

*Official copy  
Oct. 16<sup>th</sup> 1972  
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BENTON COUNTY  
SHORELAND ORDINANCE

BASED ON  
RULES AND REGULATIONS OF  
THE DEPARTMENT OF NATURAL RESOURCES  
Relating to  
STATEWIDE STANDARDS AND CRITERIA  
FOR MANAGEMENT OF SHORELAND AREAS  
OF MINNESOTA

Adopted June 6, 1972

paid by the petitioner. Such fee shall be determined by the County Board of Commissioners.  
9.0 Date of Effect. This ordinance shall be in full force and effect from and after its passage and approval, as provided by law.

Adopted by resolution of the Benton County Board  
this 6th day of June, 1972

*Geo. ...*  
Chairman of the Board

*August ...*  
County Auditor

Attest:  
Filed with the register of Deeds on June 13, 1972

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to prevent, restrain, correct or abate such violations or threatened violations, and it shall be the duty of the County Attorney to institute such action.

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

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

8.0 Amendment

8.1 APPLICATION

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

8.12 Requests for amendment of this ordinance shall be initiated by a petition of the owner or owners of the actual property; a recommendation of the Planning Advisory Commission; or by action of the Board of County Commissioners.

8.13 An application for an amendment shall be filed with the Zoning Administrator. All applications for changes in the boundaries of any zoning district which are initiated by the petition of the owner or owners of the property, the zoning of which is proposed to be changed, shall be accomplished by a map or plat showing the lands proposed to be changed and all lands within five hundred (500) feet of the boundaries of the property proposed to be rezoned, together with the names and addresses of the owners of the lands in such area as the name appears on the records of BENJIN County.

8.14 Notice shall be sent by letter, when an amendment application has been filed for change in district boundary, to all property owners within five hundred (500) feet as to the time and place of the public hearing.

8.2 PUBLIC HEARING

Upon receipt in proper form of the application and other requested material, the Planning Advisory Commission shall conduct a public hearing in the manner prescribed by Minnesota Statutes 1969 § 394.26.

8.3 AUTHORIZATION

Following the public hearing, the Planning Advisory Commission shall make a report of its recommendations on the proposed amendment and shall file a copy with the County Board within sixty (60) days after the hearing.

8.4 FEES

To defray the administrative costs of processing of requests for an amendment to this ordinance, a fee not exceeding administrative costs shall be

Cons 77 Model Ordinance. ORDINANCE FOR THE MANAGEMENT OF SHORELAND AREAS OF BENJIN COUNTY.

1.0 General Provisions

1.1 STATUTORY AUTHORIZATION

This Shoreland Management Ordinance is adopted pursuant to the authorization contained in the Laws of Minnesota 1969, Chapter 777, and in furtherance of the policies declared in Minnesota Statutes Chapters 105, 115, 116, 394 and 396.

1.2 POLICY

The uncontrolled use of shorelands of Benjin 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 public health, safety and welfare to provide for the wise development of shorelands of public waters. The Legislature of Minnesota had delegated responsibility to the counties of the state to regulate the subdivision, use and development of the shorelands of public waters located in unincorporated areas and thus preserve and enhance the quality of surface waters, preserve the economic and natural environmental values of shorelands, and provide for the wise utilization of waters and related land resources. This responsibility is hereby recognized by Benjin County, Minnesota.

1.3 STATEMENT OF PURPOSE

To achieve the policies described in Section 1.2 and to:

- 1.31 Designate suitable land use districts for each public water;
- 1.32 Regulate the placement of sanitary and waste disposal facilities on lots;
- 1.33 Regulate the area of a lot and the length of water frontage suitable for a building site;
- 1.34 Regulate alteration of the shorelands of public waters;
- 1.35 Regulate alterations of the natural vegetation and the natural topography;
- 1.36 Regulate the subdivision of land in unincorporated areas; and
- 1.37 Provide variances from the minimum standards and criteria; the county commissioners of Benjin County, Minnesota do ordain as follows:

1.4 JURISDICTION

The jurisdiction of this ordinance shall include the shorelands of all public waters in the unincorporated areas of Benjin County, Minnesota.

