

ORDINANCE NO. 5
ORDINANCE FOR THE MANAGEMENT OF
SHORELANDS AREAS OF
KANABEC COUNTY, MINNESOTA

June 27, 2012

SHORELAND MANAGEMENT POLICY

SECTION 1.0 - STATUTORY AUTHORIZATION AND POLICY

- 1.1 Statutory Authorization. This shoreland ordinance is adopted pursuant to the authorization and policies contained in Minnesota Statutes, Chapter 103, Minnesota Regulations. Parts 6120.2500 - 6120.3900 and the planning and zoning enabling legislation in Minnesota Statutes, Chapter 394.
- 1.2 Policy. The uncontrolled use of shorelands of Kanabec County, Minnesota affects the public health safety and general welfare not only by contributing to pollution of public waters, but also by impairing the local tax base. Therefore, it is in the best interests of the public health, safety and welfare to provide for the wise subdivision, use and development of shorelands of public waters. The Legislature of Minnesota has delegated responsibility to local governments of the state to regulate the subdivision, use and development of the shorelands of public 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 the County of Kanabec.

SECTION 2.0 - GENERAL PROVISIONS AND DEFINITIONS

- 2.1 Jurisdiction. The provisions of this ordinance shall apply to the shorelands of the public water bodies as classified in Section 4.0 of this ordinance. Pursuant to Minnesota Regulations, Parts 6120.2500 - 6120.3900, no lake, pond, or flowage 25 acres in size in unincorporated areas need be regulated in local government's shoreland regulations. A body of water created by a private use where there was no previous shoreland may, at the discretion of governing body, be exempt from this ordinance.
- 2.2 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.
- 2.3 Enforcement. The Environmental Services Supervisor 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 whether or not a permit is required for a regulated activity pursuant to Section 3.1 of this ordinance.
- 2.4 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.
- 2.5 Severability. If any section, clause, provision, or portion of this ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected thereby.

- 2.6 Abrogation and Greater Restrictions. It is not intended by this ordinance to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance imposes greater restrictions, the provisions of this ordinance shall prevail. All other ordinances inconsistent with this ordinance are hereby repealed to the extent of the inconsistency only.
- 2.7 Definitions. Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the same meaning as they have in common usage and so as to give this ordinance its most reasonable application. For the purpose of this ordinance, the words must and shall are mandatory and not permissive. All distances, unless otherwise specified, shall be measured horizontally.
- 2.7.1 Accessory Structure or Facility. Accessory Structure or Facility means any building or improvement subordinate to a principal use which, because of the nature of its use, can reasonably be located at or greater than normal structure setbacks.
- 2.7.2 Appurtenances. Appurtenances means the visible, functional, or ornamental objects accessory to, and part of, buildings or structures.
- 2.7.3 Bluff. Bluff means a topographic feature such as a hill, cliff, or embankment having the following characteristics (an area with an average slope of less than 18 percent over a distance for 50 feet or more shall not be considered part of the bluff):
- (1) Part or all of the feature is located in a shoreland area;
 - (2) The slope rises at least 25 feet above the ordinary high water level of the water body;
 - (3) The grade of the slope from the toe of the bluff to a point 25 feet or more above the ordinary high water level averages 30 percent or greater; and
 - (4) The slope must drain toward the water body.
- 2.7.4 Bluff Impact Zone. The Bluff Impact Zone means a bluff and land located within 20 feet from the top of a bluff.
- 2.7.5 Boathouse. Boathouse means a structure designed and uses solely for the storage of boats or boating equipment.
- 2.7.6 Building Line. Building Line means a line parallel to a lot line or the ordinary high water level at the required setback beyond which a structure may not encroach.
- 2.7.7 Commercial Planned Unit Developments. Commercial Planned Unit Developments are typically uses that provide transient, short-term lodging spaces, rooms, or parcels and their operations are essentially service-oriented. For example, hotel/motel accommodations, resorts, recreational vehicle and camping parks, and other primarily service-oriented activities are commercial planned unit developments.
- 2.7.8 Commercial Use. Commercial Use means the principal use of land or buildings for the sale, lease, rental, or trade of products, goods, and services.

- 2.7.9 Commissioner. Commissioner means the Commissioner of the Department of Natural Resources.
- 2.7.10 Conditional Use. Conditional Use means a land use or development as defined by ordinance that would not be appropriate generally but may be allowed with appropriate restrictions as provided by official controls upon a finding that certain conditions as detailed in the zoning ordinance exist, the use or development conforms to the comprehensive land use plan of the community, and the use is compatible with the existing neighborhood.
- 2.7.11 Deck. Deck means a horizontal, unenclosed platform with or without attached railings, seats, trellises, or other features attached or functionally related to a principal use or site.
- 2.7.12 Duplex, Triplex and Quad. Duplex, Triplex, and Quad means a dwelling structure on a single lot, having two, three, and four units, respectively, being attached by common walls and each unit equipped with separate sleeping, cooking, eating, living, and sanitation facilities.
- 2.7.13 Dwelling Site. Dwelling Site means a designated location for residential use by one or more persons using temporary or movable shelter, including camping and recreational vehicle sites.
- 2.7.14 Dwelling Unit. Dwelling Unit means any structure or portion of a structure, or other shelter designed as a short or long-term living quarters for one or more persons, including rental or time share accommodations such as motel, hotel, and resort rooms and cabins.
- 2.7.15 Extractive Use. Extractive Use means the use of land for surface or subsurface removal of sand, gravel, rock, industrial minerals, other nonmetallic minerals, and peat not regulated under Minnesota Statutes, Sections 93.44 to 93.51.
- 2.7.16 Forest Land Conversion. Forest Land Conversion means the clear cutting of forested lands to prepare for a new land use other than reestablishment of subsequent forest stand.
- 2.7.17 Frost Free Footings. Frost Free Footings means footing depth of five feet from the bottom of footing to grade.
- 2.7.18 Guest Cottage. Guest Cottage means a structure used as a dwelling unit that may contain sleeping spaces and kitchen and bathroom facilities in addition to those provided in the primary dwelling unit on a lot.
- 2.7.19 Height of Building. Height of building means the vertical distance between the highest adjoining ground level at the building or ten feet above the lowest ground level, whichever is lower, and the highest point of flat roof or average height of the highest gable of a pitched or hipped roof.
- 2.7.20 Industrial Use. Industrial Use means the use of land or buildings for the production, manufacture, warehousing, storage, or transfer of goods, products, commodities, or other wholesale items.

