Minnesota's Alternative Shoreland Management Standards

Developed through the work of the Shoreland Standards Update Advisory Committee

December 12, 2005

Minnesota Department of Natural Resources

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Dear Commissioner Gene Merriam:

From February to December 2005, the Shoreland Standards Update Advisory Committee met to assess shoreland development standards by reviewing the science related to shoreland development management. The Shoreland Standards Update Project, a north central lakes area pilot project of the Clean Water Initiative, concluded that accompaniments to the existing shoreland management rules (Chapter 6120) are warranted, in fact they are necessary to address important economic and environmental issues.

The north central lakes region is growing fast, and the rate of development is predicted to increase. Many people are concerned about the consequences of poor development on water quality and fish and wildlife habitat. Better development practices can reduce the negative consequences, while increasing property values.

The shoreland development standards were originally developed in 1970 and updated in 1989. The existing shoreland standards needed to be modernized to provide alternative tools to address water quality declines and habitat losses, while reflecting local resource conditions and needs. The Shoreland Standards Update Advisory Committee was guided by the mission statement from Minnesota Statute 103F.201 which calls for the development of standards that:

(1) provide guidance for the wise development of shorelands of public waters and thus preserve and enhance the quality of surface waters;
(2) preserve the economic and natural environmental values of shorelands; and
(3) provide for the wise use of water and related land resources of the state.

These alternative standards were developed as a set of additional tools for local governments to address local conditions and concerns. This set of standards does not supersede existing state requirements. However, due to critical need or benefit of these standards, some or all may eventually make their way into state rules or local ordinances. If this occurs, all required processes for public input, review and comment will be adhered to, including the rights afforded to challenge such proposed changes.

It is hoped that state standards, whether alternative standards or not, incorporate the latest reliable knowledge and that they evolve or adapt to changing conditions or information. Feedback from local governments is needed to gauge acceptance and effectiveness of these standards. Case studies from numerous local governments that adopt these standards will be particularly useful in their progression.

Although some of these alternative standards may not represent the views of all Committee members, it is believed that these standards are pragmatic tools for selective use by local governments. On behalf the Shoreland Standards Update Advisory Committee, thank you for your thoughtful attention to this project and these standards.

Sincerely,

Russ Schultz
Project Manager

Shoreland Standards Update Advisory Committee

1st Name	Last Name	Organization / Company / Representation
John	Alden	Environmental Planning & Consulting
Carol	Altepeter	Explore Minnesota Tourism
Tom	Beaver	Cullen Lake Association
Tom	Day	Hospitality Minnesota
Harold	Dziuk	Itasca COLA
Tom	Ebnet	Thirty Lakes Watershed District
John	Erickson	Erickson Pearson Law
Ed	Fussy	Pimushe Resort/Congress of Minnesota Resorts
Patty	Gould-St. Aubin	Real Estate Practioners
Ken	Grob	Hubbard COLA
Bryan	Harris	Eagle Nest Lodge
Phil	Hunsicker	1000 Friends of Minnesota
Garry	Johanson	Developer/Naterra Land
Karl	Koller	Minnesota Chapter of the American Fisheries Society
Scott	Lucas	Crow Wing SWCD
Dale	Lueck	Aitkin County Commissioner
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Dennis	McGibbon	Sand Lake Association
Catherine	McLynn	Itasca County Commissioner
David	Moe	Clamshell Beach Resort/Brainerd Lakes Area Chambers of Commerce
Brian	Napstad	Aitkin County Commissioner
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Swede	Nelson	Hubbard County Commissioner
Dana	Pitt	Bailey's Resort/Congress of Minnesota Resorts
Jim	Raboin	Developer/BlueStone Construction
Tim	Ramerth	Developer/Westwood Professional Services, Inc.
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Don	St. Aubin	Itasca COLA
John	Sumption	Cass County Environmental Services Director
Henry	Van Offelen	Minnesota Center of Environmental Advocacy
Greg	Wagner	City of Baxter
Jack	Wallschlager	Whitefish Area Property Owners Association
Reno	Wells	Minnesota Association of Townships
Paula	West	Minnesota Lakes Association

CHAPTER ALT6120
DEPARTMENT OF NATURAL RESOURCES
SHORELAND MANAGEMENT RULES
Voluntary Alternative Standards

ALT6120.2500 DEFINITIONS.

Subpart 1. **Scope of terms, mandatory, distances.**
For the purpose of parts ALT6120.2500 to ALT6120.3900, certain terms or words used shall be interpreted as follows: the word "shall" is mandatory, not permissive. All distances, unless otherwise specified, shall be measured horizontally.

Subp. 2. **Access lot.**
“Access lots” is a parcel of land that provides access to public waters.

Subp. 3. **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.

Subp. 4. **Bluff.**
"Bluff" means a topographic feature such as a hill, cliff, or embankment having all of the following characteristics:

A. part or all of the feature is located in a shoreland area;

B. the slope rises at least 25 feet above the ordinary high water level of the waterbody;

C. 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 the slope must drain toward the waterbody.

An area with an average slope of less than 18 percent over a distance for 50 feet or more within the bluff may be exempted from the bluff standards.

Subp. 5. **Bluff impact zone.**
"Bluff impact zone" means a bluff and land located within 30 feet from the top of a bluff.

Subp. 6. **Boathouse.**
"Boathouse" means a structure designed and used solely for the storage of boats or boating equipment.

Subp. 7. **Buildable area.**
“Buildable area” is the minimum contiguous area remaining on a lot or parcel of land after all setback requirements, bluffs, areas with slopes greater than 25 percent, all easements and rights-of-way, historic sites, wetlands, and land below the ordinary high water level of public waters are subtracted for the purpose of placement of structures.

Subp. 8. **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 extend.

Subp. 9. **Campground.**
"Campground" means a development that is used for the purpose of providing sites for non-permanent overnight use by campers using tents, trailers, recreation camping vehicles, or other temporary shelters.

Subp. 10. **Certificate of survey.**
A graphic representation of the boundary survey of a parcel of real property along with the description of the land and the signed certification of a Minnesota licensed land surveyor.

Subp. 11. **Clustering or clustered.**
"Clustering" or "clustered" means a development pattern and technique whereby structures or building sites are arranged in close proximity to one another in non-linear groups, adjacent to permanently preserved common open space, so as to make efficient and visually aesthetic use of the natural features of the landscape and maximize visualization of permanently preserved open space.

Subp. 12. **Commercial use.**
"Commercial use" means the principal use of land or buildings for the sale, lease, rental, or trade of products, goods, and services.

Subp. 13. **Commissioner.**
"Commissioner" means the commissioner of the Department of Natural Resources.

Subp. 14. **Common interest community.**
"Common interest community" means contiguous or noncontiguous real estate that is subject to an instrument which obligates persons owning a separately described parcel of the real estate, or occupying a part of the real estate pursuant to a proprietary lease, by reason of their ownership or occupancy, to pay for real estate taxes levied against, insurance premiums payable with respect to, maintenance of, or construction, maintenance, repair or replacement of improvements located on one or more parcels or parts of the real estate other than the parcel or part that the person owns or occupies.

Subp. 15. **Common open space.**
"Common open space" means a portion of a development site that is permanently set aside for public or private use, is held in common ownership by all individual owners within a development, and will not be developed. Common open space shall include wetlands, upland recreational areas, wildlife areas, historic sites, and areas unsuitable for development in their natural state. Common open space is not the space between buildings of a cluster in a conservation subdivision and planned unit development, and it does not include an area of 25 feet around each structure or any impervious surface.

Subp. 16. **Condominium.**
"Condominium" means a common interest community in which portions of the real estate are designated as units and the remainder of the real estate is designated for common ownership

solely by the owners of the units. In addition, undivided interests in the common elements are vested in the unit owners.

Subp. 17. **Conditional use.**
"Conditional use" means a use as this term is defined in Minnesota Statutes, chapter 394.

Subp. 18. **Conservation subdivision.**
“Conservation subdivision” is a method of subdivision characterized by common open space and clustered compact lots, with the purpose of creating greater community value through open space amenities for homeowners and protection of natural resources, while allowing for the residential densities consistent with prevailing densities. Site designs incorporate standards of low impact development, such as the use of some single-load roadways and narrower rights-of-way, looped road-ways versus cul-de-sacs, maximum road setbacks for structures, and preservation of trees, shoreline, unique resources, and scenic vistas, and these developments use stormwater designs that emphasize on-site retention and infiltration through the preservation of native vegetation within the shore impact zone, use of pervious surfaces, rain gardens, and swales.

Subp. 19. **Conventional subdivision.**
“Conventional subdivision” means a pattern of subdivision development that permits the division of land in the standard form where lots are spread evenly throughout a parcel with little regard for natural features or common open space as compared to a conservation subdivision where lots are clustered and common open space is provided.

Subp. 20. **Cooperative.**
"Cooperative" means a common interest community in which the real estate is owned by an association, each of whose members is entitled by virtue of the member's ownership interest in the association to a proprietary lease.

Subp. 21. **Crawl space.**
Crawl space means any areas or rooms with less than 7 feet ceiling height measured to the finished floor or grade below.

Subp. 22. **Deck.**
"Deck" means a horizontal, unenclosed structure with or without attached railings, seats, trellises, or other features, attached or functionally related to a principal use or site and at any point extending more than three feet above ground.

Subp. 23. **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.

Subp. 24. **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.

Subp. 25. **Dwelling unit.**
"Dwelling unit" means any structure or portion of a structure, or other shelter designed as short- or long-term living quarters for one or more persons, including rental or timeshare accommodations such as motel, hotel, and resort rooms and cabins.

Subp. 26. **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.

Subp. 27. **Forest land conversion.**
"Forest land conversion" means the clear cutting of forested lands to prepare for a new land use other than reestablishment of a subsequent forest stand.

Subp. 28. **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.

Subp. 29. **Hardship.**
"Hardship" means the same as that term is defined in Minnesota Statutes, chapter 394.

Subp. 30. **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 a flat roof or mean height between the eaves and the ridge for gable, hip, mansard, gambrel, or other pitched or hipped roofs.

Subp. 31. **Impervious surface.**
“Impervious surface” means a constructed hard surface that either prevents or retards the entry of water into the soil and causes water to run off the surface in greater quantities and at an increased rate of flow than prior to development. Examples include rooftops, sidewalks, patios, storage areas, and concrete, asphalt or gravel driveways.

Subp. 32. **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.

Subp. 33. **Intensive vegetation clearing.**
"Intensive vegetation clearing" means the complete removal of trees or shrubs in a contiguous patch, strip, row, or block.

Subp. 34. **Lot.**
"Lot" means a parcel of land designated by plat, metes and bounds, registered land survey, auditors plat, or other accepted means and separated from other parcels or portions by said description for the purpose of sale, lease, or separation.

Subp. 35. **Lot width.**
"Lot width" means the shortest distance between lot lines measured at the midpoint of the building line for riparian lots. For nonriparian lots, the lot width is the shortest distance between side lot lines as measured at the midpoint of the longest axis of the lot.

Subp. 36. **Lowest floor.**
"Lowest floor" means the lowermost floor of the lowest enclosed area, including basement and crawl space. An unfinished or flood resistant enclosure, used solely for parking of vehicles, building access, or storage in an area other than a basement or crawl space area, is not considered a building's lowest floor.

Subp. 37. **Major subdivision.**
"Major subdivision" means any division of a parcel of land involving the establishment of four or more lots.

Subp. 38. **Metes and bounds.**
"Metes and bounds" means a description of real property which is not described by reference to a lot or block shown on a map or a recorded plot, but is described by starting at a known point and describing the direction and length of the lines forming the boundaries of the property.

Subp. 39. **Minor subdivision.**
"Minor subdivision" means the division of a tract of land into two or three lots or the relocation of the boundary line between two abutting metes and bounds parcels of property provided such relocation shall not cause the creation of an additional parcel or parcels and the resulting parcels comply with all lot dimensional standards.

Subp. 40. **Nonconformity.**
"Nonconformity" means the same as that term is defined or described in Minnesota Statutes, chapter 394.

Subp. 41. **Ordinary high water level (OHW).**
"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.

Subp. 42. **Planned unit development.**
"Planned unit development" means a method of land use or development characterized by a unified site design for a number of dwelling units or dwelling sites on a parcel, whether for sale, rent, or lease, and that incorporates clustering of these units or sites to provide areas of common open space, and a mix of structure types and land uses. These developments may be organized and operated as residential or commercial enterprises such as individual dwelling units, townhouses, condominiums, time-share condominiums, cooperatives, common interest

communities, shared-interest communities, apartment buildings, non-resort campgrounds and youth camps, recreational vehicle parks, manufactured home parks, hotels, motels, or any combination of these. Planned unit developments shall also include any conversion of pre-existing structures and land uses in order to utilize this method of development.

