

ARTICLE 16 MANAGEMENT OF SHORELAND AREAS

SECTION 1. STATUTORY AUTHORIZATION

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

SECTION 2. POLICY

The uncontrolled use of shorelands of Freeborn 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 interest of the public health, safety and welfare to provide for the wise subdivision, use and development of shorelands of public waters. The Legislature of Minnesota has delegated responsibility to local governments of the state to regulate the subdivisions, use and development of the shorelands of public waters and thus 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. This responsibility is hereby recognized by Freeborn County.

SECTION 3. GENERAL PROVISIONS

The provisions of this ordinance shall apply to the shorelands of the public water bodies as classified in Section 5 of this ordinance. Pursuant to Minnesota Rules, Parts 6120.2500 - 6120.3900, no lake, pond, or flowage less than 25 acres in size in the unincorporated areas of Freeborn County are regulated by these shoreland regulations. A body of water created by a private user where there was no previous shoreland is exempt from this ordinance.

Subd. 1. Compliance. The use of any shoreland of public waters; the size and shape of lots; the use, size, type and location of structures on lots; the installation and maintenance of water supply and waste treatment systems, the grading and filling of any shoreland area; the cutting of shoreland vegetation; and the subdivision of land shall be in full compliance with the terms of this ordinance and other applicable regulations.

Subd. 2. Enforcement. The Zoning Administrator is responsible for the administration and enforcement of this ordinance. Any violation of the provisions of this ordinance or failure to comply with any of its requirements, including violations of conditions and safeguards established in connection with grants of variances or conditional uses, shall constitute a misdemeanor and shall be punishable as defined by law. Violations of this ordinance can occur regardless of whether or not a permit is required for a regulated activity pursuant to Section 4 of this ordinance.

- Subd. 3. Interpretation. In the interpretation and application, the provisions of this ordinance shall be held to be minimum requirements and shall be liberally construed in favor of the public health, safety and welfare of the citizens of Freeborn County by providing for the wise subdivision, use and development of shorelands of public waters. The Legislature of Minnesota has and shall not be deemed a limitation or repeal of any other powers granted by State Statutes.
- Subd. 4. Severability. If an section, clause, provision, or portion of this ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected thereby.
- Subd. 5. Abrogation and Greater Restrictions. It is not intended by this ordinance to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, when this ordinance is inconsistent with any other ordinance, the ordinance which imposes the greater restriction shall prevail.

SECTION 4. ADMINISTRATION

- Subd. 1. Permits Required. A permit is required for the construction of buildings or building additions (and including such related activities as construction of decks and signs), the installation and/or alteration of sewage treatments systems, vegetative alteration, and grading and filling activities not exempted by Section 6, Subd. 3 of this ordinance. Application for a permit shall be made to the Zoning Administrator on the forms provided. The application shall include the necessary information so that the Zoning Administrator can determine the site's suitability for the intended use and that a compliant sewage treatment system will be provided.

A permit authorizing an addition to an existing structure shall stipulate that an identified non-conforming sewage treatment system, as defined by Section 6, Subd. 13 shall be reconstructed or replaced in accordance with the provisions of this ordinance.

- Subd. 2. Certificate of Zoning Compliance. The Zoning Administrator shall issue a certificate of zoning compliance, prior to the commencement of the activity, for each activity requiring a permit as specified in Section 4 of this Ordinance. This certificate will specify that the use of land conforms to the requirements of this ordinance. Any use, arrangement, or construction at variance with that authorized by permit shall be deemed a violation of this ordinance and shall be punishable as provided in Section 3, Subd. 2 of this ordinance.

Subd. 3. Variances. Variances may only be granted in accordance with M.S. Chapter 394. A variance may not circumvent the general purposes and intent of this ordinance. No variance may be granted that would allow any use that is prohibited in the zoning district in which the subject property is located. Conditions may be imposed in the granting of a variance to ensure compliance and to protect adjacent properties and the public interest. In considering a variance request, the Board of Adjustments must also consider whether the property owner has reasonable use of the land without the variance, whether the variance is being requested solely on the basis of economic considerations, and the characteristics of development on adjacent properties.

A. The Board of Adjustments shall hear and decide requests for variances in accordance with the rules that it has adopted for the conduct of business. When a variance is approved after the Department of Natural Resources has formally recommended denial in the hearing record, the notification of the approved variance required in Section 4 Subd. 4 below shall also include the Board of Adjustments summary of the public record/testimony and the findings of facts and conclusions which supported the issuance of the variance.

B. For existing developments, the application for variance must clearly demonstrate whether a conforming sewage treatment system is present for the intended use of the property. The variance, if issued, must require reconstruction of a nonconforming sewage treatment system.

Subd. 4. Notifications to the Department of Natural Resources. Copies of all notices of any public hearings to consider variances, amendments, or conditional uses under local shoreland management controls must be sent to the commissioner or the commissioner's designated representative and postmarked at least ten days before the hearings. Notices of hearings to consider proposed subdivisions/plats must include copies of the subdivision/plat.

A. A copy of approved amendments and subdivision/plats, and final decisions granting variances or conditional uses under local shoreland management controls must be sent to the commissioner or the commissioner's designated representative and postmarked within ten days of final action.

SECTION 5. SHORELAND CLASSIFICATION SYSTEM AND LAND USE DISTRICTS

The public waters of Freeborn County have been classified below consistent with the criteria found in Minnesota Regulations, Part 6120.3300, and the Protected Waters Inventory Map for Freeborn County, Minnesota. The shoreland area for the waterbodies listed in Section 5, Subd. 1 and Subd. 2 shall be defined in Article 2 and as shown on the Official Zoning Map.