1.5 COMPLIANCE

The use of any shoreland of public waters; the size and shape of lots; the use, size, type and location of structures on lots; the installation and maintenance of water supply and waste disposal facilities; the filling, grading,

lagoning, or dredging of any shoreland area; the cutting of shoreland vegetation; and the subdivision of lots shall be in full compliance with the terms of this ordinance and other applicable regulations. Construction of buildings, private water supply and sewage disposal systems and erection of signs shall require a permit unless otherwise expressly excluded by the requirements of this ordinance.

#### 1.6 ABROGATION AND GREATER RESTRICTIONS

1.61 This ordinance supersedes all provisions of any county zoning ordinance that relate to shorelands. However, the provisions of the existing county zoning ordinance and map of Benton County, Minnesota, and the county ordinance regulating individual sewage disposal systems are hereby incorporated by reference and shall to the extent of greater restrictions only, be made as much a part of this ordinance as if the matter described were fully set out herein.

1.62 Notwithstanding the provisions of Minnesota Statutes Section 396.05, this ordinance shall not require approval or be subject to disapproval by any town or town board. However, this Section does not prohibit a town from adopting or continuing in force, regulations which are more restrictive than those required by this ordinance.

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

#### 1.7 INTERPRETATION

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

#### 1.8 SEVERABILITY

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

#### 1.9 DEFINITIONS

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

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

"Cluster Development" means a pattern of subdivision development which places housing units into compact groupings while providing a network of commonly owned or dedicated open space.

"Conditional Use" means a use of shorelands which is permitted within a zoning district only when allowed by the County Board after a public hearing, if certain conditions are met which eliminate or minimize the incompatibility with other permitted uses of the district.

#### 7.5 PERMITS

##### 7.51 Building Permit

(a) Hereafter no person shall erect, alter, or move any building or part thereof without first securing a building permit therefor.

(b) Application for a building permit shall be made to the Zoning Administrator on blank forms to be furnished by the County. Each application for a permit to construct or alter a building shall be accompanied by a plan drawn to scale showing the dimensions of the lot to be built upon and the size and location of the building and accessory buildings to be erected. Applications for any kind of building permit shall contain such other information as may be deemed necessary for the proper enforcement of this ordinance or any other. The Zoning Administrator shall issue the building permit only after determining that the building plans, together with the application, comply with the terms of this ordinance, except where such setback does not comply with the planning of future road construction, which information shall be furnished by the County.

##### 7.52 Other Permits

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

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

#### 7.6 ENFORCEMENT

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

7.62 In the event of a violation or a threatened violation of this ordinance, the Board of County Commissioners or any member thereof, in addition to other remedies, may institute appropriate actions or proceedings

**f) Locational factors under which:**

- (1) Domestic uses shall be generally preferred;
- (2) Uses not inherently a source of pollution within an area shall be preferred over uses that are or may be a pollution source;
- (3) Use locations within an area tending to minimize the possibility of pollution shall be preferred over use locations tending to increase that possibility.

**7.43 Conditions Attached to Conditional Uses**

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

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

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

The Planning Commission in evaluating each application may request the County Soil and Water Conservation District to make available expert assistance from those state and federal agencies which are assisting said district under a memorandum of understanding and any other state or federal agency which can provide technical assistance.

**7.44 Notice and Public Hearing**

Before passing upon an application for Conditional Use Permit the Planning Commission shall hold a public hearing. Notice of such public hearing specifying the time, place, and matters to come before the Board shall be published in the official paper of the county at least ten (10) days in advance of such hearing.

**7.45 Fees**

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

"Nonconforming Use" means any use of land established before the effective date of the county ordinance which does not conform to the use restrictions of a particular zoning district.

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

"Public Water" means a body of water capable of substantial beneficial public use. For the purpose of this ordinance, this shall be construed to mean any lake, pond or flowage of 25 acres in size or more, or any river or stream with a total drainage area of two square miles or more, which has the potential to support any type of recreational pursuit or water supply purpose. A body of water treated by a private user where there was no previous shoreland as defined herein, for a designated private use authorized by the Commissioner of Conservation shall be exempt from the provisions of this ordinance.