Subp. 43. **Plat.**
"Plat" means a map or drawing, conforming to Minnesota Statutes, chapter 505, which graphically delineates the boundaries and dimensions of land parcels for the purpose of identification and record or title.

Subp. 44. **Platform.**
"Platform" means a horizontal, unenclosed structure with or without attached railings, seats, trellises, or other features, attached or functionally related to a principal use or site and at any point extending less than three feet above ground.

Subp. 45. **Public waters.**
"Public waters" means any waters as defined in Minnesota Statutes, section 103G.005, subdivisions 15 and 15a. However, no lake, pond, or flowage of less than ten acres in size in municipalities and 25 acres in size in unincorporated areas need be regulated for the purposes of parts 6120.2500 to 6120.3900. A body of water created by a private user where there was no previous shoreland may, at the discretion of the local government, be exempted from parts 6120.2500 to 6120.3900.

The official determination of the size and physical limits of drainage areas of rivers and streams shall be made by the commissioner.

Subp. 46. **Recreation use area.**
"Recreation use area" is the area allowed within the shore impact zone for residential lots, conservation subdivisions, planned unit developments, and new resorts.

Subp. 47. **Residential lot suitable area.**
"Residential lot suitable area" is the minimum area on a residential lot or parcel of land that is the sum of the buildable area and the sewage treatment system suitable area for unsewered areas or the buildable area in sewered areas.

Subp. 48. **Resort.**
"Resort" means a commercial establishment, that includes buildings, campgrounds, lodges, structures, dwelling units/sites, enclosures or any part thereof kept, used, maintained or advertised as, or held out to the public to be a place where sleeping accommodations are furnished to the public and primarily to those seeking recreation, for periods of one day, one week, or longer, and having for rent three or more cabins, rooms, campsites, or enclosures. These establishments must be primarily service-oriented for transient lodging of guests. All cabins, rooms, dwelling units/sites, or enclosures must be included in the resort rental business. Resorts allow no residential use of a dwelling unit/site for more than 30 days within a calendar year, except dwellings used as residences for the service providers or dwelling units/sites for renters. In order to qualify as a resort pursuant to this definition, a resort shall also be fully

licensed and permitted under appropriate state and local regulations. The entire parcel of land must be controlled and managed by the licensee.

Subp. 49. **Secondary shoreline buffer zone.**
“Secondary shoreline buffer zone” means the land located between the shore impact zone and the structure setback.

Subp. 50. **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.

Subp. 51. **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.

Subp. 52. **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, natural resource feature (e.g., wetlands or heritage elements), road, highway, property line, or other facility.

Subp. 53. **Sewage treatment system.**
“Sewage treatment system" means a septic tank and soil absorption system or other individual or cluster type sewage treatment system as described and regulated in chapter 7080.

Subp. 54. **Sewage treatment system suitable area.**
“Sewage treatment system suitable area” is the area meeting or exceeding the site requirements of Minnesota Pollution Control Agency individual sewage treatment system rules, Chapter 7080, for the purpose of soil treatment or drainfield areas and future additional sites.

Subp. 55. **Sewer system.**
"Sewer system" means pipelines or conduits, pumping stations, and force main, and all other constructions, devices, appliances, or appurtenances used for conducting sewage or industrial waste or other wastes to a point of ultimate disposal.

Subp. 56. **Shared-interest community.**
“Shared-interest community” means real estate that is subject to an instrument which obligates persons owning a separately described parcel of the real estate and occupying a part of the real estate pursuant to a proprietary lease or covenant for residential use for more than 30 days within a year, by reason of their ownership or occupancy, to pay for real estate taxes levied against, insurance premiums payable with respect to, maintenance of, or construction, maintenance, repair or replacement of improvements located on one or more parcels or parts of the real estate other than the parcel or part that the person owns or occupies.

Subp. 57. **Shore impact zone.**
"Shore impact zone" means land located between the ordinary high water level of a public water and a line parallel to it at a setback of 50 percent of the structure setback, but not less than 50 feet. This area serves as the primary shoreline buffer.

Subp. 58. **Shoreland.**
"Shoreland" means land located within the following distances from public water: 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 flood plain 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.

Subp. 59. **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 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.

Subp. 60. **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 site's 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 these regulations. 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.

Subp. 61. **Structure.**
"Structure" means any building or appurtenance, including decks, platforms, carports, and roof overhangs, except aerial or underground utility lines, such as sewer, electric, telephone, telegraph, gas lines, towers, poles, and other supporting facilities.

Subp. 62. **Subdivision.**
"Subdivision" means land that is divided for the purpose of sale, rent, or lease, including planned unit development.

Subp. 63. **Suitable Area.**
“Suitable Area” is the area remaining on a lot or parcel of land after bluffs, areas with slopes greater than 25 percent, all easements and rights-of-way, historic sites, wetlands, land below the ordinary high water level of public waters, and all setback requirements, except the ordinary high water level structure setback, are subtracted.

Subp. 64. **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.

Subp. 65. **Toe of the bluff.**
"Toe of the bluff" means the lower point of a 50-foot segment with an average slope exceeding 18 percent.

Subp. 66. **Top of the bluff.**
"Top of the bluff" means the higher point of a 50-foot segment with an average slope exceeding 18 percent.

Subp. 67. **Variance.**
"Variance" means the same as that term is defined or described in Minnesota Statutes, chapter 394.

Subp. 68. **Water-oriented accessory structure or facility.**
"Water-oriented accessory structure or facility" means a small, 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, fish houses, pump houses, and detached decks and platforms.

Subp. 69. **Wetland.**
"Wetland" means any lands as defined in Minnesota Statutes, section 103G.005, subd. 19. These lands are transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water. Wetlands must have the following three attributes: (1) have a predominance of hydric soils; (2) are inundated or saturated by surface or ground water at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions; and (3) under normal circumstances support a prevalence of such vegetation.

Subp. 70. **Youth camp.**
An establishment organized, developed, managed, and operated under supervision for the primary purpose of education, recreation, health, or similar purpose for young persons less than 21 years of age. These establishments must be primarily service-oriented for transient lodging of youth.

ALT6120.2900 ALTERNATIVE STANDARDS

The alternative shoreland management standards established by the commissioner shall be optional for local units of government. Local government empowered to adopt and enforce land use regulations, including townships that meet the standards in ALT6120.3900, Subp. 5, shall have the option to adopt any or all of these alternative shoreland management rules pursuant to the authority of part 6120.2800, Subp. 3. The adoption of these alternative shoreland management standards by a local government shall not relieve the responsibility of the local government from complying with the provisions of any part of 6120.2800.

ALT6120.3000 SHORELAND MANAGEMENT CLASSIFICATION SYSTEM.

Subpart 1. **Criteria.**
The commissioner shall classify public waters in accordance with the following criteria:

A. size and shape;

B. amount and type of development at the time of the original classification;

C. road and service center accessibility at the time of the original classification;

D. existing natural characteristics of the waters and shorelands;

E. state, regional, and local plans and management programs;

F. existing land use restrictions;

G. presence of significant historic sites;

H. amount and type of publicly owned shorelands;

I. presence of unique, endangered or protected flora or fauna; and

J. existing soil character and geomorphology of the shorelands.

Subp. 1a. **Classes.**
The classes of public waters are special protection lakes, natural environment lakes, recreational development lakes, general development lakes, remote river segments, forested river segments, transition 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. General descriptions of each class follow:

A. Special protection lakes are unique sensitive water bodies such as shallow or land-locked lakes that support or have supported significant aquatic plant, fish or wildlife populations. There are numerous constraints to development, such as hydric soils or erodible land. Rare, endangered, or special concern species may use the lake or surrounding shorelands. These lakes currently have low to moderate development, and they are especially vulnerable to the consequences of development.

B. 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.

C. 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. At the time of the original classification, they were characterized by moderate levels of recreational use and existing development, and development consisted mainly of seasonal and year-round residences and recreationally-oriented commercial uses.

D. General development lakes are generally large, deep lakes or lakes of varying sizes and depths with high levels and mixes of existing development at the time of the original classification. These lakes often are extensively used for recreation and are heavily developed around the shore. Second and third tiers of development are fairly common. The larger examples in this class can accommodate additional development and use.

E. 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.

F. 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.

G. 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.

H. Agricultural river segments are located in well-roaded, intensively cultivated areas of the western and southern regions of the state. Cultivated crops are the predominant land use, with some pasture and occasional feedlots, small municipalities, and small forested areas. Residential development is not common, but some year-round residential use is occurring within commuting distances of major cities. Some intensive recreational use occurs on these river segments in particular areas, but overall recreational use of these waters and adjacent lands is low. Although potential exists for additional development and recreation, water quality constraints and competing land uses, particularly agriculture, will inhibit expansions.

I. Urban river segments are located within or adjacent to major cities throughout the state. A variety of residential and other urban land uses exists within these segments. Recreational uses of these segments and adjacent lands are common, but vary widely in types and intensities. These segments have potential for additional development, for redevelopment,

and for additional recreational use, although recreational use on some of these segments competes with commercial river traffic.

J. Tributary river segments consist of watercourses mapped in the Protected Waters Inventory that have not been assigned one of the river classes in items E to I. 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.

Subp. 2. **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.

Subp. 3. **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.

All public waters that are not classified shall automatically default to the natural environment class until such time that they are classified by the commissioner.

Subp. 4. **Reclassification.**
The commissioner may, as the need arises, reclassify any public water to a more restrictive class. Also, any local government may at any time submit a resolution and supporting data requesting a change to a more restrictive classification of waters within its jurisdiction to the commissioner for consideration.

Subp. 5. **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.

Subp. 6. **Multiple Shoreland Management Classifications.**
The commissioner may, upon receipt of a resolution pursuant to Subpart 4, apply multiple shoreland management classifications on a public water. Where the commissioner has received such a resolution, the following policies and criteria shall be used in approving any request for multiple shoreland management classifications on a single public water.

A. for those lakes with regular natural shoreline configurations, possessing few or no bays, arms, islands, peninsulas or points, no multiple shoreland management classifications shall be applied;

B. for lakes with irregular natural shoreline configurations, possessing two or more bays, arms, islands, peninsulas or points, or lakes that have been artificially segmented by roadways, railways, bridges or levees, the commissioner may assign multiple shoreland management classifications to clearly defined portions of the shoreland area consistent with the classification criteria and procedures set forth in subparts 1 through 3 above;

C. in no case shall the commissioner apply multiple shoreland management classifications on a lake with a total water surface acreage less than or equal to 250 acres, or on a single embayment with a total water surface acreage less than or equal to 5 acres;

D. reservoirs on rivers and streams assigned a shoreland management classification may also be eligible for the application of multiple shoreland management classifications, provided they meet all of the criteria set forth in items A through C above;

E. where comprehensive lake management plans or local water plans are completed and approved.

Local governments are encouraged to hold public discussions with the commissioner or the commissioner's designative representatives and other natural resource management agencies prior to creation of a resolution, so that through a participatory process all parties understand the reclassification.

ALT6120.3100 LAND USE DISTRICTS.

The development of shorelands of public waters must be controlled by means of land use zoning districts which are designated to be compatible with the classes of public waters in part ALT6120.3000. Land use zoning districts may be established to provide for:

A. the management of areas unsuitable for development due to wet soils, steep slopes, flooding, inadequate drainage, severe erosion potential, presence of significant historic sites, or any other feature likely to be harmful to the health, safety, or welfare of the residents of the community;

B. the reservation of areas suitable for residential development from encroachment by commercial and industrial uses;

C. the centralization of service facilities for residential areas and enhancement of economic growth for those areas suitable for limited commercial development;

D. the management of areas for commercial or industrial uses which, by their nature, require location in shoreland areas;

E. the protection of valuable agricultural lands from conversion to other uses; and

F. the preservation and enhancement of the quality of water-based recreational use of public waters, including non-motorized recreational use of public waters and provisions for public accesses.

ALT6120.3200 CRITERIA FOR LAND USE ZONING DISTRICT DESIGNATION.