Subd. 1. Protected Waters

A. Natural Environmental Lakes	Township	PWID
Newry Lake	Newry	24-4
Wetland NW Shore Geneva Lake	Geneva	24-13
Geneva Lake	Geneva/Bath	24-15
Goose Lake	Albert Lea	24-17
Lower Twin Lake	Nunda	24-27
Bear Lake	Nunda	24-28
Upper Twin Lake	Nunda/Pickerel Lk	24-31
Eberhart Lake	Pickerel Lake	24-32
Church Lake	Pickerel Lake	24-33
Sugar Lake	Manchester	24-37
Halls Lake	Manchester	24-38
School Section Lake	Manchester	24-40
Freeborn Lake	Freeborn/Carlston	24-44
Spicer Lake	Freeborn	24-45
Penny Lake	Freeborn	24-48
Trenton Lake	Freeborn	24-49
Mud Lake	Pickerel Lake	24-68
Unnamed	Moscow	24-75
B. Recreational Development Lakes	Township	PWID
Albert Lea Lake	Hayward/A. Lea	24-14
White Lake	A. Lea/Pickerel	24-24
Pickerel Lake	A. Lea/Pickerel	24-25
State Line Lake	Nunda	24-30
C. General Development Lakes	Township	PWID
Fountain Lake	A. Lea/Bancroft	24-18

Subd. 2. Rivers and Streams

A. Agricultural Rivers *	Description
Cobb River	Sec. 03, T103N, R23W to Sec. 19, T104N, R23W.
Shell Rock River	Sec. 25, T102N, R21W to Sec. 32, T101N, R22W.
B. Tributary Streams *	

Name	Description
Cobb Creek	Sec. 13, T103N R23W to Sec. 16, T104N R23W Sec. 17, T104N R23W to Sec. 07, T104N R22W
Boot Creek	Sec. 06, T104N R22W to Sec. 06, T104N R22W
Unnamed to Geneva Lake	Sec. 07, T104N R22W to Sec. 18, T104N R20W (Basin 15)
Unnamed tributary	Sec. 06, T103N R20W to Sec. 06, T103N R20W
Unnamed to Turtle Creek	Sec. 20, T103N R20W to Sec. 20, T103N R20W
Unnamed to Turtle Creek	Sec. 31, T103N R19W to Sec. 30, T103N R19W
Orchard Creek (OC)	Sec. 12, T102N R19W to Sec. 13, T102N R19W
Unnamed to OC	Sec. 14, T102N R19W to Sec. 25, T102N R19W

Mud Lake Creek	Sec. 29, T012N R19W to Sec. 32, T102N R19W
	Sec. 04, T101N R19W to Sec. 13, T101N R19W
Unnamed tributary	Sec. 14, T101N R19W to Sec. 24, T101N R19W
Unnamed to Cedar River	Sec. 34, T101N R19W to Sec. 35, T101N R19W
Bancroft Creek (BC)	Sec. 28, T103N R21W to Sec. 32, T103N R21W
	(Basin 18)
Unnamed to BC	Sec. 09, T103N R21W to Sec. 09, T103N R21W
Unnamed to BC	Sec. 15, T103N R21W to Sec. 15, T103N R21W
Unnamed to BC	Sec. 20, T103N R21W to Sec. 21, T103N R21W
Unnamed to Fountain Lk	Sec. 03, T102N R21W to Sec. 04, T102N R21W
	(Basin 17) (Basin 18)
Unnamed to A. Lea Lake	Sec. 01, T102N R21W to Sec. 07, T102N R21W
	(Basin 14)
Peter Lund Creek	Sec. 21, T102N R20W to Sec. 07, T102N R20W
	(Basin 14)
Unnamed to Fountain Lk	Sec. 26, T103N R22W to Sec. 06, T102N R21W
	(Basin 18)
Unnamed from Sugar Lake	Sec. 28, T103N R22W to Sec. 28, T103N R22W
	(Basin 37)
Unnamed from Halls Lake	Sec. 29, T103N R22W to Sec. 20, T103N R22W
	(Basin 38)
Unnamed to Fountain Lk	Sec. 13, T102N R22W to Sec. 08, T102N R21W
	(Basin 25) (Basin 18)
Unnamed to A. Lea Lake	Sec. 09, T102N R21W to Sec. 09, T102N R21W
	(Basin 18) (Basin 14)
Unnamed tributary	Sec. 08, T101N R20W to Sec. 08, T101N R20W
Goose Creek (GC)	Sec. 11, T101N R22W to Sec. 13, T101N R22W
	(Basin 27)
Unnamed to Lower Twin Lk	Sec. 02, T101N R22W to Sec. 02, T101N R22W
	(Basin 31) (Basin 27)
Lime Creek	Sec. 20, T101N R22W to Sec. 29, T101N R22W
	(Basin 28)
Steward Creek (CD #23)	Sec. 14, T102N R23W to Sec. 19, T102N R23W
East Branch Blue Earth R	Sec. 05, T101N R23W to Sec. 19, T102N R23W
Foster Creek (FC)	Sec. 04, T102N R23W to Sec. 31, T103N R23W
Unnamed to FC	Sec. 33, T103N R23W to Sec. 30, T103N R23W

* These rivers are protected watercourses and are shown on the Protected Water Inventory Map for Freeborn County, a copy of which is hereby adopted by reference.

