



Procedural Guide
for the
IMPLEMENTATION
of
COUNTY SHORELAND ORDINANCES

SHORELAND MANAGEMENT

**Supplementary
Report
No. 3**

LIBRARY
Dept of Natural Resources
500 Lafayette Road
St. Paul, MN 55155-4021

This document is made available electronically by the Minnesota Legislative Reference Library as part of an ongoing digital archiving project. <http://www.leg.state.mn.us/lrl/lrl.asp>
(Funding for document digitization was provided, in part, by a grant from the Minnesota Historical & Cultural Heritage Program.)

February 1972



MINNESOTA

Department of Natural Resources
Division of Waters, Soils and Minerals
Association of Counties

PROCEDURAL GUIDE
FOR THE
IMPLEMENTATION OF
COUNTY SHORELAND ORDINANCES

Shoreland Management
Supplementary Report No. 3

Prepared by: Department of Natural Resources
Division of Waters, Soils & Minerals

In Cooperation With: Association of Minnesota Counties

PREFACE

This report is intended to acquaint county officials with the terminology, procedures for adoption and administrative duties included in zoning ordinances. It is primarily intended for those counties which have had no previous experience in zoning. The approach may seem too elementary for those counties already engaged in planning and zoning activities, but the explanations are woven around the particular topic of shoreland zoning. This report also contains alternatives for incorporating shoreland zoning provisions into existing county-wide zoning ordinances. In this respect, the report may prove beneficial to all counties regardless of their levels of planning and zoning expertise.

Table of Contents

I. INTRODUCTION	1
II. REGULATORY POWERS	2
Planning Advisory Commission	3
Sanitary Codes	4
Zoning Regulations	5
Subdivision Regulations	6
III. PRELIMINARY PLANNING	7
Review Public Waters Classification	8
Shoreland Evaluation	9
Sample Plan	10
Maps	12
Administrative Format	13
IV. ORDINANCE PREPARATION	13
Drafting Sanitary Provisions	14
Drafting Zoning Provisions	18
Drafting Subdivision Provisions	20
Delineating Land Use Zones	22
Compiling the Ordinance	24
Incorporation of Shoreland Controls Into Existing Ordinance	24
V. ENACTMENT	26
VI. ADMINISTRATION	28
Format	29
Zoning Administrator	29
Planning Advisory Commission	30
Board of Adjustment	31
The State's Administrative Role	33
Appendix I: Sample Forms and Notices for Administration . . .	35
Appendix II: Checklist for Determining Compliance of County Ordinances with Statewide Standards . . .	55

I. INTRODUCTION

Shoreland management in Minnesota is designed to be a cooperative effort of the state and local units of government. The Statewide Standards and Criteria for Management of Shoreland Areas were officially promulgated by the Commissioner of Natural Resources on June 30, 1970. Shoreland Management Reports, No. 1¹ and No. 2², have been devoted to an explanation of the features of this program.

It now becomes the responsibility of each county to adopt by July 1, 1972, a shoreland management ordinance that at least meets the statewide standards:

If a county fails to adopt a shoreland conservation ordinance by July 1, 1972, or if the commissioner of conservation (natural resources) at any time after July 1, 1972, after notice and hearing as provided in Minnesota Statutes, Section 105.44, finds that a county has adopted a shoreland conservation ordinance which fails to meet the minimum standards established pursuant to this section, the commissioner shall adapt the model ordinance to the county.

The cost incurred by the commissioner in adapting the model ordinance to the county pursuant to subdivision 4 shall be paid by the county upon the submission to the county of an itemized statement of these costs by the commissioner.³

It is also county responsibility to administer and enforce these ordinances.

Many Minnesota counties are unfamiliar with the procedures involved in implementation, administration and enforcement of land use controls. These

¹ "Classification Scheme For Public Waters", Department of Natural Resources, Division of Waters, Soils and Minerals, April 1971.

² "Elements and Explanation of the Shoreland Rules and Regulations", Department of Natural Resources, Division of Waters, Soils and Minerals, August 1971.

³ Minnesota Statutes 105.485.

procedures, to which the county must adhere, are specified in various chapters of the Minnesota Statutes. This report is intended to clarify these procedures and to draw county attention to alternatives available to them in fulfilling their responsibilities under the Shoreland Management Program.

II. REGULATORY POWERS

Land use controls are adopted by local units of government to limit uses of private property which are detrimental to the public interest. Counties and other local units of government are delegated power by the state to adopt these controls. Controls and regulations prescribed by the governing bodies in exercising this regulatory power must be designed to increase or protect the public health, safety, morals or general welfare. A further test is that the controls and regulations must be reasonable and nonconfiscatory. Federal and state constitutions prevent the taking of land or property without due process of law and without adequate and just compensation.

Laws that enable county governments in Minnesota to plan and zone in unincorporated areas are designed to aid in the orderly development of the area and to regulate open county land use. They provide for land use controls based on both the police and eminent domain powers.

Ordinances that prohibit land uses already in existence (generally called nonconforming uses) must adhere to the most stringent rules in attempting to eliminate these uses by use of the police power. Minnesota law authorizes the gradual elimination of a nonconforming use, and the courts have recognized this authority but only when the regulations provide for a period of time sufficient

to amortize the investment of the current owner. A distinction is often drawn between the elimination of a land use and the elimination of a building or structure.

The Shoreland Management Program extends these principles to prevent land uses which may seriously impair public waters and their adjacent shoreland. The intention of the shoreland regulations is to guide the development of shoreland areas to avoid nuisances, protect natural environmental values, and protect the local and state economies. The shoreland regulations require each county to implement at least three types of land use controls, all based upon the police power of the county. These controls are sanitary, zoning and subdivision controls.

Planning Advisory Commission

Minnesota Statutes 394.30 authorizes counties to create a planning advisory commission composed of 5 - 11 members appointed by the chairman of the board. Their function is to carry on planning activities, including the preparation of a zoning ordinance. They may be aided by a professional consultant and they should work with the Department of Natural Resources in drafting shoreland regulations to avoid future conflicts with the Statewide Standards and Criteria for Management of Shoreland Areas of Minnesota.

The planning advisory commission (PAC) should be familiar with local problems which need remedy. A major task of the PAC is to develop a comprehensive plan to provide a basis for land use controls. A comprehensive plan is a dynamic concept. By definition, it must apply throughout an area and to all people and the public at large. But the plan can be adopted in a sequence of logical parts. For example, the shoreland management portions of a comprehensive plan can be

adopted separately. The plan then serves as the basis for adopting the shoreland controls. The plan must precede the enactment of the regulations, and it is valuable evidence in case the regulations are contested in court.

Sanitary Codes

Sanitary codes are designed to eliminate ground water contamination and pollution of surface waters. Since they relate directly to public health objectives, they apply to existing as well as future sanitary facilities. A sanitary code should contain the following provisions:

- a. Detailed standards for private sewage disposal systems to ensure their proper operation. Such standards should include construction, location and maintenance requirements.
- b. Standards and requirements for the construction and location of private water supplies.
- c. Provisions for an administrator to issue permits, inspect installations and existing facilities, and enforce the ordinance.

Sanitary codes differ from zoning regulations in that they must be more flexible. Zoning regulations must be uniform over a single zoning district and treat all persons in similar situations equally. Sanitary regulations, however, must be varied to provide adequate protection of the public health. A properly functioning sewage disposal system must consider the expected quantity of waste material, in addition to physical characteristics of the site, in its design. Thus, the standards for a specific site are tailor-made for a particular combination of circumstances, such as the size of the family using the system, soil texture of the disposal area, ground slope, and location relative to bodies of water, lot lines, and other sanitary facilities.

Zoning Regulations

Zoning regulations, the most common type of land use controls, regulate the use of land in two basic ways. First, zoning can be used to determine the proper location for types of land use, such as agricultural or industrial, commercial or residential, single family homes or multiple dwelling units, etc. This control can also be used to separate conflicting uses of land, such as a drive-in restaurant in a residential area or a home in an industrial area.

Second, zoning can be used to regulate the manner of land use, such as:

1. Preventing overcrowding of buildings through minimum lot sizes and yard requirements. Minimum lot sizes will also aid in proper sewage disposal and protect against pollution;
2. Establishing adequate setbacks of structures and sewage disposal systems from the water's edge to protect the quality of the water and the beauty of the shoreline;
3. Delineating special protection areas to prevent building on unsuitable sites;
4. Regulating tree cutting to protect scenic beauty, control erosion, and reduce siltation in the lakebed; and
5. Controlling filling, grading and dredging which would result in substantial detriment to public waters due to erosion and sedimentation.

