipalities;
1.37 Regulate placement of roads and parking areas in shoreland areas;
1.38 Regulate the subdivision of shoreland areas in municipalities; and
1.39 Provide for the enforcement and administration of municipal shoreland management ordinances; the Governing Body of the Municipality of _____, Minnesota ordains as follows:

1.4 JURISDICTION

The jurisdiction of this ordinance shall include the shorelands of all public waters in the Municipality of _____, Minnesota.

1.5 COMPLIANCE

The use of any shoreland of public waters; the size and shape of lots; the use, size, type and location of structures on lots; the installation and maintenance of water supply and waste disposal facilities; the filling, grading, lagooning, or dredging of any shoreland area; the cutting of shoreland vegetation; and the subdivision of lots shall be in full compliance with the terms of this ordinance and other applicable regulations. Construction of buildings, private water supply and sewage disposal systems and erection of signs shall require a permit unless otherwise expressly excluded by the requirements of this ordinance.

1.6 ABROGATION AND GREATER RESTRICTIONS

1.61 This ordinance supersedes all provisions of any Municipal zoning ordinance that relate to shorelands. (However, the provisions of the existing zoning ordinance and map of the Municipality of _____, Minnesota, dated _____, 19____, are hereby incorporated by reference and shall, to the extent of greater restrictions only, be made as much a part of this ordinance as if the matter described were fully

set out herein.)*

1.62 It is not otherwise intended by this ordinance to repeal, abrogate, or impair any existing deed restrictions or ordinances other than zoning to the extent specified in Section 1.61 of this ordinance; however, where this ordinance imposes greater restrictions the provisions of this ordinance shall prevail.

1.7 INTERPRETATION

In their interpretation and application, the provisions of this ordinance shall be held to be minimum requirements and shall be liberally construed in favor of the Municipality and shall not be deemed a limitation or repeal of any other powers granted by Minnesota Statutes.

1.8 SEVERABILITY

The provisions of this ordinance shall be severable, and the invalidity of any paragraph, subparagraph or subdivision thereof shall not make void any other paragraph, subparagraph, subdivision or any other part.

1.9 DEFINITIONS

For the purposes of this ordinance, certain terms or words used herein shall be interpreted as follows: The word "shall" is mandatory, not permissive. All distances unless otherwise specified shall be measured horizontally.

"Boathouse" means a structure used solely for the storage of boats or boating equipment.

"Building Line" means that line measured across the width of the lot at the point where the main structure is placed in accordance with setback provisions.

"Clear-cutting" means the removal of an entire stand of trees.

"Conditional Use" means a use of shorelands which is permitted within a zoning

**Optional--for use by municipalities with previous zoning ordinance*

district only when allowed by the municipality after a public hearing, if certain conditions are met which eliminate or minimize the incompatibility of the conditional use with other permitted uses of the district.

"Governing Body" means the municipal council by whatever name known.

"Hardship" means the property in question cannot be put to a reasonable use under the conditions allowed by the official controls; the plight of the landowner is due to circumstances unique to his property, not created by the landowner; and the variance, if granted, will not alter the essential character of the locality. Economic considerations alone shall not constitute a hardship if a reasonable use for the property exists under terms of the official controls.

"Lot" means a parcel of land designated by metes and bounds description, registered land survey, auditors plot, or other accepted means and separated from other parcels or portions by said description for the purpose of sale, lease, or separation thereof. For the purposes of these regulations, a lot shall be considered to be an individual building site which shall be occupied by no more than one principal structure equipped with sanitary facilities.

"Nonconforming Use" means any use of land established before the effective date of this ordinance which does not conform to the use restrictions of a particular zoning district. This should not be confused with substandard dimensions of a conforming use.

"Ordinary High Water Mark" means a mark delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape. The ordinary high water mark is commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial.

"Planned Unit Development" means a type of development which may incorporate a variety of land uses planned and developed as a unit. The Planned Unit Development

is distinguished from the traditional subdivision process of development in that zoning standards such as density, setbacks, height limits, and minimum lot sizes may be altered by negotiation and agreement between the developer, the municipality and the Commissioner of Natural Resources.

"Planning Agency" means the planning commission or planning department as created by the municipality.

"Public Waters" means any waters of the State which serve a beneficial public purpose, as defined in Minnesota Statutes 1976, Section 105.37, Subdivision 6. However, no lake, pond or flowage of less than 10 acres in size and no river or stream having a total drainage area less than two square miles shall be regulated for the purposes of these regulations. A body of water created by a private user where there was no previous shoreland, as defined herein, for a designated private use authorized by the Commissioner of Natural Resources shall be exempt from the provisions of these regulations.

The official determination of the size and physical limits of drainage areas of rivers and streams shall be made by the Commissioner of Natural Resources. The official size of lakes, ponds, or flowages shall be the areas listed in the Division of Waters Bulletin 25, An Inventory of Minnesota Lakes, or in the event that lakes, ponds or flowages are not listed therein, official determination of size and physical limits shall be made by the Commissioner of Natural Resources in cooperation with the municipality.

"Setback" means the minimum horizontal distance between a structure or sanitary facility and the ordinary high water mark or between a structure or sanitary facility and a road, highway, or property lines.

"Shoreland" means land located within the following distances from public water:

- (i) 1,000 feet from the ordinary high water mark of a lake, pond, or flowage; and

(ii) 300 feet from a river or stream, or the landward extent of a flood plain designated by ordinance on such a river or stream, whichever is greater. The practical limits of shorelands may be less than the statutory limits where such limits are designated by natural drainage divides at lesser distances, as shown on the official zoning map of the Municipality of _____.

"Structure" means any building or appurtenance thereto, except aerial or underground utility lines, such as sewer, electric, telephone, telegraph, or gas lines, including towers, poles, and other supporting appurtenances.

"Subdivision" means improved or unimproved land or lands which are divided for the purpose of ready sale or lease, or divided successively within a five year period for the purpose of sale or lease, into three or more lots or parcels of less than five acres each, contiguous in area and which are under common ownership or control.

"Substandard Use" means any use of shorelands existing prior to the date of enactment of this ordinance which is permitted within the applicable zoning district but does not meet the minimum lot area and length of water frontage, structure setbacks, or other dimensional standards of the ordinance.

"Variance" means any modification or variation of official controls where it is determined that, because of hardships, strict enforcement of the official controls is impractical.

2.0 DESIGNATION OF TYPES OF LAND USE

In order to guide the wise development and utilization of shorelands of public waters for the preservation of water quality, natural characteristics, economic values and the general health, safety and welfare, all public waters in the Municipality of _____, Minnesota, have been given a shoreland management classification by the Commissioner of Natural Resources, and uses of shorelands in these classes are hereby designated by land use districts, based on the compatibility of the designated type of land use with the shoreland management classification.

2.1 SHORELAND MANAGEMENT CLASSIFICATION SYSTEM

The public waters of the Municipality of _____, Minnesota have been classified by the Commissioner of Natural Resources as follows:

2.11 Natural Environment Lakes and Streams

- 1.
2. (List here and on
3. official municipal zoning map)
- 4.

2.12 Recreational Development Lakes and Streams

- 1.
2. (List here and on
3. official municipal zoning map)
- 4.

2.13 General Development Lakes and Streams

- 1.
2. (List here and on
3. official municipal zoning map)
- 4.

OPTION 1

(Municipal Shoreland Ordinance - Multiple Land Use Districts)

2.2 LAND USE ZONING DISTRICTS

The following land use zoning districts have been established in accordance with their compatibility with the shoreland management classification.

2.21 The shorelands of the Municipality of _____, Minnesota, are hereby divided into the following districts:

- (a) Conservancy District
- (b) Residential District
- (c) Commercial-Recreational District
- (d) General Use District

2.22 The following are hereby designated as the official shoreland zoning maps of the Municipality of _____, Minnesota.

- 1.
- 2. (List)
- 3.
- 4.

2.23 Final determination of the exact location of land use district boundaries shall be made by the Zoning Administrator subject to appeal to the Board of Adjustment as provided in Section 72 of this ordinance.

2.3 CONSERVANCY DISTRICT

2.31 Purpose: to manage areas unsuitable for development due to wet soils, steep slopes, or large areas of exposed bedrock; and to manage areas of unique natural and biological characteristics in accordance with compatible uses.

2.32 Permitted Uses

- (a) All general agricultural pasture and minimum tillage cropland uses;

except that no wetlands shall be drained to facilitate cultivation of shoreland areas.