Subd. 3. Supporting Data. Supporting data for shoreland management classifications is supplied by the records and files of the Department of Natural Resources, including maps, lists, and other products of the Protected Waters Inventory; data and publications of the Shoreland Update Project; the Minnesota Department of Natural Resources Statewide Outstanding Rivers Inventory; Bulletin No. 25 (1968); and Supplementary Report No. 1 - Shoreland Management classification System for Public Waters (1976) of the Division of Waters, Minnesota's Lakeshore, part 2, Statistical Summary, Department of Geography, University of Minnesota; and additional supporting data may be supplied, as needed, by the commissioner. These publications are incorporated by reference, are available through the Minitex interlibrary loan system, and are not subject to frequent change.

Subd. 4. Classification Procedures. Public waters shall be classified by the commissioner. The commissioner shall document each classification with appropriate supporting data. A preliminary list of classified public waters shall be submitted to each affected local government. Each affected local government shall be given an opportunity to request a change in the proposed classification. If a local government feels such a change is needed, a written request with supporting data may be submitted to the commissioner for consideration. If a local government requests a change in a proposed shoreland management classification and the public water is located partially within the jurisdiction of another governmental unit, the commissioner shall review the recommendations of the other governmental units before making a final decision on the proposed change.

Subd. 5. Reclassification. The commissioner may, as the need arises, reclassify any public water. Also, any local data requesting a change in any shoreland management classification of waters within its jurisdiction to the commissioner for consideration.

Subd. 6. Modification and expansion of system. The commissioner may, as the need arises, modify or expand the shoreland classification system to provide specialized shoreland management standards based upon unique characteristics and capabilities of any public waters.

Subd. 7. Land Use District Criteria. The land use districts in Section 5, Subd. 4, and the delineation of a land use district's boundaries on the Official Zoning Map, must be consistent with the goals, policies, and objectives of the comprehensive land use plan and the following criteria, considerations, and objectives:

A. General Considerations and Criteria for All Land Uses:

1. Preservation of natural areas.
2. Present ownership and development of shoreland areas.
3. Shoreland soil types and their engineering capabilities.
4. Topographic characteristics.
5. Vegetative cover.
6. Aquatic physical characteristics, values, and constraints.
7. Recreational use of the surface water.
8. Road and service center accessibility.
9. Socioeconomic development needs and plans as they involve water and related land resources.

10. The land requirements of industry which, by its nature, requires location in shoreland areas.
11. The necessity to preserve and restore certain areas having significant historical or ecological value.

Subd. 8. Land Use District Descriptions. The land use districts provided below, and the allowable land uses therein for the given classifications of waterbodies, shall be properly delineated on the Official Zoning Map for shorelands of this community. These land use districts are in conformance with the criteria specified in Minnesota Rules, Part 6120.3200, Subp. 3:

A. Natural Environment Lakes

The permitted and conditional uses listed below for Natural Environment Lakes are generally consistent with the permitted and conditional uses in Article 6 of this Ordinance.

1. Special Protection District
 - (A) Permitted Uses
 - (1) Sensitive resource management.
 - (2) Agricultural: cropland and pasture.
 - (B) Conditional Uses
 - (1) New Agricultural feedlots.
 - (2) Parks and historic sites.
 - (3) Extractive use.
 - (4) One-family dwellings.
2. Residential District
 - (A) Permitted Uses
 - (1) One-family dwellings.
 - (B) Conditional Uses
 - (1) Semipublic uses.
 - (2) Parks and historic sites.
 - (3) Duplexes
3. Water Oriented Commercial District
 - (A) Permitted Uses
 - (1) None.
 - (B) Conditional Uses
 - (1) Surface water-oriented uses.
 - (2) Public, semipublic uses.
 - (3) Parks and historic sites uses.

4. General Use
- (A) Permitted Uses
- (1) None.
- (B) Conditional Uses
- (1) Surface water-oriented uses.
- (2) Public, semipublic uses.
- (3) Parks and historic sites uses.
- (4) Extractive use.

5. Lot Area and Width Standards. The lot area (in square feet) and lot width standards (in feet) for one family dwelling lots created after the date of enactment of this ordinance for are as follows:

	Riparian Lots		Nonriparian Lots	
	<u>Area</u>	<u>Width</u>	<u>Area</u>	<u>Width</u>
Unsewered	80,000	200	80,000	200
Sewered	40,000	125	20,000	125

6. Placement of Structures on Lots.

- (A) When more than one setback applies to a site, structures 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) Structures and on-site Sewage System must setback 150 feet from the Ordinary High Water Level, except as follows:
- (1) One water-oriented accessory structure designed in accordance with Section 6, Subd. 2 of this ordinance may be set back a minimum distance of ten (10) feet from the ordinary high water level.

(C) Additional Structure Setbacks:

	<u>Setback From</u>	<u>Distance</u>
(1)	top of bluff	30 feet
(2)	unplatted cemetery	50 feet
(3)	right-of-way line of a divided highway	100 feet
(4)	center-line of a federal, state, or county highway.	130 feet
(5)	center-line of town road, public street, other roads or streets not classified.	65 feet

- (D) Bluff Impact Zones. Structures and accessory facilities, except stairways and landings, must not be placed within bluff impact zones.
- (E) 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.

B. Recreational Development Lakes

The permitted and conditional uses listed below for Recreational Development Lake Districts are generally consistent with the permitted and conditional uses in Article 7 and 8 of this ordinance.

- 1. Special Protection District
 - (A) Permitted Uses
 - (1) Sensitive resource management.
 - (2) Agricultural: cropland and pasture.
 - (B) Conditional Uses
 - (1) New Agricultural feedlots.
 - (2) Parks and historic sites.
 - (3) Extractive use.
 - (4) One-family dwellings.
- 2. Residential District
 - (A) Permitted Uses
 - (1) One and two family dwellings.
 - (B) Conditional Uses
 - (1) Semipublic uses.
 - (2) Parks and historic sites.
 - (3) Triplex & quad dwellings.
- 3. Water Oriented Commercial District
 - (A) Permitted Uses
 - (1) Surface water-oriented commercial uses.
 - (B) Conditional Uses
 - (1) Public, semipublic uses.
 - (2) Parks and historic sites uses.
- 4. General Use
 - (A) Permitted Uses
 - (1) Commercial uses.
 - (2) Public, semipublic uses.
 - (B) Conditional Uses
 - (1) Parks and historic sites uses.
 - (2) Extractive use.