Zoning regulations are a means for implementing a comprehensive plan. The comprehensive plan consists of policies and proposals approved by the county board for planning the physical development of the area, for coordinating governmental programs and services, and for promoting the general welfare.

The importance of the comprehensive plan in developing a zoning ordinance is emphasized by state enabling legislation and numerous court cases. State planning legislation indicates that zoning districts must be established to carry out the comprehensive plan. In addition, zoning regulations must be reasonably related to existing conditions and development.

The greatest limitation of zoning is that it applies primarily to development occurring after its adoption. Most uses and development existing before zoning remain as legal nonconforming uses. For example, if a business exists in an area which is later zoned for residences only, the business remains undisturbed. Only under special circumstances, as explained on page 16 Sanitary Systems, can nonconforming uses be eliminated.

Subdivision Regulations

Subdivision is the process by which land is divided into sites for building or sale. Subdivision regulations require that certain areas be "platted". A plat is a detailed and accurate map of the subdivided land. The regulations set specifications for plat approval and require that, after the plat is prepared, it be reviewed by local officials to determine compliance with state laws and local ordinances. Once the plat has been properly reviewed, it is recorded in the office of the Register of Deeds. When lots within the recorded plat are later transferred, they are described by reference to this plat.

Subdivision ordinances are useful in protecting prospective buyers. A person who plans to divide land into lots for sale must first obtain county approval. This approval is given only when the subdivider complies with certain conditions, such as proper sanitation facilities, adequate open spaces, and

provisions for a suitable road network. These precautions protect the future buyer from purchasing a lot which is unsuitable for its intended use as well as protecting the taxpayers against future public expenditures to adequately service improperly planned developments.

III. PRELIMINARY PLANNING

Shoreland protection involves decisions which affect many natural resources. Local resource technicians and persons familiar with the problems of the area can provide the PAC with valuable information and suggestions in formulating an adequate ordinance. Local Natural Resources Department personnel are familiar with the lakes and streams of the area and can supply much valuable information. The Soil Conservation Service and Soil and Water Conservation District personnel can be of great assistance in interpreting soils maps to identify wetlands, locate areas with severe soil limitations, and evaluate soils for various uses. The county extension agent will prove valuable in coordinating the planning and the educational process of discussing shoreland management with county residents.

Contact these men and other local resource personnel and involve them in the task of shoreland management. They are available to help, and your management program will be better if they are included.

Review Public Waters Classification

A major part of the Shoreland Management Program is the public waters classification. This classification is designed to provide flexibility to the

program and to reflect the varying problems of lakes and streams. If the PAC has not already done so, it should review this classification to insure compatibility of the classification with local land use plans. The procedures for this review have been outlined in the Shoreland Management Supplementary Report No. 1, "Classification Scheme for Public Waters".

Shoreland Evaluation

The next step in the planning process is to evaluate the shorelands of the county in terms of their suitability for development. Suitability must be determined upon consideration of soil types and their engineering capabilities, topographic characteristics, vegetative cover, present ownership and use, and development alternatives:

Shoreland Soil Types. The types of shoreland soils and their engineering capabilities should be carefully evaluated in relation to land use criteria as follows:

- a. Wet and alluvial soils generally have poor engineering capabilities for building, are frequently flooded, are very susceptible to frost action and heaving, and have poor foundation support capabilities. Filling rarely solves all of the problems encountered in areas with these types of soils. They have severe limitations for on-site sewage disposal systems. They are characterized by a high water table, poor drainage and frequent flooding.
- b. Clayey soils generally have fair to poor engineering capabilities for building, have fair to poor shear strength, have poor bearing capacity, and present drainage problems. They have severe limitations for on-site sewage disposal systems. Their fine texture results in a very slow to medium slow percolation rate.
- c. Loamy soils generally have good to fair capabilities for building, have good to fair bearing capacity. They have slight to moderate limitations for on-site sewage disposal systems. They are characterized by moderate to rapid percolation rates.

- d. Sandy and gravelly soils generally have good engineering capabilities for building, and are generally the most suitable for developments of all types. For on-site sewage disposal they have slight limitations due to their rapid percolation rates; however, there is a possibility of ground water contamination if the percolation rate is too rapid.
- e. Areas with thin soils and large amounts of exposed bedrock generally have good engineering capabilities for buildings but may present economic problems due to high costs of excavation when necessary. For on-site sewage disposal areas of exposed bedrock have severe limitations; percolation is usually very slow to zero.

Topographic Conditions. Topographic conditions may place severe limitations on land development and should be carefully considered in establishing land use zoning.

- a. Steep slopes are subject to erosion and may present severe construction problems.
- b. Shorelands which are very low and have slight relief are subject to frequent flooding and are generally undesirable for construction when filled.
- c. Shorelands of extremely uneven topography may be difficult to utilize without major excavation and filling which will usually have detrimental effects on the natural environment.

The Nature and Extent of Vegetative Cover. The nature and extent of vegetative cover on shorelands merits careful consideration in shoreland use zoning.

- a. Wetland areas where shallow ground water levels are at or near the surface typically are valuable areas for fish and wildlife and are necessary to provide ecological balance for the water and related land areas of lakes and streams.
- b. Forested areas along shorelands help to prevent land erosion and sedimentation which could adversely affect the adjacent waters. Trees and shrubs also present natural vegetative screens which keep lakeshores looking natural and which increase aesthetic values.

Present Land Ownership and Development. Present ownership and types of land use must be considered in delineating land use zones. However, care should be taken to prevent perpetuation or expansion of uses located in inappropriate areas.

Development Alternatives. Space requirements for growing land uses will play an important part in reserving areas for specific uses. These decisions should be based upon the amount and type of shoreline existing in the county and the priority given to certain uses. For example, a county may need sites for power plants or commercial marina facilities, even though the most appropriate use of its shoreland may be for residential or open space uses. However, the protection of fish spawning grounds, wildlife habitat areas, forested areas and unique scenic areas are major objectives of shoreland management. These areas should be given careful scrutiny when determining land use potential. The PAC must consider both local and state priorities in its review of its shorelands.

Once this evaluation has been completed, the county should state its development goals, objectives and priorities in a comprehensive plan.

Sample Plan

Such a plan for shoreland may include the following features:

Management Policies for the Shoreland of _____ County

The uncontrolled use of shoreland of _____ County, Minnesota affects the public health, safety and general welfare not only by contributing to pollution of public waters, but also by impairing the local tax base. Therefore, it is in the best interests of the public health, safety and welfare to provide for the wise development of shorelands of public waters. The Legislature of Minnesota had delegated responsibility to the counties of the state to regulate the subdivision, use and development of the shorelands of public waters located in unincorporated areas and thus preserve and enhance the quality of surface waters, preserve the economic and natural environmental values of shorelands, and provide for the wise utilization of waters and related land resources. This responsibility is hereby recognized by _____ County, Minnesota.

In order to guide the wise development and utilization of shorelands of public waters for the preservation of water quality, natural characteristics, economic values and the general health, safety and welfare, all public waters in the unincorporated areas of _____ County, Minnesota, have been given a public waters classification to best manage these resources consistent with their physical capabilities. The classification system recognizes the varied nature of lakes and streams in _____ County and is designed to insure that development standards for any particular body of water will reflect the quality of the resource base.

Public Waters Classification

The classification system is based on:

- a. Size - relating to available space for development on the shore and for use of the water space;
- b. Crowding potential - relating to the ratio of lake surface area to the length of shoreline;
- c. Amount and type of existing development;
- d. Existing natural characteristics of the public waters and surrounding shorelands;
- e. County and regional public waters needs.

The categories of public waters shall be managed to provide a balance between general public and resource protection:

- a. Natural Environment Lakes and Streams: to preserve and enhance high quality waters by protecting them from pollution and to protect shorelands of waters which are unsuitable for development; to maintain a low density of development; and to maintain high standards of quality for permitted development.
- b. Recreational Development Lakes: to provide management policies reasonably consistent with existing development and use; to provide for the beneficial use of public waters by the general public, as well as the riparian owners; to provide a balance between the lake resource and lake use; to provide for a multiplicity of lake uses; and to protect areas unsuitable for residential and commercial uses from development.
- c. General Development Lakes and Streams: to provide minimum regulations of areas presently developed as high density, multiple use areas; and to provide guidance for future growth of commercial and industrial establishments which require locations on public waters.