(b) Forestry

(c) Parks, waysides and golf courses which do not maintain overnight camping facilities.

(d) Nature areas, hiking and riding trails, wildlife preserves, and designated official wetland areas.

(e) Designated historical sites.

2.33 Conditional Uses

(a) All approved aerial or underground utility line crossings such as electrical, telephone, telegraph, or gas lines which cannot be reasonably located in other than a conservancy district.

(b) Non-residential structures used solely in conjunction with permitted uses provided the structures are of a design approved by the governing body as being compatible with other general allowable uses of the district.

(c) (Others - List conditions which may be attached to the use.)

2.4 RESIDENTIAL DISTRICTS

2.41 Purpose: to reserve areas suitable for residential development from encroachment by commercial and industrial establishments.

2.42 Permitted Uses

(a) Any permitted or conditional use allowed in Conservancy Districts.

(b) Single family residential uses.

(c) Multi-family residential uses.

2.43 Conditional Uses

(a) Mobile Home Parks - provided:

(1) Site plans for mobile home parks shall be approved by the governing body.

(2) Mobile home parks shall be licensed by and in conformance with the standards prescribed by the Minnesota Department of Health, except where provisions of this ordinance are more restrictive, and then these provisions shall prevail.

(3) Each mobile home shall meet the water and road setback provisions for the classes of public water prescribed in Section 4.2.

(4) There shall be at least (10)* feet between the sides of adjacent mobile homes, including their attachments, and at least (3)* feet between mobile homes when parked end to end.

(5) Each mobile home site shall be at least (4,000)* square feet in area.

(6) A centralized sewage treatment facility which meets the standards, criteria, rules or regulations of the Minnesota Department of Health and the Pollution Control Agency must be installed.

(7) The location of this facility shall be consistent with the number of units served, soil types, and topography. The facility shall be setback from the ordinary high water mark at a distance approved by the governing body, and in no case less than the sewage treatment system setback distances prescribed in Section 3.36(a).

(8) No individual on-site sewage treatment systems shall be used, unless site sizes meet the provisions of Section 4.11 for lot area and length of water frontage.

(9) Adequate vegetative screening shall be maintained for the mobile home park consistent with the provisions of Section 4.31 of this ordinance.

(b) Recreational Camping Vehicle Areas, provided:

**Figures in brackets are not mandatory under DNR Shoreland standards*

(1) Site plans for recreational camping vehicle areas shall be approved by the governing body.

(2) Recreational camping vehicle areas shall be licensed by and meet the standards prescribed by the Minnesota Department of Health, except where the provisions of this ordinance are more restrictive, and then these provisions shall prevail.

(3) No recreational camping vehicle shall be placed nearer the ordinary high water mark as specified in Section 4.2 for the classes of public waters.

(4) Each recreational camping vehicle site shall be at least (2,000)* square feet in area.

(5) A centralized sewage treatment facility which meets the standards, criteria, rules or regulations of the Minnesota Department of Health and the Pollution Control Agency must be installed.

(6) The location of this facility shall be consistent with the number of units served, soil types, and topography. The facility shall be setback from the ordinary high water mark at a distance approved by the governing body, and in no case less than sewage treatment system setback distances prescribed in Section 3.36(a).

(7) No individual on-site sewage treatment systems shall be used, unless site sizes meet the provisions of Section 4.11 for lot area and length of water frontage.

(8) Adequate vegetative screening for the recreational camping area shall be maintained consistent with the provisions of Section 4.31 of this ordinance.

**Figures in brackets are not mandatory under DNR Shoreland standards*

(c) (Others - List conditions which may be attached to the use.)

2.5 COMMERCIAL-RECREATIONAL DISTRICT

2.51 Purpose: to centralize service facilities for residential areas and to enhance the economic growth potential of those areas suitable for limited commercial development.

2.52 Permitted Uses

(a) Single and multi-family residential uses.

(b) Hotels, motels, resorts and other permanent buildings which provide sleeping accommodations on a transient rental basis.

(c) Restaurants, drive-ins, dinner clubs, taverns, and private clubs.

(d) Retail businesses, novelty shops, and service facilities, such as gas stations, and any other establishments except those engaged in manufacturing or processing enterprises.

(e) (Others)

2.53 Conditional Uses

(a) Mobile home parks, provided the conditions specified in Section 2.43(a) are met.

(b) Recreational camping vehicle areas, provided the conditions specified in Section 2.43(b) are met.

(c) (Others - List conditions which may be attached to the use.)

2.6 GENERAL USE DISTRICT

2.61 Purpose: to manage areas where use may be directed toward commercial or industrial uses rather than strictly residential uses, which by their nature require location in shoreland areas.

2.62 Permitted Uses

(a) Commercial uses

(b) Industrial uses which require location within shoreland areas.

2.63 Conditional Uses

(List conditions which may be attached to the use.)

OPTION 2

(Municipal Ordinance - Single Land Use District)

2.2 LAND USE ZONING

2.21 The shorelands of the Municipality of _____, Minnesota, are hereby designated as a Shoreland District.

2.22 The maps are designated as the official shoreland zoning maps of the Municipality of _____, Minnesota.

1.

2. (List)

3.

2.23 Final determination of the exact location of land use district boundaries shall be made by the Zoning Administrator subject to appeal to the Board of Adjustment as provided in Section 7.2 of this ordinance.

2.3 SHORELAND DISTRICT

2.31 Purpose: to manage shoreland areas suitable for residential development and to reserve these areas from encroachment by commercial and industrial establishments.

2.32 Permitted Uses

(a) All general agricultural pasture and minimum tillage cropland uses; except that no wetlands shall be drained to facilitate cultivation of shoreland areas.

(b) Forestry.

(c) Parks, waysides and golf courses which do not maintain overnight camping facilities.

(d) Nature areas, hiking and riding trails, wildlife preserves, and designated official wetland areas.

(e) Designated historical sites.

(f) Aerial or underground utility line crossings such as electrical, telephone, telegraph, or gas lines, which provide essential services to other permitted uses.

(g) Non-residential structures used solely as accessory structures to permitted uses.

(h) Single family residential uses.

(i) Multi-family residential uses.

2.33 Conditional Uses

(a) Mobile home parks provided they shall be licensed by and in conformance with the standards prescribed by the Minnesota Department of Health, except where provisions of this ordinance are more restrictive, and then these provisions shall prevail.

(b) Recreational camping areas provided they shall be licensed by and in conformance with the standards prescribed by the Minnesota Department of Health, except where provisions of this ordinance are more restrictive, and then these provisions shall prevail.

(c) Restaurants, drive-ins, dinner clubs, taverns, and private clubs.

(d) Hotels, motels, resorts, and other permanent buildings which provide sleeping accommodations on a transient rental basis.

(e) Retail businesses, novelty shops and service facilities.

(f) Industrial uses which, by their nature, require location within shoreland areas.

3.0 SANITARY PROVISIONS

3.1 WATER SUPPLY

Any public or private supply of water for domestic purposes must conform to Minnesota Department of Health standards for water quality.

3.11 Public water supplies shall be used where available and where feasible.

3.12 Permit. No person, firm or corporation shall install, alter, repair or extend any private well without first obtaining a permit therefor from the Zoning Administrator for the specific installation, alteration, repair or extension.

(a) Application for permits shall be made in writing upon printed blanks or forms furnished by the Zoning Administrator and shall be signed by the applicant.

(b) Each application for a permit shall have thereon the correct legal description of the property on which the proposed installation, alteration, repair or extension is to take place. Each application for a permit shall be accompanied by a plan of the site of reasonable scale and accuracy showing the location of any proposed or existing buildings located on the property with respect to the boundary lines of the property, and complete plans of the proposed water supply system with substantiating data, if necessary, attesting to the compliance with the minimum standards of this ordinance. A complete plan shall include the location, size and design of all parts of the well to be installed, altered, repaired or extended. The application shall also show the present or proposed location of sewage treatment facilities and the name and license number of the person, firm or corporation who is to install the system and shall provide such further information as may be required by the Zoning Administrator.

(c) Administration. The Zoning Administrator may assign responsibility for administration of these provisions to a qualified inspector.

3.13 Private wells shall be so located and constructed so that they are in compliance with the Minnesota Department of Health well drillers code.

3.14 Private wells shall be so located and constructed that they will not be contaminated by any existing or future sewage treatment systems. They shall also be constructed to minimize the possible contamination from all possible external sources within the geological strata surrounding the well.

3.15 Private wells shall be located in a manner to be free from flooding and the top shall be so constructed and located as to be above all possible sources of pollution. Wells already existing in areas subject to flooding shall be flood proofed.

