

Section 10 - Shoreland Overlay District

A. Statutory Authorization

The provisions of this section are adopted pursuant to Minnesota Statutes, Chapters 103F and 394, and Minnesota Regulations, Parts 6120.2500 - 6120.3900.

B. General Provisions

1. Lands To Which This Section Applies

This section shall apply to all land designated as shoreland area within the jurisdiction of Watonwan County. This minimum area includes lands three hundred (300) feet landward from the ordinary high water level of all protected watercourses and 1,000 feet landward from the ordinary high water level of all protected water basins as identified on the Protected Waters and Wetlands Map and listed in Section 5 of this Ordinance.

2. Compliance

The use of any shoreland, the size and shape of lots, the building of new or the alteration of existing structures, the installation and maintenance of water supply or waste treatment systems, the grading and filling of any shoreland area shall be in full compliance with the terms of this Ordinance and other applicable regulations.

3. 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 governing body and shall not be deemed a limitation or repeal of any other powers granted by State Statutes.

4. Notifications to the Department of Natural Resources

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

C. Shoreland Overlay Regulations

1. Purpose

To provide an overlay district to preserve and enhance the quality of surface waters, conserve the economic and natural environmental values of shorelands, and provide for the wise use of waters and related land resources.

2. Permitted Uses

a. In the Agricultural District (“A”)

- 1) Agriculture, including farm dwellings, agricultural buildings, dairy, livestock raising (see section 10, subsection G, 2 for shoreland regulations), and general horticulture
- 2) Parks, recreational areas, wildlife areas, game refuges, and forest management
- 3) Single family non-farm dwellings but not including residential subdivisions
- 4) Churches, cemeteries, memorial gardens
- 5) Flood control, watershed structures, erosion control, and fish game hatcheries

b. In the Rural Residential District (“R-1”),

- 1) Single family dwellings and subdivisions
- 2) Single family dwellings on existing platted lots
- 3) Parks and recreation areas owned or operated by a government agency
- 4) Golf Courses
- 5) Limited agriculture, farming, truck gardening activities

c. In the General Business District (“B”),

- 1) Bowling alleys
- 2) Drive-in restaurants, drive-in theaters or similar uses that provide goods and services to patrons in automobiles provided that:
 - a) A solid screen fence of acceptable design is constructed along the property line when said use is abutting a Residential District.
 - b) The parking area is surfaced and exits shall be subject to approval by the County Engineer.
 - c) Lighting, whether direct or reflected, shall not be directed onto an adjacent property.

- 3) Florist shops, greenhouses, nurseries, and garden stores
 - 4) Professional, governmental offices and buildings
 - 5) Restaurants
 - 6) Retail sales and services (examples: hardware, specialty sales, supermarkets, clothing, banks, general stores)
 - 7) Service establishments (examples: medical, veterinarian clinics, parking lots, repair shops)
 - 8) Taverns, clubs
 - 9) Tourist related sales and service and recreational facilities
- d. In the General Industry District (“I”), no uses are permitted

3. Conditional Uses

- a. In the Agricultural District (“A”):
- 1) One (1) additional farm dwelling meeting the requirements for an on-site sewage treatment system and a water supply as cited in Section 12-Subdivision L
 - 2) Feedlots, subject to standards cited in Section 6, C, #3 and Section 10, G, #2
 - 3) Public or private schools
 - 4) Recreational vehicle campground areas
 - 5) Extraction of minerals and quarrying
 - 6) Essential services and pipelines, provided they cannot be reasonably located outside the shoreland area
- b. In the Rural Residential District (“R-1”):
- 1) Two family dwellings and multiple family dwellings, provided they meet all lot size requirements and sanitary requirements, as referenced.
 - 2) Essential service structures, provided they cannot be located outside the shoreland area.
 - 3) Golf clubhouses
 - 4) Churches and schools
 - 5) Cemeteries and memorial gardens
 - 6) Municipal buildings and community centers
 - 7) Residential PUDs
 - 8) Public or private schools, providing no building is located within fifty (50) feet of any residential lot line

