

SECTION 17: SHORELAND REGULATIONS

Subdivision 1. Statutory Authorization and Policy.

1. **Statutory Authorization.** This Shoreland District is adopted pursuant to the authorization and policies contained in Minnesota Statutes, Chapter 103G, Minnesota Regulations, Parts 6120.255-6120.300, and the planning and zoning enabling legislation in Minnesota Statutes, Chapter 394.
2. **Policy.** The uncontrolled use of shoreland in Cottonwood County, Minnesota affects the public health, safety and general welfare not only by contributing to pollution of public waters, but also by impairing the local tax base. Therefore, it is in the best interest of the public for their health, safety and welfare, to provide for the wise sub-divisional use and development of the shoreland of public waters. The Legislature of Minnesota has delegated responsibility to local governments of the state to regulate the subdivision, use, and development, of the shorelands of public waters and thus preserve and enhance the quality of surface waters, conserve the economic and natural environmental values of shorelands, and provide for the wise use of waters and related land resources. This responsibility is hereby recognized by Cottonwood County.

Subdivision 2. General Provisions and Definitions.

1. **Jurisdiction.** The provisions of this District shall apply to the shorelands of the public water bodies as classified in SECTION 17, Subdivision 4, page 70. Pursuant to Minnesota Regulations, Parts 6120.255-6120.3900, no lake, pond, or flowage less than twenty-five (25) acres in size need to be regulated in a local government's shoreland regulations. A body of water created by a private user where there was no previous shoreland may, at the discretion of the governing body, be exempt from this Ordinance.
2. **Shoreland Districts.** The shorelands within Cottonwood County are hereby designated as shoreland districts and the requirements set forth in this Ordinance shall govern development and other activities within these districts.
3. **District Application.** The shoreland district shall be applied to and superimposed upon all zoning districts as contained herein as existing or amended by the text of this Ordinance. The regulations and requirements imposed by this Ordinance shall be in addition to those established for the underlying base zoning districts, the more restrictive requirements shall apply.
4. **Boundaries.** The boundaries of the shoreland district are lands located within the following distances from public waters: one thousand (1,000) feet from the ordinary high water level of a lake, pond, or flowage greater than twenty-five (25) acres in size in unincorporated areas, and three hundred (300) feet from a river or stream or the landward extent of a floodplain designated by this Ordinance on a river or stream, whichever is greater.
5. **Compliance.** The use of any shoreland of public waters; the size and shape of lots; the use, size, type and location of structures on lots; the installation and maintenance of water supply and waste treatment systems, the grading and filling of any shoreland area; the cutting of shoreland vegetation; and the subdivision of land shall be in full compliance with the terms of this Ordinance and other applicable regulations.

6. **Enforcement.** Cottonwood County is responsible for the administration and enforcement of this Ordinance. Any violation of the provisions of this Ordinance or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with the granting of variances or conditional uses) shall constitute a misdemeanor and shall be punishable as defined by law. Violations of this Ordinance can occur regardless of whether or not a permit is required for a regulated activity pursuant to SECTION 17, Subdivision 3.1.A., page 68.
7. **Interpretation.** In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements and shall be liberally construed in favor of the governing body and shall not be deemed a limitation or repeal of any other powers granted by State Statutes.
8. **Severability.** If any section, clause, provision, or portion of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby.
9. **Abrogation and Greater Restrictions.** It is not intended by this Ordinance to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Ordinance imposes greater restrictions, the provisions of this Ordinance shall prevail. All other ordinances inconsistent with this Ordinance are hereby repealed to the extent of the inconsistency only.

Subdivision 3. Administration.

1. Permits Required.

- A. A permit is required for the construction of buildings or building additions (and including such related activities as construction of decks and signs), the installation and/or alteration of sewage treatment systems, and those grading and filling activities not exempted by SECTION 17, Subdivision 8, 5, B., page 77. Application for a permit shall be made to the Zoning Administrator on the forms provided. The application shall include the necessary information so that he/she can determine the site's suitability for the intended use and that a compliant sewage treatment system will be provided.
- B. A permit authorizing an addition to an existing structure shall stipulate that an identified non-conforming sewage treatment system, as defined by SECTION 17, Subdivision 8 - 9, pages 77 - 87 shall be reconstructed or replaced in accordance with the provisions of this Ordinance.

2. Certificate of Zoning Compliance.

- A. The Zoning Administrator shall issue a certificate of zoning compliance for each activity requiring a permit as specified in SECTION 17, Subdivision 3. 1. A., page 68. This certificate will specify that the use of land conforms to the requirements of this Ordinance. Any use, arrangement, or construction that varies with that authorized by permit shall be deemed a violation of this Ordinance and shall be punishable as provided in SECTION 17, Subdivision 2 - 3, pages 67 - 70.

3. Variances.

- A. Variances may only be granted in accordance with Minnesota Statutes, Chapter 394 and SECTION 19, page 92, as applicable. A variance may not circumvent the general purposes and intent of this Ordinance. No variance may be granted that would allow any use that is prohibited in the zoning district in which the subject property is located. Conditions may be imposed in the

granting of a variance to ensure compliance and to protect adjacent properties and the public interest. In considering a variance request, the Board of Adjustment must also consider whether the property owner has reasonable use of the land without the variance, whether the property is used seasonally or year-round, whether existing sewage treatment systems on the property need upgrading before additional development is approved, whether the variance is being requested solely on the basis of economic considerations, and the characteristics of development on adjacent properties.