3.2 WASTE DISPOSAL

3.21 The disposal of sewage, industrial wastes, or other wastes as defined in Minnesota Statutes 1976, Chapter 115 shall be subject to the standards, criteria, rules and regulations of the Minnesota Pollution Control Agency and the Minnesota Department of Health.

3.22 No rubbish or trash of any sort shall be thrown or discarded in any manner into any public water or into any watercourse leading to a public water.

3.23 No solid waste disposal site shall be located within the jurisdiction of this ordinance, unless approved by the Pollution Control Agency.

3.3 SEWAGE TREATMENT*

Any premises intended for human occupancy must be provided with an adequate method of sewage treatment to be maintained in accordance with acceptable practices.

3.31 Public or municipal collection and treatment facilities shall be used where available and where feasible.

3.32 Permit. No person, firm or corporation shall install, alter, repair or extend any individual sewage treatment system without first obtaining a permit therefor from the Zoning Administrator for the specific installation, alteration,

**As of this date (September, 1976), the Minnesota Pollution Control Agency is in the process of preparing statewide guidelines for individual sewage treatment systems. Before adopting the contents of this section, the municipality should consult MPCA staff as to current state standards for such systems.*

repair or extension.

(a) Application for permits shall be made in writing upon printed blanks or forms furnished by the Zoning Administrator and shall be signed by the applicant.

(b) Each application for a permit shall have thereon the correct legal description of the property on which the proposed installation, alteration, repair or extension is to take place, and each application for a permit shall be accompanied by a plan of the site, of reasonable scale and accuracy, showing the location of any proposed or existing buildings located on the property with respect to the boundary lines of the property and complete plans of the proposed sewage treatment system with substantiating data, if necessary, attesting to the compliance with the minimum standards of this ordinance. A complete plan shall include the location, size and design of all parts of the system to be installed, altered, repaired or extended. The application shall also show the present or proposed location of water supply facilities and water supply piping, and the name of the person, firm or corporation who is to install the system, and shall provide such further information as may be required by the Zoning Administrator.

(c) Administration. The Zoning Administrator may assign responsibility for administration of these provisions to a qualified inspector.

(d) Inspection. All systems shall be inspected by the Zoning Administrator or his designated inspector before they are backfilled.

3.33 General Requirements

(a) Location and installation of the individual sewage treatment system shall be such that, with reasonable maintenance, it will function in a sanitary manner and will not create a nuisance, endanger the safety of any domestic water supply, nor pollute any waters of the state. In determining a suitable location for the system, consideration shall be given to the size and shape of the lot, slope

of natural and finished grade, soil permeability, high ground water elevation, geology, proximity to existing or future water supplies, and future expansion of the system.

(b) Raw sewage, septic tank effluent, or seepage from a soil absorption system shall not be discharged on to the ground surface, into abandoned wells, or bodies of surface water, or into any soil or rock formation, the structure of which is not conducive to purification of water by filtration, or into any well or other excavation in the ground which does not comply with the other requirements of this ordinance. This requirement shall not apply to the treatment of sewage in accordance with a process approved by the State Board of Health and the Pollution Control Agency.

(c) Bulldozers, trucks, or other heavy machinery shall not be driven over the system after installation.

3.34 Privies

(a) Privies shall be considered to be an adequate method of sewage treatment, provided they are maintained in a clean condition and do not constitute a public nuisance.

(b) Privies shall be located at least 10 feet from a dwelling or lot line, and they shall meet the structural setbacks from public waters specified in Section 4.21.

3.35 Septic Tanks

(a) Only septic tanks meeting the specifications prescribed by the Minnesota Department of Health and Minnesota Pollution Control Agency may be installed or constructed.

(b) Location of septic tanks shall be subject to the following restrictions: 10 feet from any building intended for human occupancy; 10 feet from a lot

line; 50 feet from a well or other water supply; and where feasible, the septic tank shall be placed downslope from a well.

3.36 Soil Absorption Systems

(a) Placement of soil absorption systems shall be in accordance with the shoreland management classification of the applicable public water body and shall be subject to the following specifications, where soil conditions are adequate:

(1) On Natural Environment Lakes and Streams, at least 150 feet from the ordinary high water mark.

(2) On Recreational Development Lakes and Streams, at least 75 feet from the ordinary high water mark.

(3) On General Development Lakes and Streams, at least 50 feet from the ordinary high water mark.

(b) In addition, placement of soil absorption systems shall be subject to the following specifications: 10 feet from a lot line; 20 feet from a building intended for human occupancy; and 50 feet from a well or other water supply source.

*(c) Minimum seepage area of the disposal field (total flat area of trench bottom exclusive of sidewall area) shall be determined by the following percolation test procedure as applied to Table 1.

(1) Number and location of tests. Two or more tests shall be made in separate test holes spaced uniformly over the proposed absorption field site.

(2) Type of test hole. A hole with horizontal dimensions of 4 to 12 inches and vertical sides shall be dug or bored to the depth of the proposed absorption trench. The holes may be bored with an auger of not less than 4-inch diameter.

**Alternate language for section 3.36(c) -- eliminate paragraphs (1) through (5) and add the following: (c) Minimum seepage area of the disposal field (total flat area of trench bottom exclusive of sidewall area) shall be determined according to the percolation test procedure set forth in University of Minnesota, Agricultural Extension Service number 261 as applied to table 1.*

(3) Preparation of test hole. The bottom and sides of the hole shall be carefully scratched with a knife blade or sharp pointed instrument to remove any smeared soil surfaces and to provide a natural soil interface into which water may percolate. All loose material shall be removed from the hole and 2 inches of coarse sand or fine gravel shall be added to protect the bottom from scouring.

(4) Saturation and swelling of the soil. The hole shall be carefully filled with clear water to a minimum depth of 12 inches over the gravel. Water shall be kept in the hole for at least 4 hours, and preferably overnight, by refilling if necessary, or by supplying a surplus reservoir of water, such as in an automatic siphon. In sandy soils containing little or no clay, the swelling procedure shall not be required and the test may be made as described under item (c)(5)(cc) after the water from one filling of the hole has completely seeped away.

(5) Percolation rate measurement. With the exception of sandy soils, percolation rate measurements shall be made on the day following the procedure described under item (c)(4).

(aa) If water remains in the test hole after the overnight swelling period, the depth shall be adjusted to approximately 6 inches over the gravel. From a fixed reference point the drop in water level shall be measured over a 30 minute period. This drop shall be used to calculate the percolation rate.

(bb) If no water remains in the hole after the overnight swelling period, clear water shall be added to bring the depth of water in the hole to approximately 6 inches over the gravel. From a fixed reference point the drop in water level shall be measured at approximately 30 minute intervals for four hours, refilling 6 inches over the gravel if necessary. The drop that occurs during the final 30 minute period shall be used to calculate the percolation rate.

(cc) In sandy soils or other soils in which the first 6 inches of water seeps away in less than 30 minutes after the overnight swelling period, the time interval between measurements shall be taken as 10 minutes and the test shall be run for one hour. The drop that occurs during the final 10 minutes shall be used to calculate the percolation rate.

(6) A modification of the percolation test may be used where the percolation test procedure has been previously used and knowledge is available on the character and uniformity of the soil.

Table 1: Absorption Area Requirements for Private Residences and Other Establishments

(Per Bedroom Column Provides for Residential Garbage Grinders and Automatic Sequence Washing Machines)

Percolation rate (time required for water to fall 1 inch, in minutes)	Required Absorption area in square feet standard trench and seepage pits	
	Per bedroom	Per gallon of waste per day
1 or less	70	.20
2	85	.30
3	100	.35
4	115	.40
5	125	.45
10	165	.65
15	190	.80
30	250	1.10
45	300	1.25
60	330	1.65

Absorption area for standard trenches is figured as trench-bottom area.
Absorption area for seepage pits is figured as effective sidewall area beneath the inlet.

In every case sufficient area should be provided for at least 2 bedrooms.
Unsuitable for seepage pits if over 30.
Unsuitable for absorption system if over 60.

(d) Soil absorption systems shall not be acceptable for treatment of

domestic sewage wastes for developments on lots adjacent to public waters under the following conditions:

- (1) Low swampy areas or areas subject to recurrent flooding; or
- (2) Areas where the highest known ground water table is within four feet of the bottom of the soil absorption system at any time; or
- (3) Area of exposed bedrock or shallow bedrock within four feet of the bottom of a soil absorption system or any other geologic formation which prohibits percolation of the effluent; or
- (4) Areas of ground slope where there is danger of seepage of effluent onto the surface of the ground, in accordance with the following critical slope values:

Percolation Rate (Minutes)	Critical Slope
Less than 3	20% or more
3-45	15% or more
45-60	10% or more; or

- (5) Soils where the percolation rate is slower than one (1) inch in sixty (60) minutes.