Subpart 1. **Criteria.**
Land use zoning districts established by local governments must be based on considerations of:

A. preservation of natural areas;

B. present ownership and development of shoreland areas;

C. shoreland soil types and their engineering capabilities;

D. topographic characteristics;

E. vegetative cover;

F. in-water physical characteristics, values, and constraints;

G. recreational use of the surface water;

H. road and service center accessibility;

I. socioeconomic development needs and plans as they involve water and related land resources;

J. the land requirements of industry which, by its nature, requires location in shoreland areas;

K. the necessity to preserve and restore certain areas having significant historical or ecological value;

L. comprehensive lake management plans, if completed and approved; and

M. approved local water plan.

Subp. 2. **Designation of zoning districts.**
Local governments with adopted land use zoning districts in effect on the date of adoption of parts 6120.2500 to 6120.3900 may continue to use the districts until revisions are proposed. When amendments to zoning districts on lakes are considered, local governments, at least for all the shoreland within the community of the public water involved and preferably for all shoreland areas within the community, must revise existing zoning district and use provisions to make them substantially compatible with the framework in subpart 4. On a river, zoning districts and use provisions for all shoreland on both sides within the same class in the community must be revised to make them substantially compatible with the framework in subpart 5. If the same river class is contiguous for more than a five-mile segment, only the shoreland for a distance of 2.5 miles up and down stream or to the class boundary, if closer, need be evaluated. When an interpretation question arises about whether a specific land use fits within a category in subpart 4

or 5, the question must be resolved through procedures in local government official controls and state statutes.

Subp. 3. **Land use district descriptions.**
Land use district descriptions are as follows:

A. A sensitive area 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. Criteria for establishing sensitive area districts may include vulnerable or nutrient-susceptible bays, areas adjacent to inlets and outlets, and areas with broad and extensive littoral zones or wetland fringes. Generally, a sensitive area district shall exceed 500 feet of shoreline length.

B. 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.

C. 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.

D. A general use district is intended to be used only for lands already developed or suitable for development with concentrated urban, particularly commercial, land uses. It should not generally be used on special protection lakes, natural environment lakes and shorelands,, or remote river classes. Several other intensive urban uses such as industrial and resort developments may be allowed in this district if handled as conditional uses.

Subp. 4. **Shoreland classifications and uses; lakes.**
For the lake classes, districts, and uses in this subpart, P = permitted uses, C = conditional uses, and N = prohibited uses.

A. Lake classes in sensitive area districts.

Uses	General development	Recreational development	Natural environment
Forest management	P	P	P
Sensitive resource management	P	P	P
Agricultural: cropland and pasture	P	P	P
New animal feedlots*	N	N	N
Parks and historic sites	C	C	C

Extractive use	C	C	C
Single residential	C	C	C
Conventional subdivisions	C	C	C
Planned unit developments	C	C	C
Conservation subdivisions	C	C	C
Mining of metallic minerals and peat	P	P	P

* Expansions to existing animal feedlots with shoreland areas must be reviewed as conditional uses and must meet the standards or rules of the Minnesota Pollution Control Agency, chapter 7020.

B. Lake classes in residential districts.

Uses	General development	Recreational development	Natural environment	Special protection
Single residential	P	P	P	C
Conventional subdivisions	C	C	C	N
Planned unit developments	P	P	P	C
Conservation subdivisions	P	P	P	C
Semipublic	C	C	C	C
Parks and historic sites	C	C	C	C
Extractive use	C	C	C	N
Duplex, triplex, quad residential	P	P	C	N
Forest management	P	P	P	P
Mining of metallic minerals and peat	P	P	P	P

C. Lake classes in water-oriented commercial districts.

Uses	General development	Recreational development	Natural environment	Special protection
Surface water-oriented commercial	P	P	C	N
New Resorts	C	C	N	N
Replacement of cabins within existing Resorts	P	P	P	P
**Expansions of Resorts	P	P	P	P
Public, semipublic	C	C	C	C
Parks and historic sites	C	C	C	C
Forest management	P	P	P	P

** Expansions on resorts that result in more than 20 dwelling units shall require a conditional use permit.

D. Lake classes in general use districts.

Uses	General development	Recreational development	Natural environment	Special protection
Commercial	P	P	C	N
New Resort	C	C	N	N
Replacement of cabins within existing Resorts	P	P	P	P
*Expansions of Resorts	P	P	P	P
Industrial	C	C	N	N
Public, semipublic	P	P	C	C
Extractive use	C	C	C	N
Parks and historic sites	C	C	C	C
Forest management	P	P	P	P
Mining of metallic minerals and peat	P	P	P	P

* Expansions on resorts that result in more than 20 dwelling units shall require a conditional use permit.

Subp. 5. **Shoreland classifications and uses; rivers.**
For the river classes, districts, and uses in this subpart, P = permitted uses, C = conditional uses, and N = prohibited uses.

A. River classes in sensitive area districts.

Uses	Remote	Forested	Transitional	Agricultural	Urban	Tributary
Forest management	P	P	P	P	P	P
Sensitive resource management	P	P	P	P	P	P
Agricultural: cropland and pasture	P	P	P	P	P	P
New animal feedlots*	N	N	N	N	N	N
Parks and historic sites	C	C	C	C	C	C
Extractive use	C	C	C	C	C	C
Single residential	C	C	C	C	C	C
Mining of metallic minerals and peat	P	P	P	P	P	P

* Expansions to existing animal feedlots within shoreland areas must be reviewed as conditional uses and must meet the standards or rules of the Minnesota Pollution Control Agency, chapter 7020.

B. River classes in residential districts.

Uses	Remote	Forested	Transitional	Agricultural	Urban	Tributary
Single residential	P	P	P	P	P	P
Conventional subdivisions	C	C	C	C	C	C
Planned unit developments	C	C	P	P	P	P
Conservation subdivisions	C	C	P	P	P	P
Semipublic	C	C	C	C	P	P
Parks and historic sites	C	C	C	C	C	P
Extractive use	C	C	C	C	C	C
Duplex, triplex, quad residential	C	C	C	C	P	C
Forest management	P	P	P	P	P	P
Mining of metallic minerals and peat	P	P	P	P	P	P

C. River classes in water-oriented commercial districts.

Uses	Remote	Forested	Transitional	Agricultural	Urban	Tributary
Surface water-oriented commercial	C	C	C	C	C	C
New Resort	C	C	C	C	C	C
Replacement of cabins within existing Resorts	P	P	P	P	P	P
*Expansions of Resorts	P	P	P	P	P	P
Public, semipublic	C	C	C	P	P	P
Parks and historic sites	C	C	C	C	C	C
Forest management	P	P	P	P	P	P

* Expansions on resorts that result in more than 20 dwelling units shall require a conditional use permit.

D. River classes in general use districts.

Uses	Remote	Forested	Transitional	Agricultural	Urban	Tributary
Commercial	C	C	C	C	P	C
New Resort	C	C	C	C	C	C
Replacement of cabins within existing Resorts	P	P	P	P	P	P
*Expansions of Resorts	P	P	P	P	P	P
Industrial	N	C	N	N	C	C
Public, semipublic	C	C	C	C	P	C
Extractive use	C	C	C	C	C	C

Parks and historic sites	C	C	C	C	C	C
Forest management	P	P	P	P	P	P
Mining of metallic minerals and peat	P	P	P	P	P	P

* Expansions on resorts that result in more than 20 dwelling units shall require a conditional use permit.

ALT6120.3300 ZONING PROVISIONS.

Subpart 1. **Purpose.**
To manage the effects of shoreland and water surface crowding, to prevent pollution of surface and ground waters of the state, to provide ample space on lots for sewage treatment systems, to minimize flood damages, to maintain property values, to maintain historic values of significant historic sites, and to maintain natural characteristics of shorelands and adjacent water areas, shoreland controls must regulate lot sizes, placement of structures, and alterations of shoreland areas.

Subp. 2. **Residential lot size.**
All single, duplex, triplex, and quad residential lots created after the date of enactment of the local shoreland controls must meet or exceed the dimensions presented in subparts 2a and 2b, and the following:

A. Lots must not be occupied by any more dwelling units than indicated in subparts 2a and 2b. Only land above the ordinary high water level of public waters 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.

B. On natural environment lakes or shorelands and within sensitive area districts, subdivisions of duplexes, triplexes, and quads must also meet the following standards:

(1) Each building must be set back at least 200 feet from the ordinary high water level.

(2) Each building must have common sewage treatment and water systems that serve all dwelling units in the building.

(3) Watercraft docking facilities for each lot must be centralized in one location and serve all dwelling units in the building.

(4) No more than 25 percent of a lake's shoreline can be in duplex developments.

(5) Triplexes and quads shall not be allowed within riparian lots.

C. One guest cottage may be allowed in local controls if the controls also require all of the following standards to be met:

(1) A guest cottage may be allowed on lots meeting or exceeding the duplex dimensions presented in subparts 2a and 2b, and the guest cottage must not cover more than 700 square feet of land surface and must not exceed 15 feet in height.

(2) A guest cottage may be allowed on lots meeting or exceeding the triplex dimensions presented in subparts 2a and 2b, and the guest cottage must not cover more than

1200 square feet of land surface and must not exceed 20 feet in height unless confined to the second story of an accessory structure.

(3) A guest cottage must be located or designed to reduce its visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks, color, or other means acceptable to the local unit of government, assuming summer leaf-on conditions.

D. 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 items A to E and subparts 2a and 2b 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, sewage treatment and setback requirements of the shoreland controls are met, and for single residential nonconforming lots, the minimum lot area and minimum lot width standards shall be at least 75 percent of the standards in 6120.3300, Subps. 2a and 2b.

Necessary variances from setback requirements must be obtained before any use, sewage treatment system, or building permits are issued for these lots. In evaluating all the variances, boards of adjustment shall consider stormwater runoff, vegetative buffers, sewage treatment and water supply capabilities or constraints of the lots and shall deny the variances if adequate facilities cannot be provided. Alternatively, the local government shall implement a mitigation scoring system that includes planting or maintaining a natural vegetated buffer zone along with other measures, such as the removal of structures that do not meet structure setbacks standards from ordinary high water level, reestablishment of a shoreline berm, removal of water-oriented accessory structures, removal of impervious surfaces within the shore impact zone, reduced impervious surface coverage on the lot, restoration of wetlands, stormwater management, or other conservation designed actions.

If, in a group of two or more contiguous lots under the same ownership, any individual lot does not meet the requirements of items A to E and subparts 2a and 2b, 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 such that the lot is at least 75 percent of the minimum lot area and minimum lot width standards in 6120.3300, Subp. 2a and 2b.

For the purposes of these standards, lots created compliant with official controls that met or exceeded the standards in 6120.3300, Subps. 2a and 2b, shall remain conforming.

E. Except for common open space lots in conservation subdivisions and planned unit developments, lots must not be created for the intention of obtaining access to public waters where multiple owners or an association, whose members are entitled by virtue of the member's ownership interest in the association to a proprietary lease, own the lot.

Subp. 2a. **Lot width, lot size, and residential lot suitable area standards for minor subdivisions and density determinations for conservation subdivisions and planned unit developments; lake classes.**

The minimum lot area, residential lot suitable area, and width standards for residential lot developments are:

Class or District	Riparian Lot Width (feet) – Lot Size (square feet) – Residential Lot Suitable Area* (square feet)	Nonriparian Lot Width (feet) – Lot Size (square feet) – Residential Lot Suitable Area* (square feet)
Special Protection		
Single	400 – 217,800 – 23,400	400 – 217,800 – 23,400
Natural Environment and Sensitive Area		
Single	250 – 80,000 – 20,400	250 – 80,000 – 20,400
Duplex	400 – 120,000 – 40,800	400 – 160,000 – 40,800
Triplex		600 – 240,000 – 61,200
Quad		800 – 320,000 – 81,600
Recreational Development		
Single	150 – 40,000 – 17,400	150 – 40,000 – 17,400
Duplex	225 – 80,000 – 34,800	225 – 80,000 – 34,800
Triplex	300 – 120,000 – 52,200	300 – 120,000 – 52,200
Quad	375 – 160,000 – 69,600	375 – 160,000 – 69,600
General Development		
Single	120 – 30,000 – 14,400	150 – 40,000 – 14,400
Duplex	180 – 60,000 – 28,800	265 – 80,000 – 28,800
Triplex	260 – 80,000 – 43,200	375 – 120,000 – 43,200
Quad	340 – 120,000 – 57,600	490 – 160,000 – 57,600

* - The residential lot suitable area values in this table are for unsewered lots. A minimum of 8,400 square feet for single, 16,800 square feet for duplex, 25,200 square feet for triplex, and 33,600 square feet for quad developments of the residential lot suitable area shall consist of buildable area, which for lots served by public sewer are the minimum residential lot suitable areas.

Subp. 2b. **Lot standards for residential development; river classes.**

Lot width (feet)	Remote	Forested	Transitional	Agricultural	Urban & Tributary	
Single	300	200	250	150	100	75
Duplex	450	300	375	225	150	115
Triplex	600	400	500	300	200	150
Quad	750	500	625	375	250	190

For all river classes, the residential lot suitable area shall be a minimum of 18,000 square feet, with 50 percent being contiguous.