- B. The Board of adjustment shall hear and decide requests for variances in accordance with the roles that it has adopted for the conduct of business. When a variance is approved after the Department of Natural Resources has formally recommended denial in the hearing record, the notification of the approved variance required in SECTION 17, Subdivision 3, 5, page 69 shall also include the Board of Adjustment's summary of the public record/testimony and the findings of facts and conclusions which supported the issuance of the variance.
- C. For existing developments, the application for variance must clearly demonstrate whether a conforming sewage treatment system is present for the intended use of the property. The variance, if issued, must require reconstruction of a non-conforming sewage treatment system.

4. **Conditional Uses.**

Conditional uses allowable within shoreland areas shall be subject to the review and approval procedures, and criteria and conditions as found in SECTION 18, page 90 of this Ordinance. The following additional evaluation criteria and conditions apply within shoreland areas:

- A. **Evaluation Criteria.** A thorough evaluation of the waterbody and the topographic, vegetation, and soils conditions on the site must be made to ensure:
 - 1) The prevention of soil erosion or other possible pollution of public waters, both during and after construction;
 - 2) The visibility of structures and other facilities as viewed from public waters is limited;
 - 3) The site is adequate for water supply and on-site sewage treatment; and
 - 4) The types, uses, and numbers of watercraft that the project will generate are compatible in relation to the suitability of public waters to safely accommodate said watercraft.
- B. **Conditions Attached to Conditional Use Permits.** Cottonwood County, upon consideration of the criteria listed above and as required in SECTION 18, page 90 of this Ordinance, shall attach such conditions to the issuance of the conditional use permits as it deems necessary to fulfill the purposes of this Ordinance. Such conditions may include, but are not limited to, the following:
 - 1) Increased setbacks from the ordinary high water level;
 - 2) Limitations on the natural vegetation to be removed or the requirement that additional vegetation be planted; and
 - 3) Special provisions for the location, design, and use of structures, sewage treatment systems, watercraft launching and docking areas, and vehicle parking areas.

5. **Notifications to the Department of Natural Resources.**

- 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 (10) days before the hearings. Notices of hearings to consider proposed subdivisions/plats must include copies of the subdivision/plat.
- B. A copy of approved amendments and subdivisions/plats, and final decisions granting variances or conditional uses under local shoreland management controls must be sent to the Commissioner or the Commissioner's designated representative and postmarked within ten (10) days of final action.

Subdivision 4. Shoreland Classification System and Land Use Districts.

1. **Shoreland Classification System.** The public waters of Cottonwood County have been classified below consistent with the criteria found in Minnesota Regulations, Part 6120.3300, and the Protected Waters Inventory Map for Cottonwood County, Minnesota.

- A. Maps of the shoreland area for the water bodies listed in the sections below shall be available at the Cottonwood County Environmental Office, Cottonwood County Office Building, 235 Ninth Street, Windom, MN 56101.

B. **Lakes.**

1) Lake Types. The following lake types are found in Cottonwood County:

- a) Natural environment lakes are generally small, often shallow lakes with limited capacities for assimilating the impacts of development and recreational use. They often have adjacent lands with substantial constraints for development such as high water tables, exposed bedrock, and unsuitable soils. These lakes, particularly in rural areas, usually do not have much existing development or recreational use.
- b) Recreational development lakes are generally medium-sized lakes of varying depths and shapes with a variety of landform, soil, and ground water situations on the lands around them. They often are characterized by moderate levels of recreational use and existing development. Development consists mainly of seasonal and year-round residences and recreational-oriented commercial uses. Many of these lakes have capacities for accommodating additional development and uses.
- c) General development lakes are generally large, deep lakes of varying sizes and depths with high levels and mixes of existing development. These lakes often are extensively used for recreation and, except for the very large lakes, 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.

2) Lake Classifications.

<u>Identification No.</u>	<u>Lake Name</u>	<u>Classification</u>
17-1	Unnamed	Natural Environment Lake
17-3	Mountain	Recreational Development Lake
17-7	Bingham	General Development Lake
17-8	Clear	Natural Environment Lake
17-11	Unnamed	Natural Environment Lake
17-12	Three Lakes	Natural Environment Lake
17-13	Wolf	Natural Environment Lake
17-14	Unnamed	Natural Environment Lake
17-15	Maiden	Natural Environment Lake
17-16	Bartsh	Natural Environment Lake
17-18	Bat	Natural Environment Lake
17-19	Long	Natural Environment Lake
17-20	Eagle	Natural Environment Lake
17-21	Warren	Natural Environment Lake
17-22	Cottonwood	General Development Lake
17-23	Swan	Natural Environment Lake
17-24	String	Natural Environment Lake
17-25	Unnamed	General Development Lake
17-27	Arnolds	Natural Environment Lake
17-30	Unnamed	Natural Environment Lake
17-31	Harder	Natural Environment Lake
17-33	Augusta	Natural Environment Lake
17-37	Hurricane	Natural Environment Lake
17-41	South Clear	Natural Environment Lake
17-44	North Oaks	Natural Environment Lake
17-48	Long	Natural Environment Lake
17-49	Carey	Natural Environment Lake
17-52	Unnamed	Natural Environment Lake
17-53	Unnamed	Natural Environment Lake
17-54	Bean	Natural Environment Lake
17-56	Double	Recreational Development Lake
17-57	Clear	Natural Environment Lake
17-60	Talcot	Natural Environment Lake
32-18	Fish	Recreational Development Lake
51-2	Julia	Natural Environment Lake

