

Chapter 90
S, SHORELAND OVERLAY DISTRICT

SECTION:

XX-90-1: Purpose

XX-90-2: Statutory Authorization

XX-90-3: District Application

XX-90-4: District Boundaries

XX-90-5: Shoreland Classification

XX-90-6: Overlay District

XX-90-7: Minimum Lot and Setback Requirements

XX-90-8: Nonconformities

XX-90-9: Design Criteria for Structures and Facilities

XX-90-10: Stormwater Management

XX-90-11: Special Uses

XX-90-12: Shoreland Alterations

XX-90-13: Subdivisions

XX-90-14: Conditional Uses

XX-90-15: Variances

XX-90-17: Notifications to The Department of Natural Resources

XX-90-17: Permit Required

XX-90-1: PURPOSE: The purpose of the S district is to manage the effect of shoreland and water surface crowding, to prevent pollution of surface and ground waters of the town, to provide ample space on lots for sewage treatment systems, to minimize flood damages, and to maintain natural characteristics of shorelands and adjacent water areas via shoreland controls that regulate lot sizes, placement of structures, and alterations of shoreland areas.

XX-90-2: STATUTORY AUTHORIZATION: This zoning district is adopted pursuant to the authorization and policies contained in Minnesota statutes 105, Minnesota rules 6120.2500 - 6120.3900, and the planning and zoning enabling legislation in Minnesota statutes 462.

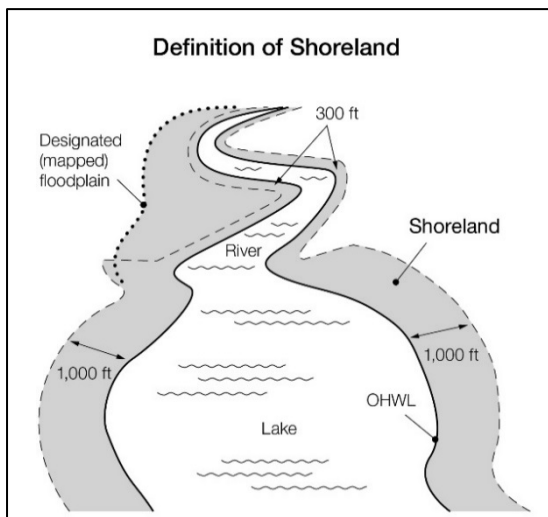
XX-90-3: DISTRICT APPLICATION: The S district shall be applied to and superimposed (overlaid) upon all zoning districts as identified in chapter 45 of this ordinance as existing or amended by the text and map of this chapter. The regulations and requirements imposed by the S district shall be in addition to those established for districts which jointly apply. Under the joint application of districts, the more restrictive requirements shall apply.

XX-90-4: DISTRICT BOUNDARIES:

- A. The boundaries of the S district are established within the following distances from the ordinary high water level listed in Section XX-90-5 of this chapter:

Surface Water	Distance
Classified public water basins	1,000 feet
Classified water courses	300 feet

- B. The practical distance may be reduced whenever the waters involved are bounded by topographic divides which extend landward from the waters for lesser distances and when approved by the commissioner.
- C. The distance requirement shall be increased to the limit of the floodplain when greater than 300 feet.



XX-90-5: SHORELAND CLASSIFICATION:

- A. Identified On Zoning Map: The surface waters affected by this chapter and that require controlled development of their shoreland (shoreland district) are shown on the zoning map established by chapter 45 of this ordinance.
- B. Identification Numbers: Surface waters generally greater than ten (10) acres are given an identification number by the state as defined in section XX-90-4 of this chapter and identified by the tables below.

1. Lakes:

Name	DNR ID#	Classification
Elk Lake	7100550	General Development
Blue (south bay)	30010702	Recreational Development
Unnamed	71004200	Natural Environment
Cantlin Lake	71004100	Natural Environment
Helene Lake	71004500	Natural Environment
Unnamed	14416	Natural Environment
Long Pond	71993600	Natural Environment
Diann Lake	71004600	Natural Environment
Sandy Lake	71004000	Recreational Development
Goose Lake	71003400	Natural Environment
Little Diann Lake	71004400	Natural Environment
Prairie Hill Lake	71003100	Natural Environment
Unnamed	71005400	Natural Environment

2. Rivers and Streams:

Name	Classification	Location	
		To	From
Rum River	Scenic (WSR)	T35-R26-S1	T35-R26-S3
Battle Brook	Tributary	T35-R26-S31	T35-R26-S7
Unnamed stream	Tributary	Confluence of Rum River	T35-R26-S3
Unnamed stream	Tributary	T35-R26-S36	T35-R26-S35

3. Any future zoning map amendment of an existing lot of record or approval of any subdivision to allow a more intensive land use shall be subject to the minimum lot and setback requirements and other provisions of this chapter applicable to the classification established by section XX-90-4 of this section.