Subp. 3. **Placement and height of structures and facilities on lots.**
When more than one setback requirement applies to a site, structures and facilities must be located to meet all setbacks. The placement of structures and other facilities on all lots must be managed by shoreland controls as follows:

A. Structure setbacks. The following minimum setbacks presented in the following table for each class of public waters apply to all structures, except water-oriented accessory structures and facilities that are managed according to item H:

	Structure setback standards Ordinary high water level setback (feet)	Setback from top of bluff (feet)
Class or District		
Special protection	200	30
Sensitive area	150	30
Natural environment	150	30
Recreational development	100	30
General development	75	30
Remote river segments	200	30
Forested and transition river segments	150	30
Agricultural, urban, and tributary river segments	100	30

B. High water elevations. In addition to the setback requirements of item A, local shoreland controls must regulate placement of structures in relation to high water elevation. Where state-approved, local flood plain management controls exist consistent with parts 6120.5000 to 6120.6200, structures must be placed at an elevation consistent with the flood protection elevation specified in these controls. Where these controls do not exist, the elevation to which the lowest floor, including basement and crawl spaces, 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. As an alternative, the lowest floor may be placed at an elevation equal to or above the flood protection elevation determined consistent with parts 6120.5000 to 6120.6200. In instances where lakes have a history of extreme water level fluctuations or have no outlet capable of keeping the lake level at or below a level three feet above the ordinary high water level, local controls may require structures to be placed higher.

(2) For rivers and streams, by placing the lowest floor at least three feet above the highest known water level, or three feet above the ordinary high water level, whichever is higher. As an alternative, the lowest floor may be placed at an elevation equal to or above the flood protection elevation determined consistent with parts 6120.5000 to 6120.6200.

(3) Water-oriented accessory structures may have the lowest floor placed lower than the elevation determined in this subpart 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.

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

D. Steep slopes. Local government officials 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.

E. Proximity to unplatted cemeteries and significant historic sites. No structure may be placed nearer than 50 feet from the boundary of an unplatted cemetery protected under Minnesota Statutes, section 307.08, unless necessary approval is obtained from the Minnesota State Archaeologist's Office. 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.

F. Proximity to roads and highways. No structure may be placed nearer than 50 feet from the right-of-way line of any federal, state, or county highway; or 20 feet from the right-of-way line of any town road, public street, or others not classified.

G. Height. No structures, except churches, telecommunication towers and antenna, and nonresidential agricultural structures, shall exceed 30 feet in height of building.

H. Accessory structures and facilities. All accessory structures and facilities, except those that are water-oriented, must meet or exceed structure setback standards. If allowed by local government controls, each residential lot and commercial property may have one water-oriented accessory structure or facility located closer to public waters than the structure setback if all of the following standards are met:

(1) The structure or facility must not exceed ten feet in height, exclusive of safety rails, exceed ten feet in width, as measured parallel to the shoreline, and cannot occupy an area greater than 120 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 30 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, color or other means acceptable to the local unit of government, 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) For residential lots, the structure or facility must be located in the center third of the parcel.

(7) Any accessory structures or facilities not meeting the above criteria, or any additional accessory structures or facilities must meet or exceed structure setback standards.

I. 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, public open-space recreational properties, and planned unit developments if approved by the local government.

(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, public open-space recreational properties, and planned unit developments if approved by the local government.

(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 subitems (1) to (5) are complied with in addition to the requirements of chapter 1341.

J. Decks and platforms. Except as provided in item H, decks and platforms must meet the structure setback standards. Decks and platforms 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:

(1) a thorough evaluation of the property and structure reveals no reasonable location for a deck or platform meeting or exceeding the existing ordinary high water level setback of the structure;

(2) the deck or platform 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 40 feet, whichever is more restrictive; and

(3) the deck or platform is not roofed or screened.

Subp. 4. **Shoreline buffer standards.**
Alterations of natural vegetation and topography shall be controlled by local governments to prevent erosion into public waters, fix nutrients, infiltrate rainwater runoff, preserve shoreland aesthetics and historic values, prevent bank slumping, limit direct and indirect impacts on water quality, and protect fish and wildlife habitat.

A shoreline buffer, consisting of trees, shrubs, and ground cover of native plants and understory, shall be required. Vegetation removal necessary for the construction of structures and sewage treatment systems under validly issued permits for these facilities shall be exempt from the standards in this subpart. However, the grading and filling conditions of this subpart must be met for issuance of permits for structures and sewage treatment systems. Public roads and parking areas, as regulated by subpart 5, and public swimming areas are exempt from the provisions of this part. Shoreline buffers standards shall include the following:

A. Removal or alterations of natural vegetation, except for forest management or agricultural uses as provided for in subparts 7 and 8, shall follow these standards:

(1) A shoreline buffer shall exist within the shore impact zone, consisting of trees, shrubs, and low ground cover of native plants and understory in a natural state.

(2) Vegetation clearing and removal of ground cover, including leaf litter and the forest floor duff layer, within the shore and bluff impact zones and on steep slopes shall not be allowed, except as follows:

(a) limited clearing of trees and shrubs, and cutting, pruning, and trimming of trees to accommodate the placement of stairways and landings, access paths, view corridors, recreation use areas, and permitted water-oriented accessory structures or facilities shall be allowed within the shore impact zone. Trees, shrubs, and a low ground cover consisting of native plants and understory shall be maintained in a natural state within this area. An access path permitted within this area shall not exceed a cleared width of 6 feet and must be oriented generally perpendicular to the shoreline. Only one shoreline recreation use area shall be allowed on each residential lot and it shall not exceed the following dimensions:

Class or District	Width (the maximum distance in feet parallel to shore)	Length (feet)
Special Protection	10	15

Sensitive Area	10	15
Natural Environment	10	15
Recreational Development	20	15
General Development	30	15
Remote River segments	10	15
Forested and transition river segments	20	15
Agricultural, urban, and tributary river segments	30	15

For conservation subdivisions, planned unit developments and new resorts, shoreline recreation use areas shall be no larger than 20 feet in width along the shoreline for each 100 feet of shoreline, not to exceed 5000 square feet in total area, with the depth of the shoreline recreational area not exceeding 25 feet landward from the ordinary high water level. A perennial ground cover shall be maintained to prevent erosion on all shoreline recreation use areas, and a tree canopy shall cover half of the area to intercept rainfall and lessen erosion potential.

(b) limited clearing of trees and shrubs, and cutting, pruning, and trimming of trees to accommodate the placement of stairways and landings, and access paths shall be allowed in bluff impact zones and on steep slopes. Trees, shrubs, and a low ground cover consisting of native grasses and plants shall be maintained in these areas.

(c) The removal of trees or branches that pose a safety hazard shall be allowed.

(3) Removal of trees and shrubs within the secondary shoreline buffer zone may be allowed, provided that a well-distributed stand of trees and shrubs are maintained. A well-distributed stand of trees and shrubs means that a tree and shrub canopy covers over 50 percent the area. A ground layer of predominantly perennial vegetation, such as grass, flowers, forbs, or preferably native plants, shall be preserved, established or maintained in this area.

B. Use of fertilizer shall not be allowed within the shore impact zone. Use of fertilizer and pesticides elsewhere within the shoreland management district must be done in such a way as to minimize runoff into the shore impact zone or public water.

C. Vegetation within the shore impact zone shall be maintained to screen structures with trees and shrubs so that the structures are at most 50 percent visible from public waters during summer, leaf-on conditions.

D. No impervious surfaces shall be allowed within the shore impact zone, except for boat launches, stairways, lifts or landings, and, where permitted, one water-oriented accessory structure.

E. Open areas and lawns within the shore impact zone, except those allowed in part A, shall be left unmowed or replanted with native vegetation of trees and shrubs to establish and maintain a vegetative buffer, with a natural ground layer of understory plants.

The shore impact zone shall be brought into compliance with the requirements of the standards in this part by restoration to no less than 50 percent tree and shrub canopy coverage and establishment of natural ground cover within the shore impact zone upon issuance of any variance or permit, or alternatively, the local government shall implement a mitigation scoring system that includes planting or maintaining a natural vegetated buffer zone along with other measures, such as the removal of structures that do not meet structure setbacks standards from ordinary high water level, reestablishment of a shoreline berm, removal of water-oriented accessory structures, removal of impervious surfaces within the shore impact zone, reduction of impervious surface coverage on the parcel, restoration of wetlands, stormwater management, or other conservation designed actions.

Local governments may also require the shore impact zone to be brought into compliance upon the conveyance of the lot.

F. Land disturbing activities within the shoreland management district shall be controlled by local governments. These controls must also apply for subdivision, variance, building permit, and conditional use permit reviews. Local shoreland controls shall meet or exceed the following standards:

(1) Filling of any wetlands within the shore impact and secondary shoreline buffer zones shall be prohibited.

(2) Natural swales, depressions, steep slopes, and topsoil shall be preserved. Alterations to these areas may only be permitted in conjunction with erosion control, stormwater management, and vegetation buffer plans that are approved by the local government and effectively implemented.

(3) Excavation or placement of more than 5 cubic yards of material within shore impact zone may be permitted provided that erosion control, stormwater management, and vegetation buffer plans are approved by the local government and effectively implemented.

(4) 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.

(5) Mulches or similar materials must be used for erosion control, where necessary, for temporary bare soil coverage, and a permanent vegetation cover must be established as soon as possible.

(6) Silt fences or other methods to trap sediments before they reach any surface water feature must be used.

(7) 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 Natural Resources Conservation Service.

(8) Fill or excavated material must not be placed in a manner that creates an unstable slope.

(9) Plans to place fill or excavated material on steep slopes, including the construction of walkout basements, shall be developed by a registered professional engineer for continued slope stability and must not create finished slopes of 30 percent or greater.

(10) Fill or excavated material must not be placed in bluff impact zones.

(11) Any alterations below the ordinary high water level of public waters shall be authorized by the commissioner under Minnesota Statutes, sections 103G.245 and 103G.405 prior to the commencement of any work.

(12) Alterations of topography shall only be allowed if they do not adversely affect adjacent or nearby properties.

(13) Placement of natural rock riprap and retaining walls, where allowed shall comply with regulations adopted pursuant to Minnesota Statutes, section 103G.245. Natural rock riprap shall only be used for the correction of an established erosion problem that cannot be controlled through the use of native vegetation, slope stabilization using mulch, biomat, or similar bioengineered means. Riprap and retaining walls used for ornamental purposes or for terracing natural slopes shall be prohibited within the shore and bluff impact zones.

G. Excavations where the intended purpose is connection to a public water, such as boat slips, canals, lagoons, and harbors, shall be regulated by local shoreland controls. Permission for excavations may be given only after the commissioner has approved the proposed connection to public waters pursuant to Minnesota Statutes, section 103G.245. Structures setbacks and the shore impact zone shall be measured from the excavation.

Subp. 5. **Placement and design of roads, driveways, and parking areas.**
Public and private roads, driveways, and parking areas must be designed to take advantage of natural vegetation and topography to achieve maximum screening from view from public waters. They must be 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.

A. Roads, driveways, and parking areas must meet structure setbacks and must not be placed within bluff and shore impact zones, when other reasonable and feasible placement alternatives exist. If no alternatives exist, they may be placed within these areas, and must be designed to minimize adverse impacts.

B. Public and private watercraft access ramps, approach roads, and access-related parking areas may be placed within shore impact zones provided the vegetative screening and erosion control conditions of this subpart are met. For private facilities, the grading and filling provisions of subpart 4, item E, must also be met. For public watercraft access facilities, best management practices shall be designed, installed and maintained to reduce total suspended

solids, peak discharge, and runoff. Best management practices include porous pavement, grass parking overflow areas, filter strips, swales, infiltration basins, disconnected impervious areas, rain gardens and other conservation designs.

Subp. 6. **Shoreline recreation facilities for lots.**
For residential lots, shore recreation facilities, including but not limited to swimming areas, docks, and watercraft mooring areas and boat lifts must be clustered or grouped in suitable areas. Evaluation of suitability must include consideration of land slope, water depth, aquatic and shoreland vegetation, soils, depth to groundwater and bedrock, or other relevant factors to maintain functions and values of existing natural features. Alternative lake access lots must be used where direct riparian access is not appropriate due to the presence of protected vegetation, wetlands, or other critical fish or wildlife habitat. Boating facilities shall be located adjacent to the deepest water available. Shoreline facilities must also comply with rules in part 6115.0210.

Walkways shoreward of the ordinary high water level shall be used in place of fill to bridge wetland areas to reach the shore. These walkways must be elevated at least 16 inches about the surface of the wetland. Walkways lakeward of the ordinary high water level shall require a permit pursuant to Minnesota Statutes, section 103G.245, prior to the commencement of any work.

Subp. 7. **Agricultural use standards.**
The agricultural use standards for shoreland areas are contained in items A, B, C, and D.

A. 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. 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 Natural Resources Conservation Service.