- c. In the General Business (“B”):
 - 1) Single family dwellings when associated with the principal use of the property, under the same ownership, and attached to the principal use.
 - 2) Open and outdoor storage, sales and service:
 - a) Sales areas shall be fenced and screened from adjacent Residential Districts.
 - b) All lighting shall be hooded or so directed that the light source is not directly visible from the public right-of-way or adjoining property.
 - c) The area does not take up parking space required by this Ordinance.
 - d) The sales area is grassed or surfaced to control dust.
 - 3) Automobile oriented businesses (examples: laundries, car wash, service station, repair shops, gasoline and oil sales, accessory stores)
 - 4) Automobile and farm implement sales and service
 - 5) Motels and motor hotels (see Section 12, F for PUD development standards)

- d. In the Industrial District (“I”): All industrial uses will be processed as a Conditional Use in the shoreland areas.
 - 1) Any production, processing, cleaning, servicing, testing, repair or storage of materials, goods or products which conform to the performance standards set forth hereinafter and which shall not be injurious or offensive to the occupants of adjacent premises by reason of the emission or creation of noise, vibration, smoke, dust or other particulate matter, toxic materials, odors, fire or explosive hazards or glare.
 - 2) Building materials and sales
 - 3) Cartage and express facilities
 - 4) Contractors, architects, and engineers offices, shops and yards, such as building, cement, electrical, heating, ventilating and air conditioning, masonry, painting, plumbing, refrigeration and roofing
 - 5) Dwelling unit for watchmen, supervisors, and their families, located on the premises where they are employed in such capacity provided the dwelling is under the same ownership as the principal use
 - 6) Farm implement sales, service, storage and repair
 - 7) Grain elevators
 - 8) Garages for storage, repair and servicing of motor vehicles
 - 9) Public utility and service buildings (examples: waterworks, railroad yards, bus terminals, utility shops)
 - 10) Transmission and receiving towers and stations (examples: radio, television, radar)
 - 11) Warehousing of bulk goods or goods produced on the premises

4. Performance Standards

a. Lot Area and Width Standards for Lakes

1) Natural Environment Lakes (lot area)

		"A" District		R-1, B and I Districts	
		Unsewered		Sewered	
		<u>Riparian</u>	<u>Non-Riparian</u>	<u>Riparian</u>	<u>Non-Riparian</u>
Single Family	5 acres	2 acres	2 acres	1 acre	1 acre
Duplex	NA	3 acres	4 acres	2 acres	1 acre
Triplex	NA	4 acres	6 acres	2.5 acres	1.5 acres
Quad	NA	5 acres	8 acres	3 acres	1.5 acre

- A development of five (5) or more dwelling units must be processed as a PUD (section 12, F)

2) Natural Environment Lakes (lot width)

		"A" District		R-1, B and I Districts	
		Unsewered		Sewered	
		<u>Riparian</u>	<u>Non-Riparian</u>	<u>Riparian</u>	<u>Non-Riparian</u>
Single Family	250'	200'	200'	125'	125'
Duplex	NA	300'	400'	225'	220'
Triplex	NA	400'	600'	325'	315'
Quad	NA	500'	800'	425'	410'

- A development of five (5) or more dwelling units must be processed as a PUD (section 12, F)

3) Recreational Development Lakes (lot area)

		"A" District		R-1, B and I Districts	
		Unsewered		Sewered	
		<u>Riparian</u>	<u>Non-Riparian</u>	<u>Riparian</u>	<u>Non-Riparian</u>
Single Family	5 acres	1 acre	1 acre	1 acre	1 acre
Duplex	NA	2 acres	2 acres	1 acre	1 acre
Triplex	NA	3 acres	3 acres	1.5 acres	1 acre
Quad	NA	4 acres	4 acres	1.5 acre	1.5 acre

- A development of five (5) or more dwelling units must be processed as a PUD (section 12, F)

4) Recreational Development Lakes (lot width)

		“A” District		R-1, B and I Districts	
		Unsewered		Sewered	
		<u>Riparian</u>	<u>Non-Riparian</u>	<u>Riparian</u>	<u>Non-Riparian</u>
Single Family	250’	150’	150’	125’	125’
Duplex	NA	225’	265’	135’	135’
Triplex	NA	300’	375’	195’	190’
Quad	NA	375’	490’	255’	245’

- A development of five (5) or more dwelling units must be processed as a PUD (section 12, F)

b. Lot Area and Widths for Protected Watercourses:

- 1) Refer to the Underlying District for required Lot Area
- 2) Lot Widths by Classification:

	“A” Districts		R-1, B and I Districts		
	<u>Agriculture</u>	<u>Tributary</u>	<u>Agriculture</u>	<u>Tributary - Sewered</u>	<u>Tributary - Unsewered</u>
Single Family	250’	250’	150’	75’	100’
Duplex	NA	NA	225’	115’	150’
Triplex	NA	NA	300’	150’	200’
Quad	NA	NA	375’	190’	250’

