

SHORELAND MANAGEMENT ORDINANCE

ROSEAU COUNTY

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Roseau County Environmental Office
HCR 5, Box 1
Roseau, MN 56751

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SHORELAND MANAGEMENT ORDINANCE

ROSEAU COUNTY

SECTION 1.0 STATUTORY AUTHORIZATION AND POLICY

1.01 Statutory Authorization.

This shoreland ordinance is adopted pursuant to the authorization and policies contained in Minnesota Statutes, Chapter 103, Minnesota Regulations, Parts 6120.2500 - 6120.3900, and the planning and zoning enabling legislation in Minnesota Statutes, Chapter 394.

1.02 Policy.

The uncontrolled use of shoreland in the unincorporated areas of Roseau County, Minnesota, affects the public health, safety and general welfare not only by contributing to pollution of public waters, but also by impairing the local tax base. Therefore, it is in the best interests of the public health, safety and welfare to provide for the wise subdivision, use and development of shorelands of public waters. The Minnesota State Legislature has delegated responsibility to local governments of the State to regulate the subdivision, use and development of the shoreland of public waters and thus preserve and enhance the quality of surface waters, conserve the economic and natural environmental values of shoreland, and provide for the wise use of waters and related land resources. This responsibility is hereby recognized by Roseau County, and will be accomplished through the enforcement of this ordinance which shall be known and cited as the Roseau County Shoreland Management Ordinance.

SECTION 2.0 GENERAL PROVISIONS AND DEFINITIONS

2.01 Jurisdiction.

The provisions of this ordinance shall apply to the shoreland of the public water bodies as classified in Section 4.0 of this ordinance. Pursuant to Minnesota Regulations, Parts 6120.2500 - 6120.3900, no lake, pond, or flowage less than 25 acres in size in unincorporated areas need be regulated in a local government's shoreland regulations. A body of water created by a private user where there was no previous shoreland may, at the discretion of the governing body, be exempt from this ordinance.

2.02 Compliance.

The use of any shoreland of public waters; the size and shape of lots; the use, size, type and location of structures on lots; the installation and maintenance of water supply and waste treatment systems, the grading and filling of any shoreland area; the cutting of shoreland vegetation; and the subdivision of land shall be in full compliance with the terms of this ordinance and other applicable regulations. The construction of buildings, sewage treatment systems, and grading and filling in shoreland areas shall require a permit unless specifically excluded by the requirements of this ordinance.

2.03 Enforcement.

The Roseau County Board of Commissioners are responsible for the administration and enforcement of this ordinance. Any violation of the provisions of this ordinance or failure to comply with any of its requirements, including violations of conditions and safeguards established in connection with grants of variances or conditional uses, shall constitute a misdemeanor and shall be punishable as defined by law. Violations of this ordinance can occur regardless of whether or not a permit is required for a regulated activity pursuant to Section 3.0 of this ordinance.

2.04 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 Roseau County, and shall not be deemed a limitation or repeal of any other powers granted by State Statutes. Interpretation shall be made by the Zoning Administrator with approval of the Board of County Commissioners, subject to appeal to the Board of Adjustment.

2.05 Severability.

If any section, clause, provision, or portion of this ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected thereby.

2.06 Abrogation and Greater Restrictions.

It is not intended by this ordinance to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance imposes greater restrictions, the provisions of this ordinance shall prevail.

2.07 Effective Date.

This ordinance shall take effect and be in force on and after publication in the official County Newspaper.

2.08 Definitions.

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the same meaning as they have in common usage and so as to give this ordinance its most reasonable application. For the purpose of this ordinance, the words “must” and “shall” are mandatory and not permissive. All distances, unless otherwise specified, shall be measured horizontally.

Accessory Structure or Facility. 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. Examples of such structures and facilities include but are not limited to: swimming pools, tennis courts, saunas, solar collectors, wind generators, satellite dishes, detached garages, storage buildings, and recreational trailers and vehicles.

Accessory Use. Any use which is incidental to the principal use of a lot.

Administrator. The administrator of the Roseau County Environmental Office or its authorized agent or representative.

Agriculture. The use of land for agricultural purposes, including: farming, dairying, pasturage, horticulture, floriculture, viticulture, animal and poultry husbandry, and the necessary accessory uses for packing, treating, and storing the produce, provided that the operation of any such accessory uses shall be secondary to that of the principal agricultural activities.

Agricultural Structure. Any structure existing or erected and used principally for agricultural purposes, with the exception of dwelling units.

Bluff. A topographic feature such as a hill, cliff, or embankment having the following characteristics:

- (1) Part or all of the feature is located in a shoreland area;
- (2) The slope rises at least 25 feet above the ordinary high water level of the waterbody;
- (3) The grade of the slope from the toe of the bluff to a point 25 feet or more above the ordinary high water level averages 30 percent or greater; and
- (4) The slope drains toward the waterbody.

Bluff Impact Zone. A bluff and land located within 20 feet from the top of a bluff.

Board of Adjustment. The Roseau County Board of Adjustment as appointed by the Roseau County Board of Commissioners.

Boathouse. A structure designed and used solely for the storage of boats or boating equipment.

Building. Any structure, either temporary or permanent, having a roof or other covering, and designed for the shelter or enclosure of any person, animal, or property of any kind; including, tents, awnings, or vehicles situated on private property and used for purposes of a building.

Building Line. A line parallel to a lot line or the ordinary high water level at the required setback beyond which a structure may not extend.

Commercial Planned Unit Developments. Uses that provide transient, short-term lodging spaces, rooms, or parcels and their operations are essentially service-oriented. Hotel/motel accommodations, resorts, recreational vehicle and camping parks, and other primarily service-oriented activities are commercial planned unit developments.

Commercial Use. The principal use of land or buildings for the sale, lease, rental, or trade of products, goods, and services.

Commissioner. The Commissioner of the Department of Natural Resources.

Conditional Use. A land use or development defined by ordinance that would not be appropriate generally but may be allowed with appropriate restrictions as provided by official controls, upon a finding that standards and criteria stated in this ordinance will be satisfied.

Deck. A horizontal, unenclosed platform with or without attached railings, seats, trellises, or other features, attached or functionally related to a principal use or site and at any point extending more than three feet above ground.

Duplex, Triplex, and Quad. A dwelling structure on a single lot, having two, three, and four units, respectively, being attached by common walls and each unit equipped with separate sleeping, cooking, eating, living, and sanitation facilities.

Dwelling Site. A designated location for residential use by one or more persons using temporary or movable shelter, including camping and recreational vehicle sites.

Dwelling Unit. Any structure or portion of a structure, or other shelter designed as short or long-term living quarters for one or more persons, including rental or timeshare accommodations such as motel, hotel, and resort rooms and cabins.

Easement. A grant by a property owner for specified use of land by a corporation, the public, or specified persons.

Extractive Use. The use of land for surface or subsurface removal of sand, gravel, rock, industrial minerals, other nonmetallic minerals, and peat not regulated under Minnesota Statutes, sections 93.44 to 93.51.

Floodplain. The area adjoining a lake, watercourse, or wetland which has been or hereafter may be covered by a regional flood.

Flood Fringe. The area of the floodplain outside of the designated flood way.

Flood Way. The channel of the watercourse and those portions of the adjoining floodplain which are reasonably required to carry and discharge the regional flood.

Forest Land Conversion. The clear cutting of forested lands to prepare for a new land use other than reestablishment of a subsequent forest stand.

Front Lot Line. For a riparian lot, the front lot line is that line indicating the ordinary high water level. For a non-riparian lot, a front lot line is a line dividing a lot from any public highway, except a limited or controlled access highway to which the lot has no access.

Garage. A fully enclosed building designed or used for the storage of motor vehicles, not including buildings in which fuel is sold or in which repair or other services are performed.

Guest Cottage. A structure used as a dwelling unit that may contain sleeping spaces and kitchen and bathroom facilities in addition to those provided in the primary dwelling unit on a lot.

Hardship. A hardship exists when the property in question cannot be put to reasonable use under the strict interpretation of the official controls; the plight of the landowner is due to circumstances unique to his property and was not created by the landowner; and the variance, if granted, would 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 the terms of the official controls.

Height of Building. The vertical distance between the highest adjoining ground level at the building or ten feet above the lowest ground level, whichever is lower, and the highest point of a flat roof or average height of the highest gable of a pitched or hipped roof.

Individual Sewage Treatment System. A sewage treatment system, other than a public or community system, which receives sewage from an individual establishment. Unless otherwise indicated, the word “system”, as it appears in this ordinance, means an individual sewage treatment system.

Industrial Use. The use of land or buildings for the production, manufacture, warehousing, storage, or transfer of goods, products, commodities, or other wholesale items.

Intensive Vegetation Clearing. The complete removal of trees or shrubs in a contiguous patch, strip, row, or block.

Lot. A parcel of land designated by plat, metes and bounds, registered land survey, auditors plat, or other accepted means and separated from other parcels or portions by said description for the purpose of sale, lease, or separation.

Lot Area. The area of land within the boundaries of a lot.

Lot Line. Any line marking the boundary of a lot.

Lot Width. The shortest distance between lot lines measured at the midpoint of the building line.

Mining. The use of land for surface or subsurface removal of metallic minerals and peat as regulated under Minnesota Statutes, sections 93.44 through 93.51.

Mobile Home. A structure designed or used for residential occupancy built upon or having a frame or chassis to which wheels may be attached by which it may be moved upon a highway, whether or not such structure actually has, at any given time, such wheels attached, or is jacked up or skirted. Mobile homes shall be treated a single family housing units.

Mobile Home Park. Any premises on which two or more mobile homes, or any premises used or held out for the purpose of supplying to the public a parking space for two or more of such mobile homes. Sales lots on which automobiles or unoccupied mobile homes, new or used, are parked for purposes of inspection or sale are not included in this definition. For purposes of this ordinance, mobile home parks shall be considered a residential planned unit development.