C. Wetland Systems: Other surface waters affected by this chapter are classified as wetland systems and thus regulated under the provisions of section XX-16-4 of this ordinance.

XX-90-6: OVERLAY DISTRICT:

- A. Allowable Uses: The uses allowable within the S district shall be the permitted, conditional, interim, administrative permit, and permitted accessory as set forth in the base zoning districts established by chapter 45 of this ordinance.
- B. Amendments. Requests for amendments to the base zoning designation for shoreland areas shall be subject to the following additional criteria, considerations, and objectives:
 - 1. Preservation of natural areas;
 - 2. Present ownership and development of shoreland areas;
 - 3. Shoreland soil types and their engineering capabilities;
 - 4. Topographic characteristics;
 - 5. Vegetative cover;
 - 6. In-water physical characteristics, values, and constraints;
 - 7. Recreational use of the surface water;
 - 8. Road and service center accessibility;
 - 9. Socioeconomic development needs and plans as they involve water and land resources;
 - 10. The land requirements of industry, which, by its nature, requires location in shoreland areas; and
 - 11. The necessity to preserve and restore certain areas having significant historic or ecological value.

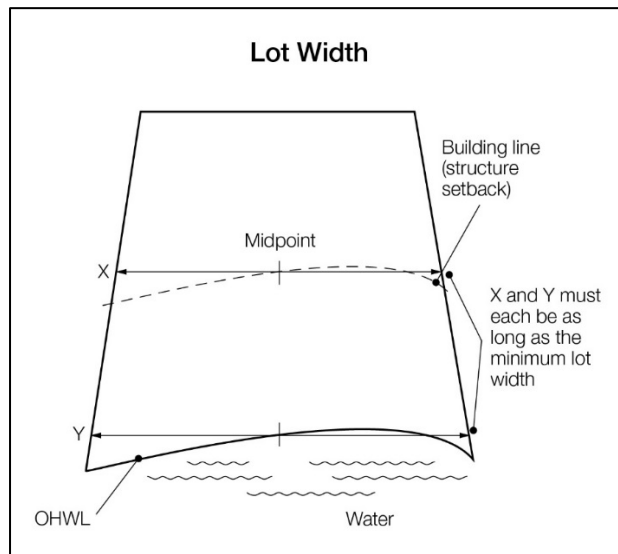
XX-90-7: MINIMUM LOT AND SETBACK REQUIREMENTS: The following minimum lot requirements and setbacks shall be observed in a S district subject to additional requirements, exceptions and modifications set forth in this ordinance:

A. Lot Requirements:

1. Lakes:		Riparian Lots		Non-Riparian Lots	
		Area	Width	Area	Width
a. Natural Environment:					
	Single Family Dwelling:	80,000sf.	200ft.	80,000sf.	200ft.
b. Recreational Development:					
	Single Family Dwelling:	40,000sf.	150ft.	40,000sf.	150ft.
	Non-Residential Use:	80,000sf.	200ft.	2.5ac.	250ft.
c. General Development:					
	Single Family Dwelling:	40,000sf.	150ft.	40,000sf.	150ft.
	Non-Residential Use:	80,000sf.	200ft.	2.5ac.	250ft.
2. Rivers and Streams:		Width		Width	
	a. Urban and Tributary:	250ft.		250ft.	

2. Additional Special Provisions:

- a. Only land above the ordinary high water level of public waters shall be used to meet lot area standards and lot width standards shall be met at both the ordinary high water level and at the building line.