C. Rivers and Streams.

1) River Types. The following river types are found in Cottonwood County:

- a) 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.
- b) 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.
- c) Tributary river segments consist of watercourses mapped in the Protected Waters Inventory that have not been assigned one of the river classes as found below. 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.

<u>Class</u>	<u>River</u>		<u>From</u>	<u>To</u>
A	South Watowan	Fork	State Hwy. 17 bridge, west section line, Sec. 26, T105N, R35W	Border of Watowan and Cottonwood Counties
A	Watowan		West section line, Sec. 7, T106N, R35W	Border of Watowan and Cottonwood Counties
A	North Watowan	Fork	West section line, Sec. 14, T107N, R36W	Border of Watowan and Cottonwood Counties
A	Little Cottonwood		South section line, Sec. 23, T107N, R36W	Border of Brown and Cottonwood Counties
T	Des Moines		Border of Murray and Cottonwood Counties	East section line, Sec. 20, T105N, R38W
A	Des Moines		West section line, Sec. 21, T105N, R38W	Border of Cottonwood and Jackson Counties

Tr All other non-classified watercourses as shown on County protected waters inventory map and list.

A - Agriculture, T - Transition, Tr - Tributary

2. Land Use District Descriptions.

- A. **Criteria for Designation.** The land use districts as found in SECTION 10, page 34 and the delineation of a land use district's boundaries must be consistent with the goals, policies, and objectives of the County's Comprehensive Land Use Plan and the following criteria, considerations, and objectives.

General Considerations and Criteria for all Land Uses.

- 1) Preservation of natural areas;
 - 2) Present ownership and development of shoreland areas.
 - 3) Shoreland soil types and their engineering capabilities;
 - 4) Topographic characteristics;
 - 5) Vegetative cover;
 - 6) In-water physical characteristics, values, and constraints;
 - 7) Recreational use of the surface water;
 - 8) Road and service center accessibility;
 - 9) Socioeconomic development needs and plans as they involve water and related land resources;
 - 10) The land requirements of industry which, by its nature, requires location in shoreland areas; and
 - 11) The necessity to preserve and restore certain areas having significant historical or ecological value.
- B. **Land Use District Descriptions.** The land use districts provided below, and the allowable land uses therein for the given classifications of water bodies, shall be followed in accordance to the districts as established by this Ordinance. These land use districts are in conformance with the criteria specified in Minnesota Regulations, Part 6120.3200, Subp. 3.

1) Land Use Districts for Lakes.	Natural	Recreational	General
AG-1, Agricultural District Uses:	<u>Environmental</u>	<u>Development</u>	<u>Development</u>
Forest management	P	P	P
Sensitive resource management	P	P	P
Agricultural: cropland & pasture	P	P	P
Agricultural/feedlots	C	C	C
Parks and historic sites	C	C	C
Extractive use	C	C	C
Single residential	C	C	C
Mining of metallic mineral & peat	P	P	P
R-1, Residential District Uses:			
Single residential	P	P	P
Semi-public	C	C	C
Parks and historic sites	C	C	C
Forest management	P	P	P
C-1, Commercial District, and			
I-1, Industrial District Uses:			
Commercial	C	P	P
Surface water-oriented commercial	C	P	P
Industrial	N	C	C
Public, semi-public	C	P	P
Parks and historic sites	C	C	C
Forest management	P	P	P

2) Land Use Districts for Rivers and Streams.				
AG-1, Agricultural District Uses:	<u>Transition</u>	<u>Agricultural</u>	<u>Urban</u>	<u>Tributary</u>
Forest management	P	P	P	P
Sensitive resource management	P	P	P	P
Agricultural: cropland & pasture	P	P	P	P
Agricultural/feedlots	C	C	C	C
Parks and historic sites	C	C	C	C
Extractive use	C	C	C	C
Single residential	C	C	C	C
Mining of metallic mineral & peat	P	P	P	P
R-1, Residential District Uses:				
Single residential	P	P	P	P
Semi-public	C	C	C	P
Parks and historic sites	C	C	C	P
Forest management	P	P	P	P
C-1, Commercial District, and				
I-1, Industrial District Uses:				
Commercial	C	P	P	C
Surface water-oriented commercial	C	C	C	C
Industrial	N	N	C	C
Public, semi-public	C	C	P	C
Parks and historic sites	C	C	C	C
Forest management	P	P	P	P

* P - Permitted C - Conditional N - Non-permitted

Subdivision 5. Agricultural/Residential Uses - Lakes.