Multiple Dwelling. A structure designed or used for residential occupancy by more than one family, with or without separate kitchen or dining facilities, including apartment houses, rooming houses, boarding hotels, hospitals, or nursing homes.

Nonconformity. Any legal use, structure or parcel of land already in existence, recorded, or authorized before the adoption of official controls or amendments thereto that would not have been permitted to become established under the terms of the official controls as now written, if the official controls had been in effect prior to the date it was established, recorded or authorized.

Ordinary High Water Level. The boundary of public waters and wetlands, and shall be an elevation delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape, commonly that point where the natural vegetation changes from predominantly aquatic to predominantly

terrestrial. For watercourses, the ordinary high water level is the elevation of the top of the bank of the channel. For reservoirs and flowages, the ordinary high water level is the operating elevation of the normal summer pool.

Planned Unit Development. A type of development characterized by a unified site design for a number of dwelling units or dwelling sites on a parcel, whether for sale, rent, or lease, and also usually involving clustering of these units or sites to provide areas of common open space, density increases, and a mix of structure types and land uses. These developments may be organized and operated as condominiums, time-share condominiums, cooperatives, full fee ownership, commercial enterprises, or any combination of these, or cluster subdivisions of dwelling units, residential condominiums, townhouses, apartment buildings, campgrounds, recreational vehicle parks, resorts, hotels, motels, and conversions of structures and land uses to these uses.

Public Waters. Any waters as defined in Minnesota Statutes, section 103G.005.

Recreational Vehicle. Any vehicle or vehicular portable structure built on a chassis designed to be used as a temporary dwelling for travel, recreation, or other vacation use.

Recreational Vehicle Campground. Any area, whether privately or publicly owned, used on a daily, nightly, weekly, or longer basis for the accommodation of five or more tents or recreational vehicles, either free of charge or for compensation.

Regional Flood. A flood which is representative of large floods known to have occurred generally in Minnesota and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of the 100 year recurrence interval.

Residential Planned Unit Development. A use where the nature of residency is nontransient and the major or primary focus of the development is not service-oriented. For example, residential apartments, manufactured home parks, time-share condominiums, townhouses, cooperatives, and full fee ownership residences would be considered as residential planned unit developments. To qualify as a residential planned unit development, a development must contain at least five dwelling units or sites.

Semipublic Use. The use of land by a private, nonprofit organization to provide a public service that is ordinarily open to some persons outside the regular constituency of the organization.

Sensitive Resource Management. The preservation and management of areas unsuitable for development in their natural state due to constraints such as shallow soils over groundwater or bedrock, highly erosive or expansive soils, steep slopes, susceptibility to flooding, or occurrence of flora or fauna in need of special protection.

Setback. The minimum horizontal distance between a structure, sewage treatment system, or other facility and an ordinary high water level, sewage treatment system, top of a bluff, road, highway, property line, or other facility.

Sewage Treatment System. A septic tank and soil absorption system or other individual or cluster type sewage treatment system as described and regulated in Section 5.09 of this ordinance.

Sewer System. Pipelines or conduits, pumping stations, and force main, and all other construction, devices, appliances, or appurtenances used for conducting sewage or industrial waste or other wastes to a point of ultimate disposal.

Shore Impact Zone. Land located between the ordinary high water level of a public water and a line parallel to it at a setback of 50 percent of the structure setback.

Shoreland. Land located within the following distances from public waters: 1,000 feet from the ordinary high water level of a lake, pond, or flowage; and 300 feet from a river or stream, or the landward extent of a floodplain designated by ordinance on a river or stream, whichever is greater. The limits of shoreland may be reduced when the following conditions apply:

- (1) The waters involved are bounded by topographic divides which extend landward from the waters for lesser distances and when approved by the Commissioner; and
- (2) Shoreland standards, as provided by this ordinance, may be waived for those floodplain activities regulated by the Roseau County Floodplain Ordinance, as deemed reasonable by Roseau County. In order to be waived from shoreland standards, the development must not directly impact the public waters listed in Section 4.0 of this ordinance, and must be located greater than 300 feet from the river or stream, and 1000 feet from the ordinary high water level of a lake, pond, or flowage.

Significant Historic Site. Any archaeological site, standing structure, or other property that meets the criteria for eligibility to the National Register of Historic Places or is listed in the State Register of Historic Sites, or is determined to be an unplatted cemetery that falls under the provisions of Minnesota Statutes, section 307.08. A historic site meets these criteria if it is presently listed on either register or if it is determined to meet the qualifications for listing after review by the Minnesota State Archaeologist or the Director of the Minnesota Historical Society. All unplatted cemeteries are automatically considered to be significant historic sites.

Single Family Dwelling. A structure, designated or used for residential occupancy by one family.

Steep Slope. Land where agricultural activity or development is either not recommended or described as poorly suited due to slope steepness and the site's soil characteristics, as mapped and described in the County soil survey or other technical reports, unless appropriate design and construction techniques and farming practices are used in accordance with the provisions of this ordinance. Where specific information is not available, steep slopes are lands having average slopes over twelve (12) percent, as measured over horizontal distances of fifty (50) feet or more, that are not bluffs.

Structure. Any building or appurtenance, including decks, except aerial or underground utility lines, such as sewer, electric, telephone, telegraph, gas lines, towers, poles, and other supporting facilities.

Subdivision. Land that is divided for the purpose of sale, rent, or lease, including planned unit developments.

Surface Water-Oriented Commercial Use. The use of land for commercial purposes, where access to and use of a surface water feature is an integral part of the normal

conductance of business. Marinas, resorts, and restaurants with transient docking facilities are examples of such use.

Temporary Structure. Any structure which has been erected or moved onto a lot in order to be utilized for any purpose for a period not to exceed six months. Any structure which is not a temporary structure is considered a permanent structure and must comply with all provisions of this ordinance.

Toe of the Bluff. The lower point of a fifty (50) foot segment with an average slope exceeding eighteen (18) percent.

Top of the Bluff. The higher point of a fifty (50) foot segment with an average slope exceeding eighteen (18) percent.

Variance. Relief from certain provisions of this ordinance may be granted when, due to the particular physical surroundings, shape or topographical condition of the property, compliance would result in a hardship upon the property owner. A hardship is distinguished from a mere inconvenience or a desire to increase the value of the property. Variances shall only be granted in compliance with Minnesota Statutes, Chapter 394.

Water-Oriented Accessory Structure or Facility. A small, above ground building or other improvement, except stairways, fences, docks, and retaining walls, which, because of the relationship of its use to a surface water feature, reasonably needs to be located closer to public waters than the normal structure setback. Examples of such structures and facilities include boathouses, gazebos, screen houses, fish houses, pump houses, and detached decks.

Wetland. A surface water feature classified as a wetland in the United States Fish and Wildlife Service Circular No. 39 (1971 edition).

Zoning Administrator. The Zoning Administrator of Roseau County or his authorized agent or representative.

SECTION 3.0 ADMINISTRATION

3.01 Permits Required.

A. Permits shall be required for the following permitted uses:

- 1) Building construction, including external additions;
- 2) Construction of decks and signs;
- 3) The installation and/or alteration of sewage treatment systems; and
- 4) Grading and filling activities not exempted by Section 5.05 of this ordinance.

All contractors, subcontractors, builders, or other persons having charge of the erection, alteration, or moving of the exterior of any building or structure that will change the outside dimension of such building shall apply for a building permit from the Roseau County Zoning Administrator before beginning or undertaking such work. After the appropriate fee has been paid, and if the proposed work does not conflict with any portion of this ordinance, the permit shall be granted. If the permit is not granted, the reasons for such denial will be provided, in writing, to the applicant.

All permit applications shall be examined and processed within thirty (30) days of receipt of all information needed to process such application unless the time limit for such processing is extended by the Board of Adjustment.

B. Application for a permit shall be made to the Roseau County Zoning Administrator on forms provided by the County. The application shall include a sketch plan showing the dimensions of the lot, the size and locations of the proposed or existing structures and all accessory structures, sewage system location, the location of the proposed well and any existing wells on the property, and the location of any proposed grading and filling activities.

C. All permit applications shall contain the necessary information so that the Zoning Administrator can determine the site's suitability for the intended use and that a compliant sewage treatment system will be provided.

D. A permit authorizing an addition to an existing structure shall stipulate that an identified nonconforming sewage treatment system, as defined by Section 5.09, shall be reconstructed or replaced in accordance with the provisions of this ordinance.

3.02 Conditional Use Permits.

Any use listed as a conditional use in this ordinance shall be permitted only upon application to the Zoning Administrator, review and recommendation of the Board of Adjustment, and approval and issuance of a conditional use permit by the Roseau County Board of Commissioners. The applicant for a conditional use permit shall fill out and submit to the Zoning Administrator the required application form provided by the County. When such application is submitted, the appropriate fee shall be paid in order for the application to receive consideration by the Board of Adjustment. A thorough site evaluation shall be conducted by the Zoning Administrator and the Board of Adjustment prior to consideration of the conditional use permit application, primarily to determine the compatibility of the applicant's proposal with present development.

A. In considering the granting of any conditional use permit the Board of Adjustment and County Board shall evaluate the effect of the proposed use upon:

- 1) The maintenance of the public health, safety, and welfare;
- 2) The prevention of soil erosion or other possible pollution of public waters, both during and after construction;
- 3) The visibility of structures and other facilities as viewed from public waters is limited;
- 4) The site is adequate for water supply and on-site sewage treatment;
- 5) The types, uses, and numbers of watercraft that the project will generate are compatible in relation to the suitability of public waters to safely accommodate those watercraft;
- 6) Existing topography and drainage features and vegetative cover on the site;
- 7) The location of the site with respect to existing and proposed access roads;
- 8) Its compatibility with adjacent land uses; and

9) The need for the proposed use to be located in a shoreland district.