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

- (1) The lot shall 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 watercraft is to be allowed at a controlled access lot, then the width of the lot (keeping the same lot depth) shall be increased by the percent of the requirements for riparian residential lots for each watercraft beyond six, consistent with the following table:

Ratio of Lake Area to Shore Length (acres/mile)	Required Increase in Frontage
Less than 100	25%
100-200	20%
201-300	15%
301-400	10%
Greater than 400	5%

- (3) The lot shall be jointly owned by all purchasers of lots in the subdivision or by all purchasers of non-riparian lots in the subdivision who are provided riparian access rights on the access lot.
- (4) Covenants or other equally effective legal instruments shall be developed that specify which lot owners have authority to use the access lot and what activities are allowed. The activities may include watercraft launching, loading, storage, beaching, mooring, or docking. They shall also include other outdoor recreational activities that do not significantly conflict with general public use of the public water or the enjoyment of normal property rights by adjacent property owners. Examples of the nonsignificant conflict activities include swimming, sunbathing, or picnicking. The covenants shall limit the total number of vehicles allowed to be parked and the total number of watercraft allowed to be continuously moored, docked, or stored over water, and shall require centralization of all common facilities and activities in the most suitable locations on the lot to minimize topographic and vegetation alterations. They shall also require all parking areas, storage 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. A bond, letter of credit, or escrow fund shall be required in a minimum sum of \$5,000 identifying the town as the holder/drawee. Such a bond

shall be for the purpose of performance of maintenance and payment of property taxes, if necessary.

B. Setbacks: Rivers and Streams

1. Buildings, structures, and septic systems shall be located as follows:

Classification	Lakes			Rivers and Streams
	NE	RD	GD	TRI
OHWL:				
Buildings/Structures	150ft.	100ft.	75ft.	100ft.
Septic System	150ft.	100ft.	75ft.	100ft.
Top of bluff	30ft.	30ft.	30ft.	30ft.
Unplatted cemetery	50ft.	50ft.	50ft.	50ft.

2. Additional Structure Setbacks:

- a. When more than one setback applies to a parcel or lot, buildings, structures, facilities, and septic systems shall be located to meet all setbacks.
- b. Where structures exist on the adjoining lots on both sides of a proposed building site, structure setbacks may be altered by administrative permit as provided for by chapter 8 of this ordinance 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.
- c. One water-oriented accessory structure designed in accordance with section XX-90-9.B of this ordinance may be set back a minimum distance of 10 feet from the ordinary high water level.
- d. Structures and accessory facilities, except stairways and landings, shall not be placed within bluff impact zones.

XX-90-8: NONCONFORMITIES: All legally established nonconformities as of February 2, 1971 may continue, but they will be managed according to applicable state statutes and other regulations of this community for the subjects of alterations and additions, repair after damage, discontinuance of use, and intensification of use; except that the following standards will also apply in shoreland areas:

A. Construction on Nonconforming Lots of Record:

1. Riparian lake lots of record in the office of the county recorder as of February 2, 1971 that do not meet the requirements of section XX-90-7.A of this chapter may be allowed as building sites provided that each lot dimension in question measures at least 65 percent of the applicable requirement for lot width of XX-90-7.A of this chapter the use is permitted in the zoning district, the lot has been in separate ownership from abutting lands at all times since it became substandard, it was created compliant with official controls in effect at the time, and sewage treatment and setback requirements of this ordinance are met.
2. A variance from setback requirements shall be obtained before any use, sewage treatment system, or building permit is issued for a lot. In evaluating the variance, the board of adjustment shall consider sewage treatment and water supply capabilities or constraints of the lot and shall deny the variance if adequate facilities cannot be provided.
3. If, in a group of two or more contiguous lots under the same ownership, any individual lot does not meet the requirements of section XX-90-7.A of this chapter, the lot shall not be considered as a separate parcel of land for the purposes of sale or development. The lot shall be combined with the one or more contiguous lots so they equal one or more parcels of land, each meeting the requirements of section XX-90-7.A of this chapter, of this ordinance as much as possible.

B. Additions/Expansions to Nonconforming Structures:

1. All additions or expansions to the outside dimensions of an existing nonconforming structure shall meet the setback, height, and other requirements of section XX-90-7 of this chapter. Any deviation from these requirements shall be authorized by a variance pursuant to section XX-90-16 of this chapter.
2. Deck additions may be allowed without variance to a structure not meeting the required setback from the ordinary high water level if all of the following criteria and standards are met:
 - a. The structure existed as of February 2, 1971;
 - b. A thorough evaluation of the property and structure reveals no reasonable location for a deck meeting or exceeding the existing ordinary high water level setback of the structure;
 - c. The deck encroachment toward the ordinary high water level does not exceed 15 percent of the existing setback of the structure from the ordinary high water level or does not encroach closer than 30 feet, whichever is more restrictive; and

- d. The deck is constructed primarily of wood, and is not roofed or screened.