- 2.7.21 Intensive Vegetation Clearing. Intensive Vegetation Clearing means the complete removal of trees or shrubs in a contiguous patch, strip, row, or block.
- 2.7.22 Lot. Lot means a parcel of land designated by plat, metes, and bounds, registered land survey, auditors plot, or other accepted means and separated from other parcels or portions by said description for the purpose of sale, lease, or separation.
- 2.7.23 Lot Width. Lot Width means the shortest distance between lot lines measured at the midpoint of the building line.
- 2.7.24 Nonconformity. Nonconformity means any legal use, structure or parcel of land already in existence, recorded, or authorized before the adoption of official controls or amendments thereto that would not have been permitted to become established under the terms of the official controls as now written, if the official controls had been in effect prior to the date it was established, recorded or authorized.
- 2.7.25 Ordinary High Water Level. Ordinary High Water Level means the boundary of public waters and wetlands, and shall be an elevation delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape, commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial. For watercourses, the ordinary high water level is the elevation of the top of the bank of the channel. For reservoirs and flowages, the ordinary high water level is the operating elevation of the normal summer pool.
- 2.7.26 Planned Unit Development. Planned Unit Development means a type of development characterized by a unified site design for a number of dwelling unites or dwelling sites on a parcel, whether for sale, rent, or lease, and also usually involving clustering of these units or sites to provide areas of common open space, density increases and a mix of structure types and land uses. These developments may be organized and operated as condominiums, time-shares condominiums, cooperatives, full fee ownership, commercial enterprises, or any combination of these, or cluster subdivisions of dwelling units, residential condominiums, parks, resorts, hotels, motels, and conversions of structures and land uses to these uses.
- 2.7.27 Principal Use. Principal use means the primary or predominant use of any lot or parcel.
- 2.7.28 Privacy Fence. Privacy Fence means a fence that creates at least 50% opaque view.
- 2.7.29 Public Waters. Public Waters means any waters as defined in Minnesota Statutes, Section 103G.006, Subd. 15 and Subd. 18.
- 2.7.30 Residential Planned Unit Development. Residential Planned Unit Development means a use where the nature of residency is nontransient and the major or primary focus of the development is not service-oriented. For example, residential apartments, manufactured home parks, time-share condominiums, townhouses, cooperatives, and full fee ownership residences would be considered as residential planned unit developments.

- 2.7.31 Riparian. Riparian means pertaining to a lot or parcel, which has frontage on a river stream or lake.
- 2.7.32 Semipublic Use. Semipublic Use means the use of land by a private, nonprofit organization to provide a public service that is ordinarily open to some persons outside the regular constituency of the organization.
- 2.7.33 Sensitive Resource Management. Sensitive Resource Management means the preservation and management of areas unsuitable for development in their natural state due to constraints such as shallow soils over groundwater or bedrock, highly erosive or expansive soils, steep slopes, susceptibility to flooding, or occurrence of flora or fauna in need of special protection.
- 2.7.34 Setback. Setback means the minimum horizontal distance between a structure, sewage treatment system, or other facility and an ordinary high water level, sewage treatment system, top of a bluff, road, highway, property line, or other facility.
- 2.7.35 Sewage Treatment System. Sewage Treatment System means a septic tank and soil absorption system or other individual or cluster type sewage treatment as described and regulated in Section 5.8 of this ordinance.
- 2.7.36 Sewer System. Sewer System means pipelines or conduits, pumping stations, and force main, and all other construction, devices, appliances, or appurtenances used for conducting sewage or industrial waste or other wastes to a point of ultimate disposal or treatment.
- 2.7.37 Shore Impact Zone. Shore Impact Zone means land located between the ordinary high water level of public water and a line parallel to it at a setback of 50 percent of the structure setback.
- 2.7.38 Shoreland. Shoreland means land located within the following distances from public waters: 1,000 feet from the ordinary high water level of a lake, pond, or flowage; and 300 feet from a river or stream, or the landward extent of a floodplain designated by ordinance on a river or stream, whichever is greater. The limits of shorelands may be reduced whenever the waters involved are bounded by topographic divides which extend landward from the waters for lesser distances and when approved by the commissioner.
- 2.7.39 Significant Historic Site. Significant Historic Site means any archaeological site, standing structure, or other property that meets the criteria for eligibility to the National Register of Historic Places or is listed in the State Register of Historic Sites, or is determined to be an unplatted cemetery that falls under the provisions of Minnesota Statutes, section 307.08. A historic site meets these criteria if it is presently listed on either a register or if it is determined to meet the qualifications for listing after review by the Minnesota State Archaeologist or the Director of the Minnesota Historical Society. All unplatted cemeteries are automatically considered to be significant historic sites.
- 2.7.40 Steep Slope. Steep Slope means land where agricultural activity or development is either not recommended or described as poorly suited due to slope steepness and the sites soil characteristics, as mapped and described in available county soil surveys or

other technical reports, unless appropriate design and construction techniques and farming practices are used in accordance with the provisions of this ordinance. Where specific information is not available, steep slopes are lands having average slopes over 12 percent, as measured over horizontal distances of 50 feet or more, that are not bluffs.

- 2.7.41 Structure. Structure means any building or appurtenance, including decks, except aerial or underground utility lines, such as sewer, electric, telephone, telegraph, gas lines, towers, poles, other supporting facilities and fences.
- 2.7.42 Subdivision. Subdivision means land that is divided for the purpose of sale, rent, or lease including planned unit developments.
- 2.7.43 Surface Water-Oriented Commercial Use. Surface Water-Oriented Commercial Use means the use of land for commercial purposes, where access to and use of a surface water feature is an integral part of the normal conductance of business. Marinas, resorts, and restaurants with transient docking facilities are examples of such use.
- 2.7.44 Toe of the Bluff. Toe of the Bluff means the lower point of a 50 foot segment with an average slope exceeding 18 percent.
- 2.7.45 Top of the Bluff. Top of the Bluff means the higher point of a 50 foot segment with an average slope exceeding 18 percent.
- 2.7.46 Variance; practical difficulties. Variance; practical difficulties means the same as that term is defined or described in Minnesota Statutes, Chapter 394.
- 2.7.47 Water-Oriented Accessory Structure or Facility. Water-Oriented Accessory Structure or Facility means a small, above ground building or other improvement, except stairways, fences, docks, and retaining walls, which, because of the relationship of its use to a surface water feature, reasonably needs to be located closer to public waters than the normal structure setback. Examples of such structures and facilities include boathouses, gazebos, screen houses, and pump houses.
- 2.7.48 Wetland. Wetland means a surface water feature classified as a wetland in the United States Fish and Wildlife Service Circular No. 39 (1971 edition).

SECTION 3.0 - ADMINISTRATION

3.1 Permits Required

- 3.1.1 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 treatment systems, and those grading and filling activities not exempted by Section 5.3 of this ordinance. Application for a permit shall be made to the Environmental Services Office on the forms provided. The application shall include the necessary information so that the Environmental Services Supervisor can determine the sites suitability for the intended use and that complaint sewage treatment system will be provided. Permits expire after one year, however a six month extension may be granted by the Environmental Services Supervisor upon written request.