The classification listing for _____ County is as follows:

Insert Public Waters Classification as
approved by the Commissioner of Natural
Resources

LAND USE DISTRICTS

The development of shorelands of public waters shall be controlled by means of land use zoning districts which are compatible with the classes of public waters. The purposes of the land use zoning districts are to:

- a. Manage areas unsuitable for development due to wet soils, steep slopes, or large areas of exposed bedrock; and to manage areas of unique natural and biological characteristics, in accordance with compatible uses.
- b. Reserve areas suitable for residential development from encroachment by commercial and industrial establishments.
- c. Centralize service facilities for recreational areas and enhance economic growth potential for those areas suitable for limited commercial development.
- d. Manage areas where use may be directed toward urban or municipal activities, rather than strictly recreational activities, and for use by industry requiring a location within shoreland areas.

In establishing the type and number of zoning districts it deems necessary to achieve the purposes of the comprehensive plan, the commissioners of _____ County shall consider preservation of natural areas; present ownership and development of lakeshore and adjacent land; shoreland soil types and their engineering capabilities; topographic characteristics; vegetative cover; county socio-economic development needs and plans as they involve water and related land resources; the land requirements of industry requiring location in shoreland areas; and the necessity to preserve and restore certain areas having great historical or ecological value.

Maps

The plan should be supplemented with maps and diagrams to better illustrate the proposed objectives, such as a map showing the location of lakes in different classes or the location of soils which are unsuitable for development. The map scale should be large enough to show details of the areas mapped. The blueline print aerial photographs, which the Division of Waters, Soils and Minerals supplied to each county, are suitable for this task.

Other suitable maps might include U.S.G.S. topographic maps, S.C.S. detailed soils survey maps, or county highway maps. Check to see if these maps are available for your county. Or you may even wish to have a consultant draft a base map of the scale you desire.

Administrative Format

Basic to the preparation of an ordinance is the choice of administrative format. The PAC must know how the ordinance is to be administered to be able to draft an ordinance which is practical and workable. A part-time administrator will not be able to handle a multitude of permit applications and inspections for a county with numerous lakes and streams.

Under the usual form of administration, both a zoning administrator and a board of adjustment are designated. Enforcement is secured by the issuance of permits for all buildings and uses established in the future.

The PAC (with the consent of the county board) must decide what its function will be and what duties will be assigned to the administrative bodies, in order to draft appropriate provisions in the ordinance. (Administrative procedures are discussed more fully in Section VI.)

IV. ORDINANCE PREPARATION

It is the responsibility of the PAC to draft a preliminary ordinance for discussion purposes. The preliminary regulations should be designed to achieve the goals and objectives of the comprehensive plan, as well as to comply with the statewide standards.

Supplementary Report No. 2, "Elements and Explanation of the Shoreland Rules and Regulations", discusses the rationale behind the adopted standards. The model ordinance contained in CONS 77 of the statewide standards provides examples of regulations which would satisfy the individual standards. A review of these two sources would be beneficial before proceeding to draft a shoreland ordinance.

However, the examples contained in the model ordinance may not be applicable or desirable for all counties. Nor does the model include all the problems that may be encountered in a specific locality. The statewide standards allow for variations to meet regional problems. The Division of Waters, Soils and Minerals of the Department of Natural Resources should be consulted to determine which standards can be varied and to what extent. The Division urges the adoption of an adequate ordinance that meets local problems.

The remainder of this chapter discusses the state's model ordinance and alternatives open to the individual counties. For an indication of essential features of a shoreland ordinance, refer to Appendix II.

Drafting Sanitary Provisions

Sanitary provisions must be flexible to allow the application of different standards for different site conditions. Sewage disposal problems can be grouped into three generalized categories: failure of the septic system due to faulty design and construction; installation of septic systems in soils not suitable for receiving the effluent; and ground water contamination resulting from the concentration of septic systems on small lots in crowded subdivisions.⁴

⁴ Generalized from:

Cain, John M. and M. T. Beatty, "Disposal of Septic Tank Effluent in Soils," Journal of Soil and Water Conservation, Vol. 20, No. 3, May - June, 1965.

Section 3.3 of the model ordinance illustrates provisions which deal with these problems. This section, which was based upon the recommendations of the Minnesota Department of Health⁵, represents a minimum fulfillment of the statewide standards, CONS 72(b). A county sanitary code should contain provisions for size and construction of septic tanks, size of soil absorption units based upon a percolation test, conditions under which soil absorption is prohibited, setbacks from the normal high water marks, and provisions for the elimination of nonconforming systems. Any additional standards, such as specifications for alternative sewage disposal systems, should be discussed with the Department of Health.

It is strongly recommended that each county adopt provisions in its ordinance for inspections of new installations before they are covered. Such a provision is contained in the ordinance recommended by the Department of Health:

Inspection. The inspector shall make such inspection or inspections as are necessary to determine compliance with this ordinance. No part of the system shall be covered until it has been inspected and accepted by the inspector. It shall be the responsibility of the applicant for the permit to notify the inspector that the job is ready for inspection or re-inspection, and it shall be the duty of the inspector to make the indicated inspection within 48 hours after such notice has been given. It shall be the duty of the owner or occupant of the property to give the inspector free access to the property at reasonable times for the purpose of making such inspections. Upon satisfactory completion and final inspection of the system the inspector shall issue to the applicant a certificate of approval.

If upon inspection the inspector discovers that any part of the system is not constructed in accordance with the minimum standards provided in this ordinance, he shall give the applicant

⁵ Code Regulating Individual Sewage Disposal Systems, Recommended by the Minnesota Department of Health, 1971.

written notification describing the defects. The applicant shall pay an additional fee of _____ dollars for each re-inspection that is necessary. The applicant shall be responsible for the correction or elimination of all defects, and no system shall be placed or replaced in service until all defects have been corrected or eliminated.

Inspections are the best, virtually only, method of enforcing a sanitary code. Once a system is installed and covered, checking for compliance becomes very difficult.

A provision to eliminate nonconforming sanitary systems within five years is required by the statewide standards, CONS 75(c). This nonconforming provision does not mean that all existing soil absorption systems must meet the requirements for setbacks from the waterline. Where a system is functioning properly, the property owner should not be required to move it just to meet the setback. Indeed, on many substandard lots, this would be impossible due to area limitations. The nonconforming provision does mean that an existing system setting in the water table should be removed. It does mean cesspools are no longer considered an adequate method of sewage disposal. And it does mean that existing soil absorption systems are not adequate in areas of exposed or shallow bedrock. Five years is considered a reasonable period of time since the investment in older sanitary systems is not usually large and since improperly constructed systems tend to fail within a few years anyway. An alternative to this five year approach is to require immediate compliance with the code by all systems, new and existing. Such a provision, allowing a reasonable time after notification, might read:

Sanitary facilities inconsistent with Section _____ shall be eliminated within (30) days of notification of nonconformance by the zoning administrator.

Regulations regarding the installation of wells and water quality are designed to promote the public health. These provisions are especially important for crowded subdivisions where the ground may become contaminated by sewage effluent. The Department of Health should be consulted on provisions dealing with water quality and the construction of wells.

Further information on these matters can be obtained from the following offices:

Minnesota Department of Health
717 S.E. Delaware Street
Minneapolis, Minnesota 55440
Telephone: (612) 378-1150

Division of Environmental Health
Frederick F. Heisel, Director

Section of Water Supply & General Engineering
Paul B. Johnson, Chief

Section of Hotels, Resorts & Restaurants
Charles B. Schneider, Chief

District Offices:

Region I Box 516, 15th & Delton, Bemidji 56601
(218) 755-2983

Region II Box 3047, 75 Navaho Avenue, Mankato 56001
(507) 289-6025

Region III Box 1115, 415 - 4th Street SE, Rochester 55901
(507) 282-3861

Region IV 709 Christie Building, Duluth 55802
(218) 727-7204

Region V Box 1065, 1104 E. College Drive, Marshall 56258
(507) 537-6110

Region VI Minneapolis Office

Region VII Box 675, 615½ S. Mill, Fergus Falls 56537
(218) 736-6922

Region VIII Court House, Little Falls 56345
(612) 632-8626

Drafting Zoning Provisions

The important thing to remember when drafting zoning provisions is to design adequate standards which cover all anticipated problems. The state's model ordinance does not necessarily deal with local development problems a given county may encounter. Since the statewide standards and the model ordinance had to be designed for all counties, a certain degree of generalization was necessary to avoid extraneous and inadequate restrictions which might otherwise result.

The statewide standards deal mainly with the problem of seasonal home development on shorelands. These standards, such as lot sizes and building setbacks, may not be appropriate or suitable for, say, commercial establishments or mobile home courts. A particular county must insure that its zoning standards will provide adequate protection in view of the types of development allowed. (The establishment of land use zones is discussed later in this chapter on page 21.)