C. Nonconforming Sewage Treatment Systems

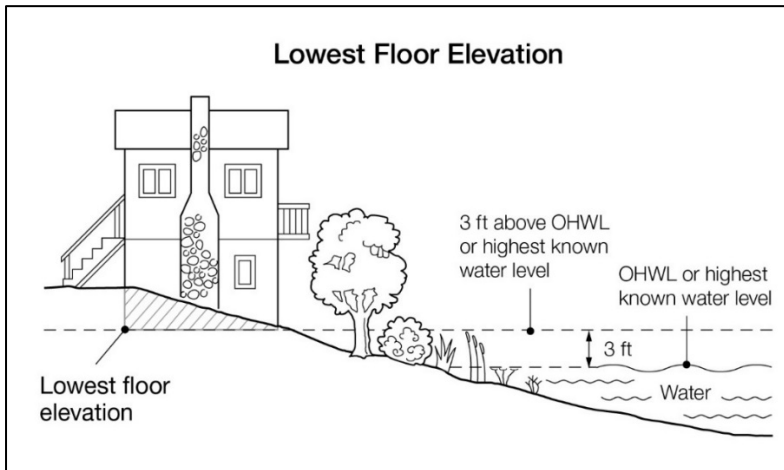
1. A sewage treatment system not meeting the requirements of section XX-90-9.G.2 of this chapter shall be upgraded, at a minimum, at any time a permit or variance of any type is required for any improvement on, or use of, the property. For the purposes of this provision, a sewage treatment system shall not be considered nonconforming if the only deficiency is the sewage treatment system's improper setback from the ordinary high water level.
2. The town will require upgrading or replacement of any nonconforming system identified by the following programs:
 - a. Certification by the zoning administrator of septic systems as conforming or requiring up-grading prior to property transfer or registration of a contract for deed;
 - b. Enforcement of the permit provisions of this chapter and this ordinance;
 - c. Continued support of the county lakewater testing program;
 - d. Continued encouragement and support for town and lake association public education efforts; and
 - e. Encouraging expanded financial support from the Minnesota legislature and State agencies for programs of enforcement, public education, and sewage system replacement cost-sharing.
3. 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 that systems using cesspool, leaching pits, seepage pits, or other deep disposal methods, or systems with less soil treatment area separation above groundwater than required by the Minnesota Pollution Control Agency's Chapter 7080 for design of on-site sewage treatment systems shall be considered nonconforming.

XX-90-9: DESIGN CRITERIA FOR STRUCTURES AND FACILITIES:

- A. High Water Elevations: Structures shall be placed in accordance with any floodplain regulations applicable to the lot or parcel. Where these controls do not exist, the

elevation to which the lowest floor, including basement, is placed or flood-proofed shall be determined as follows:

1. For lakes, by placing the lowest floor at a level at 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 one foot above the flood of record, if data are available. If data are not available, by placing the lowest floor at least one foot 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 shall be done by a qualified engineer or hydrologist consistent with parts 6120.5000 to 6120.6200 governing the management of flood plain areas. If more than one approach is used, the highest flood protection elevation determined shall be used for placing structures and other facilities; and is built to withstand ice action and wind driven waves and debris.



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
- B. Water-oriented Accessory Structures. Each lot may have one water-oriented accessory structure not meeting the normal structure setback in Section XX-90-7.B, of this chapter if this water-oriented accessory structure complies with the following provisions:

1. The structure or facility shall not exceed 10 feet in height, exclusive of safety rails, and cannot occupy an area greater than 250 square feet. Detached decks shall not exceed eight feet above grade at any point;
 2. The setback of the structure or facility from the ordinary high water level shall be at least 10 feet;
 3. The structure or facility shall 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 or used as a storage area;
 5. The structure or facility shall not be designed or used for human habitation and shall not contain water supply or sewage treatment facilities; and
- C. Stairways, Lifts, and Landings. Stairways and lifts are the preferred alternative to major topographic alterations for achieving access up and down bluffs and steep slopes to shore areas. Stairways and lifts shall meet the following design requirements:
1. Stairways and lifts shall not exceed four feet in width on residential lots. Wider stairways may be used for commercial properties, public open-space recreational properties, and planned unit developments;
 2. Landings for stairways and lifts on residential lots shall not exceed 32 square feet in area. Landings larger than 32 square feet may be used for commercial properties, public open-space recreational properties, and planned unit developments;
 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 shall 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 subsections 1 through 5 of this section

are complied with in addition to the requirements of Minnesota Rules Chapter 1340.

