

Article IX. Shoreland District (S).<sup>10</sup>Section 20-156. Purpose.

The purpose of the Shoreland (S) District is to guide the wise development of shorelands of public waters for the preservation of water quality, natural characteristics, economic values, and the general health, safety, and welfare of all public waters in Athens Township. For purposes of this Article, the following subdistrict is established: Special Protection (SP)

Section 20-157. Special Protection District (SP).

- (a) Purpose. The purpose of the Special Protection District (SP) is to manage and preserve areas with special historical, natural or biological characteristics by limiting and properly managing development in unsuitable areas due to flooding, erosion, limiting soil conditions, steep slopes or other physical constraints.
- (b) Permitted Uses. The following uses are permitted uses in the Special Protection District:
1. All general agricultural pasture and minimum tillage cropland and agricultural uses including farm dwellings and accessory agricultural buildings.
  2. Forestry, tree farms and timber harvesting.
  3. Nature areas, hiking and riding trails, wildlife preserves, and designated township, county, state, or federal wetland areas.
  4. Single family dwellings, subject to the lot density, area, width, height, setback, sanitary and general standards in this section.
- (c) Accessory Uses. The following uses shall be permitted accessory uses in the Special Protection District:
1. Private garages, parking spaces or carports for passenger cars.
  2. Landscape features.
  3. Private swimming pools and tennis courts.
  4. Temporary buildings located for the purpose of construction on the premises for a period not to exceed six (6) months.

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<sup>10</sup> Adopted under Ordinance No. 2007-003 on August 6, 2007.

5. Home occupations in a dwelling, subject to the following:
  - a. No more than twenty-five percent (25%) of the dwelling's total floor area, as measured by using the horizontal perimeter of the dwelling (footprint), shall be used for the home occupation. No part of the home occupation shall displace the original purpose of the garage.
  - b. The exterior residential character of the property shall not be altered by use of the property for a home occupation.
  - c. No non-resident employees are allowed.
  - d. Signage shall not exceed eight (8) square feet and shall include only the name and address of the business.
  - e. All parking shall be contained on the site.
  - f. No outside storage or open display of merchandise or materials related to the conduct of the home occupation is allowed.
  - g. No retail sales shall be allowed except those incidental to the conduct of the home occupation.

(d) Conditional Uses. The following uses may be allowed in the Special Protection District, subject to the provisions for issuing a conditional use permit:

1. Parks and designated local, county, state, or federal historic sites that do not maintain overnight camping facilities.
2. Recreational vehicles used as a temporary dwelling shall be limited to a maximum placement on a lot for six (6) months within a calendar year (from May through October), on a lot of record, and shall conform to all required structure setbacks established herein.
3. Any essential services that cannot be reasonably located in other than the Shoreland District.
4. Assisted living facilities.
5. Retreat Centers, subject to the following:
  - a. The duration of temporary lodging to be determined by the Town Board upon recommendation of the Planning Commission.

- b. A minimum area of 25 acres is required.
  - c. A maximum of 25 people for overnight lodging is permitted.
  - d. The owner/operator/director must reside on the property.
- (e) Prohibited Uses. The following uses are prohibited in the Special Protection District:
- 1. Final disposal facility for mixed municipal solid waste, hazardous waste, industrial waste, incinerator ash, or infectious waste.
  - 2. Incineration or treatment, disposal or processing of mixed municipal solid waste, hazardous waste, industrial waste, and infectious waste.
  - 3. Solid waste, hazardous waste, or mixed municipal waste transfer station.
  - 4. Sanitary landfill.
  - 5. Junk yards and the storage of junk or inoperable equipment, except where operable farm equipment, that has been used on the farm, is screened from public view and located in a single area not exceeding one (1) acre.
  - 6. Processing of waste tires to produce tire derived products.
  - 7. Disposal of waste tires.
  - 8. Open dumps.
  - 9. Mass gatherings.
  - 10. Notwithstanding anything to the contrary contained in this Article, if any of the Prohibited Uses listed above are lawfully existing in the Special Protection District upon the effective date of this Article, then such uses may continue in the size and manner of operation lawfully existing, but such uses shall not expand, enlarge or add different types of waste. Such uses may also be subject to reasonable compliance with performance standards set forth in this Chapter.

All uses not listed as permitted, conditionally permitted, or permitted with an interim use permit shall be considered prohibited.