5. Lot Area and Width Standards. The lot area (in square feet) and lot width standards (in feet) for single, duplex, triplex and quad residential lots created after the date of enactment of this ordinance for Recreational Development lakes are as follows:

Unsewered	Riparian Area	Lots Width	Nonriparian Area	Lots Width
Single	40,000	150	40,000	150
Duplex	80,000	225	80,000	265
Triplex	120,000	300	120,000	375
Quad	160,000	375	160,000	490
Sewered	Riparian Area	Lots Width	Nonriparian Area	Lots Width
Single	20,000	75	15,000	75
Duplex	35,000	135	26,000	135
Triplex	50,000	195	38,000	190
Quad	65,000	255	49,000	245

6. Placement of Structures on Lots.

(A) When more than one setback applies to a site, structures 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) Structures and on-site sewage system on Recreational Development lakes must setback from the Ordinary High Water Level as follows:

Sewered structures	75 feet
Unsewered structures	100 feet
On-site sewage treatment systems	75 feet

(1) One water-oriented accessory structure designed in accordance with Section 6, Subd. 2 of this ordinance may be set back a minimum distance of ten (10) feet from the ordinary high water level.

(C) Additional Structure Setbacks:

<u>Setback from</u>	<u>Distance</u>
(1) top of bluff	30 feet
(2) unplatted cemetery	50 feet
(3) right-of-way line of a divided highway	100 feet
(4) center-line of a federal, state, or county highway	130 feet
(5) center-line of town road, public street, or other roads or streets not classified	75 feet

(D) Bluff Impact Zones. Structures and accessory facilities, except stairways and landings, must not be placed within bluff impact zones.

(E) 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 highwater level setback or be substantially screened from view from the water by vegetation or topography, assuming summer, leaf-on conditions.

C. General Development Lakes

The permitted and conditional uses listed below for General Development Lake Districts are generally consistent with the permitted and conditional uses in Articles 8 and 9 of this Ordinance.

1. Special Protection District

(A) Permitted Uses

- (1) Sensitive resource management.
- (2) Agricultural cropland and pasture.

(B) Conditional Uses

- (1) Agricultural feedlots.
- (2) Parks and historic sites
- (3) Extractive use.
- (4) One-family dwellings.

2. Residential District

(A) Permitted Uses

- (1) One-family dwellings.
- (2) Duplex, triplex & quad dwellings.

- (B) Conditional Uses
 - (1) Semipublic uses.
 - (2) Parks and historic sites.
- 3. Water Oriented Commercial District
 - (A) Permitted Uses
 - (1) Surface water-oriented commercial uses.
 - (B) Conditional Uses
 - (1) Public, semipublic uses.
 - (2) Parks and historic sites uses.
- 4. General Use
 - (A) Permitted Uses
 - (1) Commercial uses.
 - (2) Public, semipublic uses.
 - (B) Conditional Uses
 - (1) Parks and historic sites uses.
 - (2) Extractive use.
- 5. Lot Area and Width Standards. The lot area (in square feet) and lot width standards (in feet) for single, duplex, triplex and quad residential lots created after the date of enactment of this ordinance for General Development lakes are as follows:

Unsewered	Riparian	Lots	Nonriparian	Lots
	<u>Area</u>	<u>Width</u>	<u>Area</u>	<u>Width</u>
Single	20,000	100	40,000	150
Duplex	40,000	180	80,000	265
Triplex	60,000	260	120,000	375
Quad	180,000	340	160,000	490
Sewered	Riparian	Lots	Nonriparian	Lots
	<u>Area</u>	<u>Width</u>	<u>Area</u>	<u>Width</u>
Single	15,000	75	10,000	75
Duplex	26,000	135	17,500	135
Triplex	38,000	195	25,000	190
Quad	49,000	255	32,500	245

6. Placement of Structures on Lots.

(A) When more than one setback applies to a site, structures 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) Structures and on-site sewage system on General Development lakes must setback from the Ordinary High Water Level as follows:

Sewered structures	50 feet
Unsewered structures	75 feet
On-site sewage treatment systems	50 feet

(1) One water-oriented accessory structure designed in accordance with Section 6, Subd 2 of this ordinance may be set back a minimum distance of ten (10) feet from the ordinary high water level.

(C) Additional Structure Setbacks:

<u>Setback From</u>	<u>Distance</u>
(1) top of bluff	30 feet
(2) unplatted cemetery	50 feet
(3) right-of-way line of a divided highway	100 feet
(4) center-line of a federal federal, state, or county highway	130 feet
(5) center-line of town road, public street, other roads or streets not classified	75 feet

(D) Bluff Impact Zones. Structures and accessory facilities, except stairways and landings, must not be placed within bluff impact zones.

(E) 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.

D. Agricultural River Standards.

The permitted and conditional uses listed below for Agricultural River Districts are generally consistent with the permitted and conditional uses in Article 6 of this ordinance.