- D. Significant Historic Sites. No structure shall be placed on a significant historic site in a manner that affects the historic value of the site.
- E. Steep Slopes. The Zoning Administrator shall evaluate possible soil erosion impacts and development visibility from public waters before issuing a permit for construction of sewage treatment systems, roads, driveways, structures, or other improvements on steep slopes. When determined necessary, conditions shall be attached to issued permits to prevent erosion and to preserve existing vegetation screening of structures, vehicles, and other facilities as viewed from the surface of public waters, assuming summer, leaf-on vegetation.
- F. Height of Structures. All structures in residential districts, except churches and non-residential agricultural structures, shall not exceed 25 feet in height.
- G. Water Supply and Sewage Treatment:
 - 1. Water Supply. Any public or private supply of water for domestic purposes shall meet or exceed standards for water quality of the Minnesota Department of Health and the Minnesota Pollution Control Agency.
 - 2. Sewage treatment. Any premises used for human occupancy shall be provided with an adequate method of sewage treatment, as follows:
 - a. Publicly-owned sewer systems shall be used where available.
 - b. All private sewage treatment systems shall 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 further, holding tanks shall be considered an acceptable sewage disposal system only for short-term emergency purposes.
 - c. On-site sewage treatment systems shall be set back from the ordinary high water level in accordance with the setbacks contained in section XX-90-7.B of this chapter.
 - d. All proposed sites for individual sewage treatment systems shall be evaluated in accordance with the criteria in subsections 1 through 4 of this section. 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.

e. Evaluation Criteria:

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

f. Nonconforming sewage treatment systems shall be regulated and upgraded in accordance with section XX-90-8.C of this chapter.

H. Placement and Design of Roads, Driveways, and Parking Areas:

1. Visual Screening. Public and private roads and parking areas shall be designed to take advantage of natural vegetation and topography to achieve maximum screening from view from public waters. Documentation shall be provided by a qualified individual that all roads and parking areas are designed and constructed to minimize and control erosion to public waters consistent with the field office technical guides of the local soil and water conservation district, or other applicable technical materials.
2. Setbacks. Roads, driveways, and parking areas shall meet structure setbacks and shall not be placed within bluff and shore impact zones, when other reasonable and feasible placement alternatives exist. If no alternatives exist, they may be placed within these areas by variance, and shall be designed to minimize adverse impacts.
3. Watercraft Access. Public and private watercraft access ramps, approach roads, and access-related parking areas may be placed within shore impact zones provided the vegetative screening and erosion control conditions of this subpart are met. For private facilities, the grading and filling provisions of section XX-90-12 of this chapter shall be met.

XX-90-10: STORMWATER MANAGEMENT: The following general and specific standards shall apply:

A. General Standards:

1. When possible, existing natural drainageways, wetlands, and vegetated soil surfaces shall be used to convey, store, filter, and retain stormwater runoff before discharge to public waters.
2. Development shall be planned and conducted in a manner that will minimize the extent of disturbed areas, runoff velocities, erosion potential, and reduce and delay runoff volumes. Disturbed areas shall be stabilized and protected as soon as possible and facilities or methods used to retain sediment on the site.
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 shall 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 shall not exceed 25 percent of the parcel or lot area.
2. When constructed facilities are used for stormwater management, documentation shall be provided by a qualified individual that they are designed and installed consistent with the field office technical guide of the local soil and water conservation districts.
3. New constructed stormwater outfalls to public waters shall provide for filtering or settling of suspended solids and skimming of surface debris before discharge.

XX-90-11: SPECIAL USES:

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 shall meet the following standards:
 - a. In addition to meeting impervious coverage limits, setbacks, and other zoning standards in this ordinance, the uses shall be designed to

incorporate topographic and vegetative screening of parking areas and structures;

- b. Uses that require short-term watercraft mooring for patrons shall centralize these facilities and design them to avoid obstructions of navigation and to be the minimum size necessary to meet the need; 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 off-site advertising signs or supporting facilities for signs may be placed in or upon public waters.
 - (2) Signs conveying information or safety messages may be placed in or on public waters by a public authority or under a permit issued by the county sheriff;
 - (3) On-site signs may be placed, when necessary, within the shore impact zone if they are designed and sized to be the minimum necessary to convey needed information. They shall only convey the location and name of the establishment and the general types of goods or services available. The signs shall not contain other detailed information such as product brands and prices, shall not be located higher than ten feet above the ground, and shall not exceed 32 square feet in size. If illuminated by artificial lights, the lights shall be shielded or directed to prevent illumination out across public waters; and
 - (4) Other outside lighting may be located within the shore impact zone or over public waters if it is used primarily to illuminate potential safety hazards and is shielded or otherwise directed to prevent direct illumination out across public waters. This does not preclude use of navigational lights.