Section 20-158. Height, Area, Lot Width, Setback and Density Regulations. The following regulations apply in the Special Protection District:

- (a) Height Regulations. All structures, except agricultural structures, must not exceed thirty-five (35) feet in height.
- (b) Lot Area Requirements. The minimum lot area shall be as follows (specified in square feet or acres):
1. Natural Environment Lakes.
    - a. Riparian lots: 4 acres.
    - b. Non-riparian lot: 8 acres.
    - c. All lots shall be located on a minimum of one (1) acre of buildable area.
  2. Rivers. Every lot on which a single family dwelling is erected shall contain a minimum of two (2) acres that shall also contain one (1) acre of buildable area.
- (c) Lot Width Regulations. The minimum lot width shall be as follows (specified in linear feet):
1. Natural Environment Lakes.
    - a. Riparian lots: 400 feet.
    - b. Non-riparian lots: 400 feet.
  2. Rivers.
    - a. Transition: 250 feet.
    - b. Agriculture/tributary: 200 feet.
  3. All lots shall have a minimum width at the shoreline as stated above, measured at the ordinary high water mark (OHW). All lots shall also have a minimum lot width as stated above, at the building setback from the OHW, or bluffline, whichever is greater.
  4. All lots shall also have a minimum of one hundred (100) feet of frontage along the right-of-way line except on cul-de-sacs where lots shall have a minimum of fifty (50) feet of lot width at the road right-of-way and all lots shall have a minimum of one hundred (100) feet of width at the front yard setback line.

5. All new access drives must be constructed according to the standards contained in this Article.

(d) Setback Regulations -- from the Ordinary High Water Level (OHW).

1. Placement of Dwellings on Lots. When more than one (1) setback applies to a site, dwellings and facilities must be located to meet all setbacks. Where dwellings exist on adjoining side lots of a proposed building site, consideration may be given to alter the setback from the ordinary high water level for the proposed dwelling without a variance to meet the setbacks of those existing dwellings, provided the proposed building site is not located in a Shore Impact Zone or in a Bluff Impact Zone. If, however, one or more of the existing buildings is less than fifty percent (50%) structurally sound (based upon the State Building Code), the dwelling(s) will not be considered a viable building for determining applicable setbacks and this provision will not apply to the proposed development.
2. Setbacks for Natural Environment Lakes.
  - a. Structure Setback: 150 feet.
  - b. Septic System Setback: 150 feet.
3. River Setbacks.
  - a. Structure setback: Transition: 150 feet; Agricultural/Tributary: 150 feet.
  - b. Septic System Setback: Transition: 100 feet; Agriculture/Tributary: 75 feet.
4. Additional Structure Setbacks. The following additional structure setbacks shall be met:
  - a. Top of bluff setback: 30 feet.
  - b. Unplatted cemetery: 50 feet.
  - c. Right-of-way line of all roads or streets, including private easements: 50 feet.
  - d. Side yards: 20 feet on Natural Environment Lakes and streams.
  - e. Rear Yard: 40 feet.

- f. The one (1) water oriented accessory structure allowed per lot must be set back ten (10) feet from the ordinary high water level.
  - g. A use without water oriented needs, if located on a lot with a public water frontage, must be set back double the normal structure setback or be substantially screened from view from the water by vegetation or topography, assuming summer, leaf-on conditions, and meeting the minimum normal structure setback.
5. Accessory Structure Setbacks. Accessory structures shall meet all structure setbacks, except as otherwise provided in this Article. In addition, where accessory structures exist on adjoining side lots of a proposed building site, consideration may be given to alter the setback from the road right-of-way line of the proposed accessory structure without a variance to meet the setbacks of those existing structures. However, this administrative variance procedure shall only be permitted up to twenty-five (25) feet of the road right-of-way line. If an applicant wishes to construct, erect, or place an accessory structure in a position on a lot that would encroach closer than twenty-five (25) feet from the road right-of-way, the applicant must request a variance from the setback requirement.
- (e) Density. The permitted density in a shoreland district shall be two dwellings per quarter-quarter (40 acres).
  - (f) Special Provisions Applicable to Lot Area and Lot Width Standards.
    - 1. Residential subdivisions with dwelling densities exceeding those established in the performance standards of each land use district can only be allowed if designed and approved as a residential planned unit development.
    - 2. One guest cottage may be allowed on lots meeting or exceeding a lot area of five (5) acres for riparian lots and eight (8) acres for non-riparian lots and a lot width of five hundred (500) feet for riparian and eight hundred feet (800) for non-riparian on Natural Environment Lakes, providing the following additional regulations are met:
      - a. For lots exceeding the minimum lot dimensions in this section, the guest cottage must be located within the smallest such sized lot that could be created including the principal dwelling unit.
      - b. A guest cottage must not cover more than 700 square feet of land surface and must not exceed fifteen (15) feet in height.

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

Controlled Access Frontage Requirements	
Ratio of Lake Size to Shore Length(Acres/mile)	Required Increase in Frontage (percent)
Less than 100	25
100 –200	20
201 – 300	15
301 – 400	10
Greater than 400	5

- c. Such lot(s) must be jointly owned by all purchasers of non-riparian lots in the subdivision who are provided riparian access rights on the access lot.
- d. Covenants or other equally effective legal instruments must be developed that specify which lot owners have authority to use the access lot and what activities are allowed. The activities may include watercraft launching, loading, storage, beaching, mooring, or docking. They must also include other outdoor recreational activities that do not significantly conflict with general public use of the public water or the enjoyment of normal property rights by adjacent property owners. Examples of the 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 watercraft allowed to be continuously moored, docked, or stored over water, and must require centralization of all common facilities and activities in the most suitable locations on the lot to minimize topographic and vegetation alterations. They must also require all parking areas, storage buildings, and other facilities to be screened by vegetation or

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topography as much as practical from view from the public water, assuming summer, leaf-on conditions.