- 3.1.2 A permit authorizing an addition to an existing structure shall stipulate that an identified nonconforming sewage treatment system, as defined by Section 5.8, shall be reconstructed or replaced in accordance with the provisions of this ordinance.
- 3.2 Variances: practical difficulties.
- 3.2.1 Variances may only be granted in accordance with Minnesota Statutes, Chapter 394, as applicable. 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 Adjustment must also consider whether the property owner has reasonable use of the land without the variance, whether the property is used seasonally or year-round, whether the variance is being requested solely on the basis of economic considerations, and the characteristics of development on adjacent properties.
- 3.2.2 The Board of Adjustment 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 is required in Section 3.42 below shall also include the Board of Adjustment summary of the public record/testimony and the findings of facts and conclusions which supported the issuance of the variance.
- 3.2.3 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.
- 3.3 Notifications to the Department of Natural Resources.
- 3.3.1 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 commissioners designated representative and postmarked at least ten days before the hearings. Notice of hearings to consider proposed subdivisions/plats must include copies of the subdivision/plat.
- 3.3.2 A copy of approved amendments and subdivisions/plats, and final decisions granting variances or conditional uses under local shoreland management controls must be sent to the commissioner or the commissioners designated representative and postmarked within ten days of final action.
- 3.4 Appeals. All decisions of Planning Commission may be appealed to County Board. Letter of intent shall be submitted within 30 days. Notice of appeal specifying the grounds thereof shall be filed with the Kanabec County Board of Commissioners within 30 days from the date of the decision of the Planning Commission with notice also given to the opposing party.

SECTION 4.0 - SHORELAND CLASSIFICATION SYSTEM AND LAND USE DISTRICTS

- 4.1 Shoreland Classification System: Classes. The classes of public waters are natural environment lakes, recreational development lakes, general development lakes, remote river segments, agricultural river segments, urban river segments, and tributary river segments. All of the river classes except tributary consist of watercourses that have been identified as being recreationally significant on a statewide basis. The tributary class consists of all other watercourses identified in the protected waters inventory. A general description of each class follows.

“Natural environment lakes” are generally small, often shallow lakes with limited capacities for assimilating the impacts of development and recreational use. They often have adjacent lands with substantial constraints for development such as high water tables, exposed bedrock, and unsuitable soils. These lakes, particularly in rural areas, usually do not have much existing development or recreational use.

“Recreational development lakes” are generally medium-sized lakes of varying depths and shapes with a variety of landform, soil, and groundwater situations on the lands around them. They often are characterized by moderate levels of recreational use and existing year round residences and recreationally oriented commercial uses. Many of these lakes have capacities for accommodating additional development and use.

“Remote river segments” are primarily located in roadless, forested, sparsely populated areas of the northeastern part of the state. Common land uses include multiple-use forestry, some recreation facilities, and occasional seasonal or year- round residential. Low intensity recreational uses of these river segments and adjacent lands are common. This class has limited potential for additional development and recreational use due to land suitability and road access constraints.

“Forested river segments” are located in forested, sparsely to moderately populated areas with some roads in the north-central part of the state. Predominant land uses include multiple-use forestry, some recreation facilities, seasonal residential, and, within commuting distances of several cities, some year-round residential. Low-intensity recreational uses of these rivers and adjacent lands are common. This class has substantial potential for additional development and recreational use.

“Transition river segments” are generally either located within the Minnesota and Mississippi river valleys, or within the middle reaches of several rivers in all regions except the north central and northeast. Common land uses include forested within riparian strips and mixtures of cultivated, pasture and forested beyond. Some seasonal and year-round residential development exists, particularly within commuting distance of major cities. The types and intensities of recreational uses within this class vary widely.

“Tributary river segments” consist of watercourses mapped in the Protected Waters Inventory that have not been assigned one of the river classes in items C to E. These segments have a wide variety of existing land and recreational use characteristics. The segments have considerable potential for additional development and recreational use, particularly those located near roads and cities.

The public waters of Kanabec County have been classified below consistent with the criteria found in Minnesota Regulations, Part 6120.3000, and the Protected Waters Inventory Map for Kanabec County, Minnesota.

4.1.1 The shoreland area for the water bodies listed in sections 4.12 and 4.13 shall be as defined in section 2.747 and as shown on the Official Zoning Map.

4.1.2 Lakes

A.	Natural Environment Lakes	Protected Waters Lake I.D. #
1.	Beauty	33-2
2.	Five	33-3
3.	Twelve	33-4
4.	Thirteen	33-5
5.	Featherbed	33-6
6.	White Lily	33-8
7.	Peace	33-10
8.	Rice	33-11
9.	Grass	33-13
10.	-Unnamed-	33-14
11.	Spence	33-16
12.	-Unnamed-	33-17
13.	Sells	33-18
14.	Twin	33-19
15.	Luchts	33-21
16.	Full of Fish	33-24
17.	Pocket Knife	33-25
18.	Snowshoe	33-26
19.	Pennington	33-30
20.	Erickson	33-31
21.	Kent	33-35
22.	Telander	33-37
23.	Lindgren (Boundary Lake)	30-144
24.	Long Lake	33-44

B.	Recreational Development Lakes	Protected Waters Lake I.D. #
1.	Eleven	33-1
2.	Pomroy	33-9
3.	Mud (Quamba)	33-15
4.	Spring	33-27
5.	Knife	33-28
6.	Lewis	33-32
7.	Devils	33-33
8.	Fish	33-36
9.	Ann	33-40
10.	Bass (Boundary Lake)	58-137

4.1.3 Rivers and Streams

A. Remote Rivers	Legal Description
Snake	From border of Aitkin and Kanabec Counties to South section line, Sec. 2, T41N, R23W.
B. Forested Rivers	Legal Description
Snake	From North section line, Sec. 11, T41N, R23W to South Section line, Sec. 19, T40N, R23W.
Groundhouse	From border of Mille Lacs and Kanabec Counties to confluence with S. Fork Groundhouse R. in Sec. 7, T38N, R24W.
Knife	All
Ann	From Ann Lake in Sec.29, T40N, R25W to Fish Lake in Sec.28, T39N, R24W.
C. Transition Rivers	Legal Description
Snake	From North Section line, Sec. 30, T40N, R23W, to Border of Pine and Kanabec Counties.
Groundhouse	From confluence with S. Fork Groundhouse R, In Sec. 7, T38N, R24W to confluence with Snake R. in Sec. 6, T38N, R23W.
Ann	From outlet Fish Lake in Sec.28, T39N, R24W to confluence with Snake River in Sec.24, T39N, R24W.
Southfork of Groundhouse	From Mille Lacs Co. line in Sec. 18, T39N, R25W to confluence with Groundhouse River in Sec.7, T38N, R24W.
D. Tributary Streams	*All protected watercourses in Kanabec County shown on the Protected Waters Inventory Map for Kanabec County, a copy of which is hereby adopted by reference, not given a classification in Items A-C above shall be considered Tributary.