1. Special Protection District
 - (A) Permitted Uses
 - (1) Sensitive resources management.
 - (2) Agriculture: cropland and pasture.
 - (B) Conditional Uses
 - (1) New Agricultural feedlots.
 - (2) Parks and historic sites.
 - (3) Extractive uses.
 - (4) One-family dwellings.
2. Residential District
 - (A) Permitted Uses
 - (1) One-family dwelling.
 - (B) Conditional Uses
 - (1) Semi-public uses.
 - (2) Parks and historic sites.
 - (3) Duplex.
3. Water Oriented Commercial District
 - (A) Permitted Uses
 - (1) Semi-public uses.
 - (B) Conditional Uses
 - (1) Surface water-oriented commercial.
 - (2) Parks and historic sites.
4. General Use
 - (A) Permitted Uses
 - (1) None.
 - (B) Conditional Uses
 - (1) Commercial Uses.
 - (2) Parks and historic sites.
 - (3) Semi-public uses.
 - (4) Extractive uses.
5. Lot Width Standards. The lot width for one-family dwelling is 150 feet, or 225 feet for a duplex.

6. Placement of Structures on Lots.

(A) When more than one setback applies to a site, structures 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) Structures and on-site sewage system in Agricultural River districts must setback from the Ordinary High Water Level as follows:

Sewered structures	50 feet
Unsewered structures	100 feet
On-site sewage treatment systems	75 feet

(1) One water-oriented accessory structure designed in accordance with Section 6, Subd 2 of this ordinance may be set back a minimum distance of ten (10) feet from the ordinary high water level.

(C) Additional Structure Setbacks:

<u>Setback From</u>	<u>Distance</u>
(1) top of bluff	30 feet
(2) unplatted cemetery	50 feet
(3) right-of-way line of a divided highway	100 feet
(4) center-line of a federal state, or county highway	130 feet
(5) center-line of town road, public street, other roads or streets not classified	75 feet

(D) Bluff Impact Zones. structures and accessory facilities, except stairways and landings, must not be placed within bluff impact zones.

(E) 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.

E. Tributary River Standards

The permitted and conditional uses listed below for Tributary River Districts are generally consistent with the permitted and conditional uses in Article 6 of this Ordinance.

1. Special Protection District

(A) Permitted Uses

- (1) Sensitive resources management.
- (2) Agriculture: cropland and pasture.

(B) Conditional Uses

- (1) Agricultural feedlots.
- (2) Parks and historic sites.
- (3) Extractive uses.
- (4) One-family dwellings.

2. Residential District

(A) Permitted Uses

- (1) One-family dwelling.
- (2) Semi-public uses.
- (3) Parks and historic sites.

(B) Conditional Uses

- (1) Duplex.
- (2) Extractive uses.

3. Water Oriented Commercial District

(A) Permitted Uses

- (1) None.

(B) Conditional Uses

- (1) Surface water-oriented commercial.
- (2) Parks and historic sites.
- (3) Semi-public uses.

4. General Use District

(A) Permitted Uses

- (1) None.

(B) Conditional Uses

- (1) Commercial Uses.
- (2) Parks and historic sites.
- (3) Semi-public uses.
- (4) Extractive uses.
- (5) Industrial uses.

5. Lot Width Standards. The lot width for one-family dwelling is 100 feet with an individual sewage treatment system, or 75 feet with a community sewer system. The lot width for a duplex is 150 feet with an individual sewage treatment system, or 115 feet with a community sewer system.

6. Placement of Structures on Lots.

(A) When more than one setback applies to a site, structures 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) Structures and on-site sewage system in Tributary River districts must setback from the Ordinary High Water Level as follows:

Sewered structures	50 feet
Unsewered structures	100 feet
On-site sewage treatment systems	75 feet

(1) One water-oriented accessory structure designed in accordance with Section 6, Subd. 2 of this ordinance may be set back a minimum distance of ten (10) feet from the ordinary high water level.

(C) Additional Structure Setbacks:

<u>Setback From</u>	<u>Distance</u>
(1) top of bluff	30 feet
(2) unplatted cemetery	50 feet
(3) right-of-way line of a divided highway	100 feet
(4) center-line of a federal, state, or county highway	130 feet
(5) center-line of town road, public street, other roads or streets not classified	75 feet

(D) Bluff Impact Zones. Structures and accessory facilities, except stairways and landings, must not be placed within bluff impact zones.

(E) 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.

Subd. 9. Inconsistent Land Use Districts.

A. The land use districts adopted in the Freeborn County Zoning ordinance, Chapters 5-19, as they apply to shoreland areas, and their delineated boundaries on the Official Zoning Map, are generally consistent with the land use district designation criteria specified in Section 5, Subd. 3 herein. However, where inconsistent land use district may exist, the designations may continue until revisions are proposed to change either the land use district designation within an existing land use district boundary shown on the official Zoning Map or to modify the boundary of an existing land use district shown on the Official Zoning Map.

B. When a revision is proposed to an inconsistent land use district provision, the following additional criteria and procedures shall apply:

1. For Lakes. When a revision to a land use district designation on a lake is considered, the land use district boundaries and use provisions therein for all the shoreland areas within the jurisdiction of this ordinance on said lake must be revised to make them substantially compatible with the framework in Sections 5, Subd. 3 and 4 of this ordinance.

2. For Rivers and Streams. When a revision to a land use district designation on a river or stream is proposed, the land use district boundaries and the use provisions therein for all shoreland on both sides of the river or stream within the same classification within the jurisdiction of this ordinance must be revised to make them substantially compatible with the framework in Section 5, Subd. 3 and 4 of this ordinance. If the same river classification is contiguous for more than a five-mile segment, only the shoreland for a distance of 2.5 miles upstream and downstream, or to the class boundary if closer, need to be evaluated and revised.

C. When an interpretation question arises about whether specific land use fits within a given "use" category, the interpretation shall be made by the Board of Adjustment. When a question arises as to whether a land use district's boundaries are properly delineated on the official Zoning Map, this decision shall be made by the Board of Adjustments.