Section 20-159. Design Criteria for Structures.

- (a) High Water Elevations. Structures must be placed in accordance with any floodplain regulations applicable to the site. Where these controls do not exist, the elevation to which the lowest floor, including basement, is placed or flood proofed must be determined as follows:
1. For lakes, by placing the lowest floor at a level at least three (3) feet above the highest known water level, or three (3) feet above the ordinary high water level, whichever is higher;
  2. For rivers and streams, by placing the lowest floor at least three (3) feet above the flood of record, if data are 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 approaches, technical evaluations must be done by a qualified engineer or hydrologist consistent with parts Minnesota Rules 6120.5000 to 6120.6200 governing the management of flood plain areas. If more than one approach is used, the highest flood protection elevation determined must be used for placing structures and other facilities.
  3. Water oriented accessory structures may have the lowest floor placed lower than the elevation determined in the section if the structure is constructed of flood resistant materials so the elevation, electrical and mechanical equipment is placed above the elevation, and, if long duration flooding is anticipated, the structure is built to withstand ice action and wind-driven waves and debris.
- (b) Water Oriented Accessory Structure. Each lot may have one (1) water oriented accessory structure not meeting the normal structure setbacks otherwise required by this Article, provided this water oriented accessory structure complies with the following provisions:
1. The structure or facility must not exceed ten (10) feet in height, exclusive of safety rails and cannot occupy an area greater than 120 square feet. Detached decks must not exceed eight (8) feet above grade at any point.
  2. The setback of the structure or facility from the ordinary high water level must be at least ten (10) feet.



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3. The structure or facility must be treated to reduce visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks or color, assuming summer, leaf-on conditions.
  4. The roof may be used as a deck with safety rails but must not be enclosed or used as a storage area.
  5. The structure or facility must not be designed or used for human habitation and must not contain water supply or sewage treatment facilities.
- (c) Stairways, Lifts and Landings. Stairways and lifts are the preferred alternative to major topographic alterations for achieving access up and down bluffs from steep slopes to shore areas. Stairways and lifts must meet the following design requirements:
1. Stairways and lifts must not exceed four (4) feet in width on residential lots. Wider stairways may be used for commercial properties, public open space recreational properties, and planned unit developments.
  2. Landings for stairways and lifts on residential lots must not exceed 32 square feet in area. Landings larger than 32 square feet may be used for commercial properties, public open space recreational properties, and planned unit developments.
  3. Canopies or roofs are not allowed on stairways, lifts, or landings.
  4. Stairways, lifts, and landings may be either constructed above the ground on posts or pilings, or placed into the ground, provided they are designed and built in a manner that ensures control of soil erosion.
  5. Stairways, lifts, and landings must be located in the most visually inconspicuous portions of lots, as viewed from the surface of the public water, assuming summer, leaf-on conditions, wherever practical.
  6. Facilities such as ramps, lifts, or mobility paths for physically handicapped persons are also allowed for achieving access to the shore areas, provided that the dimensional and performance standards of this section are complied with in addition to the requirements of Minnesota Rules Chapter 1340.
- (d) Significant Historic Sites. No structure may be placed on a significant historic site in a manner that affects the values of the site unless adequate information about the site has been removed and documented in a public repository.
- (e) Steep Slopes. The Zoning Administrator shall 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 shall be attached to issued permits to prevent erosion and to preserve existing vegetative screening of structure, vehicles, and other facilities as viewed from the surface of public waters, assuming summer, leaf-on conditions.

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

1. Vegetation Alteration.

- a. Vegetation alteration necessary for the construction of structures and sewage treatment systems and the construction of roads and parking areas regulated by this Article are exempt from the vegetation alteration standards that follow. However, if such alteration substantially reduces vegetative screening, replanting of native species may be required through the appropriate permit process.
- b. Removal or alteration of vegetation, except for agricultural and forest management uses as regulated in this Article, is allowed subject to the following standards:
  - i. 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 permit if an erosion control and sedimentation plan is developed and approved by the soil and water conservation district in which the property is located.
  - ii. 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:
    - A. The screening of structures, vehicles, or other facilities as viewed from the water, assuming summer, leaf-on structures, is not substantially reduced.
    - B. Along rivers, existing shading of water surface is preserved.