3.37 Servicing of septic tanks and soil absorption units shall conform to the Minnesota Department of Health and Minnesota Pollution Control Agency specifications. Disposal of sludge and scum removed from the system shall be:

- (a) Into a municipal sewage treatment system where practicable.
- (b) In the absence of a public sewer, at a disposal site designated by the Zoning Administrator.
- (c) Sludge shall not be discharged into any lake or watercourse, nor on land without burial.

3.38 Alternative Systems

- (a) Alternative methods of sewage treatment such as holding tanks, electric

or gas incinerators, biological and/or tertiary waste treatment plants or land disposal systems, wherever required or allowed in particular circumstances, shall be subject to the standards, criteria, rules and regulations of the Minnesota Department of Health and Minnesota Pollution Control Agency.

3.4 AGRICULTURAL WASTE DISPOSAL

Any agricultural waste disposal operations in shoreland areas must conform to the standards, criteria, rules and regulations of the Minnesota Pollution Control Agency.

4.0 ZONING PROVISIONS

4.1 LOT SIZE

4.11 For lots newly platted or created by metes and bounds description:

(a) For Natural Environment Lakes and Streams: Lots not served by public sewer shall be at least 80,000 square feet (approximately 2 acres) in area and at least 200 feet in width at the building line and at the ordinary high water mark (for lots abutting a public water). Lots served by public sewer and which abut a public water shall be at least 40,000 square feet (approximately 1 acre) in area and at least 125 feet in width at the building line and at the ordinary high water mark. All other lots served by a public sewer shall be at least 20,000 square feet (approximately $\frac{1}{2}$ acre) in area and at least 125 feet in width at the building line.

(b) For Recreational Development Lakes and Streams: Lots not served by public sewer shall be at least 40,000 square feet (approximately 1 acre) in area and at least 150 feet in width at the building line and at the ordinary high water mark (for lots abutting a public water). Lots served by public sewer and which abut a public water shall be at least 20,000 square feet (approximately $\frac{1}{2}$ acre) in area and at least 75 feet in width at the building line and at the ordinary high water mark. All other lots served by a public sewer shall be at least 15,000 square feet in area and at least 75 feet in width at the building line.

(c) For General Development Lakes and Streams: Lots not served by a public sewer shall be at least 20,000 square feet (approximately $\frac{1}{2}$ acre) in area and at least 100 feet in width at the building line and at the ordinary high water mark (for lots abutting a public water). Lots served by a public sewer and which abut a public water, shall be at least 15,000 square feet in area and at least 75 feet in width at the building line and at the ordinary high water mark. All other lots served by a public sewer shall be at least 10,000 square feet in area and at least 75 feet in width at the building line.

4.12 Substandard Lots:

(a) Lots of record in the office of the County Register of Deeds (or Registrar of Titles) prior to _____ (Date of enactment of ordinance) which do not meet the requirements of Sec. 4.11 may be allowed as building sites provided:

- (1) Such use is permitted in the zoning district.
- (2) The lot is in separate ownership from abutting lands, and
- (3) All other sanitary and dimensional requirements of this shoreland ordinance are complied with insofar as practical.

(b) The minimum size and length of water frontage for substandard lots of record shall be:

(Municipality has option of setting minimum buildable size for substandard lots of record)

4.13 Smaller lot sizes may be granted for planned unit developments under the provisions set forth in Section 5.6.

4.2 PLACEMENT AND SIZE OF STRUCTURES ON LOTS

4.21 Setbacks

All structures, except boat houses, piers and docks shall be setback the following horizontal distances:

(a) On Natural Environment Lakes and Streams: at least 200 feet from the ordinary high water mark for lots not served by public sewer and at least 150 feet from the ordinary high water mark for lots served by public sewer.

(b) On Recreational Development Lakes and Streams: at least 100 feet from the ordinary high water mark for lots not served by public sewer and at least 75 feet from the ordinary high water mark for lots served by public sewer.

(c) On General Development Lakes and Streams: at least 75 feet from the ordinary high water mark for lots not served by public sewer and at least 50 feet from the ordinary high water mark for lots served by public sewer.

(d) Outside of a floodway as defined in Minnesota Statutes 1976, Section 104.02.

4.22 High Water Elevation

In addition to the setback requirements of Section 4.21:

(a) For lakes, ponds or flowages: No structure, except boat houses, piers and docks, shall be placed at an elevation such that the lowest floor, including basement floors, is less than three feet above the highest known water level. In those instances where sufficient data on known high water levels are not available, the elevation of the line of permanent shoreland vegetation shall be used as the estimated high water elevation. When fill is required to meet this elevation, the fill shall be allowed to stabilize, and construction shall not begin until the property has been inspected by the Zoning Administrator.

(b) For Rivers or Streams: Placement of structures shall be in conformance with any applicable local flood plain ordinances. Where no ordinances exist, the elevation of structures shall be determined after an evaluation of available flood information.

4.23 Erosion and Sedimentation Control

No structure shall be placed in any area which will require grading and/or filling which will result in impairment of public waters by reason of erosion and sedimentation, violate provisions of Statewide Standards and Criteria for Management of Flood Plain Areas of Minnesota, or result in impairment of fish and aquatic life. (See Section 4.32).

4.24 Location of structures in relation to side lot lines and roads:

(a) There shall be at least a (10)* foot sideyard between any structure and side lot lines.

(b) No structure shall be placed closer than 50 feet from the right-of-way line of any federal, state, or county trunk highway, or 20 feet from any town road, public street or others not classified.

4.25 All structures, except non-residential agricultural structures, shall not exceed 35 feet in height, unless such structures are approved as part of a Planned Unit Development pursuant to the procedures set forth in Section 5.6.

4.26 The total area of all impervious surfaces on a lot shall not exceed 30 percent of the total lot area.

4.27 Exceptions to the placement of structures on lots shall be as follows:

(a) Boathouses may be located landward of the ordinary high water mark as a conditional use provided they are not used for habitation and they do not contain sanitary facilities.

(b) Location of piers and docks shall be controlled by applicable state and local regulations.

(c) Where development exists on both sides of a proposed building site, structural setbacks may be altered to take setbacks of existing structures into account.

**Figures in brackets are not mandatory under DNR Shoreland standards*

(d) Commercial, industrial, or permitted open space uses requiring location on public waters may be allowed as conditional uses closer to such waters than the setbacks specified in Section 4.2.

4.28 Variances to the setback requirements of Sections 4.21 and 4.24 may be granted under the following circumstances by the Board of Adjustment, if not within a floodway:

(a) In areas where development exists on both sides of a proposed building site, water and road setbacks may be varied to conform to the existing established setbacks, or

(b) In areas of unusual topography or substantial elevation above the lake level, the water setback may be varied to allow a riparian owner reasonable use and enjoyment of his property.

*4.29 Locations of signs and structural appurtenances thereto: All commercial advertising signs shall be of a size, shape and location so as not to be unduly prominent in their surroundings. The regulations of signs hereunder are in addition to the provisions of Minnesota 1976, Chapter 173 and regulations promulgated pursuant thereto.

(a) Signs intended to be read from the water shall be set back to the established structure setback from the normal high water elevation, shall be attached to a building, and shall not exceed 30 square feet in gross area.

(b) All signs, except the following when they are not more than (6)* square feet in area, shall require a permit to be erected:

(1) Signs advertising a customary home occupation,

(2) Temporary signs advertising the sale, rent or lease of property,

**Sign restrictions are not mandatory under DNR Shoreland standards*

(3) Recreational directory signs.

(c) Prohibited signs are:

(1) Those which interfere with visibility of drivers or obstruct traffic signs.

(2) Those which are illuminated by a flashing light or by any light directed toward a neighboring residence or toward the water, except emergency or warning signs.

(3) Those which are composed of any conspicuous animated part.

(4) Those which are mounted on a dock or float.

4.3 SHORELAND ALTERATIONS

4.31 The removal of natural vegetation shall be restricted to prevent erosion into public waters, to consume nutrients in the soil, and to preserve shoreland aesthetics. Removal of natural vegetation in shoreland areas shall be subject to the following provisions:

(a) Selective removal of natural vegetation shall be allowed provided that sufficient vegetative cover remains to screen cars, dwellings and other structures when viewed from the water.