C. Expansions to animal feedlots within shoreland areas and where allowed within a zoning district, must be reviewed as conditional uses and must meet the standards or rules of the Minnesota Pollution Control Agency, chapter 7020 and subsequent amendments. New feedlots are prohibited in shorelands per State Rules, chapter 7020.

D. 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.

Subp. 8. **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 water quality aspects of the provisions of the Minnesota Forest Resources Council timber harvesting and forest management guidelines.

B. If allowed by local governments, forest land conversion to another use requires issuance of a conditional use permit and adherence to the following standards:

(1) Vegetation clearing or cutting, and removal of ground cover, including leaf litter and the forest floor duff layer, within the shore and bluff impact zones shall not be allowed; 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.

Subp. 9. **Extractive use standards.**
Processing machinery must be located consistent with setback standards for structures from ordinary high water levels of public waters and from bluffs.

An extractive use site development and restoration plan must be developed, approved by the local government, 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.

Subp. 10. **Standards for commercial, industrial, public, and semipublic uses.**
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. 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. Those with water-oriented needs must meet the following standards:

A. In addition to meeting impervious coverage limits, setbacks, and other zoning standards presented elsewhere in parts 6120.2500 to 6120.3900, the uses must be designed to incorporate topographic and vegetative screening of parking areas and structures.

B. 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.

C. Uses that depend on patrons arriving by watercraft may use signs and lighting to convey needed information to the public, subject to the following general standards:

(1) No 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.

(2) 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.

(3) 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.

Subp. 11. **Stormwater management.**
Stormwater management must be consistent with the following standards:

A. Local governments must consider proper erosion control and stormwater management in all reviews, approvals, and permit issuances under shoreland management controls adopted under parts ALT6120.2500 to ALT6120.3900. The following general and specific standards must be incorporated into local government shoreland management controls and their administration:

(1) For post construction stormwater management, 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. 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, vegetated filter strips, bioretention areas, rainwater gardens, enhanced swales, off-line retention areas, and natural depressions for infiltration rather than buried pipes and human-made materials and facilities.

(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. Erosion prevention and sediment control practices must be used to retain sediment on site. Disturbed soil areas must be stabilized and protected as soon as possible. The maximum time the soil in a project area can remain exposed when the area is not actively being worked is 3 days. Temporary or permanent cover for the exposed areas is required at that time but should be

installed sooner if possible. All deltas and sediment deposited in surface waters, including drainage ways, catch basins, and other drainage systems must be removed within 14 days unless precluded by legal, regulatory, or physical access restraints. The areas where sediment removal results in exposed soil must be stabilized within 7 days after completing the removal.

(3) To the maximum extent possible, land-disturbing activities must not occur within the shore impact zone.

(4) The maximum impervious surface coverage must be in accordance with the following table:

Development or Use	Class or District	Impervious Surface Coverage (percent of applicable area)	Applicable Area
Noncommercial	General Development and Recreational Development	15*	Lot or parcel
Noncommercial	Natural environment, Special Protection, Sensitive Area, and all river classes	12	Lot or parcel
Access lots	All classes and districts	12	Lot or parcel
Conventional Subdivision	where allowed	12	Lot or parcel
Conservation Subdivision	General Development and Recreational Development	15*	Riparian lots
Conservation Subdivision	Natural Environment, Special Protection, Sensitive Area, and all river classes	12	Riparian lots
Conservation Subdivision	All classes and districts	35	Nonriparian lots
Planned Unit Developments	All classes and districts	15	total project area and 1st tier
Resorts	where allowed	25	total project area and any tier
Resort**	General Development	35	2nd and 3rd tiers
Commercial***	commercial districts	25	total project area and any tier

* up to 20 percent impervious surface coverage may be allowed with an approved stormwater management plan consistent with subitem 8 in this part and with part ALT6120.3300, Subp. 4. Plans shall conform to the provisions of the latest Pollution Control Agency General Stormwater

Permit for Construction Activity, and the specific best management practices (BMPs) must be designed and installed to meet those standards. Additional information and guidance on the design of these BMPs can be found in the Pollution Control Agency's stormwater BMPs manuals. Preference must be given to permanent stormwater management designs that include porous pavement, filter strips, enhanced swales, infiltration basins, disconnected impervious areas, rain gardens and other conservation designs.

** The total project area impervious surface coverage shall not exceed 25 percent.

*** Commercial properties besides planned unit developments and resorts.

(5) Half the area covered by porous pavers or other porous material shall be counted as impervious surface if best management practices were followed in design, installation, and maintenance as found in the Pollution Control Agency's stormwater BMPs manuals.

(6) Local governments may also require a properly engineered stormwater pollution prevention plan upon issuance of any permit.

(7) Construction or reconstruction activity that results in the disturbance of 10,000 square feet or more on general development lakes, recreational development lakes and all river classes and 5,000 square feet on natural environment lakes, special protection lakes, and sensitive area districts must meet the Pollution Control Agency General Stormwater Permit for Construction Activity requirements for Erosion Prevention and Sediment Control. These requirements must be incorporated into the project plans and specifications. Construction activity that results in the disturbance of one or more acres will require a stormwater permit from the Pollution Control Agency.

(8) For a commercial property, for development on a residential lot where the maximum land surface to be covered by structures exceeds 5,000 square feet, or where construction or reconstruction activity results in the disturbance of one or more acres, certified personnel in erosion and sediment control shall be responsible for best management practice design, installation, inspection, and management to meet the Pollution Control Agency General Stormwater Permit requirements. The stormwater pollution prevention plan developed for the project shall incorporate all appropriate provisions of the permit requirements, including both pre and post construction activity. Permanent stormwater management requirements must be met for all impervious surfaces located on the project. This means that a volume of water equal to ½ or one inch, depending on the location, multiplied by the area of impervious surfaces on the project must be treated by one or more of the options outlined in the permit standards. For those areas of a project where there is no feasible way to meet the treatment requirements of the permit standards, other treatment, such as grassed swales, grit chambers, vegetated filter strips, bioretention areas, rainwater gardens, enhanced swales, off-line retention areas, and natural depressions for infiltration, is required prior to discharge to surface waters. Construction activity that results in the disturbance of one or more acres will require a stormwater permit from the Pollution Control Agency.

B. Local governments shall develop and implement programs to identify properties that are inconsistent with impervious surface coverage limits identified in item A and to mitigate the consequences of noncompliant properties. These programs must include at least one of the following approaches:

(1) a review of existing records to determine which properties in the jurisdiction are nonconforming and require mitigation;

(2) determination of compliance upon conveyance of the lot and mitigation measures necessary; or

(3) other programs found to be acceptable to the commissioner.

Subp. 12. **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.

ALT6120.3400 SANITARY PROVISIONS.

Subpart 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. Private wells must be located, constructed, maintained, and sealed in accordance with or in a more thorough manner than the Water Well Construction Code of the Minnesota Department of Health.

Subp. 2. **Sewage treatment.**
Any premises used for human occupancy must be provided with an adequate method of sewage treatment.

A. Publicly-owned sewer systems must be used where available.

B. All private sewage treatment systems must meet or exceed applicable rules of the Minnesota Department of Health, the Minnesota Pollution Control Agency, specifically chapter 7080 for individual sewage treatment systems, and any applicable local government standards.

C. On-site sewage treatment systems must be set back from the ordinary high water level in accordance with the following table:

	Sewage Treatment System Setback Standards
Class or District	Setback from ordinary high water level (feet)
Special protection	200
Natural environment	150
Sensitive area	150
Recreational development	100
General development	100*
Remote river segments	150
Forested river segments	100
Transition river segments	100
Agricultural river segments	75
Urban and tributary river segments	75

* this distance may be reduced to 75 feet if soil tests demonstrate that the soils present have high phosphorus adsorption or retention capacity. Sites with coarse soils and calacaeous sandy soils must use 100 feet. Evaluation and documentation of the soil should be performed by a qualified individual knowledgeable in soil science, with preference to a professional soil scientist.

D. Local governments must develop and implement programs to identify and upgrade sewage treatment systems that are inconsistent with the sewage treatment system design criteria identified in item B, exclusive of the appropriate setback from the ordinary high water level in item C. These programs must require reconstruction of existing nonconforming sewage systems

whenever a permit or variance of any type is required for any improvement on, or use of, the property, and must include at least one of the following approaches:

(1) a systematic review of existing records to determine which systems in the jurisdiction are nonconforming and requiring reconstruction when practicable;

(2) a systematic on-site inspection program including all properties where adequate record of conformances does not exist, identifying nonconforming or illegal systems and requiring reconstruction when appropriate;

(3) a notification or education program that is oriented toward convincing substantial numbers of property owners to evaluate their sewage systems and voluntarily upgrade the sewage treatment system, if nonconforming;

(4) a certificate of compliance for the sewage treatment system with conveyance of the lot or issuance of any permit;

(5) a program that includes the requirement of submission of a certificate of compliance for the sewage treatment system every 5 years; or

(6) other programs found to be acceptable to the commissioner.

ALT6120.3500 SUBDIVISION PROVISIONS.

Subpart 1. **Purpose.**
To allow for greater flexibility and creativity in the design of residential subdivisions, to facilitate the construction of streets, utilities and public services in a more economical and efficient manner, and to promote conservation subdivisions to ensure that citizens in residential developments prosper from the conservation of natural features of the land, including wetlands, forests, shorelines, steep slopes, plants, wildlife, historic sites, and scenic areas.

Subp. 2. **Subdivision methods.**
Minor and major subdivision local controls shall be consistent with the standards in this part. Minor subdivisions are commonly referred to as lot splits, and those subdivisions shall be consistent with the standards in subpart 4. All major subdivisions must be processed by local governments as plats in accordance with Minnesota Statutes, chapters 462 and 505. Major subdivisions must be processed as conservation subdivisions or planned unit developments in accordance with ALT6120.3800 or by issuance of a conditional use permit for a conventional subdivision in accordance with subpart 5. Minor subdivisions shall not be allowed on any lot that is part of an approved planned unit development.

Subp. 3. **Land suitability and consistency with other controls.**
Each lot created must be suitable in its natural state for the proposed use with minimal alteration. A lot intended as a buildable site shall meet the appropriate minimum lot standards and suitable area requirements of ALT6120.3300, Subps. 2a and 2b. Local governments must not issue building or sewage permits for unsuitable lots.

Subdivisions must conform to all other official controls adopted by local governments under parts ALT6120.2500 to ALT6120.3900. Local governments must not approve subdivisions that are designed so variances 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, subdivisions must not be approved by local governments unless domestic water supply is available and at a minimum two standard soil absorption sewage treatment sites can be provided for every lot. Lots that would require use of holding tanks shall not be approved.

Subp. 4. **Minor subdivision provisions.**
Minor subdivisions may be allowed in local controls where all of the following standards are met:

A. All lots created must meet the lot dimension standards in part ALT6120.3300, Subps. 2a and 2b.

B. A certificate of survey may be used for the division of a lot where:

(1) The subdivision of land is into tracts larger than 5 acres in area.

(2) The subdivision of a lot is for the purpose of attachment to contiguous lots where no lots 5 acres or less in area are left unattached.

(3) Conveyances to a governmental unit or public utility for the purpose of roads, streets residual, substations, poles, towers, and other like uses.

(4) Any division of a tract of land involving the sale or exchange of parcels between adjoining owners, where such division does not create additional building sites or create nonconformity or where such division creates more conformity.

(5) Any parcel of land that has been previously subdivided in accordance with this section and which is proposed to be further subdivided must be platted, and whenever possible, to include the parcels previously divided.

Subp. 5. **Conventional subdivision provisions.**
Where a local government allows new conventional subdivision developments, they shall only be permitted as a conditional use. Conventional subdivisions shall not be allowed on special protection lakes. Local governments shall require as a condition of issuance of any conventional subdivision conditional use permit the following:

A. Lot sizes shall be at least double the lot sizes allowed in ALT6120.3300, Subp. 2a.

B. Lot widths shall be at least one and one-half the lot widths allowed in ALT6120.3300, Subps. 2a and 2b.

C. The impervious surface coverage for lots must not exceed 12 percent of lot area, and stormwater management must meet the standards in ALT6120.3300, Subp. 11.

D. Lots 5 acres or less in area that were created with the conventional subdivision standards in this part may not be further subdivided.

Subp. 6. **Information requirements.**
Subdivision controls must require submission of adequate information to make a determination of land suitability under Subp. 3. The information shall include at least the following:

A. topographic contours at ten-foot intervals or less from United States Geological Survey maps or more accurate sources, showing limiting site characteristics such as wetlands, bluffs and slopes greater than 25 percent;

B. the surface water features required in Minnesota Statutes, section 505.02, subdivision 1, to be shown on plats, obtained from United States Geological Survey quadrangle topographic maps or more accurate sources;

C. adequate soils information to determine suitability for building and at least two on-site sewage treatment system 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 out to 15

feet, type of bottom sediments, and map of aquatic vegetation showing emergent, floating-leaf, and submerged plant stands; delineation of all wetlands, and proposed methods for controlling stormwater runoff and erosion, both during and after construction activities; and

E. location of 100-year flood plain areas from existing maps or data.

Subp. 7. **Dedications.**
If local governments require land or easement dedications, they must provide easements over natural drainage or ponding areas for management of stormwater and all wetlands.