- C. The above provisions are not applicable to the removal of trees, limbs, or branches that are dead, diseased, or pose safety hazards.
2. Topographic Alterations/Grading and Filling.
- a. Grading and filling and excavations necessary for the construction of structures, sewage treatment systems, and driveways under validly issued construction permits for these facilities do not require the issuance of a separate grading and filling permit. However, the grading and filling standards in this Section must be incorporated into the issuance of permits for construction of structures, sewage treatment systems, and driveways.
  - b. Public roads and parking areas are regulated by this Article.
  - c. Notwithstanding items a and b above, a grading and filling permit issued by the Zoning Administrator will be required for:
    - i. The movement of more than ten (10) cubic yards of material on steep slopes or within shore or bluff impact zones.
    - ii. The movement of more than fifty (50) cubic yards of material outside of steep slopes and shore and bluff impact zones.
    - iii. 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 functional qualities of the wetland. This evaluation must also include a determination of whether the wetland alteration being proposed requires permits, reviews, or approval by other local, state, or federal agencies such as a watershed district, the Minnesota Department of Natural Resources, or the United States Army Corps of Engineers. The applicant will be so advised.
      - B. Sediment and pollutant trapping and retention.
      - C. Storage of surface run-off to prevent or reduce flood damage.
      - D. Fish and wildlife habitat.

- E. Recreational use.
- F. Shoreline or bank stabilization.
- G. Noteworthiness, including special qualities such as historic significance, critical habitat for endangered plants and animals, or others.
- H. Alterations must be designed and conducted in a manner that ensures only the smallest amount of bare ground is exposed for the shortest time possible.
- I. Mulches or similar materials must be used, where necessary, for temporary bare soil coverage and a permanent vegetation cover must be established as soon as possible.
- J. Methods to minimize soil erosion and to trap sediments before they reach any surface water feature must be used.
- K. Altered areas must be stabilized to accept erosion control standards consistent with the field office technical guides of the local soil and water conservation districts and for the United States Soil Conservation Service.
- L. Fill or excavated material must not be placed in bluff impact zones.
- M. Any alterations below the ordinary high water level of public waters must first be authorized by the Commissioner of Natural Resources under Minnesota Statutes, Section 103G.245, or as amended.
- N. 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.
- O. Placement of natural rock rip rap, 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 rip rap is within ten (10) feet of the ordinary high water level, and not more than five (5) feet into the water (water ward) and the height of the rip rap above the ordinary high water level does not exceed three (3) feet.

- P. 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.

(g) Placement and Design of Roads, Driveways, and Parking Areas.

1. Public and private roads and parking areas must be designed to take advantage of natural vegetation and topography to achieve maximum screening 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.
2. Roads, driveways, and parking areas must meet structure setbacks and must not be placed within bluff and shore impact zones when other reasonable and feasible placement alternatives exist. If no alternative(s) exist, they may be placed within these areas and must be designed to minimize adverse impacts.
3. 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 this Article must be met.

(h) Stormwater Management: The following general and specific standards shall apply:

1. General Standards.
  - a. When possible, existing natural drainage ways, wetlands, and vegetated soil surfaces must be used to convey, store, filter, and retain stormwater run-off before discharge to public waters.
  - b. Development must be planned and conducted in a manner that will minimize the extent of disturbed areas, run-off velocities, erosion potential, and reduce and delay run-off volumes. Disturbed areas must be stabilized and protected as soon as possible and facilities or methods used to retain sediment on the site.
  - c. When development density, topographic features, and soil and vegetation conditions are not sufficient to adequately handle

stormwater run-off 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.

2. Specific Standards

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

(i) Special Provisions for Commercial, Industrial, Public/Semi-Public, Agricultural, Forestry and Extractive Uses and Mining of Metallic Minerals and Peat.

1. Standards for Commercial, Industrial, Public and Semi-Public Uses.

- a. Surface water oriented commercial uses and industrial, public, or semi-public 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:
  - i. In addition to meeting impervious coverage limits, setbacks, and other zoning standards in this Chapter, the uses must be designed to incorporate topographic and vegetative screening of parking areas and structures.
  - ii. 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.
  - iii. Uses that depend on patrons arriving by watercraft may use signs and lighting to convey needed information to the public, subject to the following general standards:

- A. No advertising signs or supporting facilities for signs may be placed in or upon public waters. Signs conveying information or safety messages may be placed in or on public waters by a public authority or under a permit issued by the county sheriff.
  - B. Signs may be placed, where 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 32 square feet in size. If illuminated by artificial lights, the lights must be shielded or directed to prevent illumination out across public waters.
  - C. Other outside lighting may be located within the shore impact zone or over public waters if it is used primarily to illuminate potential safety hazards and is shielded or otherwise directed to prevent direct illumination out across public waters. This does not preclude use of navigational lights.
- iv. 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.
2. Agriculture Use Standards.
- a. General cultivation farming, grazing, nurseries, horticulture, truck farming, sod farming, and wild crop harvesting are permitted uses if steep slopes and shore and bluff impact zones are maintained in permanent vegetation or operated under an approved conservation plan (Resource Management Systems) consistent with the field office technical guides of the local soil and water conservation district or the United States Soil Conservation Service, as provided by a qualified individual or agency. The shore impact zone for parcels with permitted agricultural land uses is equal to a line parallel to and fifty (50) feet from the ordinary high water level.
  - b. Animal feedlots must meet the following standards:
    - i. New feedlots must not be located in the shoreland of watercourses or in bluff impact zones and must meet a minimum setback of

three hundred (300) feet from the ordinary high water level of all public water basins.