- A development of five (5) or more dwelling units must be processed as a PUD (section 12, F)

c. Height Regulations

Refer to the Underlying District for applicable standards

d. Front, Side and Rear Yard Setbacks

- 1) Refer to Underlying District for applicable Standards
- 2) Setbacks from Ordinary High Water Level

Setbacks (in feet)

Classes of

<u>Public Waters</u>	<u>Unsewered</u>	<u>Sewered</u>	<u>System</u>
Lakes			
Natural Environment	150	150	150
Recreational Development	100	75	75
Rivers			
Agricultural and Tributary	100	50	75

3) Additional Structure Setbacks (in feet)

<u>Setback From</u>	<u>Setback</u>
1) Top of Bluff	30
2) Unplatted Cemetery	50
3) Road Right-of-Way	
a) All Districts except R-1 and B	100
b) R-1 and B Districts	35
4) Ordinary High Water Level	
a) For one water oriented accessory structure	10
b) New animal feedlots	1000

5. Placement of Structures on Lots

- a. When more than one (1) setback applies to a site, structures and facilities must be located to meet all setbacks. Where structures exist on the adjoining lots on both sides of a proposed building site, structure setbacks may be altered without a variance to conform to the adjoining setbacks from the ordinary high water level, provided the proposed building site is not located in a shore impact zone or in a bluff impact zone.
- b. Impact Zones. Structures and accessory facilities, except stairways and landings, must not be placed within bluff impact zones.
- c. Uses Without Water Oriented Needs. Uses without water-oriented needs must be located on lots or parcels without public waters frontage, or, if located on lots or parcels with public waters frontage, must either be set back double the normal ordinary high water level setback or be substantially screened from view from the water by vegetation or topography, assuming summer, leaf-on conditions.

6. Design Criteria for Structures

- a. High Water Elevations. Structures must be placed in accordance with any flood plain regulations applicable to the site. Where the data does not exist, the elevation to which the lowest floor, including basement, is placed or flood proofed must be determined as follows:
 - 1) for lakes, by placing the lowest floor at a level at least three (3) feet above the highest known water level, or three feet above the ordinary high water level, whichever is higher;
 - 2) for rivers and streams, by placing the lowest floor at least three (3) feet above the flood of record, if data are available. If data are not available, by placing the lowest floor at least three (3) feet above the ordinary high water level, or by conducting a technical evaluation to determine effects of proposed construction upon flood stages and flood flows and to establish a flood protection elevation. Under all approaches, technical evaluations must 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 must be used for placing structures and other facilities.

- b. Water Oriented Accessory Structures may have the lowest floor placed lower than the elevation determined in this item if the structure is constructed of flood resistant materials to the elevation, electrical and mechanical equipment is placed above the elevation and, if long duration flooding is anticipated, the structure is built to withstand ice action and wind-driven waves and debris.
 - 1) The structure or facility must not exceed ten (10) feet in height, exclusive of safety rails, and cannot occupy an area greater than 250 square feet. Detached decks must not exceed eight (8) feet above grade at any point;
 - 2) The setback of the structure or facility from the ordinary high water level must be at least ten (10) feet;
 - 3) The structure or facility must be treated to reduce visibility as viewed from public waters and adjacent 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 must not be enclosed or used as a storage area; and
 - 5) The structure or facility must not be designed or used for human habitation and must not contain water supply or sewage treatment facilities.

- 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 must meet the following design requirements:

- 1) Stairways and lifts must not exceed four (4) feet in width on residential lots. Wider stairways may be used for commercial properties, public open space recreational properties, and planned unit developments;
 - 2) Landings for stairways and lifts on residential lots must not exceed thirty two (32) square feet in area. Landings larger than thirty two (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 must be located in the most visually inconspicuous portions of lots, as viewed from the surface of the public water assuming summer, leaf-on conditions, whenever practical; and
 - 6) Facilities such as ramps, lifts, or mobility paths for physically handicapped persons are also allowed for achieving access to shore areas, provided that the dimensional and performance standards of 1 through 4 above are complied with in addition to the requirements of Minnesota Regulations, Chapter 1340.
- d. Significant Historic Sites. No structure may be placed on a significant historic site in a manner that affects the values of the site unless adequate information about site has been removed and documented in a public repository.
- e. Slopes. The Zoning Administrator must evaluate possible soil erosion impacts and development visibility from public waters before issuing a permit for construction of sewage treatment systems, roads, driveways, structures, or other improvements on steep slopes. When determined necessary, conditions must be attached to issued permits to prevent erosion and to preserve existing vegetation screening of structures, vehicles, and other facilities as viewed from the surface of public waters, assuming summer, leaf-on vegetation.