B. Upon consideration of the factors listed in Part A of this section, the Board of Adjustment may attach such conditions, in addition to those required elsewhere in this ordinance, that it deems necessary for the furtherance of the purposes set forth in this ordinance. Such conditions attached to conditional use permits may include, but shall not be limited to:

- 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;
- 3) Special provisions for the location, design, and use of structures, sewage treatment systems, watercraft launching and docking areas, and vehicle parking areas;
- 4) Deed restrictions; and
- 5) Type of construction.

C. An applicant for a conditional use permit may be required to furnish the Board of Adjustment, in addition to the information required for the building or other permit, the following:

- 1) A plan of the proposed project showing contours, soil types, ordinary high water level, ground water conditions, slope, and vegetative cover;
- 2) Location of existing and proposed buildings, parking areas, traffic access, driveways, walkways, piers and docks, open spaces, and vegetative cover;
- 3) Specifications for areas of proposed grading and filling, or other topographical alterations; and
- 4) Any other pertinent information necessary to determine if the proposal meets the requirements and intent of this ordinance.

D. The Board of Adjustment and the County Board, in evaluating each conditional use application, may request the Soil and Conservation District, Soil Survey Office, and applicable Watershed District to make available expert assistance to evaluate the application.

3.03 Variances.

A. The Board of Adjustment shall have the exclusive power to order the issuance of variances from the terms of any official controls including restrictions placed on nonconformities. Variances may only be granted in accordance with Minnesota Statutes, Chapter 394. A variance may not circumvent the general purposes and intent of this ordinance. Conditions may be imposed in the granting of a variance to ensure compliance and to protect adjacent properties and the public interest. The Board of Adjustment shall consider the criteria set forth below when passing upon a variance request:

- 1) Has the applicant demonstrated a hardship? (Hardship means that the property cannot be put to a reasonable use under conditions specified by the ordinance. Economic considerations alone do not constitute a hardship).

- 2) Are there exceptional circumstances unique to this property which were not created by the property owner?
- 3) Can the variance be granted without upsetting the purpose and intent of the ordinance?
- 4) Can the variance be granted without altering the essential character of the surrounding area?
- 5) Does the property have a conforming sewage treatment system?

The Board of Adjustment must make an affirmative finding on all of the five criteria listed above in order to grant a variance. The applicant for a variance has the burden of proof to show that all of the criteria listed above have been satisfied. A variance shall not be granted for a use that is not permitted under this ordinance.

B. An applicant desiring a variance shall fill out and submit to the Zoning Administrator a Variance Request Form, provided by the County. The appropriate fee shall be paid in order for the application to receive consideration by the Board of Adjustment.

C. The Zoning Administrator shall make a recommendation to the Board of Adjustment, who shall make the final decision after conducting a public hearing in accordance with applicable State Statutes.

D. When a variance is approved after the Department of Natural Resources has formally recommended denial in the hearing record, the notification of the approved variance required in Section 3.04 shall also include the Board of Adjustment's summary of the public record/testimony and the findings of facts and conclusions which supported the issuance of the variance.

3.04 Notifications to the Department of Natural Resources.

A. Copies of all notices of any public hearings to consider variances, amendments, or conditional uses under this ordinance must be sent to the Commissioner, postmarked at least ten (10) days before the hearings. Notices of hearings to consider proposed subdivisions/plats must include copies of the subdivision/plat.

B. A copy of approved amendments and subdivisions/plats, and final decisions granting variances or conditional uses under this ordinance must be sent to the Commissioner, postmarked within ten (10) days of final action.

3.05 Certificate of Zoning Compliance.

The Zoning Administrator shall issue a certificate of zoning compliance for each activity requiring a permit as specified in Section 3.01 of this ordinance. This certificate will specify that the use of land conforms to the requirements of this ordinance. Any use, arrangement, or construction at variance with that authorized by permit shall be deemed a violation of this ordinance and shall be punishable as provided in Section 2.03 of this ordinance.

3.06 Zoning Administrator.

The position of Zoning Administrator, or equivalent, is established by the County Board, and shall serve at its pleasure. The Zoning Administrator shall receive such compensation as the County Board may determine. The Zoning Administrator shall:

- A. Act as Inspector for the County;
- B. Inspect all construction and development to ensure that the standards of this ordinance are complied with;
- C. Enforce and administer this ordinance;
- D. Issue permits for permitted uses and/or activities which comply with the provisions of this ordinance;
- E. Receive applications for conditional use permits, variance requests, and ordinance amendments, and forward, along with recommendations, to the Board of Adjustment;
- F. Maintain all records relating to the application for and deliberations relating to the issuance or denial of permits; and
- G. Develop and maintain a public information bureau relating to shoreland management.

3.07 Board of Adjustment.

The Board of Adjustment is vested with the authority provided in Minnesota Statutes, Chapter 394. The Board of Adjustment shall consist of three (3) members appointed by the County Board. No member of the Board of Adjustment may be an elected official nor an employee of the State or County. The members shall be appointed to three (3) year terms.

- A. The Board of Adjustment shall elect a Chairperson and a Vice Chairperson from among its members. It shall adopt rules, or bylaws, for the transaction of its business and shall keep a permanent public record of its proceedings, findings, and determinations, to be permanently filed in the Roseau County Environmental Office.
- B. The meeting of the Board of Adjustment shall be held as specified in the rules or bylaws, and at other such times as the Chairperson of the Board deems necessary and appropriate.
- C. The Board of Adjustment shall have exclusive power to grant variances, and shall provide the County Board with recommendations concerning conditional use permit applications.
- D. The Board of Adjustment shall hear and decide any appeal from an order, requirement, decision, or determination made by the Zoning Administrator.

3.08 Ordinance Amendments.

The procedure for amendments to this ordinance shall be as follows:

- A. An amendment may be initiated by a property owner, the Board of Adjustment, or the County Board of Commissioners. Property owners wishing to initiate an amendment shall fill out an Application of Amendment form, provided by the County. The application

shall be completed and submitted to the Zoning Administrator along with the applicable fee.

B. The applicant shall appear before the Board of Adjustment to answer any questions that members may have concerning the request.

C. A public hearing on the amendment request shall be conducted by the Board of Adjustment within sixty (60) days following the initial meeting. The public hearing shall be conducted in accordance with M.S.394.26.

D. The Board of Adjustment shall make a recommendation to the County Board of Commissioners after the proceedings of the public hearing;

E. The County Board shall consider the recommendation of the Board of Adjustment within thirty (30) days following the public hearing.

3.09 Public Notice and Hearing Requirements.

A. All conditional use permit requests, variance requests, and requests for ordinance amendments shall be reviewed at a public hearing conducted at least ten (10) days following official public notification, including publication in the Official County Newspaper.

B. The Commissioner must also receive at least ten (10) days notification of hearings to be conducted concerning conditional use permits, variances, and ordinance amendment requests.

C. The Commissioner must also receive a copy of approved conditional use permits, variances, and ordinance amendments, postmarked within ten (10) days of final action.

3.10 Access to Private Property.

The Zoning Administrator, or applicable County agent, shall have the right, at all reasonable times, to enter upon private property for the purpose of administration or enforcement of this ordinance.

3.11 Enforcement of Penalties.

A. In the event of violation or threatened violation of this ordinance, the County Board of Commissioners 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 Roseau County Attorney to institute such action.

B. Any person, firm, or corporation who shall violate any of the provisions herein, or who shall fail to comply with any of the provisions herein, or who shall make any false statement in any document required to be submitted under such provisions, shall be guilty of a petty misdemeanor, and upon conviction thereof shall be punished by such penalties and fines provided by law. Each day that the violation continues shall constitute a separate offense.

3.12 Fees.

In order to defray the administrative costs associated with the processing of applications for building and related permits, conditional use permits, variance requests, ordinance amendments, and subdivision plan approval, a schedule of fees has been adopted by the

County Board of Commissioners. The schedule of fees shall be posted in the County Environmental Office, and may be altered or amended only by resolution of the County Board of Commissioners.

4.0 SHORELAND CLASSIFICATION SYSTEM AND MANAGEMENT DISTRICTS

4.01 Shoreland Classification System.

The public waters of Roseau County have been classified below consistent with the criteria found in Minnesota Regulations, Part 6120.3300, and the Protected Waters Inventory Map for Roseau County, Minnesota.

The shoreland area for the waterbodies listed in this section shall be as defined in section 2.08 of this ordinance and as shown on the Protected Waters Inventory Map for Roseau County, Minnesota, as amended. The public waters of Roseau County have been classified as follows.

Lakes - Roseau County

<u>A. Natural Environment Lakes:</u>	<u>Inventory I.D.#</u>
All lakes listed on the Protected Waters Inventory Map for Roseau County, except Lake of the Woods.	(reference protected waters inventory map)
<u>B. General Development Lakes:</u>	<u>Inventory I.D.#</u>
Lake of the Woods	39-2

Rivers and Streams - Roseau County

<u>A. Remote Rivers:</u>	<u>Legal Description</u>
Roseau	From: East Section Line, Section 24, T163N, R43W. To: West Section Line, Section 16, T163N, R44W.
Roseau	From: Boundary of Roseau and Lake of the Woods Counties. To: North Section Line, Section 30, T159N, R37W.
<u>B. Forested Rivers:</u>	<u>Legal Description</u>
Roseau	From: East Section Line, Section 17, T163N, R44W. To: Boundary of Roseau and Kittson Counties.

Roseau

From: South Section Line, Section 19, T159N, R37W.

To: West Section Line, Section 30, T160N, R38W.

C. Agricultural Rivers:

Legal Description

Roseau

From: East Section Line, Section 25, T160N, R39W.

To: West Section Line, Section 19, T163N, R42W.

South Branch-Two Rivers

From: East Section Line, Section 24, T160N, R44W.

To: Boundary of Roseau and Kittson Counties.

D. Tributary Streams:

Legal Description

All the non-classified watercourses as shown on Roseau County’s Protected Waters Inventory Map, a copy of which is hereby adopted by reference.