There are three general topics under the zoning provisions of the model ordinance (Section 4.0) to which the PAC should give careful attention. These are: substandard lot sizes, building setbacks, and shoreland alterations.

The regulation of substandard lots may pose a problem when drafting the ordinance. The state standards for lot sizes apply only to lots created after the local ordinance is in effect. It is recommended that lots already in existence be allowed to be developed, provided the proposed development will not be detrimental to the public interest and that the development can be accomplished under the other provisions of the ordinance.

The county may or may not wish to set lower size limits for substandard lots. If lower limits are set, they should be consistent with past plotting

practices allowed in the county. It would be unwise to set the limits larger than lots in subdivisions which have been approved by the county. Only lots which do not contain enough area to meet reasonable development standards should be excluded.

The development of substandard lots can be regulated without setting size limits. By setting conditions in the ordinance, the zoning administrator can be allowed to issue building permits for substandard lots. Such a provision might read:

Section _____. Substandard Lots

The zoning administrator may issue a building permit for a lot of record in the office of the Register of Deeds prior to the date of enactment of this ordinance which does not meet the lot size requirements of Section ____, provided the lot is in separate ownership from abutting lands and the proposed development complies with setback provisions and sanitary provisions of this ordinance.

Any other lot which does not meet these conditions could be accommodated on an individual basis under the variance procedures.

The state standards for building setbacks from the water are not intended to be variable at the county's discretion. However, where the shorelands surrounding a particular body of water pose a problem for applying the prescribed state setback, a reclassification of the water or a special setback provision for that body of water may be appropriate. The state's approach is one of reasonability, and where unique circumstances would indicate difficulty in administering the shoreland provisions, reasonable alternatives will be considered. (Reasons for exceptions are discussed in Supplementary Report No. 2, pages 27-29.)

Boathouses are excluded from the state setback requirements. This was done because boathouses are essential in some parts of the state and because new zoning standards would not apply to existing structures, anyway. Boathouses,

however, may be a problem in a particular area or a particular lake. The PAC should consider regulations for boathouses wherever appropriate.

Shoreland alterations pose another problem when drafting zoning provisions. The state standards (CONS 73(c)) did not specify exact provisions for removal of the natural vegetation and grading and fill, because this is an area of tremendous variability from county to county. No single set of regulations could treat each county equally. It is extremely important, however, that each county adopt provision for controlling these activities and so protect its lakes and streams from abuse.

The model ordinance contains examples of zoning regulations to achieve these goals (Section 4.3), but each county should select provisions suited to its needs, especially in consideration of enforcement and administration. These provisions can be coordinated quite easily to control excavations and channeling for large subdivisions, which can pose severe problems.

For assistance, contact the Division of Waters, Soils and Minerals.

Drafting Subdivision Provisions

Subdivision controls are somewhat similar to zoning controls. Lot sizes in new plats must be equivalent to those specified in the zoning ordinance, and similar provisions regarding shoreland alterations also apply to subdivisions. In other respects, subdivision controls are different. They are designed to provide a measure of planning before actual construction of dwellings begins. They are designed to give public officials a chance to guide future development and prevent lands which are unsuitable for development from being subdivided.

Under the shoreland standards, a subdivision is defined as ... three or more lots Particular counties may wish to narrow this definition to ... two or more lots This can avoid problems with lengthy metes-and-bounds descriptions for recording deeds.

A subdivision code should include, at a minimum:

A. Procedures for Plat Approval

1. Preliminary plat.
2. Information on the suitability of the land for development, such as soil types, slope, depth to bedrock or ground water, etc.
3. Final plat incorporating desired changes.
4. Action of county board.

B. General Design Standards

1. Lot dimensions.
2. Width and spacing of streets, with regulations to control the laying out of sharp curves, steep grades or streets with poor sight distances on curves and hills at intersections.
3. Storm drainage.

C. Required Improvements

1. Surfacing of streets.
2. Community sewerage.
3. Parks and playgrounds, etc.

Detailed specifications pertaining to the platting of lands and subdivision procedures are set forth in M.S. Chapter 505. The PAC should review these statutes before drawing up a subdivision code.

The county may also include provisions for cluster developments. The statewide standards provide for variations in the zoning provisions when

applied to this type of development. The DNR does not recommend detailed standards at this time, but requires review of proposed cluster developments before the county grants final approval (see Supplementary Report No. 2, pages 36-38).

Delineating Land Use Zones

The next step in the zoning process is to prescribe allowable uses of the land being zoned. The function of the land use zone is to separate conflicting land uses. Land use zones should be established to accommodate all desirable activities of the county and to set aside sufficient areas for potential growth. And of course, the zones should be based upon the shoreland evaluation discussed under "Preliminary Planning", page 7. This will promote a stable tax base for the county while still preserving property values and ecological values.

The PAC must decide what activities are desirable for their county and delineate the appropriate land use zones in suitable areas. To aid the counties in this task of delineating land use zones, the Division has suggested a series of four districts to facilitate the basic uses of shoreland areas. These districts, along with their management goals and typical uses of these districts are described in the model ordinance, Section 2.0.

Uses allowed in each district should be compatible with the management goals and objectives of each public waters class. The Special Protection District and the Residential-Recreational District are compatible with all three classes of public waters. The Commercial-Recreational District should be limited to Recreational Development Lakes and General Development Lakes and

Streams. The General Use District should be limited to General Development Lakes and Streams. Permitted uses and conditional uses for each land use zone should be carefully specified in the ordinance. This approach may seem too detailed and time consuming, but it provides for a well planned growth for the county in the long run.

If a particular county does not have an existing ordinance, the PAC should consider the possibility of adopting a county-wide comprehensive ordinance, not just an ordinance for shoreland areas. This approach may be more beneficial for the county in achieving an orderly growth pattern, especially for separating conflicting land uses and for implementing adequate sanitary provisions to safeguard the public health.

An alternative to delineating detailed land use zones involves applications of the "conditional use" device. Under this approach only the most general uses of shorelands are allowed for each class of public waters, such as residential, agricultural and/or forestry. All other uses are permitted only after review by the county board or their legally designated agent. If there is a danger of incompatibility with neighboring uses, conditions to minimize the conflicts can be attached to the conditional use permit, such as screening from view, greater setbacks, or off-street parking areas, etc. The application may be denied if the proposed development is totally incompatible with the established uses in the area.

This approach has the advantage of ease of adoption, but it can lead to future problems. The county may not benefit from an ordered growth pattern, residents cannot be assured of separation from unwanted land uses, and the conditional use permits may be granted too freely by the reviewing body with little regard for planning goals and objectives.

There can be no substitute for sound planning. Employment of the conditional use approach can be viewed only as a temporary approach in which to gain time and expertise before adopting a comprehensive zoning ordinance.

Compiling the Ordinance

A land use ordinance should contain four distinct parts:

- I. Purposes and Definitions
- II. Establishment of Zoning Districts
- III. Regulations
- IV. Administrative Procedures

The model ordinance is arranged in this format and can be used as a guide in developing your own shoreland ordinance.

Incorporation of Shoreland Controls Into Existing Ordinance

If a county has an existing comprehensive ordinance, it can be a relatively simple matter to incorporate shoreland provisions into the ordinance. All that is necessary is to draft shoreland regulations consistent with the public waters classification. These regulations can be added to the existing ordinance in a number of ways.

1. The shoreland regulations can be incorporated into the ordinance by the creation of a "Shoreland Overlay District". Under this approach, the shoreland regulations apply to lands within the shoreland jurisdiction, but the land uses specified by the

original comprehensive ordinance would remain the same. No additional mapping would be necessary, but the public waters classification would have to be listed in the ordinance.

2. By rezoning, land use districts can be designated around each category of public waters. Development regulations for each land use district can be established to comply with the shoreland standards.
3. A separate shoreland ordinance can be adopted, but the administrative provisions can be simplified by referring to the procedures established in the existing ordinance. If the shoreland sanitary and subdivision requirements are satisfied by the existing ordinance they, too, can be adopted by reference. They need not be included in the new shoreland ordinance.

The county should choose the approach best suited to its needs, in terms of clarity of the final product, ease of administration, and accomplishment of the goals and objectives of the shoreland program. The main concern of the Department of Natural Resources is that the state's public waters are adequately protected against overcrowding and unwise development. The particular method of achieving this protection can be decided by each county.