B. 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 consistent with the field office technical guides of the local soil and water conservation districts 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 50 feet from the ordinary high water level.

2. Animal feedlots shall meet the following standards:
 - a. No new animal feedlot shall be located within the shoreland overlay district in accordance to Minnesota pollution control agency rules 7020.2005; and
 - b. Modifications or expansions to existing feedlots that are located within a shoreland overlay district shall be allowed by approval of a conditional use permit provided that the modification or expansion shall 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 shall be conducted consistent with the provisions of the Minnesota nonpoint source pollution assessment-forestry and the provisions of water quality in forest management "Best Management Practices in Minnesota" or its successor publications.
- D. Extractive Use Standards:
 1. A conditional use permit and restoration security are required for any extractive uses based upon procedures set forth in and regulated by chapter 4 of this ordinance and section XX-90-14 of this chapter.
 2. Site Development and Restoration Plan. An extractive use site development and restoration plan shall be developed, approved, and followed over the course of operation of the site. The plan shall address dust, noise, possible pollutant discharges, hours and duration of operation, and anticipated vegetation and topographic alterations. It shall also identify actions to be taken during operation to mitigate adverse environmental impacts, particularly erosion, and shall clearly explain how the site will be rehabilitated after extractive activities end.
 3. Setbacks for Processing Machinery. Processing machinery shall be located consistent with setback standards for structures from ordinary high water levels of public waters and from bluffs.
 4. Extractive uses shall also comply with the provisions of section XX-16-5 of this ordinance regarding drainage plans, soil erosion, and sediment control; and the provisions of chapter 25 regulating land excavation and mining.

- E. Mining of Metallic Minerals and Peat. Mining of metallic minerals and peat, as defined in Minnesota statute sections 93.44 to 93.51, shall be a permitted use provided the provisions of Minnesota statutes sections 93.44 to 93.51, are satisfied.

XX-90-12: SHORELAND ALTERATIONS:

- A. 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.

- 1. Vegetation Alterations:

- a. Vegetation alteration necessary for the construction of structures and sewage treatment systems and the construction of roads and parking areas regulated by section XX-90-9.H of this chapter are exempt from the vegetation alteration standards that follow.

- b. Removal or alteration of vegetation, except for agricultural and forest management uses as regulated in section XX-90-11.B and XX-90-11.C of this chapter respectfully, is allowed subject to the following standards:

- (1) Intensive vegetation clearing within the shore and bluff impact zones and on steep slopes is not allowed. Intensive vegetation clearing for forest land conversion to another use outside of these areas is allowable as a conditional use if an erosion control and sedimentation plan is developed and approved by the soil and water conservation district in which the property is located.

- (2) In shore and bluff impact zones and on steep slopes, limited clearing of trees and shrubs and cutting, pruning, and trimming of trees is allowed to provide a view to the water from the principal dwelling site and to accommodate the placement of stairways and landings, picnic areas, access paths, livestock watering areas, beach and watercraft access areas, and permitted water-oriented accessory structures or facilities, provided that:

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

- (b) Along rivers, existing shading of water surfaces is preserved; and

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

2. Topographic Alterations/Grading and Filling:

- a. Grading and filling and excavations necessary for the construction of structures, sewage treatment systems, and driveways under validly issued 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 Subdivision shall be incorporated into the issuance any permit, variance, or conditional use permit for construction of structures, accessory structures, subdivisions, sewage treatment systems and driveways.
- b. Public roads and parking areas are regulated by section XX-90-9.H of this chapter.
- c. Notwithstanding subsections a. and b. of this section above, a grading and filling permit will be required for:
 - (1) The movement of more than 10 cubic yards of material on steep slopes or within shore or bluff impact zones; and
 - (2) The movement of more than 50 cubic yards of material outside of steep slopes and shore and bluff impact zones.
- d. The following considerations and conditions shall be adhered to during the issuance of construction permits, grading and filling permits, conditional use permits, variances, and subdivision approvals:
 - (1) Grading or filling in any type 2, 3, 4, 5, 6, 7, or 8 wetland shall be evaluated to determine how extensively the proposed activity would affect the following functional qualities of the wetland:
 - (a) Sediment and pollutant trapping and retention;
 - (b) Storage of surface runoff to prevent or reduce flood damage;
 - (c) Fish and wildlife habitat;
 - (d) Recreational use;
 - (e) Shoreline or bank stabilization; and