ALT6120.3600 ACCESS LOTS AND ACCESS EASEMENTS.

Subpart 1. **Purpose.**
To manage water surface crowding, to reduce fish and wildlife disturbance, to prevent pollution of surface water by suspension of sediment, to maintain property values, and to maintain natural characteristics of shorelands, shoreland controls must regulate access to public waters.

Subp. 2. **Access lots.**
Access lots, or parcels of land that provide access to public waters for owners of riparian lots within subdivisions, may be allowed where the local government determines that direct riparian access is not feasible due to the presence of protected vegetation, wetlands, or other critical fish or wildlife habitat. Access lots that provide riparian access for owners of nonriparian lots or parcels shall be prohibited. Where allowed by local governments, access lots shall meet or exceed the following standards:

A. Access lots shall be governed by a covenant recorded on the title of every lot or parcel of land allowed to use the access lot. These access lots shall also comply with all of the dimensional standards in part ALT6120.3300, Subp. 2a and 2b. Where more than six subdivision lots are served, the width of the access lot shall be increased by 25 percent for each additional subdivision lot in excess of six served.

B. Access lots must be jointly owned by all of those purchasers of riparian lots having rights of usage of the access lot and governed by an owners association.

C. Access lots shall be suitable in its natural state for the intended activities. All facilities shall be centralized and located in areas suitable for them. Evaluation of suitability shall include, to not limited to, consideration of land slope, water depth, aquatic and shoreland vegetation, the presence of important fish and wildlife habitat, soils, depth to groundwater and other relevant factors.

D. Permitted activities may include watercraft launching, loading, beaching, mooring, or docking area, but shall not include residential or commercial uses. A single dock and boat launching ramp may be permitted and no owner shall own an individual dock. Boating facilities must be located adjacent to the deepest water available. Continuous boat mooring shall be limited to one watercraft per lot served.

E. Covenants governing access lots shall limit the total number of vehicles allowed to be parked, and must require centralization of all common facilities and activities in the most suitable locations on the lot to minimize topographic and vegetation alterations. 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. The covenants shall also specify which activities, such as swimming, sunbathing, and picnicking, shall be allowed on the access lot. These activities shall not conflict with general public use of the public water or the enjoyment of normal property rights by adjacent property owners. The owner's association shall enforce covenants.

F. Access lots shall meet or exceed the shoreland vegetation buffer standards in part ALT6120.3300, Subp. 4, and have a vegetation management plan approved by the local government.

G. The impervious surface coverage for access lots must not exceed 12 percent of lot area, and stormwater management must meet the standards in part ALT6120.3300, Subp. 11.

Subp. 3. **Controlled access lots.**
Controlled access lots, or any lot, tract or parcel of land, however designated or described, intended to be used to provide accesses to public waters for owners of nonriparian lots, shall be prohibited.

Subp. 4. **Easement or other access.**
Easements to nonriparian lot owners to allow access to public waters shall be prohibited. The use of any riparian lot, tract or parcel of land, however designated or described, other than as an access lot as defined in ALT6120.3600, to provide access to public waters for owners of non-riparian lots, including, but not limited to, by easement, share, license or any other legal or illegal arrangement, scheme or plan, shall be prohibited. Riparian land not used for purposes allowed pursuant to ALT6120 shall not be used to provide access to public waters in any circumstance, except within a subdivision plat as provided in ALT6120.3600.

ALT6120.3700 RESORTS.

Subpart 1. **New resorts.**
Where a local government allows new resort developments, they shall only be permitted as a conditional use within an established land use district identified in their official controls and on a zoning map. Designation of such land use districts must be based on the criteria in part ALT6120.3200. These developments shall not be allowed on special protection and natural environment lakes or shorelands and within sensitive area districts.

Local governments may allow the creation of new resorts provided they meet all of the following standards:

A. Information requirements in part ALT6120.3800, Subp. 2 are met.

B. Development density evaluation steps in part ALT6120.3700, Subp. 5 are followed, except for recreational campgrounds each mobile home, recreational camping vehicle, or camping site shall be minimally assessed 2000 square feet as the land surface area to be covered by structure.

C. Structure setbacks and maximum height must meet the standards in part ALT6120.3800, Subp. 3, item C, and ALT6120.3300, Subp. 3, item G.

D. Erosion control and stormwater management for developments must meet the standards in part ALT6120.3300, Subp. 11. The impervious surface coverage shall not exceed 25 percent within the total project area and in any tier, except for general development lakes the second and third tiers impervious surface coverage shall not exceed 35 percent provided that the total project area impervious surface coverage shall not exceed 25 percent.

E. Resorts shall be designed and managed such that there are no garages or storage structures associated with dwelling units/sites, no vehicle parking adjoining most dwelling units or limited parking adjacent to dwelling units/sites, and other amenities that would encourage long-term residential use.

F. If required, a marina permit has been obtained as provided under part 6115.0211.

G. Development must meet the design criteria in part ALT6120.3800, Subp. 5, with the following exceptions:

(1) shoreline recreation facilities follow standards in part ALT6120.3700, Subp. 4.

(2) common open space may include commercial facilities.

Subp. 2. **Structure replacement within an existing resort.**
Local governments may allow resorts to maintain and replace their structures, without regard to available density, so long as the establishment continues to operate as a resort and all of the following standards are met:

A. Structures, including lodges, shall not be replaced any closer to any waterbody or setback than the existing structure. Replacement structures must meet elevation and maximum height requirements for the relevant shoreland classification. For resorts established prior to the date of local adoption of these standards, structures not meeting the structure setbacks in ALT6120.3300, Subp.3, must only be replaced with structures with the same or lesser height of building, not withstanding provisions of subpart 2, item A (1). There shall be no increase in structure footprint, except as follows:

(1) An increase in the structure footprint or height of structure may be permitted to minimally meet federal, state, or local dwelling standards or codes, provided there is no increase in structure footprint lakeward and no increase in structure width as measured parallel to shore. To minimally meet such standards or codes means that the replacement structure shall not add new architectural elements such as more bedrooms than the original structure.

(2) A structure within the first tier that is moved or replaced outside the shore impact zone and landward to meet the structure setback requirements to the maximum extent feasible within the tier with regard to wetlands, bluffs, land below the ordinary high water level of public waters, and sewage treatment systems, may be permitted a larger building footprint provided it conforms with the allowable total land surface area that can be covered by structures in each tier as calculated in subpart 5, and the impervious surface coverage within the first tier shall not exceed 25 percent.

B. A specified area within the development shall be restored and maintained in a natural state to the following standards:

(1) For developments with less than 50 percent of shore impact zone currently in a natural state, at least 10 percent of the shore impact zone and shoreline shall be restored to its natural state or, alternatively, in front of each replacement structure for its entirety, a buffer strip consisting of native vegetation of trees, shrubs, understory plants extending from the shoreline landward 35 feet shall be created according to a plan approved by the local government.

(2) For developments with at least 50 percent of the shore impact zone currently in a natural state, this condition shall be preserved and maintained according to a plan approved by the local government.

C. For resorts with 20 or more dwelling units, erosion control and stormwater management for the entire resort shall be designed by certified personnel in erosion and sediment control using the best management practices found in the latest Pollution Control Agency's stormwater best management practices manual, approved by the local government, and effectively implemented. For resorts with less than 20 dwelling units, erosion control and stormwater management plans for the entire resort shall be approved by the local government and effectively implemented.

D. For developments that exceed or will exceed the allowable density as calculated in subpart 5, stormwater runoff from the expansion structures and associated impervious surfaces

created shall be specifically mitigated using best management practices that may include filter strips, infiltration basins, rain gardens and other conservation designs. Best management practices must be designed and installed in accordance with the latest Pollution Control Agency's stormwater best management practices manual.

Subp. 3. **Resort expansion.**
Local governments may allow resorts to expand so long as the establishment continues to operate as a resort and all of the following standards are met:

A. There is available additional density as calculated in subpart 5, and the expansion will not result in exceeding the authorized density.

B. The impervious surface coverage shall not exceed 25 percent within the total project area and in any tier, except for general development lakes the second and third tiers impervious surface coverage shall not exceed 35 percent provided that the total project area impervious surface coverage shall not exceed 25 percent.

C. For those resorts created after the date of local adoption of these standards, structure setbacks and maximum heights shall meet the standards in part ALT6120.3800, Subp. 3, item C and in ALT6120.3300, Subp. 3, item G. For resorts established prior to the date of local adoption of these standards, structure setbacks and maximum heights shall meet the standards in part ALT6120.3300, Subp. 3.

D. Expansions shall be designed and managed such that there are no garages or storage structures associated with dwelling units/sites and other amenities that would encourage long-term residential use.

E. On-site water supply and sewage treatment systems shall be designed and installed to meet or exceed applicable standards or rules of the Minnesota Department of Health, the Minnesota Pollution Control Agency, and those in part ALT6120.3400. Alternative on-site sewage treatment systems processes, such as the use of aerobic treatment systems to prolong the life of drainage fields, may be allowed if they meet the rules of the Minnesota Pollution Control Agency, chapter 7080.

F. If required, a marina permit has been obtained as provided under part 6115.0211 for the development.

G. For expansions to existing resorts that will result in less than 20 total dwelling units and less than 15 percent impervious surface coverage in the first tier, the expansion shall meet the following standards:

(1) stormwater runoff from the expansion structures and associated impervious surfaces created shall be specifically mitigated using best management practices that may include filter strips, infiltration basins, rain gardens and other conservation designs. Best management practices must be designed and installed in accordance with the latest Pollution Control Agency stormwater best management practices manuals.

H. For expansions to existing resorts that will result in less than 20 total dwelling units and more than 15 percent impervious surface coverage in the first tier, the expansion shall meet the following standards:

(1) Erosion control and stormwater management for developments must meet the standards in part ALT6120.3300, Subp. 11.

(2) A specified area within the development shall be restored and maintained in a natural state to the following standards:

(a) For developments with less than 50 percent of shore impact zone currently in a natural state, at least 10 percent of the shore impact zone and shoreline shall be restored to its natural state or, alternatively, in front of each replacement structure for its entirety, a buffer strip consisting of native vegetation of trees, shrubs, understory plants extending from the shoreline landward 35 feet shall be created according to a plan approved by the local government.

(b) For developments with at least 50 percent of the shore impact zone currently in a natural state, this condition shall be preserved and maintained according to a plan approved by the local government.

I. For expansions to existing resorts that result in more than 20 total dwelling units, the expansion shall meet the standards in subpart 1, except for item E.

Subp. 4. **Shoreline recreation facilities for resorts.**
Shoreline recreation facilities, including but not limited to swimming areas, docks and watercraft mooring areas, and launching ramps shall be clustered or grouped in suitable areas. Evaluation of suitability must include consideration of land slope, water depth, aquatic and shoreland vegetation, soils, depth to groundwater and bedrock, or other relevant factors. Boating facilities shall be located adjacent to the deepest water available and avoid or minimize impacts to aquatic vegetation. Continuous docking space shall only be used by transient, short-term lodgers at the resort. The resort licensee may also have one dock for personal use. Launching ramp facilities, including a small dock for loading and unloading equipment, may be provided for use by lodgers or the public not lodged. Non-lodger vehicles shall be parked so they are screened by vegetation or topography as much as practical from view from the public water. All shoreline facilities must also comply with rules in part 6115.0210.

Subp. 5. **Resort development density evaluation steps.**
The density evaluation steps for resort developments are as follows:

A. The tract of land occupied by the establishment shall be divided into tiers by locating one or more lines approximately parallel to a line that identifies the ordinary high water level at the following intervals, proceeding landward:

Shoreland Tier Dimensions (feet)

General development lakes - first tier (Nearshore Area)	200
General development lakes - second tier (Lakeview Area)	267
Recreational development lakes - first tier (Nearshore Area)	267
Recreational development lakes - second tier (Lakeview Area)	267
GD and RD - third tier (Forestview Area)	all remaining lot area
Natural environment lakes - all tiers	400
All river classes	300

B. Select the appropriate ratio to determine the land surface area that can be covered by structures from the following table:

Public waters classes

General development lakes - first tier (Nearshore Area)	0.125
General development lakes - second tier (Lakeview Area)	0.075
Recreational development lakes - first tier (Nearshore Area)	0.075
Recreational development lakes - second tier (Lakeview Area)	0.075
GD and RD - third tier (Forestview Area)	0.075
Natural environment lakes - all tiers	0.038
All river classes	0.038

C. Multiply the area within each tier, excluding all wetlands, bluffs, and land below the ordinary high water level of public waters, by the ratio to yield the total land surface area that can be covered by structures in each tier. For recreational campgrounds, each site shall be minimally assessed 400 square feet as the land surface area covered.