V. ENACTMENT

Once the PAC has decided upon a draft ordinance that meets the approval of the county board, the next step is to inform the public of the proposals. Public meetings should be held (as many as possible) to discuss the regulations and why they are needed. Often, local opposition to zoning dissolves when the residents have a clear understanding of the purposes and intent of the ordinance.

The county may enact zoning ordinances under the authority contained in Minnesota Statutes § 394.25, Subdivision 6. The procedures a county must follow in enacting an ordinance are found in M.S. § 375.51 - 375.55, which provide for published notice for the intention to enact an ordinance, a public hearing, and publication of the ordinance.

County shoreland management controls are authorized by and should be adopted under the authorities contained in the County Planning and Zoning Law (M.S. Chapter 394). That law permits county shoreland controls to be enacted either by resolution of the county board or by county ordinance. Primarily because they are easier to enforce, shoreland conservation ordinances should be enacted in preference to county board resolutions. The law requires that the county hold at least one formal public hearing on the proposed ordinance. The final draft is then prepared after an evaluation of the testimony presented at the hearing. The final draft can then be enacted by the county board.

Every county ordinance, including shoreland ordinances, must be enacted by majority vote of all the members of the county board. It must be signed by the chairman of the board and attested by the clerk of the board. The ordinance must be published and proof of the publication must be attached to and filed with the ordinance in the office of the county auditor. Every

county shoreland ordinance must be recorded in the ordinance book in the office of the county auditor within twenty days after its publication.

No ordinance of a county, including shoreland ordinances, may be enacted unless a notice of the intention to enact such ordinance has been published in the official newspaper of the county not less than ten days before the meeting at which the ordinance is to be considered. The notice shall state the subject matter and the general purpose of the proposed ordinance. Proof of the publication of the notice must be attached to and filed with the ordinance, if enacted, in the office of the county auditor.

Every ordinance, including shoreland ordinances, enacted by a county board must be published once as a part of the proceedings of the meeting at which the ordinance was enacted. Publication must be made in the official newspaper of the county, but additional publications, either in the official newspaper or other newspaper, may be ordained by the county board. An ordinance may be published in its entirety, or, otherwise, as hereinafter explained.

A county may incorporate in an ordinance by reference any statute of Minnesota, and any administrative rule or regulation of any department of the State of Minnesota affecting a county. This would include the shoreland control regulations promulgated by the Department of Natural Resources, and the statutory authority for the enactment of the shoreland regulations.

In the case of lengthy ordinances, or ordinances which include charts or maps, the ordinance need not be published in its entirety if the title of the ordinance and a summary of the ordinances are included in the publication of the proceedings of the meeting at which the ordinance was enacted. In such case, and in the case of a statute, rule or regulation of the Department of Natural Resources which is adopted by reference, all requirements of the statute for the publication of ordinances shall be satisfied if the summary of the

ordinance, or the ordinance incorporating the statute, or rule or regulation, is published in the required manner and if, prior to such publication, at least three copies of the entire ordinance, or of the statute or rule or regulation, are marked as official copies and filed for use and examination by the public in the office of the county auditor.

Provisions of the entire ordinance or of the statute, rule or regulation, thus incorporated in such ordinance by reference shall be as much a part of the ordinance as if they had been set out in full therein.

The county board shall have power to declare that the violation of any ordinance shall be a penal offense and to prescribe penalties therefor. Such penalties may not exceed those permitted for conviction of a misdemeanor as defined by law. All prosecutions for violation of county ordinances shall be brought by the county attorney in the name of the county upon a complaint and warrant as in other criminal cases. All fines, forfeitures, and penalties recovered for the violation of any county ordinance, including shoreland ordinances, shall be paid into the county treasury.

For further explanation of the powers of the county boards to enact ordinances, refer to Minnesota Statutes, Section 375.51 through 375.55.

VI. ADMINISTRATION

Once the ordinance is enacted it becomes the county's responsibility to administer and enforce it. Even if the Commissioner of Natural Resources adopts an ordinance for a county which does not meet the legislative deadline, that county still is responsible for the administration of the ordinance.

A county may have the best written ordinance in the world, but it will do little to solve its problems if it is not administered effectively.

Format

Administration should be set upon a three-point program:

1. An executive office (zoning administrator) to advise persons of the permitted uses of their properties, issue permits, make inspections, and report violations;
2. An agency of the county board (planning advisory commission) to oversee the administration of the ordinance and to conduct hearings, to make reports on proposed amendments, and to review proposed plats; and
3. A semi-judicial body (board of adjustment) to interpret the ordinance, where necessary, and to grant variances and any other duties specifically called for in the ordinance.

Zoning Administrator

The office of zoning administrator is provided for in M.S. 394.29. The county may employ a person to fill this office, but they may also assign the duty to an existing county official. Due to the complexity of the job, the Department of Natural Resources recommends the employment of a full-time administrator wherever possible.

The zoning administrator is responsible for upholding the ordinance. He must function as a record keeper and a processor of permit applications. He also has enforcement responsibilities. He must insist upon strict compliance. However, he cannot change any regulations to suit particular circumstances, no matter how reasonable the change may seem. Such changes can be made only by the board of adjustment or the county board.

Some of the day-to-day duties of the zoning administrator may include:

- (a) Issuing forms to applicants upon request;
- (b) Assisting applicants in filling out forms;
- (c) Checking each item for completeness, clarity and accuracy;
- (d) Making on-site inspections, if necessary, in order to be sure that statements on the form are correct;
- (e) Determining compliance with the ordinance, or areas of non-conformance;
- (f) Granting or denying permits;
- (g) Issuing appeal forms to applicant, if permit is denied and if applicant desires to appeal the decision; and
- (h) Transmitting appeal forms and case records to the board of adjustment.

In summary, the zoning administrator serves as a link between the governing body and the general public. He has the responsibility of educating the public to the requirements of the ordinance and the reasons behind them.

Planning Advisory Commission

The PAC should continue to function after the adoption of the ordinance to oversee its administration. The PAC should detect any inadequacies of the ordinance which become evident and make recommendations for changes. In this respect, the PAC should work closely with the zoning administrator to be informed of administrative problems with the ordinance.

The most time-consuming job of the PAC, however, will be the review of plats. Under the "usual" format of administration of subdivision codes, the PAC receives preliminary plats, makes recommendations to the subdivider for any necessary changes, reviews the final plat and refers the final plat to the county board for approval, if appropriate.

Board of Adjustment

Minnesota law (M.S. § 394.27) states that a county must appoint a board of adjustment whenever it adopts official land use controls. The purpose of the board is to hear grievances caused by the ordinance and to grant relief from the provisions of the ordinance wherever appropriate. This relief mechanism exists to insure that no one is caused unnecessary hardship by the strict application of new zoning ordinances.

The board of adjustment is appointed by the county board of commissioners by resolution. The resolution must require one member of the county board of adjustment to serve as a member of the planning advisory commission. It must also establish the duration of the members' terms in office, usually over-lapping terms of 2 or 3 years. This would allow the board to be relatively isolated from political pressure, while still allowing for changes in membership as the need arises.

An important function of the board of adjustment is its role as an appellate board. In this capacity, it reviews certain decisions made by the zoning administrator which have been appealed by landowners.

The board can also make limited adjustments of the location of zoning district boundaries. A property owner might be caused hardship where a boundary

divides his property and creates different standards that apply to parts of his property. The board of adjustment can alter the boundary enough to allow the property owner to develop under a consistent set of standards.

In all probability, the principal business of the board will be the granting or denying of variances. A variance is a change in the regulations as they apply to a specific property which, due to unique physical characteristics, cannot be developed in accordance with the zoning ordinance. A variance is not a convenience to the owner of the property. Nor should a variance be granted for a reason common to other lots or premises (the appropriate remedy there would be an amendment to the ordinance).

Variances should be granted only in proved cases of unnecessary hardship. "Unnecessary hardship" should be understood as involving an unusual or extreme decrease in the adaptability of the property to the uses permitted in the zoning district which is caused by facts, such as rough terrain, uniquely applicable to the particular piece of property as distinguished from those applicable to most or all property in the same zoning district. It should be understood that financial gain or loss by the applicant is not interpreted as an "unnecessary hardship". The following additional tests of the property for granting a variance will be helpful:

- (a) The condition causing the hardship is unique to that property.
- (b) The variance is proved necessary in order to secure for the applicant the right or rights that are enjoyed by other owners in the same area of district.
- (c) The granting of the variance will not be contrary to the public interest or damaging to the rights of other persons or to property values in the neighborhood.

- (d) The granting of the variance will not be contrary to management policies of the area or district.
- (e) No variance shall be granted simply because there are no objections or because those who do not object out number those who do; nor for any other reason than a proved hardship.