1. **Use Application.** The single family residential use standards shall be applied to Ag-1 and R-1 Zoning Districts which are overlaid by the Shoreland District.
2. **Lot and Setback Standards - Lakes.** The following minimum requirements for lakes shall be observed in Ag-1 and R-1 Zoning Districts which are overlaid by the Shoreland District.

		<u>Natural Environmental</u>	<u>Recreational Development</u>	<u>General Development</u>
A.	Lot Area			
	1. Unsewered			
	Riparian Lots	2.5 acres	2.5 acres	2.5 acres
	Non-Riparian Lots	2.5 acres	2.5 acres	2.5 acres
	2. Sewered			
	Riparian Lots	40,000	20,000	15,000
	Non-Riparian Lots	20,000	15,000	10,000
B.	Lot Width			
	1. Unsewered			
	Riparian Lots	200	150	100
	Non-Riparian Lots	200	150	150
	2. Sewered			
	Riparian Lots	125	80	80
	Non-Riparian Lots	125	80	80
C.	Setbacks from Ordinary high water level*			
	1. Structures			
	Unsewered	150	100	75
	Sewered	150	75	50
	2. Sewage Treatment System	150	75	50
D.	Side Yard Setbacks for Property Abutting a Lake	20	20	20
E.	Building Height (Ft)**	30	30	30
F.	Maximum Impervious Surface to Area Ratio	25%	25%	25%

* Setback requirements from the ordinary high water level shall not apply to piers and docks. Where development exists on both sides of a proposed building site, building setbacks may be altered to more closely conform to adjacent building setbacks provided the proposed building site is not located in a shore impact zone or in a bluff impact zone.

** Agricultural use related buildings, silos, and towers shall be exempt from the building height requirements.

Subdivision 6. Commercial/Industrial Uses - Lakes.

1. **Use Application.** The commercial use standards shall be applied to Cottonwood County's C-1, Commercial and I-1, Industrial Districts which are overlaid by the Shoreland District.
2. **Lot and Setback Standards - Lakes.** The following minimum requirements for lakes shall be observed in the C-1 and I-1 Zoning Districts which are overlaid by the Shoreland District.

	<u>Natural Environmental</u>	<u>Recreational Development</u>	<u>General Development</u>
A. Lot Width			
1. Unsewered			
Riparian Lots	200	150	100
Non-Riparian Lots	200	150	150
2. Sewered			
Riparian Lots	125	100	100
Non-Riparian Lots	125	100	100
B. Setbacks from Ordinary high water level*			
1. Commercial/Industrial	150	100	75
2. Impervious Surface Parking	75	50	50
C. Side Yard Setbacks for Property Abutting a Lake			
	20	20	20
D. Building Height (Ft)**	30	30	30
E. Maximum Impervious Surface to Area Ratio	25%	25%	25%

Subdivision 7. Agricultural, Residential, Commercial and Industrial Uses - Rivers/Streams.

	<u>Transition</u>	<u>Agriculture</u>	<u>Urban & Tributary</u>
1. Lot Width			
A. Unsewered	250	150	100
B. Sewered	80	80	80
2. Setbacks from Ordinary high water level			
A. Structures			
Unsewered	150	100	100
Sewered	150	50	50
B. Sewage Treatment System	100	75	75
3. Side Yard Setbacks for Property Abutting a River or Stream			
	20	20	20
4. Building Height (Ft)*	30	30	30
5. Maximum Impervious Surface Area Ratio	25%	25%	25%

* Agricultural use related buildings, silos, and towers shall be exempt from the building height requirement

Subdivision 8. Additional Special Provisions.

1. 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. The sewer lot area dimensions in SECTION 17, Subdivision 5, page 75 can only be used if publicly-owned sewer system service is available to the property.
2. One guest cottage may be allowed on lots meeting or exceeding the lot area and width dimensions presented in SECTION 17, Subdivision 5, page 75, provided the following standards are met:

A. Lot Size Requirements for Lots With Guest Cottages on **Lakes**:

<u>Lot Type</u>	<u>Natural Environment</u>		<u>Recreational Development</u>		<u>General Development</u>	
	<u>Area</u>	<u>Width</u>	<u>Area</u>	<u>Width</u>	<u>Area</u>	<u>Width</u>
1) Unsewered Lots:						
Riparian	120,000	300	80,000	225	40,000	180
Non-Riparian	160,000	400	80,000	265	80,000	265
2) Sewered Lots:						
Riparian	70,000	225	35,000	135	26,000	135
Non-Riparian	35,000	220	26,000	135	17,000	135

- B. A guest cottage must not cover more than seven hundred (700) square feet of land surface and must not exceed fifteen (15) feet in height; and
- C. 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 or color, assuming summer leaf-on conditions.