4.02 Shoreland Management Districts and Descriptions.

The development of shoreland of public waters shall be controlled by means of shoreland management districts which are designed to be compatible with the classification of public waters. For the purposes of this ordinance, the following districts are created:

1. Natural Environment : Established to preserve and enhance high quality waters by protecting them from pollution and to protect shorelands of waters which are unsuitable for development; to maintain a low density of development; and to maintain high standards of quality for permitted development.
2. General Development : Established to provide minimum regulations in areas presently developed in high density, multiple use areas; to provide for the beneficial use of public waters by the general public; and to provide guidance for future growth of residential, commercial, and industrial establishments which require locations on protected waters.
3. Remote River : Established to preserve wilderness and near wilderness settings along protected watercourses.
4. Forested River : Established to maintain existing levels of development densities while preserving the natural setting along protected watercourses.
5. Agricultural River : Established to protect shore areas from potentially adverse impacts of agricultural uses.
6. Tributary River : Established to maintain or establish vegetated buffer strips to improve water quality along protected watercourses.

4.03 Shoreland Management District Requirements.

The shoreland management districts provided below, and the allowable land uses therein for the given classifications of waterbodies, shall be properly delineated on the Protected Waters Inventory Map for Roseau County. These shoreland management districts are in conformance with the criteria specified in Minnesota Regulation, Part 6120.3200, Subp. 3.

1. Natural Environment Management District.

A. Permitted Uses:

- 1) Single Family Residential.
- 2) Accessory Buildings.
- 3) Pasture and Cropland.
- 4) Forest Management.
- 5) Sensitive Resource Management.
- 6) Hiking and Riding Trails.
- 7) Mining.

B. Uses Requiring a Conditional Use Permit:

- 1) Duplex, Triplex, and Quads.
- 2) Residential Planned Unit Developments, including Mobile Home Parks.
- 3) Commercial Planned Unit Developments, including Recreational Vehicle Camping Areas.
- 4) Parks.
- 5) Extractive Uses.
- 6) Agricultural Feedlots.

2. General Development Management Districts.

A. Permitted Uses:

- 1) Single Family Residential.
- 2) Duplex, Triplex, and Quads.
- 3) Accessory Buildings.
- 4) Pasture and Cropland.
- 5) Forest Management.
- 6) Hiking and Riding Trails.
- 7) Mining.
- 8) Public and Semipublic Uses.

B. Uses Requiring a Conditional Use Permit:

- 1) Residential Planned Unit Developments.*
- 2) Commercial Planned Unit Developments.
- 3) Commercial Establishments.
- 4) Surface-Water Oriented Commercial.
- 5) Industrial.
- 6) Extractive Use.
- 7) Parks.
- 8) Agricultural Uses.

* Limited expansion to a residential planned unit development involving up to six (6) additional dwelling units or sites may be allowed as a permitted use provided the provisions of Section 8.0 of this ordinance are satisfied.

3. Remote River Management District.

A. Permitted Uses:

- 1) Single Family Residential.
- 2) Accessory Buildings.
- 3) Pasture and Cropland.
- 4) Forest Management.
- 5) Sensitive Resource Management.
- 6) Hiking and Riding Trails.
- 7) Mining.

B. Uses Requiring a Conditional Use Permit:

- 1) Duplex, Triplex, and Quads.
- 2) Residential Planned Unit Developments.
- 3) Commercial Establishments.
- 4) Commercial Planned Unit Developments.
- 5) Surface-Water Orientated Commercial.
- 6) Extractive Use.
- 7) Parks.
- 8) Agricultural Feedlots.
- 9) Public and Semi-Public Uses.

4. Forested River Management District.

A. Permitted Uses:

- 1) Single Family Residential.
- 2) Accessory Buildings.
- 3) Pasture and Cropland.
- 4) Forest Management.
- 5) Sensitive Resource Management.
- 6) Hiking and Riding Trails.
- 7) Mining.

B. Uses Requiring a Conditional Use Permit:

- 1) Duplex, Triplex, and Quads.
- 2) Residential Planned Unit Developments.
- 3) Commercial Establishments.
- 4) Commercial Planned Unit Developments.
- 5) Surface-Water Orientated Commercial.
- 6) Extractive Use.
- 7) Parks.
- 8) Agricultural Feedlots.
- 9) Public and Semi-Public Uses.

5. Agricultural River Management District.

A. Permitted Uses:

- 1) Single Family Residential.
- 2) Accessory Buildings.
- 3) Duplex, Triplex, and Quad.
- 4) Commercial Establishments.
- 5) Public and Semi-Public Uses.
- 6) Sensitive Resource Management.
- 7) Forest Management.
- 8) Pasture and Cropland.
- 9) Mining.

B. Uses Requiring a Conditional Use Permit:

- 1) Residential Planned Unit Developments.
- 2) Commercial Planned Unit Developments.
- 3) Industrial.
- 4) Surface-Water Orientated Commercial.
- 5) Extractive Use.
- 6) Parks.
- 7) Agricultural Feedlots.

6. Tributary River Management District.

A. Permitted Uses:

- 1) Single Family Residential.
- 2) Accessory Buildings.
- 3) Duplex, Triplex, and Quads.
- 4) Sensitive Resource Management.
- 5) Forest Management.
- 6) Pasture and Cropland.
- 7) Mining.

B. Uses Requiring a Conditional Use Permit:

- 1) Residential Planned Unit Developments.
- 2) Commercial Establishments.
- 3) Commercial Planned Unit Developments.
- 4) Public and Semi-Public Uses.
- 5) Surface-Water Orientated Commercial.
- 6) Extractive Use
- 7) Parks.
- 8) Agricultural Feedlots.
- 9) Industrial.

5.0 ZONING AND WATER SUPPLY / SANITARY PROVISIONS.

5.01 Lot Area and Width Standards.

The lot area, (in square feet), and lot width standards, (in feet), for single, duplex, triplex and quad residential lots created after the date of enactment of this ordinance for the lake and river classifications are as follows:

1. Natural Environment Lakes:

	<u>Riparian Lots</u>		<u>Nonriparian Lots</u>	
	<u>Area</u>	<u>Width</u>	<u>Area</u>	<u>Width</u>
Single	80,000	200	80,000	200
Duplex	120,000	300	160,000	400
Triplex	160,000	400	240,000	600
Quad	200,000	500	320,000	800

2. General Development Lakes:

A. Unsewered Lakes:

	<u>Riparian Lots</u>		<u>Nonriparian Lots</u>	
	<u>Area</u>	<u>Width</u>	<u>Area</u>	<u>Width</u>
Single	20,000	100	40,000	150
Duplex	40,000	180	80,000	265
Triplex	60,000	260	120,000	375
Quad	80,000	340	160,000	490

B. Sewered Lakes:

	<u>Riparian Lots</u>		<u>Nonriparian Lots</u>	
	<u>Area</u>	<u>Width</u>	<u>Area</u>	<u>Width</u>
Single	15,000	75	10,000	75
Duplex	26,000	135	17,500	135
Triplex	38,000	195	25,000	190
Quad	49,000	255	32,500	245

3. All River Segments.

There is no minimum lot size requirements for rivers and streams. The lot width standards for single, duplex, triplex and quad residential developments for the four (4) river classifications are:

	<u>Remote</u>	<u>Forested</u>	<u>Agricultural</u>	<u>Tributary</u>	
				<u>No sewer</u>	<u>Sewer</u>
Single	300	200	150	100	75
Duplex	450	300	225	150	115
Triplex	600	400	300	200	150
Quad	750	500	375	250	190

5.02 Setback Provisions.

Structures and sewage treatment systems constructed, or placed, after the date of enactment of this ordinance shall meet the setbacks prescribed in this section. When more than one setback applies to a site, structures and facilities must 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.

A. Structure and On-Site Sewage System Setbacks from the Ordinary High Water Level.

1. Natural Environment Lakes.

- > Structure setback from ordinary high water level (OHWL) : 150'
- > Structure setback from side lot line : 20'
- > Structure setback from top of bluff : 30'
- > Structure setback from unplatted cemetery : 50'
- > Structure setback from Federal, State, County road ROW : 50'
- > Structure setback from other road right-of-way : 30'
- > Sewage treatment system setback from OHWL : 150'

2. General Development Lakes.

- > Structure setback from ordinary high water level : 75'
- > Structure setback from side lot line : 10'
- > Structure setback from top of bluff : 30'
- > Structure setback from unplatted cemetery : 50'
- > Structure setback from Federal, State, County ROW : 50'

- > Structure setback from other road right-of-way : 30'
- > Unsewered Lake: sewage treatment system setback from OHWL : 75'
- > Sewered Lake: sewage treatment system setback from OHWL : 50'

Note: One water-oriented accessory structure designed in accordance with Section 5.04 of this ordinance may be set back a minimum distance of ten (10) feet from the ordinary high water level.

3. Remote River Segments.

- > Structure setback from ordinary high water level : 200'
- > Structure setback from side lot line : 20'
- > Structure setback from top of bluff : 30'
- > Structure setback from unplatted cemetery : 50'
- > Structure setback from Federal, State, County road ROW : 50'
- > Structure setback from other road right-of-way : 30'
- > Sewage treatment system setback from OHWL : 150'

4. Forested River Segments.

- > Structure setback from ordinary high water level : 150'
- > Structure setback from side lot line : 20'
- > Structure setback from top of bluff : 30'
- > Structure setback from unplatted cemetery : 50'
- > Structure setback from Federal, State, County road ROW : 50'
- > Structure setback from other road right-of-way : 30'
- > Sewage treatment system setback from OHWL : 100'

5. Agricultural River Segments.

- > Structure setback from ordinary high water level : 75'
- > Structure setback from side lot line : 10'
- > Structure setback from top of bluff : 30'
- > Structure setback from unplatted cemetery : 50'
- > Structure setback from Federal, State, County road ROW : 50'
- > Structure setback from other road right-of-way : 30'
- > Sewage treatment system setback from OHWL : 75'

6. Tributary River Segments.

> Structure setback from ordinary high water level	:	75'
> Structure setback from side lot line	:	10'
> Structure setback from top of bluff	:	30'
> Structure setback from unplatted cemetery	:	50'
> Structure setback from Federal, State, County road ROW	:	50'
> Structure setback from other road right-of-way	:	30'
> Sewage treatment system setback from OHWL	:	75'

B. Structures and accessory facilities, except stairways and landings, must not be placed within bluff impact zones.

C. Uses without water-oriented needs must be located on lots or parcels without public waters frontage, or, if located on lots or parcels with public waters frontage, must either be set back double the normal ordinary high water level setback or be substantially screened from view from the water by vegetation or topography, assuming summer, leaf-on conditions.