The state's model ordinance also assigns to the board of adjustment the responsibility of granting conditional use permits. Some counties have found this impractical, and have assigned this job to the county board after review by the PAC. This alternative approach is acceptable as long as it is compatible with the other administrative provisions of the ordinance. The model ordinance, Section 7.0, provides an example of administrative posts, duties, and procedures. These should be reviewed and altered, where necessary, to meet the individual needs of the county.

The State's Administrative Role

The Department of Natural Resources will play a limited administrative role after July 1, 1972. Counties are required to supply the Department with information on their zoning programs, as set forth in the statewide standards:

CONS 75(a) PROCEDURES

Counties shall provide for the administration and enforcement of the county ordinance. A copy of all notices of any public hearings to consider variances to or conditional uses under the county shoreland ordinance shall be received by the Commissioner at least ten (10) days prior to such hearings. A copy of all decisions granting a variance or conditional use to the provisions of the county shoreland ordinance shall be forwarded to the Commissioner within ten (10) days of such actions.

Information regarding plats is also required:

CONS 74(b) INCONSISTENT PLATS REVIEWED BY COMMISSIONER

All plats which are inconsistent with the county shoreland ordinance shall be reviewed by the Commissioner before final county approval may be granted. Such review shall require that proposed plats be received by the Commissioner at least ten (10) days before a hearing is called by the county for consideration of approval of a final plat.

(c) COPIES OF PLATS SUPPLIED TO COMMISSIONER

Copies of all plats within shoreland areas approved by the county shall be submitted to the Commissioner within ten (10) days of approval by the county.

Plans for proposed cluster developments must also be submitted to the Department prior to their approval by the county. The intent behind these requirements is to provide a continual review of development pressures occurring in shoreland areas to support future amendments or additions to the shoreland standards

APPENDIX I.

SAMPLE

FORMS AND NOTICES

FOR

ADMINISTRATION

The following shoreland ordinance administration forms are reprinted with the permission of the Otter Tail County Shoreland Management Office.

They are intended to be illustrative of the types of forms needed to effectively administer a shoreland ordinance. Each county should carefully design administrative forms tailored to its own ordinance.

White - Office
 Yellow - Owner
 Pink - Assessor
 Goldenrod - Inspector

SHORELAND MANAGEMENT - COUNTY OF OTTER TAIL

COUNTY COURT HOUSE

Phone 218-739-2271 - Fergus Falls, Mn. 56537

APPLICATION FOR BUILDING PERMIT AND CERTIFICATE OF OCCUPANCY

LEGAL DESCRIPTION AND LOCATION		Permit No. _____							
		Date _____							
	<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:15%;">Lake No.</td> <td style="width:20%;">Lake Name</td> <td style="width:15%;">Lake Classif.</td> <td style="width:10%;">Sec.</td> <td style="width:10%;">TWP</td> <td style="width:10%;">Range</td> <td style="width:20%;">TWP Name</td> </tr> </table>	Lake No.	Lake Name	Lake Classif.	Sec.	TWP	Range	TWP Name	
Lake No.	Lake Name	Lake Classif.	Sec.	TWP	Range	TWP Name			

IDENTIFICATION: Please Print All Information

	Last Name	First	Initial	Mailing Address- No. Street, City and State	Zip No.	Tel. No.
Owner						
Contractor	Name					
Architect	Name					

TYPE OF IMPROVEMENT: <input type="checkbox"/> New Building <input type="checkbox"/> Alteration <input type="checkbox"/> Other	RESIDENTIAL PROPOSED USE: <input type="checkbox"/> One Family Dwelling <input type="checkbox"/> Multiple Dwelling <input type="checkbox"/> Other Size _____ Units	NON-RESIDENTIAL PROPOSED USE: Specify: _____ _____
---	--	---

ESTIMATED COST OF IMPROVEMENT \$ _____ (omit cents)

PRINCIPAL TYPE OF FRAME: <input type="checkbox"/> Masonry <input type="checkbox"/> Wood Frame <input type="checkbox"/> Structural Steel <input type="checkbox"/> Other - Specify _____ Type of Roof: _____	TYPE OF SEWAGE DISPOSAL: <input type="checkbox"/> Public <input type="checkbox"/> Individual Septic Tank, etc. WATER SUPPLY: <input type="checkbox"/> Public <input type="checkbox"/> Individual Well MECHANICAL EQUIPMENT : Elevator: <input type="checkbox"/> Yes <input type="checkbox"/> No Air Conditioning: <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Central <input type="checkbox"/> Unit	DIMENSIONS: Basement: <input type="checkbox"/> Yes <input type="checkbox"/> No Stories above basement: _____ Sq. feet (outside dimension) _____ Bedrooms _____ Baths _____ HEATING: <input type="checkbox"/> Electric <input type="checkbox"/> Gas <input type="checkbox"/> Oil <input type="checkbox"/> Coal <input type="checkbox"/> None Other: _____
--	---	--

CHARACTERISTICS:

Lot Area is _____ square feet. Water frontage is _____ feet.

Building set back from high water mark is _____ feet. (Building Line)

Land height above high water mark at building line is _____ feet

Building set back from State highway is _____ feet - from road or street is _____ feet.

Side yard is _____ and _____ feet. Rear yard is _____ feet.

Building will be located _____ feet from septic tank (Sewage System Permit must be obtained before installation).

Building will be located _____ feet from soil absorption system (Cesspool, Drainfield, etc.).

Agreement: I hereby certify that the information contained herein is correct and agree to do the proposed work in accordance with the description above set forth and according to the provisions of the ordinances of Otter Tail County, Minnesota. I further agree that any plans and specifications submitted herewith shall become a part of this permit application. I also understand that this permit is valid for a period of six (6) months.

Dated _____ Signature of Owner _____

Permit: Permission is hereby granted to the above named applicant to perform the work described in the above statement. This permit is granted upon the express condition that the person to whom it is granted, and his agent, employees and workmen shall conform in all respects to the ordinances of Otter Tail County, Minnesota. This permit may be revoked at any time upon violation of said ordinances.

CANCELLED

Dated _____ Shoreland Management Official _____

Permit Fee \$ _____ State Surcharge \$ _____

Comments: _____

Scale: Each grid equals _____ feet/inches.

GRID PLOT PLAN SKETCHING FORM

Application for Building Permit Dated _____ 19 ____

Application for Sewage System Permit Dated _____ 19 ____

Building Permit Number _____ Sewage System Permit Number _____

Applicant agrees that this plot plan is a part of application (s) indicated above.

Dated _____ 19 ____.

CANCELLED

Signature

OTTER TAIL COUNTY

Building Permit No. BP No. 5

Location: Lake No. _____ Sec. _____ Twp. _____ Range _____ Twp. Name _____

Issued _____ **19** _____, **To** _____
Work Authorized _____

NOTE: This card must be placed in a conspicuous place not more than 12 feet above grade on the premises on which work is to be done, and must be maintained there until completion of such work. Notify Shoreland Management Administration office when building footings have been completed.

CANCELLED

Shoreland Management Official

OTTER TAIL COUNTY, MINNESOTA
Board of County Commissioners

- 39

CERTIFICATE OF OCCUPANCY

Conforming with the requirements of the Shoreland Management Ordinance and all other applicable Ordinances, a Certificate of Occupancy is requested for:

Location: Lake No. _____ Sec. _____ Twp. _____ Range _____ Twp. Name _____

Use:

Owner: Name _____

Address _____

Zip No. _____

This certifies that the above property has been inspected and that it meets all of the requirements of all applicable Otter Tail County Ordinances and therefore this Certificate of Occupancy is issued as provided by the Shoreland Management Ordinance.

Date: _____

Otter Tail County, Minnesota Shoreland Administration

CANCELLED

Permit No. BP _____

Signed by: _____

**Malcolm K. Lee, Shoreland Administrator
Otter Tail County, Minnesota**

MKL-0871-008

SHORELAND MANAGEMENT – COUNTY OF OTTER TAIL

White – Office
 Yellow – Inspector
 Pink – Owner
 Card – Owner

COUNTY COURT HOUSE

Phone 218-739-2271 – Fergus Falls, Mn. 56537

APPLICATION FOR PERMIT TO INSTALL SEWAGE DISPOSAL SYSTEM

LEGAL		Permit No. _____
DESCRIPTION		Date _____
AND		
LOCATION		
	Lake No. Lake Name Lake Classif. Sec. TWP Range TWP Name	

IDENTIFICATION: Please Print All Information.