7. Additional Special Provisions

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

Controlled Access Lot Frontage Requirements

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

- 3) They must 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; and
- 4) Covenants or other equally effective legal instruments must be developed that specify which owners have authority to use the access lot and what activities are allowed. The activities may include watercraft launching, loading, storage, beaching, mooring, or docking. They must also include other outdoor recreational activities that do not significantly conflict with general public use of the public water or the enjoyment of normal property rights by adjacent property owners. Examples of the non-significant conflict activities include swimming, sunbathing, or picnicking. The covenants must limit the total number of vehicles allowed to be parked and the total number of watercraft allowed to be continuously moored, docked, or stored over water, and must require centralization of all common facilities and activities in the most suitable locations on the lot to minimize topographic and vegetation alterations. They must also require all parking areas, storage buildings, and other facilities to be screened by vegetation or topography as much as practical from view from the public water, assuming summer, leaf-on conditions.

D. Shoreland Alterations

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

1. **Vegetation Alterations**
 - a. Vegetation alteration necessary for the construction of structures and sewage treatment systems and the construction of roads and parking areas as regulated elsewhere in this Ordinance 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 Subsection G of this Chapter is allowed subject to the following standards:
 - 1) Intensive vegetation clearing within the shore and bluff impact zones and on steep slopes is not allowed. Intensive vegetation clearing for forest land conversion to another use outside of these areas is allowed 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 condition, 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, limb or branches that are dead, diseased, or pose safety hazards.
 - 3) The use of fertilizer and pesticides in the shoreland district must be done in such a way as to minimize runoff into the shore impact zone or public water by the use of earth, vegetation, or both.

2. Topographic Alterations/Grading and Filling

- a. Grading and filling and excavations necessary for the construction of structures, sewage treatment systems, and driveways under validly issued construction permits for these facilities do not require the issuance of a separate grading and filling permit, however, the grading and filling standards in this Section must be incorporated into the issuance of permits for construction of structures, sewage treatment systems, and driveways.
- b. Public roads and parking areas are regulated by Subsection E of this Chapter.
- c. Notwithstanding items a and b above, a grading and filling permit will be required for:
 - 1) the movement of more than ten (10) cubic yards of material on steep slopes or within shore or bluff impact zones; and
 - 2) the movement of more than fifty (50) cubic yards of material outside of steep slopes and shore and bluff impact zones.

- d. The following considerations and conditions must be adhered to during the issuance of construction permits, grading and filling permits, conditional use permits, variances and subdivision approvals:
- 1) Grading or filling in any type 2,3,4,5,6,7, or 8 wetland must be evaluated to determine how extensively the proposed activity would affect the following functional qualities of the wetland*:
 - a) sediment and pollutant trapping retention;
 - b) storage of surface run-off to prevent or reduce flood damage;
 - c) fish and wildlife habitat;
 - d) recreational use;
 - e) shoreline or bank stabilization; and
 - f) noteworthiness, including special qualities such as historic significance, critical habitat for endangered plants and animals, or others.

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

- 2) Alterations must be designed and conducted in a manner that ensures only the smallest amount of bare ground is exposed for the shortest time possible.
- 3) Mulches or similar materials must be used, where necessary, for temporary bare soil coverage and a permanent vegetation cover must be established as soon as possible.
- 4) Methods to minimize soil erosion and to trap sediments before they reach any surface water feature must be used.
- 5) Altered areas must 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.
- 6) Fill or excavated material must not be placed in a manner that creates an unstable slope.
- 7) Plans to place fill or excavated material on steep slopes must be reviewed by qualified professionals for continued slope stability and must not create finished slopes of thirty (30) percent or greater.
- 8) Fill or excavated material must not be placed in bluff impact zones.
- 9) Any alterations below the ordinary high water level of public waters must first be authorized by the Commissioner under Minnesota Statutes, Section 103G.245.