5.03 Additional Special Provisions.

A. Residential subdivisions with dwelling unit densities exceeding those in the tables in Section 5.0 can only be allowed if designed and approved as residential planned unit developments under Section 8.0 of this ordinance. 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. The sewered lot area dimensions in Section 5.01 and reduced setback provisions in Section 5.02 can only be used if publicly owned sewer system service is available to the property.

B. Subdivisions of duplexes, triplexes, and quads on Natural Environment Lakes must also meet the following standards:

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

C. One guest cottage may be allowed on lots meeting or exceeding the duplex lot area and width dimensions presented in Sections 5.01 and 5.02, provided the following standards are met:

- 1) For lots exceeding the minimum lot dimensions of duplex lots, the guest cottage must be located within the smallest duplex-sized lot that could be created including the principal dwelling unit;
- 2) A guest cottage must not cover more than 700 square feet of land surface and must not exceed 15 feet in height; and
- 3) A guest cottage must be located or designed to reduce its visibility as viewed from public waters and adjacent shoreland by vegetation, topography, increased setbacks or color, assuming summer leaf-on conditions.

D. Lots intended as controlled accesses to public waters or as recreation areas for use by owners of nonriparian lots within subdivisions are permissible and must meet or exceed the following standards:

- 1) They must meet the width and size requirements for residential lots, and be suitable for the intended uses of controlled access lots;
- 2) If docking, mooring, or over-water storage of more than six (6) watercraft is to be allowed at a controlled access lot, then the width of the lot, (keeping the same lot depth), must be increased by the percent of the requirements for riparian residential lots for each watercraft beyond six, consistent with the following table:

Controlled Access Lot Frontage Requirements

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

- 3) They must 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
- 4) Covenants or other equally effective legal instruments must be developed that specify which lot owners have authority to use the access lot and what activities are allowed. The activities may include watercraft launching, loading, storage, beaching, mooring, or docking. They must 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 insignificant conflict activities include swimming, sunbathing, or picnicking. The covenants must limit the total number of vehicles allowed to be parked and the total number of watercraft allowed to be continuously moored, docked, or stored over water, and must require centralization of all common facilities and activities in the most suitable locations on the lot to minimize topographic and vegetation alterations. They must also require all parking areas,

storage buildings, and other facilities to be screened by vegetation or topography as much as practical from view from the public water, assuming summer, leaf-on conditions.

5.04 Design Criteria For Structures.

Structures must be placed, and lots developed, in accordance with the following design criteria.

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

- 1) For lakes, by placing the lowest floor at a level at least three feet above the highest known water level, or three feet above the ordinary high water level, whichever is higher;
- 2) For rivers and streams, by placing the lowest floor at least three feet above the flood of record, if data is available. If data is not available, by placing the lowest floor at least three feet above the ordinary high water level, or by conducting a technical evaluation to determine effects of proposed construction upon flood stages and flood flows and to establish a flood protection elevation. Under all three approaches, technical evaluations must be done by a qualified engineer or hydrologist consistent with parts 6120.5000 to 6120.6200 governing the management of floodplain areas. If more than one approach is used, the highest flood protection elevation determined must be used for placing structures and other facilities; and
- 3) Water-oriented accessory structures may have the lowest floor placed lower than the elevation determined in this item if the structure is constructed of flood-resistant materials to the elevation, electrical and mechanical equipment is placed above the elevation and, if long duration flooding is anticipated, the structure is built to withstand ice action and wind-driven waves and debris.

B. Each lot may have one water-oriented accessory structure not meeting the normal structure setback in Section 5.02 of this ordinance, if this water-oriented accessory structure complies with the following provisions:

- 1) The structure or facility must not exceed ten (10) feet in height, exclusive of safety rails, and cannot occupy an area greater than 250 square feet. Detached decks must not exceed eight (8) feet above grade at any point;
- 2) The setback of the structure or facility from the ordinary high water level must be at least ten (10) feet;
- 3) The structure or facility must be treated to reduce visibility as viewed from public waters and adjacent shoreland by vegetation, topography, increased setbacks or color, assuming summer, leaf-on conditions;
- 4) The roof may be used as a deck with safety rails, but must not be enclosed or used as a storage area;

5) The structure or facility must not be designed or used for human habitation and must not contain water supply or sewage treatment facilities; and

6) As an alternative for general 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 twenty (20) feet as measured parallel to the configuration of the shoreline.

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

1) Stairways and lifts must not exceed four (4) feet in width on residential lots. Wider stairways may be used for commercial properties, public open-space recreational properties, and planned unit developments if specifically authorized in a conditional use permit;

2) Landings for stairways and lifts on residential lots must not exceed thirty-two (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 if specifically authorized in a conditional use permit;

3) Canopies or roofs are not allowed on stairways, lifts, or landings;

4) Stairways, lifts, and landings may be either constructed above the ground on posts or pilings, or placed into the ground, provided they are designed and built in a manner that ensures control of soil erosion;

5) Stairways, lifts, and landings must be located in the most visually inconspicuous portions of lots, as viewed from the surface of the public water assuming summer, leaf-on conditions, whenever practical; and

6) Facilities such as ramps, lifts, or mobility paths for physically handicapped persons are also allowed for achieving access to shore areas, provided that the dimensional and performance standards of subitems (1) to (5) of this Section are complied with, in addition to the requirements of Minnesota Regulations, Chapter 1340.

D. 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.

E. The Zoning Administrator must evaluate possible soil erosion impacts and development visibility from public waters before issuing a permit for construction of sewage treatment systems, roads, driveways, structures, or other improvements on steep slopes. When determined necessary, conditions must be attached to 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.

F. All structures located in residential developments, except churches and nonresidential agricultural structures, must not exceed twenty-five (25) feet in height. Guest cottages shall not exceed fifteen (15) feet in height.

5.05 Shoreland Alterations.

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

A. Vegetation Alterations.

1) Vegetation alteration necessary for the construction of structures and sewage treatment systems and the construction of roads and parking areas regulated by Sections 5.06 and 5.09 of this ordinance are exempt from the vegetation alteration standards that follow.

2) Removal or alteration of vegetation, except for agricultural and forest management uses as regulated in Sections 5.08 of this ordinance, is allowed subject to the following standards:

(A) intensive vegetation clearing within the shore and bluff impact zones and on steep slopes is not allowed. Intensive vegetation clearing for forest land conversion to another use outside of these areas is allowable as a conditional use if an erosion control and sedimentation plan is developed and approved by the Roseau County Soil and Water Conservation District; and

(B) 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:

(1) the screening of structures, vehicles, or other facilities as viewed from the water, assuming summer, leaf-on conditions, is not substantially reduced;

(2) along rivers, existing shading of water surfaces is preserved;
and

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

B. Topographic Alterations/Grading and Filling.

1) 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. However, the grading and filling standards in this Section must be incorporated into the issuance of permits for construction of structures, sewage treatment systems, and driveways.

2) Public roads and parking areas are regulated by Section 5.06 of this ordinance.

3) A grading and filling permit will be required for:

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

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

4) The following considerations and conditions must be adhered to during the issuance of construction permits, grading and filling permits, conditional use permits, variances and subdivision approvals:

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

(1) sediment and pollutant trapping and retention;

(2) storage of surface runoff to prevent or reduce flood damage;

(3) fish and wildlife habitat;

(4) recreational use;

(5) shoreline or bank stabilization; and

(6) noteworthiness, including special qualities such as historic significance, critical habitat for endangered plants and animals, or others.

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

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

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

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

(E) altered areas must be stabilized to acceptable erosion control standards consistent with the field office technical guides of the Roseau County Soil and Water Conservation Districts and the United States Soil Conservation Service;

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

(G) plans to place fill or excavated material on steep slopes must be reviewed by qualified professionals for continued slope stability and must not create finished slopes of thirty (30) percent or greater;

(H) fill or excavated material must not be placed in bluff impact zones;

(I) any alterations below the ordinary high water level of public waters must first be authorized by the Commissioner under Minnesota Statutes, section 103.G;

(J) alterations of topography must only be allowed if they are accessory to permitted or conditional uses and do not adversely affect adjacent or nearby properties; and

(K) placement of natural rock riprap, including associated grading of the shoreline and placement of a filter blanket, is permitted if the finished slope does not exceed three (3) feet horizontal to one (1) foot vertical, the landward extent of the riprap is within ten (10) feet of the ordinary high water level, and the height of the riprap above the ordinary high water level does not exceed three (3) feet.

5) Excavations where the intended purpose is connection to a public water, such as boat slips, canals, lagoons, and harbors, requires an excavation permit from Roseau County. Permission for excavations may be given only after the Commissioner has approved the proposed connection to public waters.

5.06 Placement and Design of Roads, Driveways, and Parking Areas.

A. Public and private roads and parking areas must be designed to take advantage of natural vegetation and topography to achieve maximum screening from view from public waters. Documentation must be provided by a qualified individual that all roads and parking areas are designed and constructed to minimize and control erosion to public waters consistent with the field office technical guides of the Roseau County Soil and Water Conservation District, or other applicable technical materials.

B. Roads, driveways, and parking areas must meet structure setbacks and must not be placed within bluff and shore impact zones, when other reasonable and feasible placement alternatives exist. If no alternatives exist, they may be placed within these areas, and must be designed to minimize adverse impacts.

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 Section 5.05, item B, of this ordinance must be met.

5.07 Stormwater Management.

A. General Standards.

1) When possible, existing natural drainageways, wetlands, and vegetated soil surfaces must be used to convey, store, filter, and retain stormwater runoff before discharged to public waters.