(b) Clear cutting of natural vegetation shall be prohibited.

(c) Natural vegetation shall be restored insofar as feasible after any construction project is completed in order to retard surface runoff and soil erosion.

(d) Section 4.31 shall not apply to permitted uses which normally require the removal of the natural vegetation.

4.32 Grading and filling in shoreland areas or any alterations of the natural topography where the slope of the land is toward a public water or a watercourse leading to a public water must be authorized by a conditional use permit. The permit may be granted subject to the conditions that:

(a) The smallest amount of bare ground is exposed for as short a time as feasible,

(b) Temporary ground cover, such as mulch, is used and permanent ground cover, such as sod, is planted,

(c) Methods to prevent erosion and trap sediment are employed, and

(d) Fill is stabilized to accepted engineering standards.

4.33 Excavations on shorelands where the intended purpose is connection to a public water shall require a conditional use permit before construction is begun. Such conditional use permit may be obtained only after the Commissioner of Natural Resources has issued a permit for work in the beds of public waters.

4.4 PLACEMENT OF ROADS AND PARKING AREAS

The placement of roads and parking areas in shoreland areas shall be controlled in accordance with the following criteria:

4.41 No impervious surface shall be placed within 50 feet of the ordinary high water mark.

4.42 Where feasible and practical, all roads and parking areas shall meet the setback requirements established for structures in Section 4.2.

4.43 Natural vegetation or other natural materials shall be used in order to screen parking areas when viewed from the water.

5.0 SUBDIVISION REGULATIONS

5.1 LAND SUITABILITY

No land shall be subdivided which is held unsuitable for the proposed use by the Governing Body for reason of flooding, inadequate drainage, soil and rock formations with severe limitations for development, severe erosion potential, unfavorable topography, inadequate water supply or sewage treatment capabilities or any other feature likely to be harmful to the health, safety or welfare of the future residents

of the proposed subdivision or of the community. The Governing Body in applying the provisions of this section shall in writing recite the particular facts upon which it bases its conclusions that the land is not suitable for the proposed use and afford the subdivider an opportunity to present evidence regarding such suitability at a public hearing as provided in Section 8.4. Thereafter the Governing Body may affirm, modify or withdraw its determination of unsuitability.

5.2 DESIGN STANDARDS

5.21 All subdivision layouts shall be developed in proper relation to existing and proposed streets, topography, surface water, vegetative cover, other natural features, and the most advantageous development of adjoining areas.

5.22 Lot Size

(a) Lots within a plat shall be of a size and shape to satisfy the requirements of Section 4.1.

(b) The shape of individual lots may render portions unusable for installing private sewage treatment systems or providing adequate separating distances between them and watercourses or water wells. Therefore, any part of a lot less than (30)* feet wide shall not be used in computing the minimum lot area.

5.23 Public Streets

(a) Public streets shall be designed and located to take into account:

- (1) Existing and planned streets,
- (2) Topographic conditions including the bearing capacity and erosion potential of the soil,
- (3) Public convenience and safety including facilitating fire protection, snow plowing and pedestrian traffic,

**Figures in brackets are not mandatory under DNR Shoreland standards*

- (4) Requirements of public utility facilities,
- (5) The proposed uses of land to be served,
- (6) Anticipated traffic volumes, and
- (7) Further resubdivision possibilities.

(b) Width: Public streets shall be of the right-of-way, roadway and surface width specified by the Municipal Highway Engineer and approved by the Governing Body.

(c) Construction Standards for Public Streets: Where there are no local road standards, the minimum standards of the Minnesota Department of Highways shall apply. The subdivider shall grade the roadbeds in the roadway width to subgrade and shall surface all roadways to the width prescribed by these regulations.

(d) Sale of Lands Abutting on Private Way: No person shall sell any parcel of land in a subdivision located in shoreland areas if it abuts on a road which has not been accepted as a public road unless the seller informs the purchaser in writing of the fact that the road is not a public road and is not required to be maintained by the municipality.

5.24 Storm Drainage

Storm drainage facilities, where required, shall be designed to permit the unimpeded flow of natural watercourses; insure the drainage of all points along the line of streets; and provide positive drainage away from on-site sewage disposal facilities. In designing storm drainage facilities, special consideration shall be given to protection against shoreland erosion and siltation of surface waters and preventing excess run-off on adjacent property.

5.25 Water Supply Facilities

Where there is an existing public water supply system on or near the subdivision, the Municipal Planning Agency shall determine the feasibility of service and the

requirements to be followed by the subdivider in connecting to the system. Where there is no existing public water supply, individual water supply systems will be permitted in accordance with the minimum standards and regulations of the Minnesota Department of Health.

5.26 Sanitary Sewerage

(a) In areas that have a sanitary sewer system on or near the proposed subdivision, the Municipal Planning Agency shall determine the feasibility of service and the procedures to be followed by the subdivider in joining the system.

(b) In areas that are not to be served by sanitary sewer systems, on-site sewage treatment systems utilizing septic tank and soil absorption fields will be permitted only where soil borings and percolation tests indicate the systems will function adequately. Individual sewage treatment systems shall be constructed to meet the requirements of the Minnesota Department of Health and the Minnesota Pollution Control Agency, the standards set out in Section 3.3 of this ordinance, and other state and local requirements. The subdivider shall carry out sufficient soil borings and percolation tests to adequately portray the character of the soil, ground water levels, and depth to bedrock. Each lot shall have at least (50%)* of its area free of all of the limiting conditions set forth in Section 3.36(d) of this ordinance.

(c) The Municipal Planning Agency may prohibit the installation of sewage treatment facilities utilizing septic tank and soil absorption fields where such systems would impair water quality, and may require alternative methods of waste treatment and disposal including, but not limited to, biological and/or tertiary treatment plants, or incinerator or chemical toilets.

(d) Plans for private sewage treatment systems not utilizing septic tank

**Figures in brackets are not mandatory under DNR Shoreland standards*

and soil absorption fields, as specified in paragraph (c), shall be approved in writing by the Minnesota Pollution Control Agency or Minnesota Department of Health. The subdivider shall clearly indicate on the face of the plat and in any deed of conveyance that septic tank and soil absorption fields are not to be used.

5.3 IMPROVEMENTS

The Municipal Planning Agency may require that before final approval of any plat, the subdivider shall install required street, sanitary sewage and utility improvements or if such improvements are not installed at the time that the final plat is submitted for approval, the subdivider shall, before recording the plat, enter into a contract with the Municipality agreeing to install the required improvements and shall file with said contract a surety bond meeting the approval of the Municipal Attorney as a guarantee that such improvements will be completed by the subdivider or his sub-contractors not later than one year from the date of recording of the plat or later if specified. One week prior to the time each improvement is to be installed and upon its completion, the subdivider must notify the Municipal Planning Agency so that adequate inspections can be made.

5.4 DEDICATIONS

5.41 The Municipal Planning Agency may require that suitable sites in the subdivision be dedicated or reserved for future public use, such as schools, parks, playgrounds, public access and open spaces as needed by the subdivision.

5.42 Any part of a street or other public way which is indicated on a comprehensive plan or plan component shall conform to the arrangements, width and location indicated, and shall be offered for dedication to the municipality.

5.43 The Municipal Planning Agency may require that easements for drainage ways of widths sufficient to accommodate anticipated storm water run-off be provided.

5.44 The Municipal Planning Agency may require that easements for public

utilities be provided.

5.5 PROCEDURES FOR SUBMITTING A PLAT

All plats, replats or any modifications thereof shall be submitted to the Governing Body in the manner set forth in Minnesota Statutes 1976, Section 462.358.

5.51 Any proposed plat in shoreland areas which is inconsistent with the provisions of this ordinance shall be reviewed by the Commissioner of Natural Resources before approval of the municipality may be granted. Such review shall require that proposed plats be received by the Commissioner of Natural Resources at least ten (10) days before a hearing is called by the municipality for consideration of approval of a final plat.

5.52 Copies of all plats within shoreland areas shall be submitted to the Commissioner of Natural Resources within ten (10) days of final approval by the municipality.

5.53 Survey Monuments

The subdivider shall install survey monuments in accordance with the requirements of Minnesota Statutes 1976, Section 505.02.

5.6 PLANNED UNIT DEVELOPMENT

Smaller lot sizes may be allowed for planned unit developments provided:

5.61 Preliminary plans are first approved by the Commissioner of Natural Resources.

5.62 Central sewage treatment facilities are installed which meet the applicable standards, criteria, rules, or regulations of the Minnesota Department of Health and the Pollution Control Agency or if the Planned Unit Development is connected to a municipal sanitary sewer.