D. When a revision is proposed to an inconsistent land use district provision by an individual party or landowner, this individual party or landowner will only be responsible to provide the supporting and/or substantiating information for the specific parcel in question. The Freeborn County Board of Commissioners will direct the zoning administrator to provide such additional information for this waterbody as is necessary to satisfy Items A and B.

E. The Freeborn County Board must make a detailed finding of fact and conclusion when take final action that this revision, and the upgrading of any inconsistent land use district designations on said waterbody, are consistent with the enumerated criteria and use provisions of Section 5, Subd. 3.

SECTION 6. DESIGN CRITERIA, SHORELAND ALTERATIONS AND SPECIAL PROVISIONS

Subd. 1. Controlled Access Lots. Lots intended as controlled accesses to public waters or as recreation areas for use by owners of nonriparian lots within subdivisions are permissible and must meet or exceed the following standards:

A. They must meet the width and size requirements for residential lots and be suitable for the intended uses of controlled access lots.

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

Controlled Access Lot Frontage Requirements

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

C. They must be jointly owned by all purchasers of lots in the subdivision or by all purchases of nonriparian lots in the subdivision who are provided riparian access rights on the access lot.

D. Covenants or other equally effective legal instruments must be developed that specify which lot owners have authority to use the access lot and what activities are allowed. The activities may include watercraft launching, loading, storage, beaching, mooring, or docking. They must also include other outdoor recreational activities that do not significantly conflict with general public use of the public water or the enjoyment of normal property rights by adjacent property owners. Examples of the nonsignificant 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.

Subd. 2. Design Criteria For Structures.

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

1. For lakes, by placing the lowest floor at a level at least three feet above the highest known water level, or three feet above the ordinary high water level, whichever is higher.

2. For rivers and streams, by placing the lowest floor at least three feet above the flood of record, if data are available. If data are not available, by placing the lowest floor at least three feet above the ordinary high water level, or by conducting a technical evaluation to determine effects of proposed construction upon flood stages and flood flows and to establish a flood protection evaluation. Under all three approaches, technical evaluations must be done by a qualified engineer or hydrologist consistent with parts 6120.5000 to 6120.6200 governing the management of 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.

3. Water-oriented accessory structures may have the lowest floor placed lower than the elevation determined in this item if the structure is constructed of flood resistant materials to the elevation, electrical and mechanical equipment is placed above the elevation and, if long duration flooding is anticipated, the structure is built to withstand ice action and wind-driven waves and debris.

B. Water-oriented Accessory Structures. Each lot may have one water-oriented accessory structure not meeting the normal structure setback in Section 5, Subd. 8 of this ordinance if this water-oriented accessory structure complies with the following provisions:

1. The structure or facility must not exceed ten feet in height, exclusive of safety rails, and cannot occupy an area greater than 250 square feet. Detached decks must not exceed eight 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 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.

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

6. As an alternative for general development and recreational development waterbodies, water-oriented accessory structures used solely for watercraft storage, and including storage of related boating and water-oriented sporting equipment, may occupy an area up to 400 square feet provided the maximum width of the structure is 20 feet as measured parallel to the configuration of the shoreline.

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

1. Stairways and lifts must not exceed four feet in width on residential lots. Wider stairways may be used for commercial properties, public open-space recreational properties, and planned unit developments.

2. Landings for stairways and lifts on residential lots must not exceed 32 square feet in area. Landings larger than 32 square feet may be used for commercial properties, and public open-space recreational properties.

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.

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 sub-items (1) and (5) are complied with in addition to the requirements of Minnesota Regulations, Chapter 1340.

7. Decks must meet the structure setback standards. Decks that do not meet setback requirements from public waters may be allowed without a variance to be added to structures existing on the date the shoreland structure setbacks were established by ordinance, if all of the following criteria and standards are met:

A. 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;

B. The deck encroachment toward the ordinary high water level does not exceed 15 percent of the existing shoreline setback of the structure from the ordinary high water level or does not encroach closer than 30 feet, whichever is more restrictive; and

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

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 the site has been removed and documented in a public repository.

E. Steep 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.

F. Height of Structures. All structures in shoreland residential districts, except churches and non-residential agricultural structures, must not exceed 25 feet in height.

Subd. 3 Shoreland Alterations. Alterations of vegetation and topography will be regulated to prevent erosion into public waters, fix nutrients, preserve shoreland aesthetics, preserve historic values, prevent bank slumping, and protect fish and wildlife habitat.

A. Removal or alterations of vegetation, except for forest management or agricultural uses as provided for in subparts 7 and 8, is allowed according 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 outside of these areas is allowed if the activity is consistent with the forest management standards in subpart 8.

2. Limited clearing of trees and shrubs and cutting, pruning, and trimming of trees 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, as well as providing a view to the water from the principal dwelling site, in shore and bluff impact zones and on steep slopes is allowed, provided that:

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

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

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

(d) Use of fertilizer and pesticides in the shoreland management 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.

B. Before grading or filling on steep slopes or within shore or bluff impact zones involving the movement of more than ten cubic yards of material or anywhere else in a shoreland area involving movement of more than 50 cubic yards of material, it must be established by local official permit issuance that all of the following conditions will be met. The following conditions must also be considered during subdivision, variance, building permit, and other conditional use permit reviews.

1. Before authorizing any grading or filling activity in any type 2, 3, 4, 5, 6, 7 or 8 wetland, local officials must consider how extensively the proposed activity would affect the following functional qualities of the wetland:

- (a) sediment and pollutant trapping and retention;
- (b) storage of surface runoff to prevent or reduce flood damage;
- (c) fish and wildlife habitat;
- (d) recreational use;
- (e) shoreline or bank stabilization; or
- (f) noteworthiness, including special qualities such as historic significance, critical habitat for endangered plants and animals, or others.