2) Development must be planned and conducted in a manner that will minimize the extent of disturbed areas, runoff velocities, erosion potential, and reduce and delay runoff volumes. Disturbed areas must be stabilized and protected as soon as possible and facilities or methods used to retain sediment on the site.

3) 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 must be given to designs using surface drainage, vegetation, and infiltration rather than buried pipes and man-made materials and facilities.

B. Specific Standards.

- 1) Impervious surface coverage of lots must not exceed twenty-five (25) percent of the lot area.
- 2) When constructed facilities are used for stormwater management, documentation must be provided by a qualified individual that they are designed and installed consistent with the field office technical guide of the Roseau County SWCD.
- 3) Newly constructed stormwater outfalls to public waters must provide for filtering or settling of suspended solids and skimming of surface debris before discharge.

5.08 Special Provisions for Commercial, Industrial, Public, Semipublic, Agricultural, Forestry and Extractive Uses and Mining of Metallic Minerals and Peat.

A. Standards for Commercial, Industrial, Public, and Semipublic Uses.

1) Surface water-oriented commercial uses and industrial, public, or semipublic uses with similar needs to have access to and use of public waters may be located on parcels or lots with frontage on public waters. Those uses with water-oriented needs must meet the following standards:

(A) in addition to meeting impervious coverage limits, setbacks, and other zoning standards in this ordinance, the uses must be designed to incorporate topographic and vegetative screening of parking areas and structures;

(B) uses that require short-term watercraft mooring for patrons must centralize these facilities and design them to avoid obstructions of navigation and to be the minimum size necessary to meet the need; and

(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 Roseau 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 must only convey the location and name of the establishment and the general types of goods or services available. The signs must not contain other detailed information such as product brands and prices, must not be located higher than ten (10) feet above the ground, and must not exceed thirty-two (32) square feet in size. If illuminated by

artificial lights, the lights must be shielded or directed to prevent illumination out across public waters; and

(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) Uses without water-oriented needs must be located on lots or parcels without public waters frontage, or, if located on lots or parcels with public waters frontage, must either be set back double the normal ordinary high water level setback or be substantially screened from view from the water by vegetation or topography, assuming summer, leaf-on conditions.

B. Agriculture Use Standards.

1) General cultivation farming, grazing, nurseries, horticulture, truck farming, sod farming, and wild crop harvesting are permitted uses if steep slopes and shore and bluff impact zones are maintained in permanent vegetation or operated under an approved conservation plan, (Resource Management Systems), consistent with the field office technical guides of the Roseau County Soil and Water Conservation District or the United States Soil Conservation Service, as provided by a qualified individual or agency. The shore impact zone for parcels with permitted agricultural land uses is equal to a line parallel to and fifty (50) feet from the ordinary high water level.

2) Animal feedlots, including new feedlots, or modifications and expansions to existing feedlots, must meet all applicable requirements of the most current feedlot regulations, as administered by the Minnesota Pollution Control Agency. Animal feedlots must also meet the following requirements:

(A) new feedlots must not be located in the shoreland of watercourses or in bluff impact zones and must meet a minimum setback of 300 feet from the ordinary high water level of all public water basins; and

(B) 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 encroach on bluff impact zones.

C. Forest Management Standards.

The harvesting of timber and associated reforestation must 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.”

D. Extractive Use Standards.

1) An extractive use site development and restoration plan must be developed, approved, and followed over the course of operation of the site. The plan must address: dust, noise, possible pollutant discharges, hours and duration of operation, and anticipated vegetation and topographic alterations. It must also

identify actions to be taken during operation to mitigate adverse environmental impacts, particularly erosion, and must clearly explain how the site will be rehabilitated after extractive activities end.

2) Processing machinery must be located consistent with setback standards for structures from ordinary high water levels of public waters and from bluffs.

E. Mining of Metallic Minerals and Peat.

Mining of metallic minerals and peat, as defined in Minnesota Statutes, Section 93.44 to 93.51, shall be a permitted use provided the provisions of the specified Sections of State Statutes are satisfied.

5.09 Water Supply and Sewage Treatment.

A. Water Supply Standards.

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

2) Private wells must be located, constructed, maintained, and sealed in accordance with the Water Well Construction Code of the Minnesota Department of Health.

B. Sewage Treatment Systems.

1) Sewage Treatment Standards.

Any premises used for human occupancy must be provided with an adequate method of sewage treatment, as follows:

(A) publicly-owned sewer systems must be used where available;

(B) all private sewage treatment systems must meet or exceed the Minnesota Pollution Control Agency's standards for individual sewage treatment systems contained in the 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 ordinance;

(C) on-site sewage treatment systems must be set back from the ordinary high water level in accordance with the setbacks contained in Section 5.02 of this ordinance. Additionally, systems must be set back a minimum of twenty (20) feet from any building intended for human occupancy, ten (10) feet from any lot line, fifty (50) feet from a well or other water supply, and, where feasible, shall be placed down-gradient from the water supply; and

(D) all proposed sites for individual sewage treatment systems shall be evaluated in accordance with the criteria below. If the determination of a site's suitability cannot be made with publicly available, existing information, it shall then be the responsibility of the applicant to provide sufficient soil borings and percolation tests from on-site field investigations.

Evaluation Criteria

- (1) Depth to the highest known or calculated ground water table or bedrock;
- (2) Soil conditions, properties, and permeability;
- (3) Slope; and
- (4) The existence of lowlands, local surface depressions, and rock outcrops;

(E) nonconforming sewage treatment systems shall be regulated and upgraded in accordance with Section 6.03 of this ordinance.

2) Sewage System Permit Requirements.

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

(A) applications for permits shall be in writing upon forms provided by the County; and

(B) each application for a sewage treatment system shall include:

(1) a correct legal description of the property on which the proposed installation, alteration, repair, or extension will occur;

(2) a plan of the site or reasonable scale and accuracy showing the location of any proposed and existing buildings, water supply, property lines, setbacks from public waters, and an arrow indicating north;

(3) a complete plan of the sewage treatment system showing the location, size, and design of all parts of the system to be installed, altered, repaired, or extended;

(4) the name of the person, firm, or corporation which will install, alter, repair, or extend the system; and

(5) any other pertinent information as requested by the Zoning Administrator.

3) Sewage System Inspection.

(A) the Zoning Administrator shall inspect each permitted sewage system activity to determine compliance with this Section.

(1) no part of the system shall be covered until it has been inspected and approved;

(2) it shall be the responsibility of the sewage system installer to notify the Zoning Administrator whether the system is ready for inspection;

(3) it shall be the Zoning Administrator's duty to make inspections within three (3) regular working days after such notification; and

(4) following inspection of the system, and provided that completion of the system is in accordance with MPCA regulations, the County shall issue a Certificate of Zoning Compliance to the permittee.

(B) should the sewage system be backfilled prior to inspection, as specified in item A, the system shall be unearthed for final inspection if required by the County.

5.10 Accessory Uses and Structures.

Where a lot is devoted to a permitted principal use, customary accessory uses and structures are authorized except as prohibited specifically or by necessary implication in this ordinance. The following special rules are applicable:

A. All accessory buildings, including carports and breezeways, attached to the principal building on a lot shall be made structurally a part thereof and shall comply in all respects with the requirements of the ordinance applicable to the principal building.

B. All detached accessory buildings or structures shall be located on the side or rear yards. They shall comply with all yard requirements applicable to the principal building within the management district.

C. Piers and docks are allowed, but shall be controlled by applicable State and local regulations.

D. Each riparian lot may have one water-orientated accessory structure not meeting the normal setback from the ordinary high water level as specified in Section 5.02 of this ordinance, provided that the structure complies with the following provisions:

1) For all public waters, except Lake of the Woods, the structure must not exceed ten (10) feet in height, exclusive of the safety rails, and shall not occupy an area greater than 250 square feet. For Lake of the Woods, the structure must not exceed ten (10) feet in height, exclusive of the safety rails, and shall not occupy an area greater than 400 square feet. Detached docks must not exceed eight (8) feet above ground at any point;

2) The setback of the structure from the ordinary high water level must be at least ten (10) feet;

3) The structure must be treated to reduce visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks, or color assuming summer, leaf-on conditions;

4) The roof may be used as a deck with safety rails, but shall not be enclosed as a storage area; and,

5) The structure shall not be designed or used for human habitation and shall not contain water supply or sewage treatment facilities.

SECTION 6.0 NONCONFORMITIES AND SUBSTANDARD LOTS OF RECORD

All legally established nonconformities existing as of the date of this ordinance may continue provided that they are managed in accordance with applicable State Statutes and the following standards.

6.01 Nonconforming Lots of Record.

A. Lots of record in the office of the county recorder on the date of enactment of local shoreland controls that do not meet the requirements of Section 5.01 of this ordinance may be allowed as building sites without variances from lot size requirements provided the use is permitted in the district, was created compliant with official controls in effect at the time, and sewage treatment and setback requirements of this ordinance are met.

B. If setback requirements as specified in Section 5.02 of this ordinance cannot be met, a variance must be obtained before any land use, sewage treatment system, or building permit is issued for a lot. In evaluating the variance, the Board of Adjustment shall consider sewage treatment and water supply capabilities or constraints of the lot and shall deny the variance if adequate facilities cannot be provided.

C. If, in a group of two or more contiguous lots under the same ownership, any individual lot does not meet the requirements of Section 5.01 of this ordinance, the lot must not be considered as a separate parcel of land for the purposes of sale or development. The lot must be combined with the one or more contiguous lots so they equal one or more parcels of land, each meeting the requirements of Section 5.01 of this ordinance.

Note: The development known as “War-road Estates”, Township 163 North, Range 36 West, Section(s) 17 and 18, Lake Township, Roseau County, is exempt from this section, (6.01, C), of the ordinance. The development meets the intent of this ordinance for the following reasons:

a) War-road Estates contains a large amount of dedicated undeveloped open property, therefore, the overall density of the development satisfies ordinance standards.

b) Water quality standards are satisfied due to the fact that the development contains a public water supply system and a common harbor.