- ii. 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.
  - i. 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.
  - ii. Setbacks for Processing Machinery. Processing machinery must be located consistent with setback standards for structures from ordinary high water levels of public waters and bluffs.
- e. Mining of Metallic Minerals and Peat. Mining of metallic materials and peat, as defined in Minnesota Statutes, Sections 93.44 to 93.51, as amended, shall be a permitted use provided the provisions of such statutes are satisfied.

Section 20-160. Non-Conformities.

- (a) Construction on Non-Conforming Lots of Record.

Lots of record in the County Recorder's Office that are substandard in size or dimension requirements may be allowed as building sites, provided: such use is permitted in the zoning district; the lot (if created before February 10, 1982) has been in separate ownership from abutting lands at all times since it became substandard; sewage treatment and setback requirements of this



Article are met; and the lot qualified to be compliant with official controls in effect at the time as specified below:

1. Lots Created before February 10, 1982:
  - a. Natural Environment Lakes:  
Riparian – 1.2 acres; Non-riparian – 1.2 acres.
2. Lots Created after February 10, 1982 and before the effective date of this Chapter:
  - a. Natural Environment Lakes:  
Riparian – 2 acres; Non-riparian – 2 acres.
  - (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 or more contiguous lots under the same ownership, any individual lot does not meet the area requirements as listed below, the lot must not be considered as a separate parcel of land for the purposes of sale or development. The lot must be combined with the one or more contiguous lots so they equal one or more parcels of land, each meeting the following requirements:  
  
Natural Environment Lakes  
  
Lot area in square feet: Riparian – 80,000; Non-riparian – 80,000  
  
Lot width in feet: Riparian – 200; Non-riparian -- 200
- (d) Additions/Expansions to Non-Conforming Structures.
  1. All additions or expansions to the outside dimensions of an existing non-conforming structure must meet setback, height, and other requirements of this Section. Any deviation from these requirements must be authorized by a variance pursuant to this Section.
  2. Deck additions to a structure not meeting the setback from the ordinary high water level may be allowed without a variance if all of the following criteria and standards are met:
    - a. The structure existed on the date the structure setbacks were established.

- b. 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.
- c. 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.

Section 20-161. Planned Unit Development.

- (a) Purpose. The purpose of this Subdivision is to provide the means of designing building complexes containing an internal relationship between building(s) and between building(s) and site(s) that cannot be accomplished through the standard one building – one lot application of this Article. This subdivision provides a procedure for the development of more than one structure upon a single tract or lot, as well as the integrated development of one or more lots as a single tract in the Shoreland – Special Protection District. The Planned Unit Development (hereinafter referred to as PUD) is intended for use only as a commercial development and where the usual application of bulk and density controls (1) would not provide adequate environmental protections; (2) would allow design standards detrimental to the natural aesthetic and physical characteristics of the site; and (3) would not provide an efficient and feasible use of land.
- (b) Administrative Procedure.
  - 1. An applicant for a PUD shall follow the procedure as outlined for a Conditional Use Permit in this Chapter. Approval cannot occur until the Environmental Review Process is complete, as outlined in this Chapter.
  - 2. The applicant for a PUD shall obtain the application for a conditional use permit from the Zoning Administrator and simultaneously follow the Township Subdivision regulations to secure both preliminary and final design approval from the Planning Commission and Town Board.
- (c) General Regulations.
  - 1. All other development regulations of the appropriate Zoning District not specified in this subdivision or specified as a condition to the Conditional Use Permit shall apply to a PUD.
  - 2. It is the intent of this section that subdivision of the land involved be carried out simultaneously with the review of a PUD.

3. The application for a conditional use permit shall state precisely the reasons for requesting the consideration of the property for a PUD.
4. The land that is to be set aside as open space or common area shall be clearly indicated on the plan. Provisions for recreational area and for continual maintenance of that area not dedicated and accepted by the Township shall be required.
5. No conveyance of property within the PUD shall take place until the property is platted in conformance with the provisions of this Chapter. All by-laws, property owner association articles of incorporation, and protective covenants must be reviewed and approved by the Township Attorney, at the cost of the applicant, and filed with the final plat.
6. All buildings shall be used only for those purposes and the customary accessory uses of the Zoning District in which the PUD is located.
7. There is to be provided within the tract, or immediately adjacent thereto, parking spaces in private garages or off-street parking areas in accordance with the requirements of this Chapter.
8. Drives, access ways, and common parking areas must be developed to a standard equal to that required for public use as required by this Article. Such drives and access ways must be protected by recorded deed covenants assuring their availability to all residents of the project.

(d) Site Design Outside Shoreland Areas.