- 10) Alterations of topography must only be allowed if they are accessory to permitted or conditional uses and do not adversely affect adjacent or nearby properties; and
- 11) Placement of natural rock riprap, including associated grading of the shoreline and placement of a filter blanket, is permitted if the finished slope does not exceed three (3) feet horizontal to one (1) foot vertical, the landward extent of the riprap is within ten (10) feet of the ordinary high water level, and the height of the riprap above the ordinary high water level does not exceed three (3) feet.
 - e. Connections to Public Waters. Excavations where the intended purpose is connection to a public water, such as boat slips, canals, lagoons, and harbors, must be controlled by local shoreland controls. Permission for excavations may be given only after the Commissioner has approved the proposed connection to public waters.

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

1. Public and private roads and parking areas must be designed to take advantage of natural vegetation and topography to achieve maximum screening from view from public waters. Documentation must be provided by a qualified individual that all roads and parking areas are designed and constructed to minimize and control erosion to public waters consistent with the field office technical guides of the local soil and water conservation district, or other applicable technical materials.
2. Roads, driveways and parking areas must meet structure setbacks and must not be placed within bluff and shore impact zones when other reasonable and feasible placement alternatives exist. If no alternatives exist, they may be placed within these areas and must be designed to minimize adverse impacts.
3. 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 Subsection D, #2 of this Chapter must be met.

F. Stormwater Management

The following general and specific standards shall apply:

1. General Standards
 - a. When possible, existing natural drainage ways, wetlands, and vegetated soil surfaces must be used to convey, store, filter, and retain stormwater run-off before discharge to public waters.

- b. Development must be planned and conducted in a manner that will minimize the extent of disturbed areas, run-off velocities, erosion potential, and reduce and delay run-off volumes. Disturbed areas must be stabilized and protected as soon as possible and facilities or methods used to retain sediment on the site.
- c. When development density, topographic features, and soil and vegetation conditions are not sufficient to adequately handle stormwater run-off using natural features and vegetation, various types of constructed facilities such as diversions, settling basins, skimming devices, dikes, waterways, and ponds may be used. Preference must be given to designs using surface drainage, vegetation, and infiltration rather than buried pipes and man-made materials and facilities.

2. Specific Standards

- a. Impervious surface coverage of lots must not exceed twenty five percent (25%) of the lot area.
- b. When constructed facilities are used for stormwater management, documentation must be provided by a qualified individual that they are designed and installed consistent with the field office technical guide of the local soil and water conservation districts.
- c. New constructed stormwater outfalls to public waters must provide for filtering or settling of suspended solids and skimming of surface debris before discharge.

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

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

- a. Surface water oriented commercial uses and industrial, public, or semipublic uses with similar needs to have access to and use of public waters may be located on parcels or lots with frontage on public waters. Those uses with water oriented needs must meet the following standards:
 - 1) In addition to meeting impervious coverage limits, setbacks, and other zoning standards in this Ordinance, the uses must be designed to incorporate topographic and vegetative screening of parking areas and structures.
 - 2) Uses that require short term watercraft mooring for patrons must centralize these facilities and design them to avoid obstructions of navigation and to be the minimum size necessary to meet the need.
 - 3) 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:

- a) No advertising signs or supporting facilities for signs may be placed in or upon public waters. Signs conveying information or safety messages may be placed in or on public waters by a public authority or under a permit issued by the county sheriff.
 - b) Signs may be placed, when necessary, within the shore impact zone if they are designed and sized to be the minimum necessary to convey needed information. They must only convey the location and name of the establishment and the general types of goods or services available. The signs must not contain other detailed information such as product brands and prices, must not be located higher than ten (10) feet above the ground, and must not exceed thirty two (32) square feet in size. If illuminated by artificial lights, the lights must be shielded or directed to prevent illumination out across public waters.
 - c) 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. Uses without water oriented needs must be located on lots or parcels without public waters frontage, or, if located on lots or parcels with public waters frontage, must either be set back double the normal ordinary high water level setback or be substantially screened from view from the water by vegetation or topography, assuming summer, leaf-on conditions.

2. Agriculture Use Standards

- a. General cultivation farming, grazing, nurseries, horticulture, truck farming, sod farming, and wild crop harvesting are permitted uses if steep slopes and shore and bluff impact zones are maintained in permanent vegetation or operated under an approved conservation plan (Resource Management Systems) consistent with the field office technical guides of the local soil and water conservation 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 fifty (50) feet from the ordinary high water level.
- b. Animal feedlots must meet the following standards:
 - 1) New feedlots must not be located in the shoreland of watercourses or in bluff impact zones and must meet a minimum setback of 1,000 feet from the ordinary high water level of all public waters basins.
 - 2) Modifications or expansions to existing feedlots that are located within 300 feet of the ordinary high water level or within a bluff impact zone are allowed if they do not further encroach into the existing ordinary high water level setback or encroach on bluff impact zones.