OWNER	Last Name	First	Initial	Mailing Address –No. Street, City and State	Zip No.	Tel. No.
SEWAGE SYSTEM INSTALLER	Name _____					

↙ This System will be ready for inspection on _____, 19____

This space for office use only

_____ 19____ M _____

Date Rec'd Time Rec'd Phone Call Rec'd By

 Owner or Agent Signature

SEWAGE DISPOSAL SYSTEM DATA:

	SEPTIC TANK	SEEPAGE PIT	DRAIN FIELD
Capacity	Gls.	Sq. Ft.	Sq. Ft.
Distance from nearest well	Ft.	Ft.	Ft.
Distance from lake or stream	Ft.	Ft.	Ft.
Distance from occupied building	Ft.	Ft.	Ft.
Distance from property line	Ft.	Ft.	Ft.
Distance from bottom to Water Table	Ft.	Ft.	Ft.

All distances are shortest distance between nearest points

RECORD OF TESTS:

Inspection was made on _____, 19____, Time _____M By _____

PERCOLATION TEST DATA: Date of First Test _____, 19____, Rate _____

Date of Second Test _____, 19____, Rate _____

1st Test Taken By _____

2nd Test Taken By _____ First Test _____ + 2nd Test _____ = _____² = _____ Rate

Agreement: The undersigned hereby makes application for permit to install or extend Sewage Disposal System herein specified, agreeing to do all such work in strict accordance with ordinances of the County of Otter Tail, Minnesota and Minnesota Individual Sewage Disposal Code Minimum Standards set forth by Minnesota Department of Health. Applicant agrees that plot plan, sketches and specifications submitted herewith and which are approved by Shoreland Management Official shall become a part of the permit. Applicant further agrees that no part of the system shall be covered until it has been inspected and accepted. It shall be the responsibility of the applicant for the permit to notify the County Shoreland Management that the job is ready for inspection. (Call or use attached mailer notice.)

Dated _____ Signature _____

Permit: Permission is hereby granted to the above named applicant to perform the work described in the above statement. This permit is granted upon express condition that the person to whom it is granted, and his agents, employees and workmen shall conform in all respects to ordinances of Otter Tail County Minnesota. This permit may be revoked at any time upon violation of any said ordinance.

NOTE: Permit void if work is not commenced within six (6) months.

Issued Date: _____ Shoreland Management Office

Fee \$ _____ Surcharge \$ _____

Comments: _____

INSPECTION RESULTS

Inspector must make all measurements

SEWAGE DISPOSAL SYSTEM STATISTICS

CATEGORY	SEPTIC TANK				SEEPAGE PIT				DRAIN FIELD			
	Actual		Should be		Actual		Should be		Actual		Should be	
	Gls.	Gls.			S F	S F			S F	S F		S F
Capacity												
Distance from Nearest Well	F	F			F	75	F		F	50	F	F
Distance from Lake or Stream	F	F			F		F		F		F	F
Distance from Occupied Building	F	10	F		F	20	F		F	20	F	F
Distance from Property Line	F	10	F		F	10	F		F	10	F	F
Distance from Bottom to Water Table	---	F	---	F	F	4	F		F	4	F	F

Inspector's Comments: _____

Date of Inspection _____ 19__

Time of Inspection _____ M

INTERPRETATION
OF ABBREVIATIONS
Gls = Gallons
SF = Square Feet
F = Linear Feet

Signature of Inspector

Job Title

Agency

RESEARCH SURVEY OF LAKESHORE PROPERTY

For

SHORELAND MANAGEMENT
OTTER TAIL COUNTY
Fergus Falls, Minnesota 56537

Owner Name _____

Address _____

City _____ State _____ Zip No. _____ Tel. No. _____

Lake or River Name _____ Class _____

Lake or River No. _____ Sec. _____ Twp. _____ Range _____ Twp. Name _____

LEGAL DESCRIPTION:

Please supply the following information. Write word "none" in blanks that do not apply to your system.

SEWAGE DISPOSAL SYSTEM DATA:

	SEPTIC TANK	SEEPAGE PIT	DRAIN FIELD
Capacity	Gls.	Sq. Ft.	Sq. Ft.
Distance from nearest well	Ft.	Ft.	Ft.
Distance from lake or stream	Ft.	Ft.	Ft.
Distance from occupied building	Ft.	Ft.	Ft.
Distance from property line	Ft.	Ft.	Ft.
Distance from bottom to Water Table	Ft.	Ft.	Ft.

All distances are shortest distance between nearest points

Sewage System was installed on _____ 19 _____

Sewage System was installed by _____

Address of installer _____

I hereby certify that the information contained herein is correct.

Dated _____

Signature of Owner **CANCELLED**

Please return this in self-addressed stamped envelope.

OTTER TAIL COUNTY

Sewage Permit No. SP No. 5

Location: Lake No. _____ Sec. _____ Twp. _____ Range _____ Twp. Name _____

Issued _____ **19** _____, **To** _____

Work Authorized _____

NOTE: This card must be placed in a conspicuous place not more than 12 feet above grade on the premises on which work is to be done, and must be maintained there until completion of such work. No part of system shall be covered until it has been inspected and approved. Notify Shoreland Management office when job is ready for inspection.

CANCELLED

Shoreland Management Official

OTTER TAIL COUNTY, MINNESOTA
Board of County Commissioners

CERTIFICATE OF COMPLIANCE
SEWAGE SYSTEM

This certificate has been issued this _____ day of _____, 19____,
to certify compliance with regulations of Shoreland Management Ordinance, Otter Tail County, Minnesota.

The premises covered by this certificate are legally described as:

Lake No. _____ Sec. _____ Twp. _____ Range _____ Twp. Name _____

Owner: Name _____

Address _____

Zip No. _____

Permit No. SP _____

Signed by: _____

Malcolm K. Lee, Shoreland Administrator
Otter Tail County, Minnesota

MKL-0871-009

— APPLICATION FOR SPECIAL USE PERMIT —

Shoreland Management Ordinance
Otter Tail County
Fergus Falls, Minnesota 56537

White — Office
Yellow — Applicant

Date _____ 19____ Application Fee \$ _____ Permit No. _____

Legal description of land: Lake No. _____ Sec. _____ Twp. _____ Range _____ Twp. Name _____

Sketch and supporting data submitted _____

PROPOSED USE OF LAND:

Applicant _____ Address _____

Applicant Signature _____

Home Phone _____ Bus. Phone _____

Date of Hearing _____, 19____ Time _____ M

CONDITIONAL REQUIREMENTS:

This application is hereby recommended for approval by the Otter Tail County Planning Advisory Commission.

CANCELLED

Chairman

Approved by the Board of County Commissioners of Otter Tail County this _____ day of _____ 19____

CANCELLED

Chairman

Special Use Permit issued in accordance with compliance with existing Conditional Requirements and Special Regulations and

Minnesota Commissioner of Natural Resources notified this _____ day of _____ 19____.

SPECIAL USE PERMIT NO. _____

CANCELLED

Malcolm K. Lee, Shoreland Administrator
Otter Tail County, Minnesota

MKL-0871-010

159034-A © VICTOR LUNDQVIST & CO., PRINTERS, FERGUS FALLS, MINN.

SHORELAND MANAGEMENT
OTTER TAIL COUNTY
Fergus Falls, Minnesota 56537

NOTICE OF HEARING FOR SPECIAL USE PERMIT

NOTICE OF HEARING ON APPLICATION FOR DEVIATION FROM THE REQUIREMENTS OF THE SHORELAND MANAGEMENT ORDINANCE, OTTER TAIL COUNTY, MINNESOTA.

TO WHOM IT MAY CONCERN:

has made application to the Otter Tail County Planning Advisory Commission for a Deviation from the requirements of the Otter Tail County Shoreland Management Ordinance. The Otter Tail County Planning Advisory Commission will assemble for this hearing on _____ 19____
Time _____ M. Place _____ Fergus Falls, Minnesota.

The property concerned in the application is legally described as:

Lake No. _____ Sec. _____ Twp. _____ Range _____ Twp. Name _____

THE PURPOSE OF THE APPLICATION IS:

Dated _____

CANCELLED

Otter Tail County Planning Advisory Commission
By: Frank Alstadt, President

---SPECIAL USE PERMIT---

SHORELAND MANAGEMENT

OTTER TAIL COUNTY

Fergus Falls, Minnesota 56537

Permit No. _____

Date of issue _____, 19____

Issued to _____

Address _____ Zip _____

Legal description of property permit is issued for:

Lake No. _____ Sec. _____ Twp. _____ Range _____ Twp. Name _____

This Special Use Permit is issued with respect to the information contained in the application for Special Use Permit dated _____, 19____.