1. The number of principal use structures that may be constructed within the PUD shall be determined by dividing the net acreage of the project area by the required lot area per unit that is required in the district in which the PUD is located. The net acreage shall be defined as the project area less the land area dedicated for public streets. The project area includes all the land within the PUD that is allocated for residential, commercial, or industrial uses, and for common open space as required by this Section. Land to be dedicated for public streets is excluded from the project area.
2. The common open space, any other common properties, individual properties, and all other elements in the PUD shall be so planned that they will achieve a unified scheme of integrated planning and a harmonious selection and efficient distribution of uses.
3. The proposed PUD shall be of such size, composition, and arrangement that its construction, marketing, and operation is feasible as a complete unit, without dependence on any subsequent unit or development.

4. All PUD’s shall be served by central sewer and water facilities.

(e) Site Design in Shoreland Areas.

1. Site Suitable Area Evaluation. Proposed new or expansions to PUDs must be evaluated using the following procedures and standards to determine the suitable area for the dwelling unit/dwelling site density evaluation below:

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

Shoreland Tier Dimensions		
	Unsewered (feet)	Sewered (feet)
Natural Environment Lake	400	320
All River Classes	300	300

b. The suitable area within each tier is next calculated by excluding from the tier area all wetlands, bluffs, or land below the ordinary high water level of public waters. This suitable area and the proposed project are then subject to either the residential or commercial PUD density evaluation steps to arrive at an allowable number of dwelling units or sites.

2. Residential and Commercial PUD Density Evaluation. The procedures for determining the base density of a PUD and density increase multipliers area as follow. Allowable densities may be transferred from any tier to any other tier further from the waterbody, but must not be transferred to any other tier closer.

a. Residential PUD Base Density Evaluation. The suitable area within each tier is divided by the single family residential lot size standards for lakes or, for rivers, the single family residential lot width standard times the tier depth to yield a base density of dwelling units or sites for each tier. Proposed locations and numbers of dwelling units or sites for the residential planned unit developments are then compared with the tier, density and suitability analyses herein and the design criteria in this Section.

b. Commercial PUD Density Evaluation. To determine the commercial PUD density, first determine the average inside living area size of dwelling units or sites within each tier, including both existing and proposed units and sites. Computation of inside living area sizes need not include decks, patios, stoops, steps, garages, or porches and

basements, unless they are habitable space. Second, select the appropriate floor area ratio from the following table:

Commercial Planned Unit Development Floor Area Ratios (Public Water Classes)			
* Average Unit Floor Area (in square feet)	Sewered General Development Lakes, First Tier on unsewered General Development Lakes; Urban, Agricultural, and Tributary River Segments	Second and additional Tiers on unsewered General Development Lakes; Recreational Development Lakes; Transition and Forested River Segments	Natural Environment Lakes and Remote River Segments
200	.040	.020	.010
300	.048	.024	.012
400	.056	.028	.014
500	.065	.032	.016
600	.072	.038	.019
700	.082	.042	.021
800	.091	.046	.023
900	.099	.050	.025
1,000	.108	.054	.027
1,100	.116	.058	.029
1,200	.125	.064	.032
1,300	.133	.068	.034
1,400	.142	.072	.036
1,500	.150	.075	.038

\* For average unit floor area less than shown, use the floor area ratios listed for 200 square feet. For areas greater than shown, use the ratios listed for 1,500 square feet. For recreational camping areas, used the ratios listed at 400 square feet. Manufactured home sites in recreational camping areas shall use a ratio equal to the size of the manufactured home, or if unknown, the ratio listed for 1,000 square feet.

- i. Multiply the suitable area within each tier by the floor area ratio to yield the floor area for each tier allowed to be used for dwelling units or sites.
- ii. Divide the total floor area by tier computed by the average inside living area. This yields a base number of dwelling units and sites for each tier.
- iii. Proposed locations and numbers of dwelling units or sites for the commercial planned unit development are then compared with the tier, density and suitability analyses herein and the design criteria of this Section.
- iv. Density Increase Multipliers.

A. Increases to the dwelling unit or dwelling unit base densities previously determined are allowable if the dimensional standards in this Section are met or exceeded and the design criteria in this Section is satisfied. The allowable density increases in the next item below (f) will only be allowed if structure setbacks from the ordinary high water level are increased to at least fifty (50) percent greater than the minimum setback or the impact on the waterbody is reduced an equivalent amount through vegetative management, topography, or additional means acceptable to the local unit of government and the setback is at least twenty-five (25) percent greater than the minimum setback.

(f) Standards for Common or Public Open Space.

1. No open area may be accepted as common open space under the provisions of this Section unless it meets the following standards:
  - a. The location, shape, size, and character of the common open space must be suitable for the PUD.
  - b. Common open space must be used for amenity or recreational purposes. The uses authorized for the common open space must be appropriate to the scale and character of the PUD, considering its size, density, expected population, topography, and the number and type of structures to be provided.
  - c. Common open space must be suitably improved for its intended use, but common open space containing natural features worthy of preservation may be left unimproved. The buildings, structures and improvements that are permitted in the common open spaces must be appropriate to the uses that are authorized for the common open space and must conserve and enhance the amenities of the common open space, having regard to its topography and unimproved conditions.
  - d. The development plan must coordinate the improvement of common open space and the construction of buildings, structures, and improvements in the common open space, with the construction of permitted structures of the Zoning District in which the PUD is located.
  - e. If the final development plan provides for buildings or structure improvements in the common open space, the developer must provide a bank letter of credit or other adequate assurance, as determined at the sole discretion of the Township, that the buildings, structures and improvements will be completed. The Town Board shall release the

letter of credit or other assurance when the buildings, structures, or improvements have been completed according to the development plan.