4.2 Land Use District Descriptions.

- 4.2.1 Criteria for Designation. The land use districts in Section 4.2.2, and the delineation of a land use districts boundaries on the Official Zoning Map, must be consistent with the goals, policies, and objectives of the comprehensive land use plan (when available) and the following criteria, considerations, and objectives:

4.2.1.1 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) In-water physical characteristics, values, and constraints;
- (7) Recreational use of the surface water;
- (8) Road and service center accessibility;
- (9) Socioeconomic development needs and plans as they involve water and related land resources;
- (10) The land requirements of industry which, by its nature, requires location in shoreland areas; and
- (11) The necessity to preserve and restore certain areas having significant historical or ecological value.

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

4.2.2.1 Land Use District Descriptions are as follows:

- (1) A special protection district is intended to be used for two basic purposes. The first purpose is to limit and properly manage development in areas that are generally unsuitable for development or uses due to flooding, erosion, limiting soil conditions, steep slopes, or other major physical constraints. A second purpose is to manage and preserve areas with special historical, natural, or biological characteristics.
- (2) A residential district is primarily intended to allow low to medium density seasonal and year round residential uses on lands suitable for such uses. It is also intended to prevent establishment of various commercial, industrial, and other uses in these areas that cause conflicts or problems for residential uses. Some nonresidential uses with minimal impacts on residential uses are allowed if properly managed under conditional use procedures.
- (3) A water-oriented commercial district is intended to be used only to provide for existing or future commercial uses adjacent to water resources that are functionally dependent on such close proximity.

4.2.2.2 Shoreland Classifications and Uses; lakes. For the lake classes, districts and uses in this section, P = permitted uses, C = conditional uses, and N = prohibited uses.

4.2.2.3 The following land use districts have been established in accordance with their compatibility with the public waters classification.

4.2.2.4 The shorelands of Kanabec County, Minnesota, are hereby designated with the following district(s):

- (1) Residential District
- (2) Water-oriented Commercial District
- (3) Special Protection District

4.2.2.5 Land Use Districts for Lakes

- (1) Residential District – Uses

	Recreational Development Lakes	Natural Environment Lakes
• Forest Management	P	P
• Parks and Historic Sites	C	C
• Single Residential	P	P
• Structure on a lot to include garages, storage sheds, gazebos	P	P
• Semipublic	C	C

- (2) Water-oriented Commercial Districts*

• Surface Water-oriented commercial	C	C
• Parks & Historic Sites	C	C

*Neither residential nor commercial planned unit development is permitted under this ordinance. Water-oriented Commercial Districts will be limited to those areas already commercially developed as of the date of the adoption of this Ordinance and as shown on the County Shoreline Zoning Map.

- (3) Special Protection District

• Forest Management	P	P
• Sensitive Resource Management	P	P
• Agricultural: cropland and pasture	P	P
• Agricultural feedlots	C	C
• Parks and Historic Sites	C	C
• Single Residential	C	C

4.2.2.6 Land Use Districts for Rivers and Streams - See Note 1

- (1) Residential District – Uses

	Remote	Forested	Transition	Tributary
• Single Residential	P	P	P	P
• Structure on a lot to include garages, storage sheds, gazebos	P	P	P	P
• Parks and Historic Sites	C	C	C	C
• Semipublic	C	C	C	C

(2) Water-oriented Commercial Districts*

	Remote	Forested	Transition	Tributary
• Surface Water-oriented Commercial	C	C	C	C
• Parks and Historic Sites	C	C	C	C

*Neither residential nor commercial planned unit development is permitted under this ordinance. Water-oriented Commercial Districts will be limited to those areas already commercially developed as of the date of the adoption of this Ordinance and as shown on the County Shoreline Zoning Map.

(3) Special Protection Districts

• Forest Management	P	P	P	P
• Agricultural: cropland and pasture	P	P	P	P
• Agricultural Feedlots	C	C	C	C
• Parks and Historic Sites	C	C	C	C
• Single Residential	C	C	C	C
• Mining of Peat	C	C	C	C

Note 1 *Request for subdivision approval will include request to re-zone subdivision on rivers and streams.

4.2.3 Use and Upgrading of Inconsistent Land Use Districts.

4.2.3.1 The land use districts adopted in Kanabec County, as they apply to shoreland areas, and their delineated boundaries on the Official Zoning Map, are not consistent with the land use district designation criteria specified in Section 4.22 herein. These inconsistent land use district 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.

4.2.3.2 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 4.2.1 and 4.2.2 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 4.21 and 4.22 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 be evaluated and revised.

- (3) When an interpretation question arises about whether a specific land use fits within a given use category, the interpretation shall be made by the Board of Adjustments. When a question arises as to whether a land use districts boundaries are properly delineated on the Official Zoning Map, this decision shall be made by the Environmental Services Director, Zoning Administrator for Kanabec County, with appeals to a County Board.
- (4) 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 Kanabec County Board will direct the Environmental Services Director to provide such additional information for this water body as is necessary to satisfy paragraphs (1) and (2).
- (5) The Kanabec County Board must make a detailed finding of fact and conclusion when taking action that this revision, and the upgrading of any inconsistent land use district designations on said water body, are consistent with the enumerated criteria and use provisions of Section 4.2.

SECTION 5.0 - ZONING AND WATER SUPPLY/SEPTIC PROVISIONS

5.1 Lot Area and Width Standards. The lot area (in square feet) and lot width standards (in feet) for single residential lots created after the date of enactment of this ordinance for the lake and river/stream classifications are the following:

5.1.1 Lakes

A. Natural Environment:

	Riparian Area	Lots Width	Non-riparian Area	Lots Width
Single	80,000	200	80,000	200

B. Recreational Development:

	Riparian Area	Lots Width	Non-riparian Area	Lots Width
Single	40,000	150	40,000	150

5.1.2 River/Stream Lot Standards. The minimum lot size for rivers and streams is 80,000 square feet. The lot width standards for the four river/stream classifications are:

	Remote	Forested	Transition	Tributary
Single	300	200	250	100

5.1.3 Additional Special Provisions.

5.1.3.1 Only land above the ordinary high water level of public waters and land that has been determined to be not a wetland by the County Wetland Administrator can be used to meet lot area standards and lot width standards must be met at both the ordinary high water level and at the building line.