1. Information supplied with the application and at the (meeting) or (hearing) for this permit, the purpose for the request for this permit being:

2. At the hearing held before the Otter Tail County Planning Advisory Commission at _____ o'clock _____ M on the _____ day of _____, 19____ this permit was approved subject to the following conditions:

Approved by Otter Tail County Planning Advisory Commission, subject to conditions outlined above, this _____ day of _____, 19____.

CANCELLED

Frank Alstadt, President
Otter Tail County Planning Advisory Commission

Approved by Board of County Commissioners of Otter Tail County, Minnesota this _____ day of _____, 19____.

CANCELLED

John Snowberg
Chairman

Minnesota Commission of Natural Resources notified this _____ day of _____, 19____.

CANCELLED

Malcolm K. Lee, Shoreland Management Administrator
Otter Tail County, Minnesota

Otter Tail County Planning Advisory Commission

County Court House
Fergus Falls, Minnesota 56537

Date:

NOTICE OF HEARING

To:

Re: Your Application for Variance Dated _____ 19____

The Otter Tail County Planning Advisory Commission Board of Review will assemble for their hearing on the above mentioned application for Variance on the _____ day of _____ 19____

Time: _____ M

Place:

CANCELLED

MALCOLM K. LEE, Secretary,
Otter Tail County Planning Advisory Commission

White - Office
Yellow - Owner
Pink - C.N.R.

PERMIT FOR VARIANCE
Shoreland Management Ordinance
Otter Tail County
Fergus Falls, Minnesota 56537

Date of Issue _____, 19____

Issued to _____

Address _____

Legal description of property issued for :

Lake No. _____ Sec. _____ Twp. _____ Range _____ Twp. Name _____

This Permit for Variance from the Shoreland Management Ordinance of Otter Tail County, Minnesota is issued based on the information supplied in the application wherein it was stated that the purpose or reason for the need for this permit was for:

At the hearing held before the Otter Tail County Planning Advisory Commission at _____ p.m. on the _____

day of _____, 19____ This permit was approved for the above named purpose subject to the following conditions:

In consideration of approval granted by the Otter Tail Planning Advisory Commission, the President of which has attested to on your application, I as Otter Tail County Shoreland Administrator, under authority vested in me, do hereby grant this Permit for Variance subject to any special conditions as listed hereinbefore, subject to any or all applicable regulations, standards, and criteria included in such Otter Tail County Ordinance.

Variance granted and Minnesota Commissioner of Natural Resources notified this _____ day of _____ 19____.

CANCELLED

Malcolm K. Lee
Shoreland Administrator
Otter Tail County, Minnesota

This is a: Initial Investigation
 Follow-up Investigation

INVESTIGATION OF ALLEGED COMPLAINT

Owner was notified of alleged complaint by _____
on _____ 19____.

SITUATION: _____

Check Applicable Items: Pictures Taken. Number taken _____
 Water sample taken from _____
 Elevation reading at _____
 Dye Test applied and dye seepage appeared in Lake River Stream in _____ hours
_____ minutes after being introduced into _____
which was located _____

Other measurements, tests, readings, etc. taken _____

Investigator recommends the following action to correct the situation: _____

Owner witnessed the investigation. Other witnesses names and address below:

Follow-up to be made in _____ days.

Date of Investigation _____ 19____.

Investigator's Signature _____

Agency _____

APPENDIX II.

CHECKLIST FOR COMPLIANCE

OF

COUNTY SHORELAND ORDINANCES

The following checklist is used by the Department of Natural Resources in determining compliance of county shoreland ordinances with the Statewide Standards and Criteria for Management of Shoreland Areas of Minnesota.

APPENDIX II: Checklist for Compliance of County Shoreland Ordinances

SHORELAND ORDINANCE REVIEW

_____ County

Date of Public Hearing _____

Date of Adoption _____

Effective Date _____

Consulting Firm: _____

I. GENERAL

A. Type(s) of Ordinance(s) (check)

- 1. Shoreland Ordinance Only _____
- 2. Separate Comprehensive Ordinances:
 - Sanitary _____
 - Zoning _____
 - Subdivision _____
- 3. Amendment to Previous County-wide Ordinance _____

B. Public Waters Classification (check)

- 1. Adopted by Reference _____
- 2. Listed in Ordinance _____
- 3. Designated on Map _____
- 4. Rivers and Streams Included _____
- 5. Others (Explain): _____

II. LAND USE

A. Format (check)

Single Shoreland District _____

Several Land Use Zones _____

Overlapping Shoreland District _____

Other (Explain): _____

1. Allowable Uses _____

2. Conditional Uses _____

a. Reviewing Body _____

b. What Conditions Can be Attached? _____

B. Applicability to Public Waters Classification

1. Land Use Zones on NE Waters

2. Land Use Zones on RD Waters

3. Land Use Zones on GD Waters

C. Map(s)

III. SANITARY PROVISIONS

A. Reference to Department of Health Code Yes _____ No _____

Other (Explain): _____

B. Inspections Required Yes _____ No _____

C. Design Standards

1. Sealed Septic Tanks Yes _____ No _____

2. Soil Absorption Systems Yes _____ No _____

3. Percolation Test Required Yes _____ No _____

4. Conditions Under Which Soil Absorption Is Prohibited: (check)

Less than four (4) feet above ground water _____

Less than four (4) feet above bedrock _____

Areas subject to flooding _____

Steep slopes _____

Percolation rate greater than 60 min. _____

Others (list): _____

5. Setbacks from Normal High Water Mark

a. NE Waters (150 feet) _____

b. RD Waters (75 feet) _____

c. GD Waters (50 feet) _____

D. Elimination of Nonconforming Systems

1. Within 5 years Yes _____ No _____

2. Other (Explain): _____

E. Provisions for Other Types of Disposal

F. Refer to Department of Health for Further Comment

Yes _____ No _____

IV. ZONING PROVISIONS

A. Lot Sizes

1. Newly Platted Lots

	Area (sq. ft.)	Width at Waterline and Building Line (ft.)
NE	(80,000) _____	(200/200) _____ / _____
RD	(40,000) _____	(150/150) _____ / _____
GD	(20,000) _____	(100/100) _____ / _____

2. Substandard Lots Allowed for Building Yes _____ No _____

a. Size Limits: _____

b. Conditions: _____

3. Exceptions: _____

B. Placement of Structures on Lots

1. Setbacks From Normal High Water Mark

- a. NE (200 ft.) _____
- RD (100 ft.) _____
- GD (75 ft.) _____

b. Exceptions: _____

2. Elevation Above High Water Level (3 feet) _____

3. Setbacks From Roads

Town roads & public streets (30 feet) _____

County, State & Federal highways (50 feet) _____

4. Provisions for Variances _____

C. Shoreland Alterations

1. Controls for Removing Natural Vegetation Yes _____ No _____

Type _____

2. Erosion Controls Yes _____ No _____

Type _____

3. Control of Shoreland Excavations Yes _____ No _____

Type _____

V. SUBDIVISION CONTROLS

A. Subdivision Definition

(3 or more lots of less than 5 acres each over five year period)

B. Land Suitability Clause: Yes _____ No _____

C. Cluster Development Provisions

1. DNR approval Yes _____ No _____

2. Central Sewage required Yes _____ No _____

3. Open space required Yes _____ No _____

4. Deviations allowed (check) Yes _____ No _____

a. Lot sizes _____

b. Building setbacks _____

c. Others (list): _____

5. Specific Design Standards

VI. ADMINISTRATION

A. General Procedures

1. Duties of Board of Adjustment

2. Duties of PAC

3. Responsibilities of County Commissioners

B. Enforcing Officer (Title): _____

Name _____

Address _____

Telephone Number _____

C. Permits Required

1. Sanitary Yes _____ No _____

2. Building Yes _____ No _____

3. Certificate of Occupancy Yes _____ No _____

4. Grading or filling Yes _____ No _____

5. Others (list): _____

D. Provisions for Nonconforming Uses _____

VIII. COMPLIANCE

- A. _____ Shoreland ordinance fully complies with statewide standards and criteria.
- B. _____ Shoreland ordinance is only partially in compliance with the statewide standards and criteria.

Reasons for non-compliance are:

- 1. Land Use Zones: _____

- 2. Sanitary Provisions: _____

- 3. Zoning Provisions: _____

- 4. Subdivision Provisions: _____

- 5. Administrative Provisions: _____

Reviewer: _____

Date: _____

1

2