5.63 Open space is preserved.

5.64 That the following factors are carefully evaluated to ensure that the

increased density of development is consistent with the resource limitations of the public water:

- (a) Suitability of the site for the proposed use;
- (b) Physical and aesthetic impact of increased density;
- (c) Level of current development;
- (d) Amount and ownership of undeveloped shoreland;
- (e) Levels and types of water surface use and public access; and
- (f) Possible effects on over-all public use.

5.65 Any commercial, recreational, community, or religious facility allowed as part of the planned unit development shall conform to all applicable federal and state regulations including, but not limited to the following:

- (a) Licensing provisions or procedures;
- (b) Waste treatment and disposal regulations;
- (c) Water supply regulations;
- (d) Building codes;
- (e) Safety regulations;
- (f) Regulations concerning the appropriation and use of Public Waters as defined in Minnesota Statutes 1976, Chapter 105; and
- (g) Applicable regulations of the Minnesota Environmental Quality Council.

5.66 The final plan for a planned unit development shall not be modified, amended, repealed, or otherwise altered unless approved in writing by the developer, the municipality, and the Commissioner of Natural Resources.

5.67 There is not more than one centralized shoreline recreation facility for each cluster of residential units.

5.68 Any attached conditions are met, such as limits on overall density, minimum size of the planned unit development, restriction to residential uses, or

minimum length of water frontage.

6.0 NONCONFORMING AND SUBSTANDARD USES

6.1 NONCONFORMING USES:

Any uses in existence prior to the date of enactment of this ordinance which do not conform to the use restrictions of the established zoning district are nonconforming uses. All sanitary facilities inconsistent with Sections 3.33 and 3.36(d) shall be brought into conformity or discontinued within five (5) years from the date of enactment of this ordinance. Any nonconforming sanitary facility found to be a public nuisance shall be brought into conformity or discontinued within 30 days after receiving written notice from the zoning administrator. All other nonconforming uses shall be subject to the following conditions:

6.11 No such use shall be expanded or enlarged except in conformity with the provisions of this ordinance.

6.12 No structural alteration, addition, or repair to any nonconforming structure over the life of the structure shall exceed 50 percent of its assessed value at the time of its becoming a nonconforming use unless permanently changed to a conforming use.

6.13 If such use is discontinued for twelve (12) consecutive months, any future use of the building or premises shall conform to this ordinance. The assessor shall notify the Zoning Administrator in writing of instances of nonconforming uses which have been discontinued for a period of twelve (12) consecutive months.

6.14 Uses or adjuncts thereof which are nuisances shall not be permitted to continue as nonconforming uses.

6.2 SUBSTANDARD USES:

Any uses of shorelands in existence prior to the date of enactment of this ordinance which are permitted within the applicable zoning district, but do not

meet the minimum lot area, setbacks or other dimensional requirements of this ordinance are substandard uses. Substandard uses, including substandard sanitary facilities, shall be allowed to continue. However, any structural alteration or addition to a substandard use which will increase the substandard dimensions shall not be allowed.

7.0 ADMINISTRATION AND ENFORCEMENT

7.1 ZONING ADMINISTRATOR

The office of the Zoning Administrator is hereby established, for which the Governing Body may appoint such employee or employees of the municipality as it may deem proper. The term of office of the Zoning Administrator shall be indefinite and shall terminate at the pleasure of the Governing Body.

7.11 Duties

The Zoning Administrator shall:

- (a) Act as Building Inspector for the Municipality;
- (b) Enforce and administer the provisions of this ordinance;
- (c) Issue permits and certificates of occupancy and maintain records thereof;
- (d) Receive and forward to the Governing Body and the Municipal Planning Agency all applications for conditional use permits (See Section 7.4).
- (e) Receive and forward all applications and petitions for matters to come before the Board of Adjustment;
- (f) Receive and forward to the Governing Body and the Municipal Planning Agency all applications for amendments to this ordinance (See Section 8.0).
- (g) Forward notices of public hearings to consider variances, amendments or conditional uses to the Commissioner of Natural Resources at least ten (10) days prior to such hearing.

(h) Forward amendments and final decisions granting variances or conditional uses under this ordinance to the Commissioner of Natural Resources within ten (10) days of final action or amendment.

(i) Inspect all construction and development to insure that the standards of this ordinance are being complied with;

(j) Have the authority to enter upon such lands and premises as necessary to insure that the standards of this ordinance are being complied with;

(k) Provide and maintain a public information bureau relative to matters arising out of this ordinance; and

(l) Maintain the Municipal Zoning Map as required in Section 2.2.

7.2 BOARD OF ADJUSTMENT

A Board of Adjustment is hereby established and vested with such authority as is hereinafter provided and as as provided by Minnesota Statutes 1976, Chapter 462. Such Board shall consist of three (3) members. The three (3) members shall be appointed by the Governing Body. The board members shall be appointed for terms coinciding with terms on the Municipal Planning Agency.

7.21 The Board of Adjustment shall elect a chairman and vice chairman from among its members. It shall adopt rules for the transaction of its business and shall keep a public record of its transactions, findings and determinations.

7.22 The meetings of the Board of Adjustment shall be held at the call of the chairman and at such other times as the Board in its rules of procedure may specify.

7.23 Powers. The Board of Adjustment shall have the following powers:

(a) To grant a variance as provided in Section 7.3 of this ordinance.

(b) To interpret zoning district boundaries on official zoning maps.

(c) To permit the extension of a zoning district where the boundary line thereof divides a lot in one ownership at the time of the passage of this ordinance, but such extension of any district shall not exceed one hundred (100) feet.

(d) To act upon all questions as they may arise in the administration of this ordinance; and to hear and decide appeals from and to review any order, requirements, decision or determination made by an administrative official charged with enforcing this ordinance adopted pursuant to the provisions of Minnesota Statutes 1976, Section 462.357, Subdivision 6 and Section 462.359.

7.3 VARIANCES FROM STANDARDS

In any case where, upon application of any responsible parties to the Board of Adjustment, it appears, that by reason of exceptional circumstances, the strict enforcement of any provision of the standards would cause unnecessary hardship or that strict conformity with the standards would be unreasonable, impractical, or not feasible under the circumstances, the Board of Adjustment may permit a variance therefrom upon such conditions as it may prescribe for management of shorelands consistent with the general purposes of this ordinance and the intent of this and all other applicable state and local regulations and laws, provided that:

7.31 The condition causing the hardship is unique to that property.

7.32 The variance is proved necessary in order to secure for the applicant a right or rights that are enjoyed by other owners in the same area or district.

7.33 The granting of the variance will not be contrary to the public interest or damaging to the rights of other persons or to property values in the neighborhood.

7.34 The granting of the variance will not be contrary to management policies of the area or district.

7.35 No variance shall be granted simply because there are no objections or because those who do not object outnumber those who do; nor for any other reason than a proved hardship.

7.4 CONDITIONAL USES

7.41 Application for Conditional Use Permit

Any use listed as a conditional use in this ordinance shall be permitted only upon application to the Zoning Administrator and issuance of a Conditional Use Permit by the Governing Body after review by the Municipal Planning Agency.

7.42 Standards Applicable to all Conditional Uses

In reviewing a Conditional Use Permit the Municipal Planning Agency shall evaluate the effect of the proposed use upon:

- (a) The maintenance of safe and healthful conditions.
- (b) The prevention and control of water pollution including sedimentation.
- (c) Existing topographic and drainage features and vegetative cover on the site.
- (d) The location of the site with respect to flood plains and floodways of rivers or streams.
- (e) The erosion potential of the site based upon degree and direction of slope, soil type and vegetative cover.
- (f) The location of the site with respect to existing or future access roads.
- (g) The need of the proposed use for a shoreland location.
- (h) Its compatability with uses on adjacent land.
- (i) The amount of liquid wastes to be generated and the adequacy of the proposed treatment systems.
- (j) Locational factors under which:
 - (1) Domestic uses shall be generally preferred;
 - (2) Uses not inherently a source of pollution within an area shall be preferred over uses that are or may be a pollution source;
 - (3) Use locations within an area tending to minimize the possibility of pollution shall be preferred over use locations tending to increase that possibility.