- f. The construction and provision of all of the common open spaces and public and recreational facilities that are shown on the final development plan must proceed at the same rate as the construction of the principal structure of the PUD.

(g) Open space requirements for PUDs in Shoreland Areas must meet the following requirements:

1. At least fifty percent (50%) of the total project area must be preserved as open space.
2. Dwelling units or sites, road rights-of-way, or land covered by road surfaces, parking areas, or structures, except water oriented accessory structures or facilities, are considered developed areas and shall not be included in the computation of minimum open space.
3. Open space must include areas with physical characteristics unsuitable for development in their natural state, and areas containing significant historic sites or unplatted cemeteries.
4. Open space may include outdoor recreational facilities for use by owners of dwelling units or sites, by guests staying in commercial dwelling units or sites, and by the general public.
5. Open space must not include commercial facilities or uses, but may contain water oriented accessory structures or facilities.
6. The appearance of open space areas, including topography, vegetation, and allowable uses, must be preserved by use of restrictive deed covenants, permanent easements, public dedication and acceptance, or other equally effective and permanent means.
7. The Shore Impact Zone, based on normal structure setbacks, must be included as open space. For residential PUDs, at least fifty percent (50%) of the Shore Impact Zone area of existing developments or at least seventy percent (70%) of the Shore Impact Zone of new developments must be preserved in its natural or existing state. For commercial PUDs, at least fifty percent (50%) of the Shore Impact Zone must be preserved in its natural state.

(h) Maintenance and Administration Requirements for Shoreland PUD Open Space.

1. Open Space Preservation. Deed restrictions, covenants, permanent easements, public dedication and acceptance, or other equally effective and permanent means must be provided to ensure long-term preservation and maintenance of open space. The instruments must include all of the following protections:
  - a. Commercial uses prohibited (for residential PUDs).
  - b. Vegetation and topographic alterations or other routine maintenance prohibited.
  - c. Construction of additional buildings or storage of vehicles and other materials prohibited.
  - d. Uncontrolled beaching of watercraft prohibited.
2. Development Organization and Functioning. Unless an equally effective alternative community framework is established, all residential planned unit developments must use an owners association with the following features:
  - a. Membership must be mandatory for each dwelling unit or site purchaser and any successive purchasers.
  - b. Each member must pay a pro rata share of the association's expenses, and unpaid assessments can become liens on units or sites.
  - c. Assessments must be adjustable to accommodate changing conditions.
  - d. The association must be responsible for insurance, taxes, and maintenance of all commonly owned property and facilities.
3. Conveyance and Maintenance of Common Open Space.
  - a. All land shown on the final development plan as common open space must be conveyed under one of the following options:
    1. It may be conveyed to a public agency (State, County or Township) to maintain the common open space and any buildings, structures, or improvements that have been placed on it.
    2. It may be conveyed to trustees provided in an indenture establishing an association or similar organization for the maintenance of the planned development. The common open space must be conveyed to the trustees, subject to covenants to be



approved by the Town Board and Town attorney that restrict the common open space to the uses specified on the final development plan, and that provide for the maintenance of the common open space in a manner that assures its continuing use for its intended purposes. Interest in the common open space shall be undivided and such interest shall not be transferable.

3. No common open space may be put to any use not specified in the final development plan unless the final development plan has been amended to permit that use. However, no change of use may be considered as a waiver of any of the covenants limiting the use of common open space areas and all rights to enforce these covenants against any permitted uses are expressly reserved.
4. If the common open space is not conveyed to a public agency, either one or the following methods of enforcement must be provided:
  - A. The legal right to develop the common open space for the uses not specified in the final development plan must be conveyed to a public agency.
  - B. The restrictions governing the use, improvement, and maintenance of the common open space must be stated as conditions to the conveyance of the common open space, the fee title to the common open space to vest in a public agency in the event of a substantial default in the stated conditions.
  - C. If the common open space is not conveyed to a public agency, the covenants governing the use, improvement and maintenance of the common open space may authorize a public agency to enforce their provisions.
4. Required Covenants, Easements and Provisions in the Plan. The development plan shall contain such proposed covenants, easements, and other provisions relating to the bulk, location, and density of permitted structures, accessory uses thereto, and public facilities as may be necessary for the welfare of the PUD and not inconsistent with the best interests of the Township.

The applicant may be required to dedicate land for street or park purposes and, by appropriate covenants, to restrict areas perpetually (or for the duration of the PUD) as open space for common use. The development shall be subject to all conditions so imposed, and shall be exempted from other provisions of this Article only to the extent specified in the authorization.