C. 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.

1. 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.

2. 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.

3. Methods to minimize soil erosion and to trap sediments before they reach any surface water feature must be used.

4. 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.

5. Fill or excavated material must not be laced in a manner that creates an unstable slope.

6. 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 30 percent or greater.

7. Fill or excavated material must not be placed in bluff impact zones.

8. Any alterations below the ordinary high water level of public waters must first be authorized by the commissioner under Minnesota Statutes, Section 103.G.

9. 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.

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

D. 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.

Subd. 4 Vegetative Alterations.

A. A vegetative alteration permit is required for the construction of structures, sewage treatment systems, and the construction of roads or parking areas regulated by Section 6, Subd. 6 of this ordinance.

B. Removal or alteration of vegetation, except for agricultural uses as regulated in Section 6, Subd. 10 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.

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 water-craft access areas, and permitted water-oriented accessory structures or facilities, provided that:

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

(b) Along rivers, existing shading of water surfaces is preserved.

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

Subd. 5 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 Section 6, Subd. 6 of this ordinance.

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.

2. The movement of more than 50 cubic yards of material outside of steep slopes and shore and bluff impact zones.

D. The following considerations and conditions 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: [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.

(a) Sediment and pollutant trapping and retention.

(b) Storage of surface runoff to prevent or reduce flood damage.

(c) Fish and wildlife habitat.

(d) Recreational use.

(e) Shoreline or bank stabilization.

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

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 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 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.
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 feet horizontal to one foot vertical, the landward extent of the riprap is within ten feet of the ordinary high water level, and the height of the riprap above the ordinary high water level does not exceed three feet.

E. Connection 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.

Subd. 6 Placement and Design of Roads, Driveways, and Parking Areas.

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

B. Roads, driveways, and parking areas must meet structure setbacks and must not be placed within bluff and shore Impact zones, when other reasonable and feasible placement alternatives exist.

- C. Public and private watercraft access ramps, approach roads, and access-related parking areas may be placed within shore impact zones provided the vegetation screening and erosion control conditions of this subpart are met. For private facilities, the grading and filling provisions of Section 5.22 of this ordinance must be met.

Subd. 7. General Stormwater Management Standards. The following general and specific standards shall apply to the management of stormwater.

- A. When possible, existing natural drainage ways, wetlands, and vegetated soil surfaces must be used to convey, store, filter, and retain stormwater runoff before discharge to public waters.

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

- C. When development density, topographic features, and soil and vegetation conditions are not sufficient to adequately handle stormwater runoff using natural features and vegetation, various types of constructed facilities such as diversions, settling basins, skimming devices, dikes, waterways, and ponds may be used. Preference must be given to designs using surface drainage, vegetation, and infiltration rather than buried pipes and man-made materials and facilities.

Subd. 8 Specific Standards.

- A. Impervious surface coverage of lots must not exceed 25 percent 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.

- D. Mining of metallic minerals and peat, as defined by Minnesota statutes, sections 93.44 to 93.51. Mining of metallic minerals and peat shall be a permitted use provided the provisions of Minnesota Statutes, sections 93.44 to 93.51, are satisfied.

Subd. 9 Special Provisions and Standards for Commercial, Public and Semipublic Uses.

A. Surface water-oriented commercial uses and 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 or navigation and to be the minimum size necessary to meet the need.
3. Sign permits are required for all signs. 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 feet above the ground, and must not exceed 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.

Subd. 10 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 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 300 feet from the ordinary high water level of all public waters, public and private ditches, streams, creeks and type 3, 4, 5, 6, 7, and 8 wetlands.

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 certificate of compliance, interim permit, or animal feedlot permit, when required by Minnesota Administrative Rules, parts 7020.0200 to 7020.1900, must be obtained by the owner or operator of an animal feedlot.

4. Use of fertilizer, pesticides, or animal wastes within shorelands must be done in such a way as to minimize impact on the shore impact zone or public water by proper application or use of earth or vegetation.

Subd. 11. Forest Management Standards. The harvesting of timber and associated reforestation or conversion of forested use to a nonforested use must be conducted consistent with the following standards:

A. Timber harvesting 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."

B. Forest land conversion to another use requires issuance of a conditional use permit and adherence to the following standards:

1. Shore and bluff impact zones must not be intensively cleared of vegetation; and

2. An erosion and sediment control plan is developed and approved by the local soil and water conservation district before issuance of a conditional use permit for the conversion.

C. Use of fertilizer, pesticides, or animal wastes within shorelands must be done in such a way as to minimize impact on the shore impact zone or public water by proper application or use of earth or vegetation.

Subd. 12. 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 end.

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.

Subd. 13. 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 community-wide. The following additional evaluation criteria and conditions apply within shoreland areas. 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 public waters is limited.

- C. The site is adequate for water supply and on-site sewage treatment.
- 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.
- E. Conditions attached to conditional use permits. The Freeborn County Board of Commissioners, 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:
 - F. Increased setbacks from the ordinary high water level.
 - G. Limitations on the natural vegetation to be removed or the requirement that additional vegetation be planted.
 - H. Special provisions for the location, design, and use of structures, sewage treatment systems, watercraft launching and docking areas, and vehicle parking areas.