7.43 Conditions Attached to Conditional Uses

Upon consideration of the factors listed above, the Governing Body may attach such conditions, in addition to those required elsewhere in this ordinance, that it deems necessary in furthering the purposes of this ordinance. Violation of any of these conditions shall be deemed a violation of this ordinance. Such conditions may include specifications for, without limitation because of specific enumeration: type of shore cover; increased setbacks and yards; specified sewage treatment and water supply facilities; landscaping and planting screens; period of operation; operational control; sureties; deed restrictions; locations of piers, docks, parking and signs; type of construction or any other requirements necessary to fulfill the purpose and intent of this ordinance.

In order to secure information upon which to base its determination the Municipal Planning Agency may require the applicant to furnish, in addition to the information required for a zoning permit, the following information:

- (a) A plan of the area showing contours, soil types, high water mark, groundwater conditions, bedrock, slope and vegetative cover.
- (b) Location of buildings, parking areas, traffic access, driveways, walkways, piers, open spaces and landscaping.
- (c) Plans of buildings, sewage treatment facilities, water supply systems, and arrangements of operations.
- (d) Specifications for areas of proposed filling, grading, lagooning or dredging.
- (e) Other pertinent information necessary to determine if the proposed use meets the requirements of this ordinance.

The Municipal Planning Agency in evaluating each application may request the County Soil and Water Conservation District to make available expert assistance

from those state and federal agencies which are assisting said district under a memorandum of understanding and any other state or federal agency which can provide technical assistance.

7.44 Notice and Public Hearing

Before making a recommendation upon an application for Conditional Use Permit the Municipal Planning Agency shall hold a public hearing. Notice of such public hearing specifying the time, place, and matters to come before the Agency shall be published in the official paper of the Municipality at least ten (10) days in advance of such hearing. In its recommendations to the Governing Body, the Agency may suggest additional conditions to those already imposed. The Governing Body shall make the determination to issue a Conditional Use Permit.

7.45 Fees

The applicant, upon filing of his application, shall pay a fee to the Zoning Administrator not to exceed administrative costs. Such fees shall be determined by the Governing Body.

7.5 PERMITS AND CERTIFICATE OF OCCUPANCY

7.51 Building Permit

(a) Hereafter no person shall erect, alter, or move any building or part thereof without first securing a building permit therefor. No permit fee shall be charged for an alteration costing less than (one thousand dollars (\$1,000).)*

(b) Application for a building permit shall be made to the Zoning Administrator on blank forms to be furnished by the Municipality. Each application for a permit to construct or alter a building shall be accompanied by a plan drawn to scale showing the dimensions of the lot to be built upon and the size and location of the

**Figures in brackets are not mandatory under DNR Shoreland standards*

building and accessory buildings to be erected. Applications for any kind of building permit shall contain such other information as may be deemed necessary for the proper enforcement of this ordinance or any other. The Zoning Administrator shall issue the building permit only after determining that the building plans, together with the application, comply with the terms of this ordinance, except where such setback does not comply with the planning of future road construction, which information shall be furnished by the Municipality.

7.52 Other Permits

Permits for installing water supply and sewage treatment systems, and excavations intended for connection to a public water and the erection of signs in shoreland areas must also be obtained from the Zoning Administrator before construction is begun.

7.53 Permit fees and inspection fees as may be established by resolution of the Governing Body shall be collected by the Zoning Administrator for deposit with the Municipality and credited to the General Revenue Fund.

7.54 Certificate of Occupancy

(a) A certificate of occupancy shall be obtained from the Zoning Administrator before any building hereafter erected or structurally altered is occupied or used or the use of any such building is altered.

(b) Application for a certificate of occupancy for a new building or for an existing building which has been altered shall be made to the Zoning Administrator as part of the application for a building permit as required in Section 7.51.

(c) Every certificate of occupancy shall state that the building or proposed use of a building or land complies with all provisions of law and this ordinance. A record of all certificates of occupancy shall be kept on file in the office of the Zoning Administrator, and copies shall be furnished on request to any person having a

proprietary or tenancy interest in the building or land affected.

7.6 ENFORCEMENT

7.61 This ordinance shall be administered and enforced by the Zoning Administrator, who is hereby designated the enforcing officer.

7.62 In the event of a violation or a threatened violation of this ordinance, the Governing Body or any member thereof, in addition to other remedies, may institute appropriate actions or proceedings to prevent, restrain, correct or abate such violations or threatened violations, and it shall be the duty of the Municipal Attorney to institute such action.

7.63 Any taxpayer or taxpayers of the Municipality may institute mandamus proceedings in the District Court to compel specific performance by the proper official or officials of any duty required by this ordinance.

7.64 Any person, firm or corporation who shall violate any of the provisions hereof or who shall fail to comply with any of the provisions hereof or who shall make any false statement in any document required to be submitted under the provisions hereof, shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine not to exceed three hundred dollars (\$300.00) or by imprisonment of not to exceed ninety (90) days or both. Each day that a violation continues shall constitute a separate offense.

7.7 JOINT EXERCISE OF POWERS

To facilitate administration of this ordinance, the Governing Body may enter into joint powers agreements with adjacent or otherwise similarly situated local units of government for the purpose of jointly administering and enforcing shoreland management ordinances pursuant to the procedures and authority of Minnesota Statutes 1976, Section 394.32 and Section 471.59.

8.0 AMENDMENT

8.1 APPLICATION

8.11 This ordinance may be amended whenever the public necessity and the general welfare require such amendment by following the procedure specified in this section.

8.12 Requests for amendment of this ordinance shall be initiated by a petition of the owner or owners of the actual property; a recommendation of the Municipal Planning Agency; or by action of the Governing Body.

8.13 An application for an amendment shall be filed with the office of the Zoning Administrator, who shall forward the application to the Municipal Planning Agency for study and report. This application may not be acted upon by the Governing Body until it has received the recommendation of the Planning Agency on the proposed amendment or until 60 days have elapsed from the date of reference of the amendment without a report by the Planning Agency.

8.14 Notice shall be sent by letter, when an amendment application has been filed for a change in district boundaries, to all property owners within three hundred fifty (350) feet as to the time and place of the public hearing. Such notice shall include a map or plat of the lands proposed to be changed and all lands within three hundred fifty (350) feet of the boundaries of the property proposed to be rezoned, together with the names and addresses of the owners of the lands in such as the name appears on the records of the Municipality.

8.2 PUBLIC HEARING

Upon receipt in proper form of the application and other requested material, the Municipal Planning Agency shall conduct a public hearing in the manner prescribed by Minnesota Statutes 1976, Section 462.357.

8.3 AUTHORIZATION

Following the public hearing, the Municipal Planning Agency shall make a report of its recommendations on the proposed amendment and shall file a copy with the

Governing Body within sixty (60) days after the hearing.

8.4 FEES

To defray the administrative costs of processing of requests for an amendment to this ordinance, a fee not exceeding administrative costs shall be paid by the petitioner. Such fee shall be determined by the Governing Body.

9.0 DATE OF EFFECT

This ordinance shall be in full force and effect from and after its passage and approval, as provided by law.

OPTION 3

(Shoreland Overlay District - Amendment to Existing Comprehensive Ordinance)

Many communities have had comprehensive zoning in effect for several years and will find the adoption of a separate shoreland management ordinance to be redundant and confusing. For these communities it may be more expedient to adopt a "Shoreland Overlay District" as part of their comprehensive zoning ordinance. This approach to municipal shoreland management assumes that the community has:

1. An existing comprehensive zoning ordinance
2. A Municipal Planning Agency
3. A Zoning Administrator
4. A Board of Adjustment

To use this approach it is only necessary for the following sections to be incorporated into the existing comprehensive zoning ordinance in the appropriate places:

1) Definition of Public Waters -

"Public Waters" means any waters of the State which serve a beneficial public purpose, as defined in Minnesota Statutes 1976, Section 105.37, Subdivision 6. However, no lake, pond or flowage of less than 10 acres in size and no river or stream having a total drainage area less than two square miles shall be regulated for the purposes of these regulations. A body of water created by a private user where there was no previous shoreland, as defined herein, for a designated private use authorized by the Commissioner of Natural Resources shall be exempt from the provisions of these regulations.

The official determination of the size and physical limits of drainage areas of rivers and streams shall be made by the Commissioner of Natural Resources. The official size of lakes, ponds, or flowages shall be the areas listed in the Division

of Waters' Bulletin 25, An Inventory of Minnesota Lakes, or in the event that lakes, ponds or flowages are not listed therein, official determination of size and physical limits shall be made by the Commissioner of Natural Resources in cooperation with the municipality.