To summarize, the development meets the intent of the Shore Impact Zone concept; that is, open space is preserved fronting the lake with extended setbacks from the ordinary high water level. (The June 22, 1993, “DNR Letter” and Roseau County Density Evaluation concerning War-road Estates are hereby incorporated into this ordinance).

6.02 Nonconforming Structures.

A. All additions or expansions to the outside dimensions of an existing nonconforming structure must meet the setback, height, and other requirements of Section 5.0 of this ordinance. Any deviation from these requirements must be authorized by a variance pursuant to Section 3.03.

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

1) The structure existed on the date the structure setbacks were established;

- 2) A thorough evaluation of the property and structure reveals no reasonable location for a deck meeting or exceeding the existing ordinary high water level setback of the structure;
- 3) The deck encroachment toward the ordinary high water level does not exceed fifteen (15) percent of the existing setback of the structure from the ordinary high water level or does not encroach closer than thirty (30) feet, whichever is more restrictive; and
- 4) The deck is constructed primarily of wood, and is not roofed or screened.

C. The restoration or reconstruction of any nonconforming building or structure which is damaged by fire, collapse, explosion, or acts of God, to the extent of fifty (50) percent of its market value, must meet the requirements of this ordinance.

6.03 Nonconforming Sewage Treatment Systems.

A. A sewage treatment system not meeting the requirements of Section 5.09 of this ordinance must be upgraded, at a minimum, at any time a permit or variance of any type is required for any improvement on, or use of, the property. For the purposes of this provision, a sewage treatment system shall not be considered nonconforming if the only deficiency is the sewage treatment system's improper setback from the ordinary high water level.

B. The Roseau County Board of Commissioners has, by formal resolution, notified the Commissioner of its program to identify nonconforming sewage treatment systems. The County will require upgrading or replacement of any nonconforming system identified by this program within a reasonable period of time which will not exceed two (2) years. Sewage systems installed according to all applicable local shoreland management standards adopted under Minnesota Statutes, section 105.485, in effect at the time of installation may be considered as conforming unless they are determined to be failing, except those systems utilizing cesspools, leaching pits, seepage pits, or other deep disposal methods, or systems with less soil treatment area separation above groundwater than required by the Minnesota Pollution Control Agency's Chapter 7080 for design of on-site sewage treatment systems, shall be considered nonconforming.

SECTION 7.0 SUBDIVISION / PLATTING PROVISIONS

7.01 Applicability.

All plats, replats, or modifications thereof shall be submitted to the Roseau County Board of Adjustment in the manner set forth in this ordinance, and shall be in conformity therewith, and with such regulations as may be established by resolution of the Roseau County Board of Commissioners. Any plat hereafter made for each subdivision or each part thereof lying within the jurisdiction of this ordinance shall be prepared, presented for approval, modified as required, and recorded as herein prescribed. The regulations contained herein shall apply to subdivisions that create five (5) or more lots or parcels that are 2-1/2 acres or less in size for the purpose of sale or of building development. Any subdivision of land must be platted in accordance with the provisions of Section 7.05 of this ordinance and Minnesota Statutes, Chapter 505.

7.02 Land Suitability.

A. Each lot created through subdivision, including planned unit developments authorized under Section 8.0 of this ordinance, must be suitable in its natural state for the proposed use with minimal alteration. Suitability analysis by Roseau County 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 Roseau County.

B. Sufficient information must be submitted by the applicant for the County to make a determination of land suitability. The information shall include at least the following:

- 1) Topographic contours at ten (10) foot intervals or less from United States Geological Survey maps or more accurate sources, showing limiting site characteristics;
- 2) The surface water features required in Minnesota Statutes, Section 505.02, subdivision 1, to be shown on plats, obtained from United States Geological Survey quadrangle topographic maps or more accurate sources;
- 3) 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;
- 4) Information regarding adequacy of domestic water supply;
- 5) The extent of anticipated vegetation and topographic alterations;
- 6) Near-shore aquatic conditions, including depths, types of bottom sediments, and aquatic vegetation;
- 7) Proposed methods for controlling stormwater runoff and erosion, both during and after construction activities;
- 8) Location of 100-year floodplain areas and floodway districts from existing adopted maps or data; and
- 9) A line or contour representing the ordinary high water level, the “toe” and the “top” of bluffs, and the minimum building setback distances from the top of the bluff, and from the public waters.

C. If the Roseau County Board of Commissioners determine that the land is not suitable for development, the applicant will be notified, in writing, regarding the particular facts leading to such determination. The applicant will be afforded the opportunity to appeal such determination in accordance with the procedures specified in this ordinance.

7.03 Consistency with other Controls.

Subdivisions, and lots created within subdivisions, must conform to all official controls prescribed in this ordinance. A subdivision will not be approved where a later variance

from one or more standards in official controls would be needed to use the lots for their intended purpose. In areas not served by publicly owned sewer and water systems, a subdivision will not be approved unless domestic water supply is available and a sewage treatment system consistent with Sections 5.02 and 5.09 can be provided for every lot. Each lot shall meet the minimum lot size and dimensional requirements of Section 5.01, 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 must not be approved.

7.04 Dedications.

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

7.05 Platting Requirements.

No land platted under the jurisdiction of this ordinance may be recorded or sold until the subdivision process described in this section is completed. The process consists of: the submission and review of preliminary and final plats by the Board of Adjustment; submission of proposed plats to the Commissioner; and the approval of the final plat by the Roseau County Board of Commissioners.

A. The subdivider shall submit five (5) copies of a preliminary plat to the Zoning Administrator along with the required fees at least thirty (30) days prior to the next regularly scheduled meeting of the Board of Adjustment, at which the plat is to be reviewed. The preliminary plat shall show: present property lines, natural and man-made features, the proposed location of streets, alleys, lots, and existing public facilities; the name of the subdivider, the name of the proposed subdivision, contours with intervals of ten (10) feet, an arrow indicating north, and the appropriate scale.

B. The Board of Adjustment shall review the preliminary plat from the standpoint of the public health, safety, and welfare. The Board of Adjustment shall conduct a public hearing on the proposed plat as required by law within thirty (30) days, unless they provide for an extension.

The Board of Adjustment shall provide, in writing, its approval, conditional approval, or disapproval of the proposed subdivision. If the Board of Adjustment approves the preliminary plat, such approval shall mean the acceptance of design as the basis for preparation of the final plat. If said preliminary plat is disapproved, the grounds for any such disapproval shall be set forth in the minutes of the proceedings of the hearing and shall be reported to the subdivider. If disapproved, applicants may resubmit the preliminary plat after the appropriate changes are made.

C. The subdivider shall file three (3) copies of the final plat, at a minimum scale of 200 feet to the inch, with the Zoning Administrator at least ten (10) days before the next regularly scheduled meeting of the Board of Adjustment. These copies shall conform substantially to the preliminary plat, as approved by the Board of Adjustment.

The final plat shall include: the boundary lines of the area being subdivided with accurate distances and bearings; the date, scale, north arrow, and subdivision name; the lot lines of all adjoining properties and the lines of adjoining streets and alleys indicating

their width and their name; the boundaries of properties intended to be dedicated for public use; all dimensions given to the nearest one hundredth of a foot for all lots, streets, alleys, and easements; the radii, arcs, chords, points of tangency and central angles for all curvilinear streets and radii for rounded curves; the location of all survey monuments and benchmarks; the certificate of the surveyor attesting to the accuracy of the survey, and the correct location of all monuments and benchmarks; and certificates of approval for endorsement by the Roseau County Board of Adjustment.

The Board of Adjustment shall check the final plat to ensure that it is in substantial agreement with the approved preliminary plat. The subdivider will be notified of the time and place of the Board of Adjustment meeting at which (s)he will be given an opportunity to appear. The Zoning Administrator shall forward a copy of the final plat to the Commissioner at least ten (10) days before a hearing is conducted by the Board of Adjustment.

The Board of Adjustment shall act upon the final plat within sixty (60) days after receipt of the plat. Following the recommendation of approval or disapproval of the final plat by the Board of Adjustment, the Zoning Administrator shall notify the subdivider of the recommendation made by the Board of Adjustment. If approval of the final plat is recommended, such plat shall be considered within thirty (30) days by the County Board of Commissioners. The County Board shall make a determination within ninety (90) days of their first consideration of the plat. If disapproval is recommended, the subdivider may opt to withdraw the plat from consideration by the County Board and resubmit said plat to the Board of Adjustment after appropriate changes have been made.

The County Board of Commissioners may either approve or disapprove the final plat based upon the recommendation of the Board of Adjustment and any other information that the Board deems appropriate.

Plat approval shall be null and void if the plat is not filed with the County Recorder within thirty (30) days after the date of approval, unless an application for extension has been made to the County Board, and such extension is granted.

7.06 Public and Private Streets.

A. The design of all streets shall be considered in relation to existing and planned streets, to reasonable circulation of traffic, and to the proposed uses of the area to be served. Topographic conditions shall be considered, including the heaving capacity and erosion potential of the soil. Streets shall be designed to facilitate snowplowing and fire protection.

B. Where adjoining areas are not subdivided, the arrangement of streets in new subdivisions shall make provisions for the proper projection of streets. When a new subdivision adjoins undivided land susceptible to being subdivided, then the new street shall be carried to the boundaries of such undivided land.

C. A street terminated within a plat by a cul-de-sac shall not exceed six hundred (600) feet in length to the vehicular turn around.

D. When new streets are extensions of existing streets, the new streets shall be at the same or greater width than such existing streets, but in no case may a new street be less than the minimum width required by this section.