D. Determine whether the project is eligible for higher densities. For general and recreational development lakes, higher densities allowed in the second and third tiers shall be set based on exceeding design criteria in part ALT6120.3800, Subp. 5, item A or on lakes where over 50 percent of the shore impact zone is permanently protected in its natural state. The local government may decide how much, if any, higher density to allow for each tier, but must not exceed those permitted using the following alternative table:

Public waters classes

General development lakes - all tiers	0.125
Recreational development lakes - first tier (Nearshore Area)	0.075
Recreational development lakes - second and third tier	0.100

E. Allowable densities may be transferred from any tier to any other tier further from the shoreline of the lake or river, but must not be transferred to any other tier closer to the shoreline.

Subp. 6. **Conversions.**
Local governments may allow existing resorts to be converted to a planned unit or residential development if all of the following standards are met:

A. Conversions to planned unit developments shall be evaluated using the same procedures and standards in part ALT6120.3800. All inconsistencies between existing features of the development and these standards shall be identified and corrected. For conversions to residential lots, all inconsistencies between existing features of the development and the standards in ALT6120.3300 must be identified and corrected, except the local government may allow deficiencies in suitable area to be addressed using mitigating measures.

B. Dwelling units or dwelling site densities shall meet the standards in part ALT6120.3800 for conversion to planned unit developments and the standards in part ALT6120.3300 for conversions to residential lots.

C. Deficiencies involving water supply and sewage treatment, impervious coverage, common open space, and shore recreation facilities shall be corrected as part of the conversion.

D. Shore and bluff impact zone deficiencies shall be corrected as part of the conversion. Where applicable, these improvements must include the following:

(1) removal of extraneous buildings, docks, boat launching areas and ramps, or other facilities located in shore or bluff impact zones to comply with all the standards for a new residential or planned unit development including but not limited to setbacks and shoreland alterations and restorations;

(2) remedial measures to correct erosion sites and improve vegetative cover and screening of buildings and other facilities as viewed from the water to meet shoreland vegetation buffer standards in part ALT6120.3300, Subp. 4.

Subp. 7. **Administration and maintenance requirements.**
Shoreland vegetation shall be preserved, restored and maintained according to the approved shoreland vegetation plan. The loss of vegetation in restoration sites shall be replaced.

Provisions for determination of the development as a resort shall be adopted in local controls. Control provisions may include requirements for filing annual reports detailing the use of the facility and all dwelling units; by separately breaking out personal use and rental use on a dwelling unit basis, and including restrictions on personal use within the establishment as an informational requirement.

No covenants or deed restrictions shall be created or modified without the local government's determination that such instruments or proposed changes to such instruments fully comply with the definition of a resort in part ALT6120.2500 and the requirements of part ALT6120.3700.

Provisions that require resorts to inform investors of potential risks shall be adopted in local controls. Such notice shall be deed recorded on the parcel that the resort is located that dwelling units may be required to be moved or removed in compliance with subpart 6 should the resort cease to exist.

Subp. 8. **Technical Review.**
For all new resort developments and resort expansions under subpart 3, item I, a shoreland technical review shall be conducted by the Department of Natural Resources. The local government shall initiate the process by forwarding all necessary supporting documents and technical data, including any hearing meetings minutes and local government comments on the development, to the Department of Natural Resources. The local government shall notify the applicant that the 60-day deadline for response may be extended pursuant to Minnesota Statutes, section 15.99.

Department of Natural Resource staff knowledgeable and trained to evaluate runoff water quantity and quality and the functions of aquatic, riparian, and transitional upland habitats shall conduct the review. The technical review process may also include invitations to outside experts to help in the review. The panel shall make no findings or recommendations without an on-site inspection. The review process shall make technical findings and recommendations regarding runoff quantity and quality, and the functions of aquatic, riparian, and transitional upland habitats.

Within 30 days of county initiation, the review process shall provide written recommendations and advice to the local government on the project's compliance to the standards in this part. The local government shall consider the advice of the technical review in its approval or denial of a plan or determination.

ALT6120.3800 CONSERVATION SUBDIVISION AND PLANNED UNIT DEVELOPMENTS.

Subpart 1. **Scope of provisions.**
Local governments shall, with approval of the commissioner, adopt provisions into shoreland management controls to allow conservation subdivision and planned unit developments. The provisions may allow developments for new projects on undeveloped land, redevelopment of previously built sites, or conversions of existing buildings and land. The provisions must be consistent with standards in this part. Each lot or dwelling site created through subdivision must be suitable in its natural state for the proposed use with minimal alteration.

Subp. 2. **Information requirements.**
Local governments and developers may hold discussions prior to addressing these information requirements, so that developers have an opportunity to understand the review process and community interests. Provisions for submission of adequate information by project proponents must be included in official controls. The provisions must include at least the following:

A. topographic contours at ten-foot intervals or less from United States Geological Survey maps or more accurate sources, showing limiting site characteristics such as bluffs and slopes greater than 25 percent;

B. the surface water features required in Minnesota Statutes, section 505.02, subdivision 1, to be shown on plats, obtained from United States Geological Survey quadrangle topographic maps or more accurate sources;

C. adequate soils information to determine suitability for building and 2 standard on-site sewage treatment system 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 out to 15 feet, type of bottom sediments, and aquatic vegetation; and proposed methods for controlling stormwater runoff and erosion, both during and after construction activities;

E. a site plan for the project showing property boundaries, surface water features, existing and proposed structures, sewage treatment systems, topographic contours at ten-foot intervals or less, trees, unusual geological features, vernal pools, wetlands, swimming beaches, docks and continuous mooring sites and other lake related implements, including rafts and buoys, markers delineating swimming and bathing areas, beaches, and other facilities;.

F. documents that explain how the project is designed and will function. These shall include all covenants, operating rules and procedures of any property owners association, all easements associated with the development, a concept statement describing the project, all structures, and various other drawings or plans as required by the local government;

G. a context map showing the natural features on both the proposed development site and on adjacent properties; and

H. for conservation easements, a statement of preliminary acceptance from a qualified holder as defined in Minnesota Statutes, section 84C.01-02.

Subp. 3. **Dwelling unit or site density evaluation.**
Proposed new or expansions to existing developments must be evaluated using the following procedures and standards:

A. The project parcel must be divided into tiers by locating lines approximately parallel to a line that identifies the ordinary high water level at the following intervals, proceeding landward:

Shoreland Tier Dimensions (feet)

General development lakes - first tier	200
General development lakes - second tier	267
Recreational development lakes - first tier	267
Recreational development lakes - second tier	267
GD and RD lakes - third tier	all remaining lot area
Natural environment lakes - all tiers	400
Sensitive Area Districts (lake) - all tiers	400
Special protection lakes - all tiers	400
All river classes	300

B. The suitable area within each tier is next calculated. This area is then subjected to the development density evaluation steps to arrive at an allowable number of dwelling units/sites. In areas with overlapping tiers due to close proximity of public waters to each other, topographic divides shall be used to determine which shoreland standard would apply, and in those areas where the topographic divide can not be determined, the more restrictive rules for the area shall be used.

C. Minimum structure setbacks must be at least:

Shoreland Class	Ordinary high water level structure setback (feet)
Special Protection	200
Natural Environment	200
Recreational Development	150
General Development	120
Agricultural, urban, and tributary river	100
Forested and transition river	150
Remote river	200
District	
Sensitive Area District	200

Subp. 4. **Conservation subdivision and planned unit development density calculation.** The density calculation for developments is as follows:

A. The suitable area within each tier is divided by the single residential lot size standard for the shoreland class in part ALT6120.3300, Subps. 2a and 2b. This calculation determines the maximum number of dwelling units or sites authorized for each tier. Allowable densities may be transferred from any tier to any other tier further from the shoreland water body or watercourse, but must not be transferred to any other tier closer. Structures that straddle tiers shall be rated as part of the tier closer to the ordinary high water level.

Subp. 5. **Development criteria.**
Developments shall conform to all of the following criteria:

A. The design of all developments within the shoreland shall incorporate all of the following:

(1) All developments must contain at least 3 contiguous acres of buildable area with a lot width of 400 feet.

(2) Developments shall contain open space meeting all of the following criteria:

(a) At least 50 percent of the total project area must be permanently preserved as common open space. Common open space must include areas with physical characteristics unsuitable for development in their natural state, and areas containing significant historic sites or unplatted cemeteries, and at least 75 percent of the common open space must be upland area. At least 33 percent of the common open space shall be retained in a contiguous area.

(b) The land area of all dwelling units/sites and accessory structures, the space between buildings in a cluster, an area of 25 feet around each structure, all road rights-of-way, and all land covered by impervious surfaces, road surfaces, parking areas, or structures, shall not be included in the computation of common open space.

(c) A shoreland vegetation buffer plan designed and implemented meeting the standards in part ALT6120.3300, Subp. 4.

(d) Open space may include outdoor recreational facilities for use by owners of the dwelling units/sites, or the public.

(e) The shore and bluff impact zones, based on structure setbacks in Subp 3, Item C, shall be included as common open space. New developments, and redevelopments of existing developments shall meet vegetation standards in part ALT6120.3300, Subp. 4. No impervious surfaces shall be allowed within the shore impact zone, except for boat launches, stairways, lifts or landings. For conservation subdivisions, there must be at least one access corridor to the shore impact zone common open space for use by all members of the owners

association. The minimum width of an access corridor shall be 50 feet, and access corridors shall be in upland areas.

(f) Common open space shall not include commercial facilities.

(g) The appearance of common open space areas, including topography, vegetation, and allowable uses, shall be preserved by use of permanent easements, public dedication and acceptance, or other equally effective and permanent means. For permanent easements, a willing party for receiving easements must be declared, otherwise a party may be assigned pursuant to Minnesota Statutes 375.18, Subp. 12.

(h) Common open space may include subsurface sewage treatment systems if the use of the space is restricted to avoid adverse impacts on the systems.

(3) Centralization and design of facilities and structures must be done according to the following standards:

(a) Planned unit developments shall be connected to publicly owned water supply and sewer systems, if available. On-site water supply and sewage treatment systems must be centralized and designed and installed to meet or exceed applicable standards or rules of the Minnesota Department of Health and the Minnesota Pollution Control Agency. On-site sewage treatment systems must be located on the most suitable areas of the development, and sufficient area free of limiting factors must be provided for a replacement standard soil treatment system for each sewage system.

(b) Conservation subdivisions shall be connected to publicly owned water supply and sewer systems, if available. Where publicly owned water supply and sewer systems are not available, conservation subdivisions shall either establish dedicated areas for individual sewage treatment systems or establish centralized water supply and sewage treatment systems to serve the entire subdivision.

(c) Dwelling units/sites must be clustered into one or more groups and located on suitable areas of the development. They must be designed and located to meet or exceed the following dimensional standards for the relevant shoreland classification: elevation above the surface water features, and maximum height. The site design must incorporate the use narrower rights-of-way than conventional subdivisions, some single-loading streets, looped road-ways versus cul-de-sacs, use of pervious surfaces, maximum road setbacks for house-fronts, and preservation of trees, unique resources, and scenic vistas.

(d) For conservation subdivisions, riparian lot standards shall meet the minimums in part ALT6120.3300, Subps. 2a and 2b, and lots shall not extend into the shore impact zone. For conservation subdivisions, the nonriparian lot standards that apply are the lot size and lot width standards in part ALT6120.3300, Subps. 2a and 2b, however these are maximum lot size and lot width standards for these developments, not minimum lot size and lot width standards.

(e) Shore recreation facilities, including but not limited to swimming areas, docks, and watercraft mooring areas and launching ramps must be clustered or grouped in suitable areas. Evaluation of suitability must include consideration of land slope, water depth, aquatic and shoreland vegetation, soils, depth to groundwater and bedrock, or other relevant factors. Boating facilities shall be located adjacent to the deepest water available. The number of spaces provided for continuous mooring, or docking of watercraft shall not exceed one for each authorized dwelling unit or site in the first tier. Individual docks shall not be allowed. If the waterbody does not have a public access boat launching facility, launching ramp facilities, including a small dock for loading and unloading equipment, may be provided for use by occupants of dwelling units/ sites located in other tiers, and their watercraft shall be stored outside the shore impact zone such that they are not visible from the public water.

(f) Structures, parking areas, and other facilities must meet or exceed structure setbacks in subpart 3, item C, and must be treated to reduce visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks, color, or other means acceptable to the local unit of government, assuming summer, leaf-on conditions.