2) Definition of Shoreland -

"Shoreland" means land located within the following distances from public waters: (i) 1,000 feet from the ordinary high water mark of a lake, pond, or flowage; and (ii) 300 feet from a river or stream, or the landward extent of a flood plain designated by ordinance on such a river or stream, whichever is greater. The practical limits of shorelands may be less than the statutory limits where such limits are designated by natural drainage divides at lesser distances, as shown on the official zoning map of the Municipality of _____.

3) Designation of Types of Land Use -

A) Shoreland Management Classification: In order to guide the wise development and utilization of shorelands of public waters for the preservation of water quality, natural characteristics, economic values and the general health, safety and welfare, all public waters in the Municipality of _____, Minnesota, have been given a shoreland management classification.

The public waters of the Municipality of _____, Minnesota have been classified by the Commissioner of Natural Resources as follows:

Natural Environment Lakes and Streams

- 1.
2. (List here and on
official Municipal zoning map)
- 3.
- 4.

Recreational Development Lakes and Streams

- 1.
2. (List here and on
official Municipal zoning map)
- 3.
- 4.

General Development Lakes and Streams

- 1.
2. (List here and on
official Municipal zoning map)
- 3.
- 4.

B) Shoreland Overlay District: The shorelands of the Municipality of _____, Minnesota, are hereby designated as a Shoreland Overlay District. The purpose of the Shoreland Overlay District is to provide for the wise utilization of shoreland areas in order to preserve the quality and natural character of the public waters of the Municipality of _____, Minnesota.

1. Permitted Uses.

All permitted uses allowed and regulated by the applicable zoning district underlying this shoreland overlay district as indicated on the official zoning map of the Municipality of _____, Minnesota.

2. Conditional Uses.

All conditional uses and applicable attached conditions allowed and regulated by the applicable zoning district underlying this shoreland overlay district as indicated on the official zoning map of the Municipality of _____, Minnesota.

3. General Provisions.

The following standards shall apply to all shorelands of all public

waters within the Municipality of _____. Where the requirements of the underlying zoning district as shown on the official zoning map are more restrictive than those set forth herein, then the more restrictive standards shall apply:

	<u>NATURAL ENVIRONMENT WATERS</u>	<u>RECREATIONAL DEVELOPMENT WATERS</u>	<u>GENERAL DEVELOPMENT WATERS</u>
<u>Unsewered Areas:</u>			
Lot Area (Ft)	80,000	40,000	20,000
Water Frontage & Lot Width at Bldg. Line (Ft)	200	150	100
Bldg. Setback From Ordinary High Water Mark (Ft)	200	100	75
Bldg. Setback From Roads & Hwys (Ft)	-----50 Federal, State or County----- -----20 Municipal or Private-----		
Elev. of Lowest Floor Above Highest Known Water Level (Ft)	-----3-----		
Bldg. Height Limitation (Ft)	-----35-----		
Total Lot Area Covered by Im- pervious Surface (%)	30	30	30
Sewage System Set- back From Ordinary High Water Mark (Ft)	150	75	50
*Sewage System Elev. Above Highest Groundwater Level Or Bedrock (Ft)	4	4	4

Sewered Areas - All provisions for unsewered areas shall apply to sewerred areas except for the following, which shall supersede the provisions applied to unsewered areas:

*See footnote on Page 17.

	<u>NATURAL ENVIRONMENT WATERS</u>	<u>RECREATIONAL DEVELOPMENT WATERS</u>	<u>GENERAL DEVELOPMENT WATERS</u>
Lot Area (Ft)			
Waterfront Lots	40,000	20,000	15,000
Other Lots	20,000	15,000	10,000
Water Frontage & Lot Width At Bldg. Line (Ft)	125	75	75
Bldg. Setback From Ordinary High Water Mark (Ft)	150	75	50

4. Shoreland Alterations.

a) The removal of natural vegetation shall be restricted to prevent erosion into public waters, to consume nutrients in the soil, and to preserve shoreland aesthetics. Removal of natural vegetation in the shoreland overlay district shall be subject to the following provisions:

- i) Selective removal of natural vegetation shall be allowed, provided that sufficient vegetative cover remains to screen cars, dwellings and other structures when viewed from the water.
- ii) Clear cutting of natural vegetation shall be prohibited.
- iii) Natural vegetation shall be restored insofar as feasible after any construction project is completed in order to retard surface runoff and soil erosion.
- iv) The provisions of this section shall not apply to permitted uses which normally require the removal of natural vegetation.

b) Grading and filling in shoreland areas or any alterations of the natural topography where the slope of the land is toward a public water or a water-course leading to a public water must be authorized by a conditional use permit.

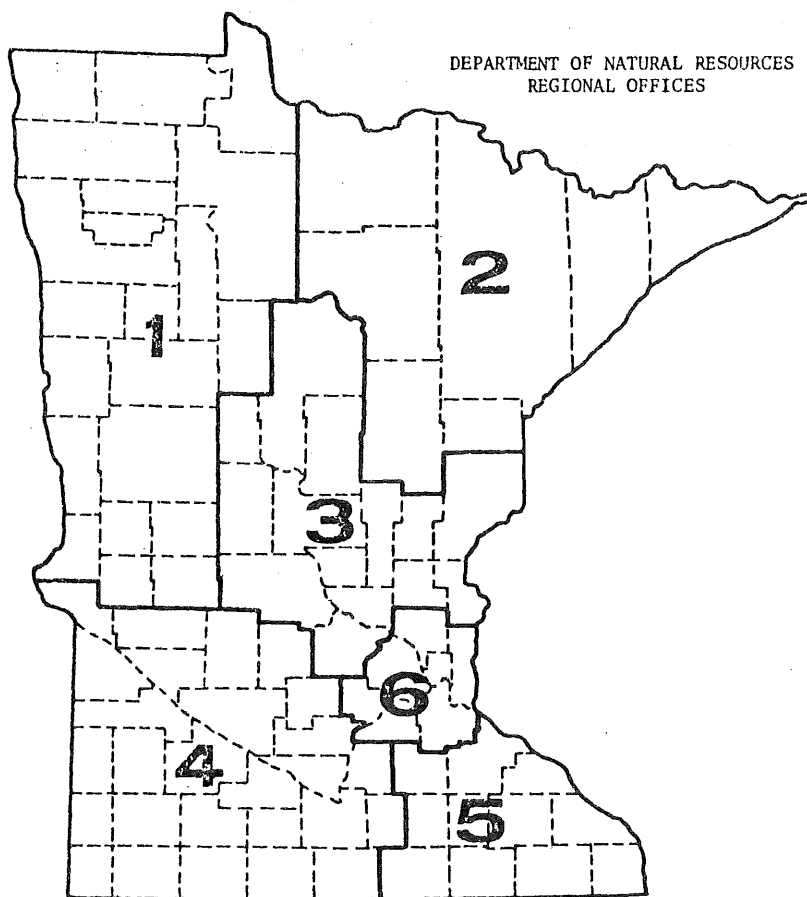
The permit may be granted subject to the conditions that:

- i) The smallest amount of bare ground is exposed for as short a time as feasible,
- ii) Temporary ground cover, such as mulch, is used and permanent ground cover, such as sod, is planted,
- iii) Methods to prevent erosion and trap sediment are employed, and
- iv) Fill is stabilized to accepted engineering standards.

c) Excavations on shorelands where the intended purpose is connection to a public water shall require a permit from the Zoning Administrator before construction is begun. Such permit may be obtained only after the Commissioner of Natural Resources has issued a permit for work in the beds of public waters.

DNR Assistance

In order to better serve the public, the Minnesota Department of Natural Resources has established six (6) regional offices around the State. Each of these offices is staffed with a full time hydrologist who is specially trained in shoreland and flood plain management. Should your community desire technical advice or assistance in implementing and administering either shoreland or flood plain management regulations, one of our trained regional personnel will be available to assist you.



REGION 1	Rural Route 5 Bemidji, MN 56601 (218-755-3973)
REGION 2	East Highway 2, Box 388 Grand Rapids, MN 55744 (218-326-8307)
REGION 3	217 N.W. Fourth Street Brainerd, MN 56401 (218-829-1455)
REGION 4	116½ N. Minnesota Street New Ulm, MN 56073 (507-354-2196)
REGION 5	2300 Silver Creek Road N.E. Rochester, MN 55901 (507-288-3129)
REGION 6	1200 Warner Road St. Paul, MN 55106 (612-296-7523)
CENTRAL OFFICE	Centennial Office Building St. Paul, MN 55155 (612-296-4803)