5.1.3.2 One guest cottage may be allowed on Riparian lots* meeting or exceeding one and one-half the lot area dimensions presented in Sections 5.1.1 - 5.1.2, provided the following standards are met:

- (1) A guest cottage must not cover more than 500 square feet of a surface and must not exceed 15 feet in height; and
- (2) A guest cottage must be located or, designed to reduce its visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increase setbacks or color, assuming summer leaf-on conditions.

*Non-riparian lots must be double the lot area dimensions presented in Section 5.1.1 - 5.1.2.

5.1.4.3 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 these following standards:

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

Controlled Access Lot Frontage Requirements:

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

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

5.2 Placement, Design, and Height of Structures.

5.2.1 Placement of Structures on Lots. When more than one setback applies to a site, structures and facilities must be located to meet all setbacks. Where structures exist on the adjoining lots on both sides of a proposed building site, structure setbacks may be altered without a variance to conform to the adjoining setbacks from the ordinary high water level, provided the proposed building site is not located in a shore impact zone or in a bluff impact zone. Structures shall be located as follows:

5.2.1.1 Structure and On-site Sewage System Setbacks (in feet) from Ordinary High Water Level*

Classes of Public Waters	Setbacks* Structures Unsewered	Sewage Treatment System
<u>Lakes</u>		
Natural Environmental	150	150
Recreational Development	100	75
<u>Rivers</u>		
Remote	200	150
Forest and Transition	150	100
Tributary	100	75

*One water-oriented accessory structure designed in accordance with Section 5.2.2 of this ordinance may be set back a minimum distance of ten (10) feet from the ordinary high water level.

5.2.1.2 Additional Structure Setbacks. The following additional structure setbacks apply, regardless of the classification of the water body:

Setback From:	Setback (in feet)
Top of bluff	30
Unplatted cemetery	50
Right-of-way line of federal, state, or county highway	50
Right-of-way line of town road, public street, or other roads or streets not classified.	30
Side lot lines	10

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

5.2.1.4 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.

5.2.2 Design Criteria For Structures.

5.2.2.1 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 is 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 elevation. Under all three approaches, technical evaluations must be done by a qualified engineer or hydrologist consistent with parts 6120.5000 to 6120.6200 governing the management of 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; and

- (3) Water-oriented 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.

5.2.2.2 Water-oriented Accessory Structures. Each lot may have one water-oriented accessory structure not meeting the normal structure setback in section 5.2.1 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, and cannot occupy an area greater than 250 square feet.
- (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 not be used as a deck. Decks or landings larger than specified in 5.2.2.3 are not allowed.
- (5) The structure or facility must not contain water supply or sewage treatment facilities.

5.2.2.3 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 feet in width on residential lots. Wider stairways may be used for commercial properties and public open-space recreational properties;
- (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; 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 sub-items (1) to (5) are complied with in addition to the requirements of Minnesota Regulations, Chapter 1340.

5.2.2.4 Fences. Fences six foot and lower do not require a permit and do not have to meet the structure setback requirements. Fences higher than six feet would require a conditional use permit.

- (1) Fences shall be constructed so as not to create a hazard for traffic on adjacent public roads.
- (2) Privacy fences shall not be allowed in the Shore impact Zone.

5.2.2.5 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.

5.2.2.6 Steep Slopes. The Environmental Services Supervisor 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.

5.2.3 Building Standards

5.2.3.1 Primary Dwelling Size. All primary dwellings shall have a minimum floor area of at least five hundred (500) square feet. Additions to manufactured homes shall not be considered in determining area requirements.

5.2.3.2 Frost Free Footings. All dwellings, including manufactured homes, must be placed on frost free footings, foundations, pillars or engineered concrete slabs designed to withstand frost action.

5.2.3.3 Manufactured Homes. Any manufactured home placed on a lot shall be a U. S. Department of Housing and Urban Development certified unit as evidenced by the HUD certification seal affixed to the unit and not more than 20 years old.

5.2.3.4 Maximum Building Height.

- (1) Principal structure not to exceed 35-feet.
- (2) All others not to exceed 25-feet.

- 5.2.3.5 Not more than one (1) principal dwelling shall be located on a lot, except as described in 5.1.3.2. In case of doubt or on any question of interpretation, the decision of the Environmental Services Director shall be final, subject to the right of appeal to the Board of Adjustment and Appeals.
- 5.2.3.6 On conforming and nonconforming lots of record, structures normally considered to be accessory structures are permitted without a primary permitted use first being established, when all setbacks are met. When two lots are under same ownership and has a primary permitted structure located there on, and the structure is of a type normally subordinate to the primary dwelling accessory structures are permitted. Structures should be designed to be compatible with the principal building and general neighborhood environment.
- 5.2.4 Nuisances. Any visual appearance, noise, odor, heat, dust, vibration, smoke, air pollution, glare, electrical interferences, or other such objectionable influences, or the storage of refuse or disposal of wastes that are construed by the Environmental Services Supervisor to be a menace or nuisance to the public health, safety or general welfare of the County, or to have a depressing influence upon property values in the area shall be prohibited.
- 5.2.4.1 The pollution of any well, stream, lake or body of water by sewage, industrial waste, or other substance is prohibited.
- 5.2.4.2 All carcasses of animals shall be buried or destroyed or otherwise disposed of within forty-eight (48) hours after death.
- 5.2.4.3 The ownership, possession or control of any unused appliances or other containers with doors which fasten automatically when closed and of sufficient size to retain any person, that are exposed and accessible to the public without the removal of the doors, lids, hinges, or latches or the locking thereof to prevent access by the public, is prohibited.
- 5.2.4.4 No person in charge or control of any property shall allow any unlicensed, partially dismantled, inoperative, wrecked or junked vehicles to remain on the property longer than thirty (30) days where said vehicle is visible from a public road or adjacent residence.
- 5.2.4.5 Altermate structures, landscaping, and fencing shall be reasonably maintained so as to avoid health or safety hazards and prevent degradation in the value of adjacent property.
- 5.2.4.6 A property owner may store up to (2) two recreational vehicles, campers, travel trailers or other such vehicles on a lot, any more than (2) two would need to be screened from public view.
- 5.3 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.

5.3.1 Vegetation Alterations.

5.3.1.1 Vegetation alteration necessary for the construction of structures and sewage treatment systems and the construction of roads and parking areas regulated by Section 5.4 of this ordinance are exempt from the vegetation alteration standards that follow.