(a) The official determination of the size and physical limits of lakes, ponds or flowages shall be the areas listed in the Division of Waters, Soils and Minerals Bulletin No. 25, "An Inventory of Minnesota Lakes".

(b) The official determination of the size and physical limits of drainage areas of rivers and streams shall be the records of the Division of Waters, Soils and Minerals.

"Setback" means the minimum horizontal distance between a structure and the normal high water mark or between a structure and a road or highway.

"Shoreland" means land located within the following distances from public waters: (1) 1,000 feet from the normal high water mark of a lake, pond or flowage; and (2) 300 feet from a river or stream, or the landward extent of a flood plain designated by ordinance on such a river or stream; whichever is greater, except where the limits are designated by natural drainage divides at lesser distances, as designated on the official county zoning map of Beauregard County.

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

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

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

"Unincorporated Area" means the area outside a city, village or borough.

"Variance" means a modification or variation of the provisions of the local shoreland ordinance where it is determined that, by reason of exceptional circumstances, the strict enforcement of any provision of the local ordinance would cause unnecessary hardship, or that strict conformity with the provisions of the local ordinance would be unreasonable, impractical or not feasible under the circumstances.

"Water Supply Purpose" includes any uses of water for domestic, commercial, industrial or agricultural purposes.

**2.0 Designation of Types of Land Use**

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

**2.1 PUBLIC WATERS CLASSIFICATION SYSTEM**

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

**2.11 Natural Environment Lakes and Streams**

- 1. Little Rock Creek
- 2. All other lakes (see chart)

**2.12 Recreational Development Lakes**

- 1. Little Rock Lake and flowage to the Mississippi.

**2.13 General Development Lakes and Streams**

- 1. All other streams and rivers.

Ident. number	Name	Range	Township	Location Section	Area in Acres
5-1	Bible's Duck Slough	28	36	15, 16	54
5-2	.....	29	36	22	33
5-3	.....	29	36	30, 31	24
5-4	Donovan	30	36	27, 33, 34	93
5-5	.....	30	36	36	62
5-6	.....	30	37	6, 7	26
5-7	Maynew	30	37	8, 17	127
5-8	.....	30	37	22, 23	65
5-9	Pularskis	30	38	29, 30	138
5-10	.....	31	36	3	16
5-11	.....	31	36	23	32
5-12	.....	31	37	14, 15	95
5-13	Little Rock	31	37, 38	2, 3, 10, 11, 14, 34, 35	1, 259
5-14	.....	31	38	8	32
5-15	Mill Pond	31	38	20, 21	11

**7.3 VARIANCES FROM STANDARDS**

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

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

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

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

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

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

**7.4 CONDITIONAL USES**

7.41 Application for Conditional Use Permit  
Any use listed as a conditional use in this ordinance shall be permitted only upon application to the Planning Commission and issuance of a Conditional Use Permit by the County Board of Commissioners

**7.42 Standards Applicable to all Conditional Uses**

In passing upon a Conditional Use Permit the Board shall evaluate the effect of the proposed use upon:

- (a) The maintenance of safe and healthful conditions.
- (b) The prevention and control of water pollution including sedimentation.
- (c) Existing topographic and drainage features and vegetative cover on the site.
- (d) The location of the site with respect to flood plains and floodways of rivers or streams.
- (e) The erosion potential of the site based upon degree and direction of slope, soil type and vegetative cover.
- (f) The location of the site with respect to existing or future access roads.
- (g) The need of the proposed use for a shoreland location.
- (h) Its compatibility with uses on adjacent land.
- (i) The amount of liquid wastes to be generated and the adequacy of the proposed disposal systems.