3. Lots intended as controlled accesses to public waters or as recreation areas for use by owners of non-riparian lots within subdivisions are permissible and must meet or exceed the following standards:

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

Controlled Access Lot Frontage Requirements:

Ratio of Lake Size to Shore Length (Access/Miles)	Req. Increase in Frontage (Percent)
Less than 100	25
100-200	20
201-300	15
301-400	10
Greater than 400	5

- C. They must be jointly owned by all purchasers of lots in the subdivision or by all purchasers of non-riparian lots in the subdivision who are provided riparian access rights on the access lot; and
- D. Covenants or other equally effective legal instruments must be developed that specify which lot owners have authority to use the access and what activities are allowed. The activities may include watercraft launching, loading, storage, beaching, mooring, or docking. They must also include other outdoor recreational activities that do not significantly conflict with general public use of the public water or the enjoyment of normal property rights by adjacent property owners. Examples of the non-significant conflict activities include swimming, sunbathing, or picnicking. The covenants must limit the total number of vehicles allowed to be parked and the total number of water craft allowed to be continuously moored, docked, or stored over water, and must require centralization of all common facilities and activities in the most suitable locations on the lot to minimize topographic and vegetation alterations. They must also require all parking area, 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.

4. Placement, Design, and Height of Structures.

- A. Placement of Structures on Lots. When more than one (1) setback applies to a site, structures and facilities must be located to meet all setbacks. Where structures exist on the adjoining lots on both sides of a proposed building site, structure setbacks may be altered without a variance to conform to the adjoining setbacks from the ordinary high water level, provided the proposed building site is not located in a shore impact zone or in a bluff impact zone. Structures shall be located as follows:

- 1) Additional Structure Setbacks. The following additional structure setbacks apply, regardless of the classification of the waterbody.

<u>Setback From:</u>	<u>Setback (in feet)</u>
a) Top of bluff	30
b) Unplatted cemetery	50
c) Right-of-way line of federal, state, or county highway; and	50
d) Right-of-way line of town(ship) road, public street, or other roads or streets not classified	20

- 2) Bluff Impact Zones. Structures and accessory facilities, except stairways and landings, must not be placed within bluff impact zones.
- 3) Uses Without Water-Oriented Needs. Uses without water-oriented needs must be located on lots or parcels without public waters frontage, or if located on lots or parcels with public waters frontage, must either be set back double the normal ordinary high water level setback or be substantially screened from view from the water by vegetation or topography, assuming summer, leaf-on conditions.

B. Design Criteria for Structures.

- 1) High Water Elevations. Structures must be placed in accordance with any floodplain regulations applicable to the site. Where these controls do not exist, the elevation to which the lowest floor, including basement, is placed or flood-proofed must be determined as follows:
 - a) For lakes, by placing the lowest floor at a level at least three (3) feet above the highest known water level, or three (3) feet above the ordinary high water level, whichever is higher.
 - b) For rivers and streams, by placing the lowest floor at least three (3) feet above the flood of record, if data is available. If data is not available by placing the lowest floor at least three (3) feet above the ordinary high water level, or by conducting a technical evaluation to determine effects of proposed construction upon flood stages and flood flows and to establish a flood protection elevation. Under all three (3) approaches, technical evaluations must be done by a qualified engineer or hydrologist consistent with parts 6120.5000 to 6120.6200 governing the management of floodplain areas. If more than one approach is used, the highest flood protection elevation determined must be used for placing structures and other facilities;
 - c) Water-oriented accessory structures may have the lowest floor placed lower than the elevation determined in this item if the structure is constructed of flood-resistant materials to the elevation, electrical and mechanical equipment is placed above the elevation and, if long duration flooding is anticipated, the structure is built to withstand ice action and wind-driven waves and debris.
- 2) Water-Oriented Accessory Structures. Each lot may have one water-oriented accessory structure not meeting the normal structure setback in SECTION 17, Subdivision 5.2.C., page 75, if the water-oriented accessory structure complies with the following provisions:
 - a) The structure of facility must not exceed ten (10) feet in height, exclusive of safety rails, and cannot occupy an area greater than two hundred fifty (250) square feet. Detached decks must not exceed eight (8) feet above grade at any point;
 - b) The setback of the structure of facility from the ordinary high water mark must be at least ten (10) feet;
 - c) The structure or facility must be treated to reduce visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks or color, assuming summer, leaf-on conditions.
 - d) The roof may be used as a deck with safety rails, but must not be enclosed or used as a storage area;
 - e) The structure or facility must not be designed or used for human habitation and must not contain water supply or sewage treatment facilities; and
 - f) As an alternative for general development and recreational development waterbodies, water-oriented accessory structures used solely for watercraft storage, and including

storage of related boating and water-oriented sporting equipment, may occupy an area up to four hundred (400) square feet, provided the maximum width of the structure is twenty (20) feet as measured parallel to the configuration of the shoreline.

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

C. **Height of Structures.** All structures in residential districts, except churches and nonresidential agricultural structures, must not exceed thirty (30) feet in height.