Subd. 14 Water Supply and Sewage Treatment

- A. 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.
- B. Sewage Treatment. Any premises used for human occupancy must be provided with an adequate method of sewage treatment, as follows:
 - C. Publicly-owned sewer systems must be used where available.
 - D. All private sewage treatment systems must meet or exceed the Minnesota Pollution Control Agency's standards for individual sewage treatment systems contained in the document titled, "Individual Sewage Treatment Systems Standards, Chapter 7080", a copy of which is hereby adopted by reference and declared to be a part of this ordinance.
 - E. On-site sewage treatment systems must be set back from the ordinary high water level in accordance with the setbacks contained in Section 5, Subd. 4 of this ordinance.

- F. All proposed sites for individual sewage treatment systems shall be evaluated in accordance with the criteria in sub-items 1-4. If the determination of a site's suitability cannot be made with publicly available, existing information, it shall then be the responsibility of the applicant to provide sufficient soil borings and percolation tests from on-site field investigations.
 - 1. Depth to the highest known or calculated ground water table or bedrock.
 - 2. Soil conditions, properties, and permeability.
 - 3. Slope.
 - 4. The existence of lowlands, local surface depressions, and rock outcrops.
- G. Nonconforming sewage treatment systems shall be regulated and upgraded in accordance with Section 7, Subd. 3 of this ordinance.

SECTION 7. NONCONFORMITIES

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

Subd. 1 Construction on nonconforming lots of record.

A. Lots of record in the office of the county recorder on the date of enactment of local shoreland controls that do not meet the requirements of Section 5, Subd. 3 of this ordinance 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 a use, sewage treatment system, or land development permit is issued for a lot. In evaluating the variance, the board of adjustment shall consider sewage treatment and water supply capabilities or constraints of the lot and shall deny the variance if adequate facilities cannot be provided.

C. If, in a group of two or more contiguous lots under the same ownership, any individual lot does not meet the requirements of Section 5, Subd. 3 of this ordinance the lot must not be considered as a separate parcel of land for the purposes of sale or development. The lot must be combined with the one or more contiguous lots so they equal one or more parcels of land, each meeting the requirements of Section 5, Subd. 3 of this ordinance as much as possible.

Subd. 2 Additions/expansions to nonconforming structures.

A. All additions or expansions to the outside dimensions of an existing nonconforming structure must meet the setback, height, and other requirements of Sections 4 and 5 of this ordinance. Any deviation from these requirements must be authorized by a variance pursuant to Section 4, Subd. 3.

B. Deck additions may be allowed without a variance to 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 15 percent of the existing setback of the structure from the ordinary high water level or does not encroach closer than 30 feet, whichever is more restrictive.
4. The deck is constructed primarily of wood, and is not roofed or screened.

Subd. 3 Nonconforming sewage treatment systems.

A. A sewage treatment system not meeting the requirements of Section 6, Subd. 13B of this ordinance must be upgraded, at a minimum, at any time a permit or variance of any type is required for any improvement on, or use of, the property. For the purposes of this provision, a sewage treatment system shall not be considered nonconforming if the only deficiency is the sewage treatment system's improper setback from the ordinary high water level.

B. The Freeborn County Board of Commissioners has by formal resolution notified the commissioner of its program to identify nonconforming sewage treatment systems by a systematic review of existing records and also to initiate a program of information and education to encourage property owners to voluntarily upgrade nonconforming sewage treatment systems. Freeborn County will require upgrading or replacement of any nonconforming system identified by this program at any time a permit or variance of any type is required for any improvement on, or use of, the property. Sewage systems installed according to all applicable local shoreland management standards adopted under Minnesota Statutes, section 103F.201, 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 MPCA's Chapter 7080 for design on-site sewage treatment systems, shall be considered nonconforming.

SECTION 8. SUBDIVISION & PLATTING PROVISIONS

- Subd. 1. Land suitability. Each lot created through subdivision of this ordinance, 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 water-based recreation, important fish and wildlife habitat, presence of significant historic sites, or any other feature of the natural land likely to be harmful to the health, safety, or welfare of future residents of the proposed subdivision.
- Subd. 2. Consistency with other controls. Subdivisions must conform to all official controls of Freeborn county. A subdivision will not be approved where a later variance from one or more standards in official controls would be needed to use the lots for their intended purpose. In areas not served by publicly owned sewer and water systems, a subdivision will not be approved unless domestic water supply is *available and* a sewage treatment system consistent with Sections 5, Subd. 3 and Section 6, Subd. 13B can be provided for every lot. Each lot shall meet the minimum lot size and dimensional requirements of Section 5, Subd. 3, including at least a minimum contiguous lawn area, that is free of limiting factors sufficient for the construction of two standard soil treatment systems. The area provided for the two standard soil treatment systems shall be shown on the plat as a sewage treatment system easement. Lots that would require use of holding tanks must not be approved.

- Subd. 3. Information requirements. Sufficient information must be submitted by the applicant for the community to make a determination of land suitability. The information shall include at least the following:
- A. Topographic contours at two-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 505.021, 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 runoff 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.
 - 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.
- Subd. 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.
- Subd. 5. Platting. All subdivisions that create five or more lots or parcels that are 2-1/2 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.
- Subd. 6. Controlled Access or Recreational Lots. Lots intended as controlled accesses to public waters or for recreational use areas for use by nonriparian lots within a Subdivision must meet or exceed the sizing criteria in Section 6, Subd. 1 of this ordinance.

SECTION 9. (RESERVED)

SECTION 10. REPEAL AND ADOPTION

Subd. 1. Repeal. The existing Article 16, Shoreland Regulations, of the Freeborn County Zoning Ordinance, adopted 1 May, 1982, is hereby repealed. The adoption of this Ordinance, however, shall not effect nor prevent any pending or future prosecution of, or action to abate, any existing violation of said Article 16, Freeborn County Zoning Ordinance, adopted 13 April, 1977, as amended, if the violation is also a violation of this Ordinance.