- (b) Enforce and administer the provisions of this ordinance;
- (c) Issue permits and certificates of occupancy and maintain records thereof;
- (d) Receive and forward to the Board of County Commissioners, the County Planning Commission, and the Commissioner of Natural Resources, all applications for conditional use permits.
- (e) Receive and forward all applications and petitions for matters to come before the Board of Adjustment;
- (f) Receive and forward to the Board of County Commissioners, the County Planning Commission, and the Commissioner of Natural Resources, all applications for amendments to this ordinance. (See Section 8.0)
- (g) Inspect all construction and development to insure that the standards of this ordinance are being complied with;
- (h) Provide and maintain a public information bureau relative to matters arising out of this ordinance; and
- (i) Maintain the County Zoning Map as required in Section 2.2.

**7.2 BOARD OF ADJUSTMENT**

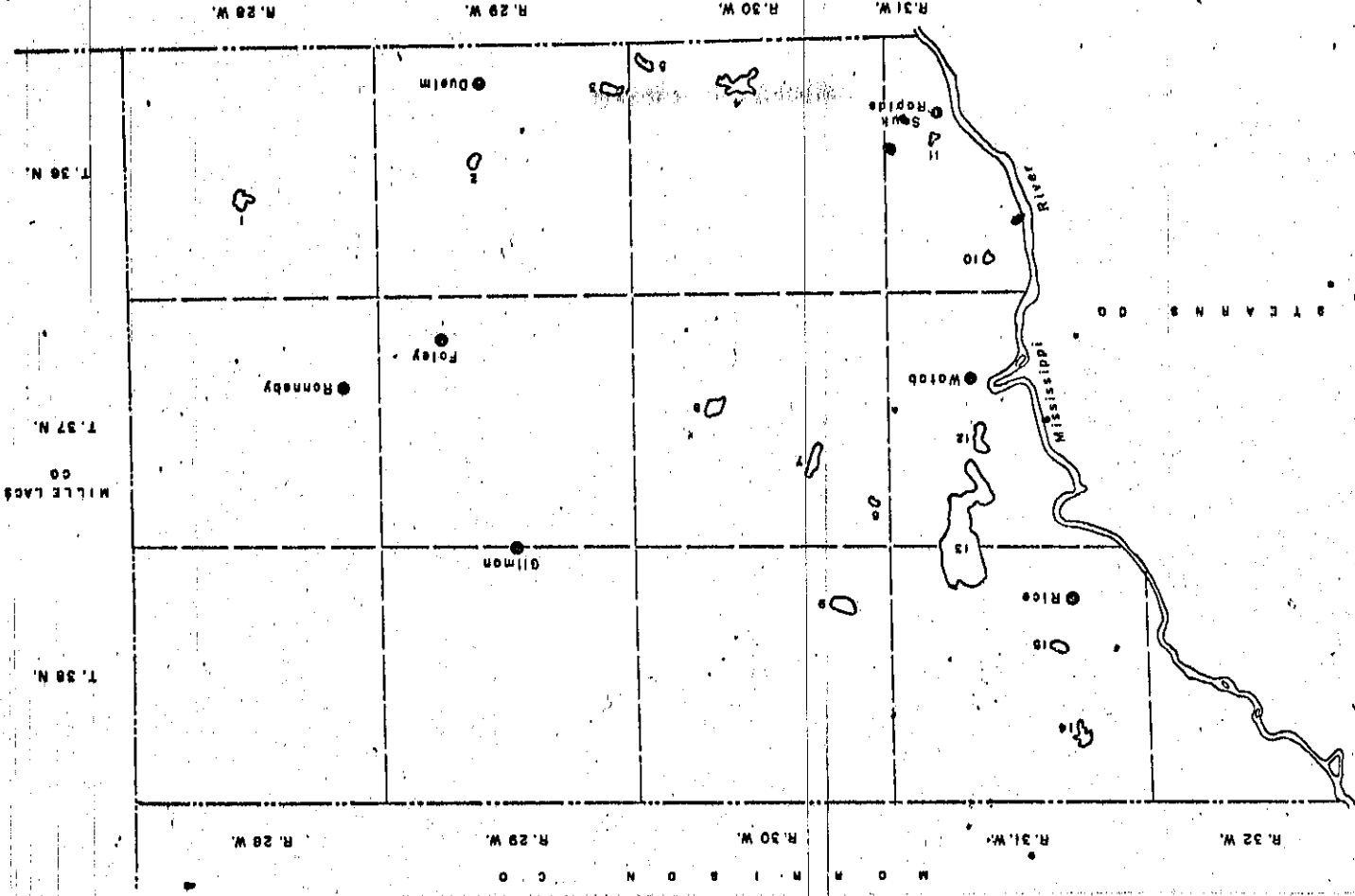
A Board of Adjustment is hereby established and vested with such authority as is hereinafter provided and as provided by Minnesota Statutes, Chapter 559, Laws of 1959, as amended. Such Board shall consist of three (3) members, one of which shall be a member of the County Planning Commission, excluding any elected officer of the County or employee of the Board of County Commissioners. The three (3) board members shall be appointed by the Board of County Commissioners. The board members shall be appointed for terms coinciding with terms on the County Planning Commission.