- (f) Noteworthiness, including special qualities such as historic significance, critical habitat for endangered plants and animals, or others.
- (2) The evaluation required by subsection d(1) above shall also include a determination of whether the wetland alteration being proposed requires permits, reviews, or approvals by other local, state, or federal agencies such as a watershed district, the Minnesota department of natural resources, or the United States army corps of engineers and Sherburne county.
- (3) Alterations shall be designed and conducted in a manner that ensures only the smallest amount of bare ground is exposed for the shortest time possible;
- (4) Mulches or similar materials shall be used, where necessary, for temporary bare soil coverage, and a permanent vegetation cover shall be established as soon as possible;
- (5) Methods to minimize soil erosion and to trap sediments before they reach any surface water feature shall be used;
- (6) Altered areas shall be stabilized to acceptable erosion control standards consistent with the field office technical guides of the local soil and water conservation districts and the United States Soil Conservation Service;
- (7) Fill or excavated material shall not be placed in a manner that creates an unstable slope;
- (8) Plans to place fill or excavated material on steep slopes shall be reviewed by qualified professionals for continued slope stability and shall not create finished slopes of 30 percent or greater;
- (9) Fill or excavated material shall not be placed in bluff impact zones;
- (10) Any alterations below the ordinary high water level of public waters shall first be authorized by the commissioner under Minnesota statutes chapter 103G;
- (11) Alterations of topography shall only be allowed if they are accessory to permitted or conditional uses and do not adversely affect adjacent or nearby properties; and

- (12) Placement of natural rock riprap, including associated grading of the shoreline and placement of a filter blanket, is permitted if the finished slope does not exceed three feet horizontal to one foot vertical, the landward extent of the riprap is within ten feet of the ordinary high water level, and the height of the riprap above the ordinary high water level does not exceed three feet.
- (e) A grading and filling permit requires reconstruction of a nonconforming sewage treatment system.
- (f) Connections to public waters. Excavations where the intended purpose is connection to a public water, such as boat slips, canals, lagoons, and harbors, shall be controlled by local shoreland controls. Permission for excavations may be given only after the commissioner has approved the proposed connection to public waters.

XX-90-13: SUBDIVISIONS:

- A. Land Suitability. Each lot created through subdivision, including planned unit developments authorized under section XX-90-15 of this chapter, shall be suitable in its natural state for the proposed use with minimal alteration. Suitability analysis by the local unit of government shall consider susceptibility to flooding, existence of wetlands, soil and rock formations with severe limitations for development, severe erosion potential, steep topography, inadequate water supply, or sewage treatment capabilities, near-shore aquatic conditions unsuitable for water-based recreation, important fish and wildlife habitat, presence of significant historic sites, or any other feature of the natural land likely to impair the health, safety, or welfare of future residents of the proposed subdivision or of the community.
- B. Consistency with Other Controls. Subdivisions shall conform to all official controls of Sherburne County. Each lot shall meet the minimum lot size and dimensional requirements of section XX-90-7.A of this chapter, including at least a minimum contiguous lawn area, that is free of limiting factors sufficient for the construction of two standard sewage treatment systems. Lots that would require use of holding tanks shall not be approved.
- C. Information Requirements. Sufficient information shall be submitted by the applicant for the community to make a determination of land suitability. The information shall include at least the following:
 - 1. Topographic contours at two-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 505.021, Subd. 8, 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; extent of anticipated vegetation and topographic alterations; near-shore aquatic conditions, including depths, types of bottom sediments, and aquatic vegetation; and proposed methods for controlling stormwater runoff and erosion, both during and after construction activities;
 5. Location of 100-year flood plain areas and floodway districts from existing adopted maps or data; and
 6. A line or contour representing the ordinary high water level, the toe and the top of bluffs, and the minimum building setback distances from the top of the bluff and the lake or stream.
 7. Any County ditches, historical sites, or any required environmental assessments.
- D. Dedications. When a land or easement dedication is a condition of subdivision approval, the approval shall provide easements over natural drainage or ponding areas for management of stormwater, wetlands or for conservation purposes.
- E. Platting. All subdivisions that create five or more lots or parcels that are 2.5 acres or less in area shall be processed as a plat in accordance with Minnesota Statutes, Chapter 505. No permit for construction of buildings or sewage treatment systems shall be issued for lots created after these official controls were enacted unless the lot was approved as part of a formal subdivision.
- F. Controlled Access or Recreational Lots. Lots intended as controlled accesses to public waters or for recreational use areas for use by non-riparian lots within a subdivision shall meet or exceed the sizing criteria in section XX-90-7.A, of this chapter.