5.3.1.2 Removal or alteration of vegetation, except for “agricultural” and “forest management” uses as regulated in sections 5.6.5 and 5.6.6, respectively, 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 forestland conversion to another use outside of these areas is allowable as a conditional use if an erosion control and sedimentation plan is developed and approved by the soil and water conservation district in which the property is located.
- (2) In shore and bluff impact zones and on steep slopes, limited clearing of trees is allowed to provide a view to the water from the principal dwelling site (not more than 30% of trees and brush within the shore impact zone, bluff and steep slopes) and to accommodate the placement of stairways and landings, picnic areas, access paths, 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; and
 - (c) The above provisions are not applicable to the removal of trees, limbs, or branches that are dead, diseased, or pose safety hazards.

5.3.2 Topographic Alterations/Grading and Filling.

5.3.2.1 Grading and filling and excavations necessary for the construction of structures, sewage treatment systems, and driveways under validly issued construction permits for these facilities do not require the issuance of a separate grading and filling permit. However, the grading and filling standards in this Section must be incorporated into the issuance of permits for construction of structures, sewage treatment systems, and driveways.

5.3.2.2 Public roads and parking areas are regulated by section 5.4 of this ordinance.

5.3.2.3 Notwithstanding sections 5.3.2.1 and 5.3.2.2 above, a grading and filling and/or land alteration permit will be required for:

- (1) The movement of more than five (5) cubic yard 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.

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

- (1) Grading or filling in any 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 and retention,
 - (b) Storage of surface runoff to prevent or reduce flood damage;
 - (c) Fish and wildlife habitat;
 - (d) Recreational use;
 - (e) Shoreline or bank stabilization; and
 - (f) Noteworthiness, including special qualities such as historic significance, critical habitat for endangered plants and animals, or others.

*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 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 commissioners under Minn. Stat. §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 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.

5.3.25. Connections to public waters. Excavations where the intended purpose is to be connected to a public water, such as boat slips, canals, lagoons, and harbors, must be controlled by Department of Natural Resources controls.

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

- 5.4.1 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 consistent with the field office technical guides of the local soil and water conservation district, or other applicable technical materials.
- 5.4.2 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.
- 5.4.3 Public 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. The grading and filling provisions of Section 5.3.2 of this ordinance must be met.
- 5.4.4 Parking of recreational vehicles, campers, trailers and movable structures (including fish houses) must meet structure setbacks.

5.5 Stormwater Management. The following general and specific standards shall apply:

5.5.1 General Standards:

- 5.5.1.1 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.
- 5.5.1.2 Development must be planned and conducted in a manner that will minimize the extent of disturbed areas, runoff velocities, erosion potential, and reduce and delay runoff volumes. Disturbed areas must be stabilized and protected as soon as possible and facilities or methods used to retain sediment on the site.

5.5.1.3 When development density, topographic features, and soil and vegetation conditions are not sufficient to adequately handle storm water 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.

5.5.2 Specified Standards:

5.5.2.1 Impervious surface coverage of lots must not exceed 25 percent of the lot area;

5.5.2.2 When constructed facilities are used for stormwater management, documentation must be provided by a qualified individual that they are designed and installed consistent with the field office technical guide of the local soil and water conservation districts.

5.5.2.3 New constructed stormwater outfalls to public waters must provide for filtering or settling of suspended solids and skimming of surface debris before discharge.

5.6 Special Provisions for Commercial, Industrial, Public/Semipublic, Home Occupation, Agricultural, Forestry and Peat.

5.6.1 Standards for Commercial, Industrial, Public, Semipublic and Home Occupation Uses.

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

- (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; and
- (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 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; and

- (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.

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

5.6.1.3 Home Occupations. It is the purpose of this subdivision to provide for the use of the home as a place for the operation of a business or profession either as a conditional use or permitted accessory use, provided the occupation is clearly secondary to the principal use of the home as a residence.

- (1) Home Occupations Requiring a Conditional Use Permit. Home occupations which have the potential for generating a noticeable increase in traffic, requires additional parking, involves employees not residing in the home, or utilizes an accessory building, shall require a Conditional Use Permit. Home occupations requiring conditional use permits: barber shops, beauty salons, repair shops, clothing shops, bed-and breakfast inns, museums, animal hospitals and kennels, schools, and similar uses shall require a Conditional Use Permit.
- (2) Permitted Home Occupations. Home occupations which employee persons residing in the home and do not require additional parking or use of an accessory building, or generate a noticeable increase in traffic shall be permitted. Permitted uses include: architects, artists, clergymen, clothing alterations, domestic craft making.
- (3) Performance Standards. All home occupations shall conform to the following standards:
 - (a) Conduct of the home occupation does not require alterations to the exterior of the residence, which substantially alter the appearance of the dwelling as a residence.
 - (b) Only those persons residing in the home and two other persons employed in the home occupation may be permitted as a conditional use.

- (c) Signage consists of no more than one single or double-faced sign with a maximum of sixteen (16) square feet per side. A maximum sign area of thirty-two (32) square feet per side may be permitted as a conditional use.
- (d) The activities, equipment and materials involved in the home occupation shall be conducted and contained within the home or accessory structure to the principal use; except in those cases when such activities, equipment and materials are not visible from a public road or adjacent residences. Such activities and items shall be screened by buildings or natural vegetation.
- (e) The home occupation shall not generate sewage of a nature or type that cannot be treated by a standard on-site sewage system, or hazardous wastes without an approved plan for off-site disposal.

5.6.1.4 Review by Planning Commission. When deemed appropriate, the Environmental Services Supervisor may bring a proposal or existing home occupation to the attention of the Planning Commission at which time the Planning Commission may permit the use or hold such public hearings, request such information, or require such information, or require such conditions as deemed necessary to ensure compliance with the performance standards and intent of this Ordinance.

5.6.2 Agriculture Use Standards.

5.6.2.1 General cultivation farming, grazing, nurseries, horticulture, truck farming, sod farming, and wild crop harvesting are permitted uses if steep slopes and shore and bluff impact zones are maintained in permanent vegetation or operated under an approved conservation plan (Resource Management Systems) consistent with the field office technical guides of the local soil and water conservation districts or the National Resources Conservation, 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.

5.6.5.2 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 basins; and
- (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.

5.6.5.3 Farm production which shall include the raising of livestock or animals not typically regarded as domestic pets for sale, profit or pleasure, provided that on parcels of less than five (5) acres and not less, than three (3) acres, the number of animal units shall be limited to two (2) animal units, on parcels less than three

(3) acres and not less than two(2) acres¹ the number of animal units shall be limited to one (1) animal unit, and on parcels less than two (2) acres the raising of such animals is not permitted. Animal units are established as per Minnesota Chapter 7020 Rules.

5.6.3 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.”