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

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

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

- (a) To interpret zoning district boundaries on official zoning maps.
- (b) To permit the extension of a zoning district where the boundary thereof divides a lot in one ownership at the time of the passage of this ordinance, but such extension of any district shall not exceed one hundred (100) feet.
- (c) To act upon all questions as they may arise in the administration of this ordinance; and to hear and decide appeals from and to review any order, requirements, decision or determination made by an administrative official charged with enforcing this ordinance adopted pursuant to the provisions of Section 394.21 to 394.37, Minnesota Statutes, Chapter 559, Laws of 1959, as amended.



**2.2 LAND USE ZONING MAPS**

Land use districts shall be as established and described in the Benton County zoning ordinance and as shown on the official zoning map of the county.

**2.3 PERMITTED USES**

Any permitted use allowed in the district under the zoning ordinance and including forestry, parks, nature areas, hiking and riding trails, and wildlife preserves.

**2.4 CONDITIONAL USES**

The conditional uses allowed in the zoning ordinance for any district shall not be applicable to shoreland, which shall be limited to the following conditional uses:

**2.41 Natural Environmental lakes and streams**

(a) Recreational Camping Vehicle Areas, provided:

- (1) Site plans for recreational camping vehicle areas shall be approved by the Board of Commissioners.
- (2) Recreational camping vehicle areas shall be licensed by and meet the standards prescribed by the Minnesota Department of Health, except where the provisions of this ordinance are more restrictive, and then these provisions shall prevail.
- (3) No recreational camping vehicle shall be placed nearer the normal high water mark as specified in Section 4.2 for the classes of public waters.
- (4) Each recreational camping vehicle site shall be at least 2,000 square feet in area.
- (5) A centralized sewage disposal facility which meets the standards, criteria, rules or regulations of the Minnesota Department of Health and the Pollution Control Agency must be installed.
- (6) The location of this facility shall be consistent with the number of units served, soil types, and topography. The facility shall be setback from the normal high water mark at a distance approved by the Board of Commissioners, and in no case less than the sewage disposal system setback distances prescribed in Section 3.36(a).
- (7) No individual on-site sewage disposal systems shall be used, unless site sizes meet the provisions of Section 4.11 for lot area and length of water frontage.
- (8) Adequate vegetative screening for the recreational camping area shall be maintained consistent with the provisions of Section 4.31 of this ordinance.

- (b) Resorts
- (c) Parks and Playgrounds

5.54 There is not more than one centralized boat launching facility for each cluster.

5.55 Any attached conditions are met, such as limits on overall density, minimum size of the cluster development, restriction to residential uses, or minimum length of water frontage.

**6.0 Nonconforming and Substandard Uses**

**6.1 NONCONFORMING USES:**

Any uses in existence prior to the date of enactment of the shoreland ordinance which do not conform to the use restrictions of the established zoning district are nonconforming uses. All sanitary facilities inconsistent with Sections 3.33 and 3.36(d) shall be brought into conformity or discontinued within sixty (60) days after notification by the Zoning Administrator or within five (5) years from the date of enactment of this ordinance, whichever is shortest.