XX-90-14: CONDITIONAL USES: Conditional uses allowable within shoreland areas shall be subject to the procedures set forth in and regulated by chapter 4 of this ordinance. The following additional evaluation criteria and conditions shall apply within shoreland areas:

- A. Evaluation criteria. A thorough evaluation of the waterbody and the topographic, vegetation, and soils conditions on the site shall be made to ensure:

1. The prevention of soil erosion or other possible pollution of public waters, both during and after construction;
 2. The visibility of structures and other facilities as viewed from public waters is limited;
 3. The site is adequate for water supply and on-site sewage treatment; and
 4. The types, uses, and numbers of watercraft that the project will generate are compatible in relation to the suitability of public waters to safely accommodate these watercraft.
- B. Conditions attached to conditional use permits. The town board, upon consideration of the criteria listed above and the purposes of this ordinance, shall attach such conditions to the issuance of the conditional use permits as it deems necessary to fulfill the purposes of this ordinance. Such conditions may include, but are not limited to, the following:
1. Increased setbacks from the ordinary high water level;
 2. Limitations on the natural vegetation to be removed or the requirement that additional vegetation be planted; and
 3. Special provisions for the location, design, and use of structures, sewage treatment systems, watercraft launching and docking areas, and vehicle parking areas.
 4. Special provisions for siting communication towers includes:
 - a. Communication towers shall be located on existing high power overhead transmission tower, or attached to a pole integrated into a tower, or;
 - b. Mounted on an existing structure and does not extend a maximum of 15 feet beyond the highest point of the structure.

XX-90-15: VARIANCES:

- A. Variances shall only be granted in accordance with Minnesota statutes chapter 462 and chapter 6 of this ordinance.
- B. In addition to the criteria set forth by section XX-6-3 of this ordinance, a request for approval of a variance shall not circumvent the general purposes and intent of this

chapter. In considering a variance request, the board of adjustment shall also consider whether the property owner has reasonable use of the land without the variance, whether the property is used seasonally or year-round, whether the variance is being requested solely on the basis of economic considerations, and the characteristics of development on adjacent properties.

- C. The board or adjustment may also impose conditions in the granting of a variance to ensure compliance and to protect adjacent properties and the public interest.
- 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 XX-90-17 of this chapter shall also include the board of adjustment's summary of the public record of testimony and the findings of facts and decision that supports the issuance of the variance.
- E. For existing developments, the application for variance shall clearly demonstrate that a conforming SSTS is present for the intended use of the property. The variance, if issued, shall require reconstruction of a non-conforming SSTS in compliance with section XX-16-6 of this ordinance as a condition precedent to issuance of a permit.

XX-90-16: NOTIFICATION TO THE DEPARTMENT OF NATURAL RESOURCES:

- A. Copies of all notices of any public hearings to consider variances, amendments, or conditional uses under local shoreland management controls shall be sent to the commissioner or the commissioner's designated representative and postmarked at least 10 days before the hearings. Notices of hearings to consider proposed subdivisions/plats shall include copies of the subdivision/plat.
- B. A copy of approved amendments and subdivisions/plats, and final decisions granting conditional uses or variances under local shoreland management controls shall be sent to the commissioner or the commissioner's designated representative and postmarked within 10 days of final action.

XX-90-17: PERMITS REQUIRED:

- A. A permit shall be required for the construction of buildings or building additions (and including such related activities as construction of decks and signs), the installation and/or alteration of sewage treatment systems, vegetation alterations, and those grading and filling activities not exempted by section XX-90-12.2.a of this chapter.

- B. Application for a permit shall be made to the zoning administrator in accordance with the procedures set forth in and regulated by chapter 8 of this ordinance.
- C. The application shall include 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 XX-90-8.C of this chapter shall be reconstructed or replaced as a condition precedent to issuance of a permit, in accordance with the provisions of this ordinance.
- E. Certificate of Zoning Compliance:
 - 1. The zoning administrator shall issue a certificate of zoning compliance for each activity requiring a permit as specified in section XX-90-8.A of this section stating that the use of land conforms to the requirements of this ordinance.
 - 2. Any use, arrangement, or construction at variance with that authorized by permit shall be deemed a violation of this ordinance and shall be enforced as provided in section XX-10-2 of this ordinance.