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

A. Vegetation Alterations.

- 1) Vegetation alteration necessary for the construction of structure and sewage treatment systems and the construction of roads and parking areas regulated by SECTION 17, Subdivision 8, 6, page 83 are exempt from the vegetation alteration standards that follow.
- 2) Removal or alteration of vegetation, except for agricultural and forest management uses as regulated in SECTION 17, Subdivision 8, 8, page 84 is allowed subject to the following standards:
 - a) Intensive vegetation clearing within the shore and bluff impact zones and on steep slopes is not allowed. Intensive vegetation clearing for forest land conversion to another use outside of these areas is allowable as a conditional use if an erosion control and sedimentation plan is developed and approved by the soil and water conservation district in which the property is located.
 - b) In shore and bluff impact zones and on steep slopes, limited clearing of trees and shrubs and cutting, pruning, and trimming of trees is allowed to provide a view to the water from the principal dwelling site and to accommodate the placement of stairways and landings, picnic areas, access paths, livestock watering areas, beach and watercraft access areas, and permitted water-oriented accessory structures or facilities, provided that:
 - (1) The screening of structures, vehicles, or other facilities as viewed from the water, assuming summer, leaf-on conditions, is not substantially reduced;
 - (2) Along rivers, existing shading of water surfaces is preserved; and
 - (3) The above provisions are not applicable to the removal of trees, limbs, or branches that are dead, diseased, or pose safety hazards.

B. Topographic Alterations/Grading and Filling.

- 1) Grading and filling and excavations necessary for the construction of structures, sewage treatment systems, and driveways under validly issued construction permits for these facilities do not require the issuance of a separate grading and filling permit. However, the grading and filling standards in THIS SECTION must be incorporated into the issuance of permits for construction of structures, sewage treatment systems, and driveways.
- 2) Public roads and parking areas as regulated by SECTION 17, Subdivision 8, 6, page 83.
- 3) A Conditional Use permit will be required for:
 - a) The movement of more than ten (10) cubic yards of material on steep slopes or within shore or bluff impact zones; and
 - b) The movement of more than fifty (50) cubic yards of material inside Shoreland area but outside of steep slopes and shore and bluff impact zones.
- 4) The following considerations and conditions must be adhered to during the issuance of

construction permits, grading and filling permits, conditional use permits, variances and subdivision approvals:

- a) Grading or filling in any Type 2, 3, 4, 5, 6, 7, or 8 wetland must be evaluated to determine how extensively the proposed activity would affect the following functional qualities of the wetland:*)
 - (1) Sediment and pollution trapping and retention;
 - (2) Storage of surface runoff to prevent or reduce flood damage;
 - (3) Fish and wildlife habitat;
 - (4) Recreational use;
 - (5) Shoreline or bank stabilization; and
 - (6) Noteworthiness, including special qualities such as historic significance, critical habitat for endangered plants and animals, or others.
- b) Alterations must be designed and conducted in a manner ensuring that only the smallest amount of bare ground is exposed for the shortest time possible;
- c) Mulches or similar materials must be used, where necessary, for temporary bare soil coverage, and permanent vegetative cover must be established as soon as possible;
- d) Methods to minimize soil erosion and to trap sediments before they reach any surface water feature must be used;
- e) Altered areas must be stabilized to acceptable erosion control standards consistent with the field office technical guides of the local soil and water conservation districts and the United States Soil Conservation Service;
- f) Fill or excavated material must not be placed in a manner that creates an unstable slope;
- g) Plans to place fill or excavated material on steep slopes must be reviewed by a Registered Engineer, other than the applicant, for continued slope stability and must not create finished slopes of thirty (30) percent or greater;
- h) Fill or excavated material must not be placed in bluff impact zones;
- i) Any alterations below the ordinary high water level of public waters must first be authorized by the Commissioner under Minnesota Statutes, Section 103G.245.
- j) Alterations of topography must only be allowed if they are accessory to permitted or conditional uses and do not adversely affect adjacent or nearby properties; and
- k) Placement of natural rock riprap, including associated grading of the shoreline and placement of a filter blanket, is permitted if the finished slope does not exceed three

(3) feet horizontal to one (1) foot vertical, the landward extent of the riprap is within ten (10) feet of the ordinary high water level, and the height of the riprap above the ordinary high water level does not exceed three (3) feet.

- 5) Connections to Public Waters. Excavations where the intended purpose is connection to a public water, such as boat slips, canals, lagoons, and harbors, must be controlled by local shoreland controls. Permission for excavations may be given only after the Commissioner has approved the proposed connection to public waters.
6. **Placement and Design of Roads, Driveways, and Parking Areas.** The following standards shall apply in regard to roadway, driveway, and parking area placement and design within the Shoreland Overlay District of Cottonwood County.
- A. Public and private roads and parking areas must be designed to take advantage of natural vegetation and topography to achieve maximum screening from view from public waters. Documentation must be provided by a qualified individual that all roads and parking areas are designed and constructed to minimize and control erosion to public waters consistent with the field office technical guides of the local soil and water conservation district, or other applicable technical materials.
 - B. Roads, driveways, and parking areas must meet structure setbacks and must not be placed within bluff and shore impact zones, when other reasonable and feasible placement alternatives exist. If no alternatives exist, they may be placed within these areas, and must be designed to minimize adverse impacts.
 - C. 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 SECTION 17, Subdivision 8, 5, B, page 79.
7. **Storm Water Management.** The following general and specific standards shall apply in regard to storm water management within the Shoreland District of Cottonwood County:
- A. General Standards.
 - 1) When possible, existing natural drainageways, wetlands, and vegetated soil surfaces must be used to convey, store, filter, and retain storm water runoff before discharge to public waters.
 - 2) Development must be planned and conducted in a manner that will minimize the extent of disturbed areas, runoff velocities, erosion potential, and reduce and delay runoff volumes. Disturbed areas must be stabilized and protected as soon as possible and facilities or methods used to retain sediment on the site.
 - 3) When development density, topographic features, and soil and vegetation conditions are not sufficient to adequately handle storm water runoff using natural features and vegetation, various types of constructed facilities such as diversions, settling basins, skimming devices, dikes, waterways, and ponds may be used. Preference must be given to designs using surface drainage, vegetation, and infiltration rather than buried pipes and man-made

materials and facilities.