All other nonconforming uses shall be subject to the following conditions:

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

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

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

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

**6.2 SUBSTANDARD USES:**

Any uses of shorelands in existence prior to the date of enactment of this ordinance which are permitted within the applicable zoning district, but do not meet the minimum lot area, setbacks or other dimensional requirements of this ordinance are substandard uses. Substandard uses, including substandard sanitary facilities, shall be allowed to continue. However, any structural alteration or addition to a substandard use which will increase the substandard dimensions shall not be allowed.

**7.0 Administration and Enforcement**

**7.1 ZONING ADMINISTRATOR**

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

**7.11 Duties**

The Zoning Administrator shall:  
 (a) Act as Building Inspector for the County;



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

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

**5.3 DEDICATIONS**

5.31 The Board of Commissioners may require that suitable sites in the subdivision be dedicated or reserved for future public use, such as schools, parks, playgrounds, public access and open spaces as needed by the subdivision.

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

5.33 The Board of Commissioners may require that easements for drainage ways of widths sufficient to accommodate anticipated storm water run-off be provided.

5.34 The Board of Commissioners may require that easements for public utilities be provided.

**5.4 PROCEDURES FOR SUBMITTING A PLAT**

All plats, replats or any modifications thereof shall be submitted to the County Board of Commissioners in the manner set forth in Minnesota Statutes 1969 c. 505.

5.41 Any proposed plat in shoreland areas which is inconsistent with the provisions of this ordinance, shall first be approved by the Commissioner of Conservation.

**5.42 Survey Monuments**

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

**5.5 CLUSTER DEVELOPMENT**

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

5.51 Preliminary plans are first approved by the Commissioner of Conservation.

5.52 Central sewage facilities are installed which meet the standards, criteria, rules or regulations of the Minnesota Department of Health and the Pollution Control Agency.

5.53 Open space is preserved.

**2.42 Recreational Development lakes and streams**

- (a) Any Conditional Use allowed in Natural Environment Areas
- (b) Restaurants, taverns and private clubs
- (c) Marinas

**2.43 General Development lakes and streams**

- (a) Any Conditional Use allowed in Recreational Development areas

**(b) Mobile Home Parks — provided:**

(1) Site plans for mobile home parks shall be approved by the Board of Commissioners.

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

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

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

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

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

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

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

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

**3.0 Sanitary Provisions**

**3.1 WATER SUPPLY**

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

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

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

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

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

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

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

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

3.15 No private well shall be located closer than three (3) feet to the outside basement wall of a dwelling. The outside basement footing shall be continuous across the opening of the well alcove. No well shall be located closer than fifteen (15) feet to a property line. The following minimum distances between a well and possible sources of contamination shall be complied with:

- (a) Buried or concealed extra heavy cast iron sewer or drain lines with lead caulked, air tested joints — 20 feet.
- (b) Vitrified clay or equivalent (or concrete sewers or cast iron sewers not of construction described above), septic tanks or drain fields — 50 feet.
- (c) Dry wells or seepage pits — 75 feet.

3.2 WASTE DISPOSAL

3.21 The disposal of sewage, industrial wastes, or other wastes as defined in M.S. c. 115 shall be subject to the standards, criteria, rules and regulations of the Minnesota Pollution Control Agency.

(3) Public convenience and safety including facilitating fire protection, snow plowing and pedestrian traffic.

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

(b) Width: Public streets shall be of the right-of-way, roadway and surface width specified by the County Highway Commissioner and approved by the County Board.

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

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

5.24 Storm Drainage

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

5.25 Water Supply Facilities

Where there is an existing public water supply system on or near the subdivision, the local municipality furnishing such service and the Board of Commissioners shall determine the feasibility of service and the requirements to be followed by the subdivider in connecting to the system. Where there is no existing public water supply, individual water supply systems will be permitted in accordance with the minimum standards and regulations of the Department of Health.

5.26 Sanitary Sewerage

(a) In areas that have a sanitary sewer system on or near the proposed subdivision, the local municipality furnishing such service and the Board of Commissioners shall determine the feasibility of service and the procedures to be followed by the subdivider in joining the system.