(g) Water-oriented accessory structures and facilities may be allowed if they meet or exceed design standards contained in part ALT6120.3300, Subp. 3, item H, and are centralized.

(h) Accessory structures and facilities may be allowed if they meet or exceed standards in part ALT6120.3300, Subp. 3, item H, and are centralized.

(4) Erosion control and stormwater management for developments must meet the standards in part ALT6120.3300, Subp. 11. For planned unit developments, the impervious surface coverage shall not exceed 15 percent in either the total project area or the first tier. For conservation subdivisions, the impervious surface coverage for lots must meet the standards in part ALT6120.3300, Subp. 11. Erosion control and stormwater management shall be designed by certified personnel in erosion and sediment control using the best management practices found in the latest Pollution Control Agency's stormwater best management practices manual, approved by the local government, and effectively implemented.

B. Administration and maintenance requirements. Before final approval of all developments, local governments must ensure adequate provisions have been developed for preservation and maintenance in perpetuity of common open spaces and for the continued existence and functioning of the development as a community. Local governments may assess a one-time fee for purposes of monitoring and enforcing terms and conditions of any common open space governing instruments.

(1) Common open space preservation. Deed restrictions, permanent conservation easements, public dedication and acceptance, or other equally effective and permanent means must be provided to ensure perpetual preservation and maintenance of common open space. For areas greater or equal to 10 acres, easements shall be held by a qualified unit of government, conservation organization, land trust or similar organization authorized to hold interest in real property pursuant to Minnesota Statutes, section 84C.01-05, as approved by the local

government. Local units of government may also hold or co-hold an easement. The instruments of the easement must include all of the following protections:

(a) commercial uses shall be prohibited for noncommercial developments;

(b) vegetation and topographic alterations other than to prevent personal injury or property damage and for restoration efforts based on an approved shoreland vegetation buffer plan shall be prohibited;

(c) construction of additional buildings, impervious surfaces, or storage of vehicles and other materials shall be prohibited;

(d) beaching of motorized watercraft shall be prohibited; and

(e) dumping, storage, processing, burning, burying or landfill of solid or other wastes shall be prohibited.

(2) Shoreland vegetation shall be preserved, restored and maintained according to the approved shoreland vegetation buffer plan. The loss of vegetation shall be replaced in kind.

(3) Development organization and functioning. Unless an equally effective alternative community framework is established, when applicable, all residential developments shall use an owners association with the following features:

(a) Membership shall be mandatory for each dwelling unit or site purchaser and any successive purchasers.

(b) Each member must pay a pro rata share of the association's expenses, and unpaid assessments can become liens on units or sites.

(c) Assessments must be adjustable to accommodate changing conditions.

(d) The association shall be responsible for insurance, taxes, and maintenance of all commonly owned property and facilities, and it must enforce covenants, deed restrictions, and easements. The association must have a land stewardship plan for common open space areas greater or equal to 10 acres specifically focusing on the long-term management of these open space lands.

(4) Amendments or revisions to covenants or deed restrictions. Before establishing or recording any common interest community, the developer shall submit documents, including all covenants, conditions, restrictions, easements, and operating rules and procedures associated with the development, for review and approval by the local government unit pursuant to Minnesota Statutes, section 515B.1-106. Under no circumstances shall covenants or deed restrictions be modified without the local government unit’s determination that the proposed changes fully comply with the requirements of part ALT6120.3800.

C. Conversions. Local governments may allow existing commercial planned unit developments other land uses and facilities to be converted to residential developments if all of the following standards are met:

(1) Proposed conversions must be evaluated using the same procedures and standards presented in this part for planned unit developments involving all new construction. Inconsistencies between existing features of the development and these standards shall be identified and corrected. For conversions to residential lots, all inconsistencies between existing features of the development and the standards in ALT6120.3300 must be identified and corrected.

(2) Deficiencies involving water supply and sewage treatment, impervious coverage, common open space, and shore recreation facilities must be corrected as part of the conversion or as specified in the conditional use permit.

(3) Shore and bluff impact zone deficiencies must be corrected as part of the conversion. These improvements must include, where applicable, the following:

(a) removal of extraneous buildings, docks, mooring sites, boat launching areas, and ramps, or other facilities located in shore or bluff impact zones;

(b) remedial measures to correct erosion sites and improve vegetative cover and screening of buildings and other facilities as viewed from the water to meet shoreland vegetation buffer standards in part ALT6120.3300, Subp. 4.

(4) Dwelling units or dwelling site densities shall meet the standards in this part for conversion to planned unit developments and the standards in part ALT6120.3300 for conversions to residential lots.

ALT6120.3900 ADMINISTRATION.

Subpart 1. **Administration and enforcement.**
Local governments must provide for the administration and enforcement of their shoreland management controls by establishing permit procedures for lot creation, building construction, installation of sewage treatment systems, and grading and filling.

Subp. 2. **Variances.**
Variances may only be granted in accordance with Minnesota Statutes, chapters 394 or 462, as applicable. They may not circumvent the general purposes and intent of the official controls.

A. Variances shall not be granted for the following:

(1) to allow any use that is prohibited in the zoning district in which the subject property is located.

(2) for lots created after the enactment of these standards that do not meet the minimum lot dimension standards in part ALT6120.3300, Subps. 2a and 2b, except variances for lots of record may be granted provided that the standards in part ALT6120.3300, Subp. 2, item D, are met.

(3) to exceed the impervious surface coverage standards on lots that meet the minimum lot dimension standards in part ALT6120.3300, Subps. 2a and 2b without mitigation using best management practices that may include filter strips, infiltration basins, rain gardens, and other conservation designs found in the latest Pollution Control Agency's stormwater best management practices manual.

B. Granting of variances is dependent on determination, by reason of exceptional circumstances, of undue hardship. Undue hardship, as defined in Minnesota Statute, chapter 394, means:

(1) The property cannot be put to a reasonable use if used under the conditions allowed by the official controls.

(2) The plight of the landowner is due to circumstances unique to the property not created by the landowner.

(3) The variance, if granted, will not alter the essential character of the locality.

(4) Economic considerations alone shall not constitute a hardship if a reasonable use for the property exists under the terms of the ordinance.

Variances can only be granted when they are in harmony with the intent of the ordinance and they are consistent with the local government's comprehensive plan.

C. A condition of issuance of any variance shall include the following:

(1) A certificate of compliance for the septic system. The septic system must be inspected and upgraded, if necessary, to meet or exceed the standards or rules of the Minnesota Department of Health, the Minnesota Pollution Control Agency, specifically those in chapter 7080, and those in part ALT6120.3400, exclusive of the setback from the ordinary high water level in item C of that part.

(2) The shore impact zone or restoration of the shore impact zone shall meet the standards in part ALT6120.3300, Subp. 4.

(3) Where issuance of the variance will likely alter the hydrology of the parcel or the land surface covered by structures exceeds or will exceed 5,000 square feet, erosion control and stormwater management plans for the parcel shall be approved by the local government and effectively implemented.

(4) The impervious surface coverage shall be brought into compliance, or if not possible, to the maximum extent practicable with the impervious surface coverage requirements of part ALT6120.3300, Subp. 11. For residential properties that will exceed 20 percent impervious surface coverage, a properly designed stormwater pollution prevention plan shall be approved by the local government and effectively implemented.

Other conditions may be imposed in the granting of variances to ensure compliance and to protect adjacent properties and the public interest.

Subp. 3. **Conditional uses.**
In addition to any existing standards local governments may have for reviewing conditional uses, the following standards must be incorporated into local controls and used for reviewing conditional uses located in shoreland areas:

A. a thorough evaluation of the topographic, vegetation, and soils conditions on the site to ensure:

(1) prevention of soil erosion or other possible pollution of public waters, both during and after construction;

(2) limiting visibility of structures and other facilities as viewed from public waters; and

(3) adequacy of the site for water supply and on-site sewage treatment; and

B. an assessment of the types, uses, and numbers of watercraft that the project will generate in relation to the suitability of public waters to safely accommodate these watercraft.

C. a condition of issuance of any conditional use permit shall include the following:

(1) The septic system must be inspected and upgraded, if necessary, to meet or exceed the standards or rules of the Minnesota Department of Health, the Minnesota Pollution Control Agency, specifically those in chapter 7080, and those in part ALT6120.3400, exclusive of the setback from the ordinary high water level in item C of that part.

(2) The shore impact zone or restoration of the shore impact zone shall meet the standards in part ALT6120.3300, Subp. 4.

(3) Where issuance of the conditional use permit will alter the hydrology of the parcel, erosion control and stormwater management plans for the parcel shall be approved by the local government and effectively implemented.

(4) The impervious surface coverage shall be brought into compliance, or if not possible, to the maximum extent practicable with the impervious surface coverage requirements of part ALT6120.3300, Subp. 11. For residential properties that will exceed 20 percent impervious surface coverage, a properly designed stormwater pollution prevention plan shall be approved by the local government and effectively implemented.

Local governments may impose other conditions when granting conditional use permits that specify: increased setbacks from public waters; location, design, and use requirements for watercraft launching or docking, and for vehicular parking; structure or other facility design, use, and location; phasing of construction; and other conditions considered necessary by the local unit of government.

Subp. 4. **Nonconformities.**

A. Local governments must require upgrading or replacement of any existing, on-site sewage treatment system identified as a nonconformity under a program established under part ALT6120.3400. Systems installed according to all applicable local shoreland management standards adopted under Minnesota Statutes, sections 103F.201 to 103F.221, 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 chapter 7080, shall be considered nonconforming.

B. All nonconformities other than on-site sewage treatment systems must be managed according to applicable state statutes and local government official controls.

C. An increase in nonconformity of a structure is any change in a structure or property which causes further deviation from the standards creating the nonconformity such as, but not limited to, reduction in setback distance, addition of structure into the shore impact or secondary shoreline buffer zones, increase in impervious surface coverage, or increase in height of a structure. Property changes or structure expansions which either meet the dimensional standard or which cause no further increase in the extent of nonconformance of the existing structure shall not be considered an increase nonconformity. For the purpose of these standards, there is no increase in nonconformity with the setback and shoreline buffer requirements if the expansion of

a structure in the secondary shoreline buffer zone extends landward; however, there would be an increase in nonconformity if the structure expanded in width as measured parallel to the shoreline.

Subp. 5. **Shoreland management by townships.**
Townships may adopt shoreland management controls under authority of Minnesota Statutes, section 394.33, subdivision 1, if the controls are not inconsistent with or less restrictive than the controls adopted by the county in which the township is located.

A. For the purposes of parts ALT6120.2500 to ALT6120.3900, 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.

B. The township must demonstrate to the county board that their proposed ordinance and administration is at least as restrictive as the county's prior to final adoption by the township. Townships must provide for administration and enforcement of shoreland management controls at least as effective as county implementation. Townships that adopt adequate shoreland controls must follow all of the notification procedures in subpart 7. After adequate shoreland management controls are adopted by a 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.

Subp. 6. **Joint exercise of powers.**
To facilitate more logical, consistent, and efficient administration of shoreland management controls, local governments are encouraged to enter into joint powers agreements with adjacent or otherwise similarly situated local units of government to jointly administer shoreland management controls pursuant to the procedures and authority of Minnesota Statutes, sections 394.32 and 471.59.

Subp. 7. **Notification.**

A. 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 plats must include copies of the plats.

B. A copy of approved amendments and 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.

C. Townships with shoreland management controls adopted under subpart 4a must also provide these materials to the zoning official of the county.

Subp. 8. **Shoreline steward program.**

Through use of a grant program, local governments, lake improvement districts, and lake associations are encouraged to establish shoreland protection incentive programs that meet the following criteria:

A. A lakehome owner should receive the 'Good Steward' reward with the following shoreland management standards:

(1) a buffer zone consisting of native vegetation of trees, shrubs, understory and forbes of at least 60 foot width existed along the entire shore, except for a path less than 6 feet, throughout the year;

(2) no pesticides were used to treat aquatic plants;

(3) no mechanical alteration of emergent or floating-leaf aquatic vegetation or lake sediment;

(4) no fertilizer used; and

(5) the total area occupied by waterfront accessory structures (e.g., docks, boat stations, etc.) was less than 750 square feet.

B. A resort owner should receive the 'Good Steward' reward with the following shoreland management standards:

(1) At least 50 percent of the resort is permanently preserved as common open space;

(2) Vegetative coverage for over 50 percent of the shore impact zone meets or exceeds the standards in part ALT6120.3300, Subp. 4;

(3) Erosion control and stormwater management meets or exceeds the standards in part ALT6120.3300, Subp. 11;

(4) no pesticides were used to treat aquatic plants;

(5) no mechanical alteration of emergent or floating-leaf aquatic vegetation or lake sediment; and

(6) no fertilizer used.