5.6.4 Land Reclamation. Under this Ordinance land reclamation is the reclaiming of land by the deposit of materials so as to elevate the grade. All land reclamation shall be controlled under the provisions of the Zoning Ordinance and shall meet the following minimum standards:

- (1) The smallest amount of bare ground is exposed for as short a time as feasible.
- (2) Temporary ground cover is used and permanent ground cover, such as sod, is planted.
- (3) Methods to prevent erosion and trap sediment are employed.
- (4) Fill is stabilized to accepted engineering standards.
- (5) Final slopes for cut slopes shall be a maximum of 1:1, fill slope 3:1, or grade or construction slope 5:1.

5.7 Conditional Uses. Conditional uses shall be by permit only as set forth and permitted by the Planning Commission. 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.

5.7.1 Evaluation Criteria. A thorough evaluation of the water body and the topographic, vegetation and soils conditions on the site must be made to ensure:

- (1) The prevention of soil erosion or other possible pollution of public waters, both during and after construction;
- (2) The visibility of structures and other facilities as viewed from public waters is limited;
- (3) The site is adequate for water supply and on-site sewage treatment; and
- (4) The types, uses, and numbers of watercraft that the project will generate are compatible in relation to the suitability of public waters to safely accommodate these water craft.

5.7.2 Conditions attached to conditional use permits. The Planning Commission upon consideration of the criteria listed above and the purposes of this ordinance, shall attach such conditions to the issuance of the conditional use permits as it deems necessary to fulfill the purposes of this ordinance. Such conditions may include, but are not limited to, the following:

- (1) Increased setbacks from the ordinary high water level;

- (2) Limitations on the natural vegetation to be removed or the requirement that additional vegetation be planted, and
- (3) Special provisions for the location to be removed or structures, sewage treatment systems, watercraft launching and docking areas, and vehicle parking areas.

5.8 Water Supply and Sewage Treatment.

- 5.8.1 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.
- 5.8.2 Sewage Treatment. Any premises used for human occupancy must be provided with an adequate method of sewage treatment, as follows:
 - 5.8.2.1 Publicly-owned sewer systems must be used where available.
 - 5.8.2.2 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, "Individual Sewage Treatment Standards, Chapter 7080", a copy of which is hereby adopted by reference and declared to be part of this ordinance.
 - 5.8.2.3 Nonconforming sewage treatment systems shall be regulated and upgraded in accordance with section 6.3 of this ordinance.

SECTION 6.0 - NONCONFORMITITES

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.

6.1 Construction on Nonconforming Lots of Record.

- 6.1.1 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 5.1 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.
- 6.1.2 Nonconformities; certain classes of property. This subdivision applies to homestead and nonhomestead residential real estate and seasonal residential real estate occupied for recreational purposes. Except as otherwise provided by law, a nonconformity, including the lawful use or occupation of land or premises existing at the time of the adoption of an official control under this chapter, may be continued, including through repair, replacement, restoration, maintenance, or improvement, but not including expansion. If the nonconformity or occupancy is discontinued for a period of more than

one year, or any nonconforming building or structure is destroyed by fire or other peril to the extent of greater than 50 percent of its estimated market value, as indicated in the records of the county assessor at the time of damage, and no building permit has been applied for within 180 days of when the property is damaged, any subsequent use or occupancy of the land or premises must be a conforming use or occupancy. If a nonconforming building or structure is destroyed by fire or other peril to the extent of greater than 50 percent of its estimated market value, as indicated in the records of the county assessor at the time of damage, the board may impose reasonable conditions upon a zoning or building permit in order to mitigate any newly created impact on adjacent property or water body. When a nonconforming structure in the shoreland district with less than 50 percent of the required setback from the water is destroyed by fire or other peril to greater than 50 percent of its estimated market value, as indicated in the records of the county assessor at the time of damage, the structure setback may be increased if practicable and reasonable conditions are placed upon a zoning or building permit to mitigate created impacts on the adjacent property or water body.

6.1.3 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.

6.1.4 Existing nonconforming lots in shoreland areas.

6.1.4.1 This subdivision applies to shoreland lots of record in the office of the county recorder on the date of adoption of local shoreland controls that do not meet the requirements for lot size or lot width. A county shall regulate the use of nonconforming lots of record and the repair, replacement, maintenance, improvement, or expansion of nonconforming uses and structures in shoreland areas according to this subdivision.

6.1.4.2 A nonconforming single lot of record located within a shoreland area may be allowed as a building site without variances from lot size requirements, provided that:

- (1) all structure and septic system setback distance requirements can be met;
- (2) a Type 1 sewage treatment system consistent with Minnesota Rules, chapter 7080, can be installed or the lot is connected to a public sewer; and
- (3) the impervious surface coverage does not exceed 25 percent of the lot.

6.1.4.3 In a group of two or more contiguous lots of record under a common ownership, an individual lot must be considered as a separate parcel of land for the purpose of sale or development, if it meets the following requirements:

- (1) the lot must be at least 66 percent of the dimensional standard for lot width and lot size for the shoreland classification consistent with Minnesota Rules, chapter 6120;

- (2) the lot must be connected to a public sewer, if available, or must be suitable for the installation of a Type 1 sewage treatment system consistent with Minnesota Rules, chapter 7080, and local government controls;
- (3) impervious surface coverage must not exceed 25 percent of each lot; and
- (4) development of the lot must be consistent with an adopted comprehensive plan.

6.1.4.4 A lot subject to section 6.1.4.3 not meeting the requirements of paragraph 6.1.4.3 must be combined with the one or more contiguous lots so they equal one or more conforming lots as much as possible.

6.1.4.5 Notwithstanding section 6.1.4.3, contiguous nonconforming lots of record in shoreland areas under a common ownership must be able to be sold or purchased individually if each lot contained a habitable residential dwelling at the time the lots came under common ownership and the lots are suitable for, or served by, a sewage treatment system consistent with the requirements of Minn. Stat. §115.55 and Minnesota Rules, Chapter 7080, or connected to a public sewer.

6.1.4.6 In evaluating all variances, zoning and building permit applications, or conditional use requests, the zoning authority shall require the property owner to address, when appropriate, storm water runoff management, reducing impervious surfaces, increasing setback, restoration of wetlands, vegetative buffers, sewage treatment and water supply capabilities, and other conservation-designed actions.

6.1.4.7 A portion of a conforming lot may be separated from an existing parcel as long as the remainder of the existing parcel meets the lot size and sewage system requirements of the zoning district for a new lot and the newly created parcel is combined with an adjacent parcel.

6.2 Additions or Expansions to Nonconforming Structures.

6.2.1. All additions or expansions to the outside dimensions of an existing nonconforming structure must meet the setback, height, and other requirements of section 5.0 of this ordinance. Any deviation from these requirements must be authorized by a variance pursuant to section 3.3

6.2.2 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:

6.2.2.1 The structure existed on the date the structure setbacks were established;

6.2.2.2 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;

6.2.2.3 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; and

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

6.3 Nonconforming Sewage Treatment Systems.

6.3.1 A sewage treatment system not meeting the requirements of Section 5.8 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. Alternate septic systems installed under PCA guidelines are considered to be conforming systems.