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

tional use permit obtained from the County Board. The permit may be granted subject to the conditions that:

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

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

#### 5.0 Subdivision Regulations

##### 5.1 LAND SUITABILITY

No land shall be subdivided which is held unsuitable for the proposed use by the Board of Commissioners for reason of flooding, inadequate drainage, soil and rock formations with severe limitations for development, severe erosion potential, unfavorable topography, inadequate water supply or sewage disposal capabilities or any other feature likely to be harmful to the health, safety or welfare of the future residents of the proposed subdivision or of the community. The Board of Commissioners in applying the provisions of this section shall in writing recite the particular facts upon which it bases its conclusions that the land is not suitable for the proposed use and afford the subdivider an opportunity to present evidence regarding such suitability at a public hearing as provided in Section 8.4. Thereafter the Board of Commissioners may affirm, modify or withdraw its determination of unsuitability.

##### 5.2 DESIGN STANDARDS

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

##### 5.22 Lot Size

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

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

##### 5.23 Public Streets

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

- (1) Existing and planned streets,
- (2) Topographic conditions including the bearing capacity and erosion potential of the soil.

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

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

#### 3.3 SEWAGE DISPOSAL

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

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

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

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

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

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

#### 3.33 General Requirements

(a) Location and installation of the individual sewage disposal system shall be such that, with reasonable maintenance, it will function in a sanitary manner and will not create a nuisance, endanger the safety of any domestic water supply, nor pollute any waters of the state. In determining a suitable location for the system, consideration shall be given to the size and shape of the lot, slope of natural and finished grade, soil permeability, high ground water elevation, geology, proximity to existing or future water supplies, and future expansion of the system.

(b) Raw sewage, septic tank effluent, or seepage from a soil absorption system shall not be discharged on to the ground surface, into abandoned wells, or bodies of surface water, or into any soil or rock formation, the structure of which is not conducive to purification of water by filtration, or into any well or other excavation in the ground which does not comply with

the other requirements of this ordinance. This requirement shall not apply to the disposal of sewage in accordance with a process approved by the State Board of Health and the Pollution Control Agency.

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

### 3.34 Privies

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

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

### 3.35 Septic Tanks

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

(b) Location of septic tanks shall be subject to the following restrictions: 10 feet from any building intended for human occupancy; 10 feet from a lot line; 50 feet from a well or other water supply; and where feasible, the septic tank shall be placed downslope from a well.

### 3.36 Soil Absorption Systems

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

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

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

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

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

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

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

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

(c) Where homes incorporate a method of sewage disposal other than soil absorption, water setbacks specified in Section 4.21 may be reduced by one-third (1/3).

4.27 Locations of signs and structural appurtenances thereto: All commercial advertising signs shall be of a size, shape and location so as not to be unduly prominent in their surroundings. The regulations of signs hereunder are in addition to the provisions of M.S. 1969 c. 173 and regulations promulgated pursuant thereto.

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

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

(1) Signs advertising a customary home occupation,

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

(3) Recreational directory signs.

(c) Prohibited signs are:

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

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

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

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

### 4.3 SHORELAND ALTERATIONS

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

(a) In order to allow a view corridor to the water, selective removal of natural vegetation shall be permitted, however, such removal shall leave sufficient cover to screen cars, dwellings and other structures, except boat houses, piers, docks and marinas, from view from the lake. Clear cutting within shoreland areas shall not be permitted.

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

4.32 Grading and filling in shoreland areas or any alterations of the natural topography where the slope of the land is toward a public water or a watercourse leading to a public water must be authorized by a condi-

- (a) On Natural Environment Lakes, at least 200 feet from the normal high water mark.
- (b) On Recreational Development Lakes, at least 100 feet from the normal high water mark.
- (c) On General Development Lakes, at least 75 feet from the normal high water mark.
- (d) Outside of a floodway as defined in M.S. § 104.02.

4.22 High Water Elevation

In addition to the setback requirements of Section 4.21:

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

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

4.23 Erosion and Sedimentation Control

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

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

- (a) There shall be at least a 10 foot sideyard between any structure and side lot lines.
- (b) No structure shall be placed closer than 50 feet from the right-of-way line of any federal, state, or county trunk highway, or 30 feet from any town road, public street or others not classified.