B. Specific Standards.

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

8. **Special Provisions for Commercial, Industrial, Public/Semipublic, Agricultural, Forestry and Extractive Uses and Mining of Metallic Minerals and Peat.**

A. Standards for Commercial, Industrial, Public and Semipublic Uses:

- 1) Surface water-oriented commercial uses and industrial, public, or semipublic uses with similar needs to have access to and use of public waters may be located on parcels or lots with frontage on public waters. Those uses with water-oriented needs must meet the following standards:
 - a) In addition to meeting impervious coverage limits, setbacks, and other zoning standards in this Ordinance, the uses must be designed to incorporate topographic and vegetative screening of parking areas and structures;
 - 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; and
 - 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 (10) feet above the ground, and must not exceed thirty-two (32) square feet in size. If illuminated by artificial lights, the lights must be shielded or directed to prevent illumination out across public waters; and

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

B. **Agricultural Use Standards.**

- 1) General cultivation farming, grazing, nurseries, horticulture, truck farming, sod farming, and wild crop harvesting are permitted uses if steep slopes and shore and bluff impact zones are maintained in permanent vegetation or operated under an approved conservation plan (Resource Management Systems) consistent with the field office technical guides of the local soil and water conservation districts or the United States Soil Conservation Service, as provided by a qualified individual or agency.
- 2) 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.
- 3) Animal feedlots must meet the following standards:
 - a) New feedlots must not be located in the shoreland of watercourses or in bluff impact zones and must meet a minimum setback of one thousand (1000) feet from the ordinary high water level of any lake, pond, or flowage, or within three hundred (300) feet of a river or stream.
 - b) Modifications or expansions to existing feedlots that are located within three hundred (300) feet of the ordinary high water level or within a bluff impact zone are allowed if they do not further encroach into the existing ordinary high water level setback or encroach on bluff impact zones.

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

D. **Extractive Use Standards.**

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

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

9. **Water Supply and Sewage Treatment.**

A. **Water Supply.** Any public or private supply of water for domestic purposes must meet or exceed

standards for water quality of the Minnesota Department of Health and the Minnesota Pollution Control Agency.

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.

- B. Sewage Treatment. Any premises used for human occupancy must be provided with an adequate method of sewage treatment, as follows:
- 1) Publicly-owned sewer systems must be used where available.
 - 2) All private sewage treatment systems must meet or exceed the Minnesota Pollution Control Agency's standards for individual sewage treatment systems contained in the document titled, "Individual Sewage Treatment Systems Standard, Chapter 7080", a copy of which is hereby adopted by reference and declared to be a part of this Ordinance.
 - 3) On-site sewage treatment systems must be set back from the ordinary high water level in accordance with the setbacks contained in THIS SECTION.
 - 4) All proposed sites for individual sewage treatment systems shall be evaluated in accordance with the criteria in subitems 1) - 4). If the determination of a site's suitability cannot be made with publicly available, existing information, it shall then be the responsibility of the applicant to provide sufficient soil borings and percolation tests from on-site field investigations.

Evaluation criteria.

- a) Depth to the highest known or calculated ground water table or bedrock;
 - b) Soil conditions, properties, and permeability;
 - c) Slope;
 - d) The existence of lowlands, local surface depressions, and rock outcrops.
- 5) Non-conforming sewage treatment systems shall be regulated and upgraded in accordance with SECTION 17, Subdivision 9, 3, page 87.

Subdivision 9. Non-Conformities.

All legally established non-conformities as of the date of this Ordinance may continue, but they will be managed according to applicable state statutes and SECTION 9, Subdivision 2, page 32 for the subjects of alterations and additions, repair after damage, discontinuance of use, and intensification of use; except that the following standards will also apply in shoreland areas:

1. Construction and Non-conforming Lots of Records.

- A. Lots of record in the Office of the Cottonwood County Recorder on the date of enactment of local shoreland controls that do not meet the requirements of THIS SECTION may be allowed as

building sites without variances from lot size requirements provided the use is permitted in the zoning district, the lot has been in separate ownership from abutting lands at all times since it became substandard, was created compliant with official controls in effect at the time, and sewage treatment and setback requirements of this Ordinance are met.

- B. A variance from setback requirements must be obtained before any use, sewage treatment system, or building permit is issued for a lot. In evaluating the variance, the Board of Adjustment shall consider sewage treatment and water supply capabilities or constraints of the lot and shall deny the variance if adequate facilities cannot be provided.
- C. If, in a group of two (2) or more contiguous lots under the same ownership, any individual lot does not meet the requirements of THIS SECTION, 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 (1) or more contiguous lots so they equal one (1) or more parcels of land, each meeting the requirements of THIS SECTION as much as possible.