- 3) A feedlot permit must be obtained by the owner or operator of an animal feedlot when required by MPCA Regulations, Chapter 7020.
- c. Pasturing of livestock along Recreational Development (RD) Lakes (Kansas, Long, and St. James Lakes as of 1/01/94) must meet the following standards. These standards do not apply along any other types of lakes nor along watercourses:
 - 1) A fence must be erected and setback from the ordinary high water level a minimum of 20 feet so that livestock will be prevented from entering open water of the protected basin.

3. Forest Management Standards

The harvesting of timber and associated reforestation must be conducted consistent with the provisions of the Minnesota Nonpoint Source Pollution Assessment-Forestry and the provisions of Water Quality in Forest Management “Best Management Practices in Minnesota.”

4. Extractive Use Standards

- a. Site Development and Restoration Plan. An extractive use site development and restoration plan must be developed, approved, and followed over the course of operation of the site. The plan must address dust, noise, possible pollutant discharges, hours and duration of operation, and anticipated vegetation and topographic alterations. It must also identify actions to be taken during operation to mitigate adverse environmental impacts, particularly erosion, and must clearly explain how the site will be rehabilitated after extractive activities ends.
- b. Setbacks for Processing Machinery. Processing machinery must be located consistent with setback standards for structures from ordinary high water levels of public waters and from bluffs.

5. Mining of Metallic Minerals and Peat

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

H. Conditional Uses

Conditional uses allowable within shoreland areas shall be subject to the review and approval procedures, and criteria and conditions for review of conditional uses established county-wide. The following additional evaluation criteria and conditions apply within shoreland areas:

1. Evaluation Criteria

A thorough evaluation of the waterbody and the topographic, vegetation, and soils conditions on the site must be made to ensure:

- a. the prevention of soil erosion or other possible pollution of public waters, both during and after construction;
- b. the visibility of structures and other facilities as viewed from the public waters is limited;
- c. the site is adequate for water supply and on-site sewage treatment; and
- d. 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.

2. Conditions Attached to Conditional Permits

The Planning Commission or the County 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:

- a. increased setbacks from the ordinary high water level;
- b. limitation on the natural vegetation to be removed or the requirement that additional vegetation be planted; and
- c. special provisions for the location, design, and use of structures, sewage treatment systems, watercraft launching and docking areas, and vehicle parking areas.

I. Water Supply

1. Water Supply

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

J. Non-Conformities

All legally established non-conformities as of the date of this Ordinance may continue, but they will be managed according to applicable state statutes and other regulations of this county 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.

1. Construction on Non-conforming Lots of Record

- a. Lots of record in the office of the County Recorder on the date of enactment of local shoreland controls that do not meet the requirements of Subsection C of this Chapter may be allowed as building sites without variances from lot size requirements provided the use is permitted in the zoning district, the lot has been in separate ownership from abutting lands at all times since it became substandard, was created compliant with official controls in effect at the time, and sewage treatment and setback requirements of this Ordinance are met.
- b. A variance from setback requirements must be obtained before any use, sewage treatment system, or building permit is issued for a lot. In evaluating the variance, the Board of Adjustment shall consider sewage treatment and water supply capabilities or constraints of the lot and shall deny the variance if adequate facilities cannot be provided.
- c. If, in a group of two or more contiguous lots under the same ownership, any individual lot does not meet the requirements of Subsection C of this Chapter, the lot must not be considered as a separate parcel of land for the purposes of sale or development. The lot must be combined with the one or more contiguous lots so they equal one or more parcels of land, each meeting the requirements of Subsection C of this Chapter as much as possible.