4.25 Boat houses shall be permitted to be located up to the normal high water mark subject to the issuance of a conditional use permit by the Board of Adjustment, provided they shall not be used for habitation and they shall not contain sanitary facilities.

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

- (a) In areas where development exists on both sides of a proposed building site, water and road setbacks may be varied to conform to the existing established setbacks, or
- (b) In areas of unusual topography or substantial elevation above the lake level, the water setback may be varied to allow a riparian owner reasonable use and enjoyment of his property, or

**Table 1: Absorption Area Requirements for Private Residences and Other Establishments**  
(Per Bedroom Column Provides for Residential Garbage Grinders and Automatic Sequence Washing Machines)

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

<sup>1</sup>Absorption area for standard trenches is figured as trench-bottom area.

<sup>2</sup>Absorption area for seepage pits is figured as effective sidewall area beneath the inlet.

<sup>3</sup>In every case sufficient area should be provided for at least 2 bedrooms.

<sup>4</sup>Unsuitable for seepage pits if over 30.

<sup>5</sup>Unsuitable for absorption systems if over 60.

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

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

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

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

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

occurs during the final 30 minute period shall be used to calculate the percolation rate.

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

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

(d) Soil absorption systems shall not be acceptable for disposal of domestic sewage wastes for developments on lots adjacent to public waters under the following conditions:

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

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

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

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

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

3.38 Alternative Systems

(a) Alternative methods of sewage disposal such as holding tanks, electric or gas incinerators, biological and/or tertiary waste treatment plants or land disposal systems, wherever required or allowed in particular circumstances, shall be subject to the standards, criteria, rules and regulations of the Minnesota Department of Health and Minnesota Pollution Control Agency.

3.4 AGRICULTURAL WASTE DISPOSAL

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

4.0 Zoning Provisions

4.1 LOT SIZE

4.11 For lots newly platted or created by metes and bounds description the lot sizes shall be as established for the various zoning districts in the zoning ordinance and shown on the county zoning map. In no case shall the lot size be smaller than the following:

(a) For Natural Environment Lakes and Streams, the minimum lot size shall be 80,000 square feet (approximately 2 acres) and at least 200 feet in width at the building line and at least 200 feet in width at the water line for lots abutting a public water.

(b) For Recreational Development Lakes, the minimum lot-size shall be 40,000 square feet (approximately 1 acre) and at least 150 feet in width at the building line and at least 150 feet in width at the water line for lots abutting a public water.

(c) For General Development Lakes and Streams, the minimum lot size shall be 20,000 square feet and at least 100 feet in width at the building line and at least 100 feet in width at the water line for lots abutting a public water.

4.12 Furthermore, in addition to Section 4.11, lot size shall be increased so that the total area of all structures proposed on a lot will not equal more than 50 percent of the lot area.

4.13 Substandard Lots

(a) Lots of record in the County Register of Deeds (or Registrar of Titles) office prior to March 2, 1971 which do not meet the requirements of Section 4.11 may be allowed as building sites provided: such use is permitted in the zoning district, the lot is in separate ownership from abutting lands, and all sanitary and dimensional requirements of the county ordinance are complied with insofar as practical

(b) The minimum size and length of water frontage shall be:

(1) For Natural Environment Lakes and Streams: at least 40,000 square feet in size and 150 feet in width at the building line and 150 feet in width at the water line for lots abutting a public water.

(2) For Recreational Development Lakes: at least 20,000 square feet in size and 100 feet in width at the building line and 100 feet in width at the water line for lots abutting a public water.

(3) For General Development Lakes and Streams: at least 10,000 square feet in size and 50 feet in width at the building line and 50 feet in width at the water line for lots abutting a public water.

4.14 Smaller lot sizes may be granted for planned cluster developments under the provisions set forth in Section 5.5.

4.2 PLACEMENT OF STRUCTURES ON LOTS

4.21 Setbacks

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