2. **Additions/Expansions to Non-conforming Structures.**

- A. All additions or expansions to the outside dimensions of an existing non-conforming structure must meet the setback, height, and other requirements of THIS SECTION. Any deviation from these requirements must be authorized by a variance pursuant to SECTION 19, page 92.
- B. Deck additions may be allowed without a variance to a structure not meeting the required setback from the ordinary high water level if all of the following criteria and standards are met:
 - 1) The structure existed on the date the structure setbacks were established;
 - 2) A thorough evaluation of the property and structure reveals no reasonable location for a deck meeting or exceeding the existing ordinary high water level setback of the structure;
 - 3) The deck encroachment toward the ordinary high water level does not exceed fifteen (15) percent of the existing setback of the structure from the ordinary high water level or does not encroach closer than thirty (30) feet, whichever is more restrictive; and
 - 4) The deck is constructed primarily of wood, and is not roofed or screened.

3. **Non-conforming Sewage Treatment Systems.**

- A. A sewage treatment system not meeting the requirements of THIS SECTION must be upgraded, at a minimum, at any time a permit or variance of any type is required for any improvement on, or use of, the property. For the purposes of this provision, a sewage treatment system shall not be considered non-conforming if the only deficiency is the sewage treatment system's improper setback from the ordinary high water level.
- B. The governing body of Cottonwood County has by formal resolution notified the Commissioner of its program to identify non-conforming sewage treatment systems. Cottonwood County will require upgrading or replacement of any non-conforming system identified by this program within a reasonable period of time which will not exceed five years. Sewage systems installed according to all applicable local shoreland management standards adopted under Minnesota Statutes, Section 103F.201, in effect at the time of installation may be considered as conforming unless they are

determined to be failing, except that systems using cesspools, leaching pits, seepage pits, or other deep disposal methods, or systems with less soil treatment area separation above groundwater than required by the Minnesota Pollution Control Agency's Chapter 7080 for design of on-site sewage treatment systems, shall be considered non-conforming.

Subdivision 10. Subdivision/Platting Provisions.

1. **Land Suitability.** Each lot created through subdivision, authorized under SECTION 21, page 96, must be suitable in its natural state for the proposed use with minimal alteration. Suitability analysis by the local unit of government shall consider susceptibility to flooding, existence of wetlands, soil and rock formations with severe limitations for development, severe erosion potential, steep topography, inadequate water supply or sewage treatment capabilities, near shore aquatic conditions unsuitable for water-based recreation, important fish and wildlife habitat, presence of significant historic sites, or any other feature of the natural land likely to be harmful to the health, safety, or welfare of future residents of the proposed subdivision or of the community.
2. **Consistency with Other Controls.** Subdivisions must conform to all official controls of this community. A subdivision will not be approved where a later variance from one or more standards in official controls would be needed to use the lots for their intended purpose. In areas not served by publicly-owned sewer and water systems, a subdivision will not be approved unless domestic water supply is available and a sewage treatment system consistent with THIS SECTION can be provided for every lot. Each lot shall meet the minimum lot size and dimensional requirements of THIS SECTION, including at least a minimum contiguous lawn area, that is free of limiting factors sufficient for the construction of two (2) standard soil treatment systems. Lots that would require use of holding tanks must not be approved.
3. **Information Requirements.** Sufficient information must be submitted by the applicant for the community to make a determination of land suitability. The information shall include at least the following:
 - A. Topographic contours at ten (10) foot intervals or less from United States Geological Survey maps or more accurate sources, showing limiting site characteristics;
 - B. The surface water features required in Minnesota Statutes, Section 505.02, Subdivision 1, to be shown on plats, obtained from United States Geological Survey quadrangle topographic maps or more accurate sources;
 - C. Adequate soils information to determine suitability for building and on-site sewage treatment capabilities for every lot from the most current existing sources or from field investigations such as soil borings, percolation tests, or other methods;
 - D. Information regarding adequacy of domestic water supply; extent of anticipated vegetation and topographic alterations; near-shore aquatic conditions, including depths, types of bottom sediments, and aquatic vegetation; and proposed methods for controlling storm water runoff and erosion, both during and after construction activities;
 - E. Location of one hundred- (100) year floodplain areas and floodway districts from existing adopted maps or data; and

- F. A line or contour representing the ordinary high water level, the "toe" and the "top" of bluffs, and the minimum building setback distances from the top of the bluff and the lake or stream.
4. **Dedications.** When a land or easement dedication is a condition of a subdivision approval, the approval must provide easements over natural drainage or ponding areas for management of storm water and significant wetlands.

5. **Platting.** All subdivisions that create five (5) or more lots or parcels which are two and one-half (2-1/2) acres or less in size, shall be processed as a plat in accordance with Minnesota Statutes, Chapter 505. No permit for construction of buildings or sewage treatment systems shall be issued for lots created after these official controls were enacted unless the lot was approved as part of a formal subdivision.

6. **Controlled Access or Recreational Lots.** Lots intended as controlled accesses to public waters or as recreational areas for use by non-riparian lots within a subdivision must meet or exceed the sizing criteria of THIS SECTION.