2. Additions or Expansions to Non-conforming Structures

- a. All additions or expansions to the outside dimensions of an existing non-conforming structure must meet the setback, height, and other requirements of Section 10,C,#4 of this Ordinance. Any deviation from these requirements must be authorized by a variance pursuant to Section 15.
- b. Deck additions may be allowed without a variance to a structure not meeting the required setback from the ordinary high water level if all of the following criteria and standards are met:
 - 1) the structure existed on the date the structure setbacks were established;
 - 2) a thorough evaluation of the property and structure reveals no reasonable location for a deck meeting or exceeding the existing ordinary high water level setback of the structure;
 - 3) the deck encroachment toward the ordinary high water level does not exceed fifteen percent (15%) of the existing setback of the structure from the ordinary

high water level or does not encroach closer than thirty (30) feet, whichever is more restrictive; and

- 4) the deck is constructed primarily of wood and is not roofed or screened.

3. Non-conforming Sewage Treatment Systems

- a. A sewage treatment system not meeting the requirements of Subsection L of Section 12-General Provisions must be upgraded, at a minimum, at any time a property owner applies for a building permit, applies for a conditional use permit, variance, rezoning, or when the recording of a property transfer is required in the sale of property with an existing dwelling, subject to rules listed in Sec. 12, Subd. L. For the purposes of this provision, a sewage treatment system shall not be considered non-conforming if the only deficiency is the sewage treatment system's improper setback from the ordinary high water level.
- b. The governing body of Watonwan County has by formal resolution notified the Commissioner of its program to identify non-conforming sewage treatment systems. At the time of application for a building permit, a conditional use permit, variance, or rezoning, the Zoning Administrator shall inform the applicant that prior to the granting of said permit, the property owner's on-site septic system must be inspected to determine whether it conforms to all applicable regulations referenced in this Ordinance. The county will require upgrading or replacement of any non-conforming system identified by this program within the time frame required in Sec. 12, Subd. L of this Ordinance.

In the case of property transfer, rules established in Sec. 12, Subd. L shall be followed, including the filing of the Septic Disclosure/Agreement form.

Sewage systems installed according to all applicable local shoreland management standards adopted under Minnesota Statutes, Section 103F in effect at the time of installation, may be considered as conforming unless they are determined to be failing, except that systems using cesspools, leaching pits, seepage pits, or other deep disposal methods, or systems with less soil treatment area separation above groundwater than required by the Minnesota Pollution Control Agency's Chapter 7080- 7081 for design of on-site sewage treatment systems, shall be considered non-conforming.

K. Subdivision/Platting Provisions

1. Land Suitability

Each lot created through subdivision must 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 waterbased recreation, important fish and wildlife habitat, presence of significant historic sites, or any other feature of the natural land likely to be harmful to the health, safety, or welfare of future residents of the proposed subdivision or of the community.

2. Consistency with Other Controls.

Subdivisions must conform to the Watonwan County Subdivision Ordinance. A subdivision will not be approved where a later variance from one or more standards in official controls would be needed to use the lots for their intended purpose. In areas not served by publicly owned sewer and water systems, a subdivision will not be approved unless domestic water supply is available and a sewage treatment system consistent with Sections 10,C,#4 and 10, I can be provided for every lot. Each lot shall meet the minimum lot size and dimensional requirements of Section 10,C, #4, including at least a minimum contiguous lawn area, that is free of limiting factors sufficient for the construction of two (2) standard soil treatment systems. Lots that would require use of holding tanks must not be approved.

3. Information Requirements

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

- a. topographic contours at ten (10) foot intervals or less from United States Geological Survey Maps or more accurate sources, showing limiting site characteristics;
- b. the surface water features required in Minnesota Statutes, Section 505.02, Subdivision 1, to be shown on plats, obtained from United States Geological Survey quadrangle topographic maps or more accurate sources;
- c. adequate soils information to determine suitability for building and on-site sewage treatment capabilities for every lot from the most current existing sources or from field investigations such as soil borings, percolation tests, or other methods;
- d. information regarding adequacy of domestic water supply; extent of anticipated vegetation and topographic alterations; near-shore aquatic conditions, including depths, types of bottom sediments, and aquatic vegetation; and proposed methods for controlling stormwater run-off and erosion, both during and after construction activities;
- e. location of 100 year flood plain areas and floodway districts from existing adopted maps or data; and
- f. 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.

4. Dedications

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

5. Platting

All subdivisions that create one (1) or more lots or parcels that are five (5) acres or less in size shall be processed as a plat in accordance with Minnesota Statutes, Chapter 505. No permit for construction of buildings or sewage treatment systems shall be issued for lots created after these official controls were enacted unless the lot was approved as part of a formal subdivision.

6. 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 must meet or exceed the sizing criteria in Section 10,C,#7a of this Ordinance.