6.3.2 The governing body of Kanabec County, has by formal resolution notified the commissioner of its program to identify nonconforming system identified by this program within a reasonable period of time which will not exceed one year. Sewage systems installed according to all applicable local shoreland management standards adopted under Minn. Stat. §105.485, in effect at the time of installation may be considered as conforming unless they are determined to be failing, 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 Chapter 7080 for design of on-site sewage treatment systems, shall be considered failing.

6.4 Sale without Certificate Prohibited. No owner or agent of owner shall sell by conveyance or contract for conveyance, or a lease of a term of three (3) years or more, any dwelling located within Shoreland District (S) without first providing a Certificate of Septic System Compliance to the buyer or lessee, prior to the time of transaction, or providing satisfactory agreements, as follows:

6.4.1 Escrow agreements are allowed as an alternative to an incomplete Certificate of Compliance provided they meet the following criteria:

6.4.1.1 The seller(s) of the property as well as all other parties with title or interest to he property to be sold shall be clearly identified.

6.4.1.2 The buyer(s) of the property shall be clearly identified.

6.4.1.3 The escrow agent shall be clearly identified.

6.4.1.4 The seller(s) or lessor(s) shall provide a written agreement with an installer, licensed for Kanabec County, Minnesota, for the installation of a septic system designed by a licensed designer for the project at that site.

6.4.1.5 There shall be deposited pursuant to the escrow agreement, one-half (1/2) of the amount of the installation contract price as set forth in 4 above.

6.4.1.6 The escrow agreement must clearly state the terms under which the escrow money is to be dispersed but only after a passing Certificate of Compliance is provided to the Environmental Services office.

6.4.1.7 A passing Certificate of Compliance on the septic system must be provided within ten (10) months of the escrow agreement.

6.4.1.8 The escrow agreement must provide that in the event a passing Certificate of Compliance is not provided to the Environmental Services office within 10 months of the date of the escrow agreement, that the Planning Commission may utilize said funds to bring about the systems compliance.

6.4.2 A Certificate of Compliance Agreement to Subject Property to Septic Compliance inspection, or an approved escrow agreement shall accompany the deed for recording. The County Recorder shall note on a copy of each deed when the required forms are not submitted. Nothing in this Section precludes the County Recorder from recording a deed.

SECTION 7.0 – SUBDIVISION/PLATTING PROVISIONS

- 7.1 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, or sewage erosion potential, steep topography, inadequate 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, or of the community. Action must be taken by the Subdivider to rezone districts that may be affected by Residential uses.
- 7.2 Consistency with Other Controls. Subdivisions must conform to all official controls of this community. 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 and a sewage treatment system consistent with sections 5.2 and 5.8 can be provided for every lot. Each lot shall meet the minimum lot size and dimensional requirements of section 5.1, including at least a minimum contiguous lawn area, that is standard soil treatment systems. Lots that would require use of holding tanks must not be approved.
- 7.3 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:
- (1) Topographic contours at ten-foot intervals or less from United States Geological Survey maps or more accurate sources, showing limiting site characteristics;
 - (2) The surface water features required in Minnesota Statutes, section 505.02, subdivisions 1, to be shown on plats, obtained from United States Geological Survey quadrangle topographic maps or more accurate sources;
 - (3) Adequate soils information to determine suitability for building and on-site sewage treatment capabilities for every lot from the most current existing sources or from field investigations such as soil borings, percolation tests, or other methods;

- (4) Information regarding adequacy of domestic water supply; extent of anticipated vegetation and topographic alterations; near-shore aquatic conditions, including depths, types of bottom sediments, and aquatic vegetation; and proposed methods for controlling stormwater runoff and erosion, both during and after construction activities;
 - (5) Location of 100 - year flood plain areas and floodway districts from existing adopted maps or data; and
 - (6) A line or contour representing the ordinary high water level, the “toe” and the “top” of bluffs, and the minimum building setback distances from the top of the bluff and the lake or stream.
- 7.4 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.
- 7.5 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.
- 7.6 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 5.14 of this ordinance.

SECTION 8.0 — FEES

- 8.1 Fees. Fees will be as established by resolution of the County Board.
- 8.2 Penalties. Penalties for pre-construction without notification or permit application will be double the permit costs in effect at that time.

APPENDIX A

CONSIDERATIONS FOR TOWNSHIP ZONING

Townships may adopt shoreland management controls under authority of Minn. Stat. §394.33, subd. 1, if the controls are not inconsistent with, or less restrictive than, the controls adopted by the county in which the township is located. This must be accomplished in accordance with the following conditions:

For the purposes of Minnesota Regulations, Parts 6120.2500 to 6120.3900, shoreland management controls adopted by townships will only be considered to be consistent with county controls if they cover the same full range of shoreland management provisions covered by the county controls, contain dimensional standards at least as restrictive as those in the county controls, and do not allow land uses in particular areas that are not allowed under the county's official controls.

The township must demonstrate to the county board that its proposed ordinance and administration is at least as restrictive as the county's prior to final adoption by the township. This will include, at a minimum, that the township has the staff necessary to administer the ordinance, has sufficient building permit application and certification forms and procedures, and an enforcement mechanism to enforce the ordinance should violations occur.

Townships must provide for administration and enforcement of shoreland management controls at least as effective as county implementation. Townships that adopt shoreland controls must provide the notifications in Section 3.4 of the sample ordinance to the Commissioner or the Commissioner's designee and to the zoning official of the county.

After adequate shoreland management controls are adopted by township, property owners must only obtain necessary permits and approvals as required in the township shoreland management controls. Property owners do not have to obtain similar permits or approvals under the county's shoreland controls.

The Commissioner of the Department of Natural Resources must also approve a township's shoreland ordinance. The DNR and the respective county should work together to make a joint determination as to whether the townships ordinance is in compliance with state and county standards.

Office of the
County Coordinator
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Proceedings of the County Board

State of Minnesota
County of Kanabec

Office of the County Coordinator
Mora, Kanabec County, Minnesota
Minutes of the County Board Held: June 27, 2012

Certification

I, the undersigned, being the duly appointed recording officer of the County of Kanabec, State of Minnesota, certify that the information herein as approved in Board Resolution 27 – 06/27/12 has been carefully compared with the original records of Board of Commissioners, Kanabec County, Minnesota, those records being in my custody and on file in the Coordinator's Office, and is a true a correct copy of these minutes.

Patrick Christopherson, Kanabec County Coordinator