E. All streets, roads, and easements intended for vehicular traffic, and all platted streets and roads within a subdivision shall meet MnDOT County State Aid Standards including, but not limited to:

- 1) The right-of-way shall be a minimum of sixty-six (66) feet in width, and shall have a minimum of twenty-six (26) feet of road top;
- 2) The road shall have a surface so that such road is a serviceable all weather road;
- 3) The slope of the road must be seeded in order to prevent erosion. Drainage and topography shall meet the requirements of the Roseau County SWCD;
- 4) In the case of special circumstances or proven hardship, a private easement for vehicular traffic may be allowed provided:
 - (A) a sixty-six (66) foot right-of-way is provided; and
 - (B) the traveled portion of the easement is graded and is a serviceable road.
- 5) The purchaser of any lot abutting a private street shall be notified by the seller, in writing, that it is a private street and that it is not required to be maintained by the Township or by Roseau County.
- 6) If, in the event a private street is petitioned to be public, the lot owners within the development shall be responsible for the cost of constructing the road to the required specifications. This requirement shall be given by the seller, in writing, to the purchaser of any lot within the subdivision, and shall be affixed to the final plat.

7.07 Controlled Access Lots.

Lots intended as controlled accesses to public waters for use by nonriparian lots within a subdivision must meet or exceed the sizing criteria in Section 5.07, item D of this ordinance.

8.0 PLANNED UNIT DEVELOPMENTS (PUD's).

Planned unit developments (PUD's) are allowed for new projects on undeveloped land, redevelopment of previously built sites, or conversions of existing buildings and land. The land use districts in which they are an allowable use are identified in the Shoreland Management Districts Requirements in Section 4.03 of this ordinance.

Planned unit developments must be processed as a conditional use, except that an expansion to an existing commercial PUD involving six (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 this section.

8.01 Application for a PUD.

The applicant for a PUD must 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, and topographic contours at ten-foot intervals or less. When a PUD is a combined commercial and residential development, the site plan and/or plat must 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 PUD's), with mandatory membership, and all in accordance with the requirements of 8.04 of this ordinance.
- 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 PUD's; and
 - 2) Ensure the long-term preservation and maintenance of open space in accordance with the criteria and analysis as specified in this ordinance.
- D. For commercial planned unit developments and for commercial structures within a residential planned unit development, a master plan/drawing describing the project and the floor plan for all commercial structures to be occupied.
- E. Any additional documents as requested by the County that are necessary to explain how the PUD will be designed and will function.

8.02 PUD Site Suitability Evaluation.

Proposed new, or expansions to existing, planned unit developments must be evaluated using the following procedures and standards to determine the suitable area for the dwelling unit/dwelling site density evaluation in Section 8.03.

- A. The project parcel must 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:
 - 1) General development lakes- first tier : 200 feet
 - 2) General development lakes- other tiers : 267 feet
 - 3) Natural environment lakes : 400 feet
 - 4) All river classes : 300 feet
- 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 then subjected to either the residential or commercial planned unit development density evaluation steps to arrive at an allowable number of dwelling units or sites within each tier.

8.03 Residential and Commercial PUD Density Evaluation.

The procedures for determining the “base” density of a PUD and density increase multipliers are as follows. Allowable densities may be transferred from any tier to any other tier further from the waterbody, but must 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 for the applicable management district;
- 2) Proposed locations and numbers of dwelling units or sites for the residential planned unit developments are then compared with the tier, density, and suitability analyses herein and the maintenance and design criteria in Section 8.04.

B. Commercial PUD Base Density Evaluation:

- 1) Compute 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, based upon the average unit floor area for the appropriate public water classification:

COMMERCIAL PLANNED UNIT DEVELOPMENT

Floor Area Ratios by Public Waters Classification

Average Unit Floor Area (ft2)	GD Lakes, (1 st Tier), Agricultural & <u>Tributary River Segments</u>	GD Lakes, (Other Tiers), Forested <u>River Segments</u>	NE Lakes, Remote River <u>Segments</u>
200	.040	.020	.010
300	.048	.024	.012
400	.056	.028	.014
500	.065	.032	.016
600	.072	.038	.019
700	.082	.042	.021
800	.091	.046	.023
900	.099	.050	.025
1,000	.108	.054	.027
1,100	.116	.058	.029
1,200	.125	.064	.032
1,300	.133	.068	.034
1,400	.142	.072	.036
1,500	.150	.075	.038

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 for each tier by the average living area size to yield the number of dwelling units or sites allowed for each tier; and
- 5) 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 Section 8.04.

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 5.0 are met or exceeded and the design criteria in Section 8.04 are satisfied. The allowable density increases in Item (2) below will 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 waterbody 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 Planned Unit Developments:

<u>Density Evaluation Tiers</u>	<u>Maximum Density Increase Within Each Tier (percent)</u>
First	50
Second	100
Third	200
Fourth	200
Fifth	200

8.04 PUD Maintenance and Design Criteria.

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

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

- 1) Commercial uses prohibited shall be prohibited in residential PUD's;
- 2) Vegetation and topographic alterations, except for routine maintenance shall be prohibited;
- 3) Construction of additional buildings or the storage of vehicles and/or other materials is prohibited; and
- 4) Uncontrolled beaching of watercraft is prohibited.

C. Unless an equally effective alternative community framework is established, when applicable, all residential planned unit developments must use an owners association with the following features:

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

D. Planned unit developments must contain open space meeting all of the following criteria:

- 1) At least fifty (50) percent of the total project area must be preserved as open space;
- 2) Dwelling units or sites, road rights-of-way, or land covered by road surfaces, parking areas, 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 must 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 staying in commercial dwelling units or sites, and by the general public;
- 5) Open space may include subsurface sewage treatment systems if the use of the space is restricted to avoid adverse impacts on the systems;
- 6) Open space must not include commercial facilities or uses, but may contain water-oriented accessory structures or facilities;
- 7) The appearance of open space areas, including topography, vegetation, and allowable uses, must be preserved by use of restrictive deed covenants, permanent easements, public dedication and acceptance, or other equally effective and permanent means; and

8) The shore impact zone, based on normal structure setbacks, must be included as open space. For residential PUD's, at least fifty (50) percent of the shore impact zone area of existing developments or at least seventy (70) percent of the shore impact zone area of new developments must be preserved in its natural or existing state. For commercial PUD's, at least fifty (50) percent of the shore impact zone must be preserved in its natural state.

E. Erosion control and stormwater management plans must be developed and the PUD must:

1) Be designed, and the construction managed, to minimize the likelihood of serious erosion occurring either during or after construction. This must 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 must be used to minimize erosion impacts on surface water features. Erosion control plans approved by the Roseau County SWCD may be required if project size and site physical characteristics warrant; and

2) Be designed and constructed to effectively manage reasonably expected quantities and qualities of stormwater runoff. Impervious surface coverage within any tier must not exceed twenty-five (25) percent of the tier area, except that for commercial PUD's thirty-five (35) percent impervious surface coverage may be allowed in the first tier of general development lakes with an approved stormwater management plan consist with Section 5.07 of this ordinance.

F. Centralization and design of facilities and structures must be done according to the following standards:

1) Planned unit developments must be connected to publicly owned water supply and sewer systems, if available. On-site water supply and sewage treatment systems must be centralized and designed and installed to meet or exceed applicable standards or rules of the Minnesota Department of Health and this ordinance. On-site sewage treatment systems must be located on the most suitable areas of the development, and sufficient lawn area free of limiting factors must be provided for a replacement soil treatment system for each sewage system;

2) Dwelling units or sites must be clustered into one or more groups and located on suitable areas of the development. They must 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 must be increased in accordance with Section 8.03 of this ordinance for developments with density increases;

3) Shore recreation facilities, including but not limited to, swimming areas, docks, and watercraft mooring areas and launching ramps, must be centralized and located in suitable areas. Evaluation of suitability must include consideration of land slope, water depth, vegetation, soils, depth to groundwater and bedrock, or other relevant factors. The number of spaces provided for continuous beaching,

mooring, or docking of watercraft must not exceed one for each allowable dwelling unit or site in the first tier (notwithstanding existing mooring sites in an existing commercially used harbor). Launching ramp facilities, including a small dock for loading and unloading equipment, may be provided for use by occupants of dwelling units or sites located in other tiers;

4) Structures, parking areas, and other facilities must be treated to reduce visibility as viewed from public waters and adjacent shoreland by vegetation, topography, increased setbacks, color, or other means, assuming summer, leaf-on conditions. Vegetative and topographic screening must be preserved, if existing, or may be required to be provided;

5) Accessory structures and facilities, except water oriented accessory structures, must meet the required principal structure setback and must be centralized; and

6) Water-oriented accessory structures and facilities may be allowed if they meet or exceed design standards contained in Section 5.04 of this ordinance and are centralized.

8.05 Conversions to PUDs.

Existing resorts or other land uses and facilities may be converted to residential planned unit developments if all of the following standards are met:

A. Proposed conversions must be initially evaluated using the same procedures for residential planned unit developments involving all new construction. Inconsistencies between existing features of the development and PUD standards must be identified.

B. Deficiencies involving water supply and sewage treatment, structure color, impervious coverage, open space, and shore recreation facilities must be corrected as part of the conversion or as specified in the conditional use permit.

C. Shore and bluff impact zone deficiencies must be evaluated and reasonable improvements made as part of the conversion. These improvements must include, where applicable, the following:

1) Removal of extraneous buildings, docks, or other facilities that no longer need to be located in shore or bluff impact zones;

2) Remedial measures to correct erosion sites and improve vegetative cover and screening of buildings and other facilities as viewed from the water; and

3) If existing dwelling units are located in shore or bluff impact zones, conditions are attached to approvals of conversions that preclude exterior expansions in any dimension or substantial alterations. The conditions must also provide for future relocation of dwelling units, where feasible, to other locations, meeting all setback and elevation requirements when they are rebuilt or replaced.

D. Existing dwelling unit or dwelling site densities that exceed the standards in this section may be allowed to continue but must not be allowed to be increased, either at the time of conversion or in the future. Efforts must be made during the conversion to limit impacts of high densities by requiring seasonal use, improving vegetative screening,

centralizing shore recreation facilities, installing new sewage treatment systems, or other means.