5. Guarantee the Provision of Common Open Space. The Town Board may require adequate assurance, in a form and manner that it approves, that the common open space shown in the final development plan will be provided. The following methods of assurance are intended as illustrative and they may be used singly or in combination:
  - a. The Town Board may accept a bank letter of credit or other acceptable financial guarantee, in a form that complies with the provisions of the Subdivision Regulations set forth in this Chapter, and in an amount sufficient to purchase the common open space shown in the final development plan or alternative acreage that is equivalent in the size and character.

(i) Other Provisions for Shoreland PUDs.

1. Erosion Control and Stormwater Management. Erosion control and stormwater management plans must be developed and the PUD must:
  - a. Be designed, and the construction managed, to minimize the likelihood of serious erosion occurring either during or after construction. This must be accomplished by limiting the amount and length of time of bare ground exposure. Temporary ground covers, sediment entrapment facilities, vegetated buffer strips, or other appropriate techniques must be used to minimize erosion impacts on surface water features. Erosion control plans approved by a soil and water conservation district may be required if project size and site physical characteristics warrant.
  - b. Be designed and constructed to effectively manage reasonably expected quantities and qualities of stormwater run-off. Impervious surface coverage within any tier must not exceed twenty-five percent (25%) of the tier area, except that for commercial PUDs, thirty-five percent (35%) impervious surface coverage may be allowed in the first tier of general development lakes with an approved stormwater management plan that is consistent with this Article.
2. Centralization and Design of Facilities. Centralization and design of facilities and structures must be done according to the following standards:
  - a. Planned Unit Developments must be connected to publicly owned water supply and sewer systems, if available. On-site water supply and sewage treatment systems must be centralized and designed and installed to meet or exceed applicable standards or rules of the Minnesota Department of Health and the requirement of this Chapter. On-site sewage treatment systems must be located on the most suitable

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areas of the development and sufficient lawn area free of limiting factors must be provided for a replacement soil treatment system for each sewage system.

- b. Dwelling units or sites must be clustered into one or more groups and located on suitable areas of the development. They must be designed and located to meet or exceed the following dimensional standards for the relevant shoreland classification: setback from ordinary high water level, elevation above the surface water features, and maximum height. Setbacks from the ordinary high water level must be increased according to the standards within this Section for developments with density increases.
  - c. Shore recreation facilities, including, but not limited to, swimming areas, docks, and watercraft mooring areas and launching ramps, must be centralized and located in areas suitable for them. Evaluation of suitability must include consideration of land slope, water depth, vegetation, soils, depth to groundwater and bedrock, or other relevant factors. The number of spaces provided for continuous beaching, mooring, or docking of watercraft must not exceed one for each allowable dwelling unit or site in the first tier (notwithstanding existing mooring sites in an existing commercially used harbor). Launching ramp facilities, including a small dock for loading and unloading equipment, may be provided for use by occupants of dwelling units or sites located in other tiers.
  - d. Structures, parking areas, and other facilities must be treated to reduce visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks, color, or other means acceptable to the Township, assuming summer, leaf-on conditions. Vegetative and topographic screening must be preserved, if existing, or may be required to be provided.
  - e. Accessory structures and facilities, except water oriented accessory structures, must meet the required principal structure setback and must be centralized.
  - f. Water oriented accessory structures and facilities may be allowed if they meet or exceed design standards contained in this Section and are centralized.
3. Conversions in Shoreland Areas. The Town Board may allow existing resorts or other land uses and facilities to be converted to residential planned unit developments if all of the following standards are met:

- a. Proposed conversions must be initially evaluated using the same procedures for residential planned unit developments involving all new construction. Inconsistencies between existing features of the development and these standards must be identified.
  - b. Deficiencies involving water supply and sewage treatment, structure color, impervious coverage, open space, and shore recreation facilities must be corrected as part of the conversion or as specified in the conditional use permit.
  - c. Shore and bluff impact zone deficiencies must be evaluated and reasonable improvements made as part of the conversion. These improvements must include, where applicable, the following:
    - i. Removal of extraneous buildings, docks, or other facilities that no longer need to be located in shore or bluff impact zones.
    - ii. Remedial measures to correct erosion sites and improve vegetative cover and screening of buildings and other facilities as viewed from the water.
    - iii. If existing dwelling units are located in shore or bluff impact zones, conditions are attached to approvals of conversions that preclude exterior expansions in any dimension or substantial alterations. The conditions must also provide for future relocation of dwelling units, where feasible, to other locations, meeting all setback and elevation requirements when they are rebuilt or replaced.
    - iv. Existing dwelling unit or dwelling site densities that exceed the standards of this Section may be allowed to continue but must not be allowed to be increased, either at the time of conversion or in the future. Efforts must be made during the conversion to limit impacts of high densities by requiring seasonal use, improving vegetative screening, centralizing shore recreation facilities, installing new sewage treatment systems, or other means.
4. Final Approval. When the Town Board gives final approval, a Certificate of Occupancy shall be issued for the PUD even though the size of the lots, depth of yards, and the required distance between grouped buildings and the building height, may not conform in all respects to the regulations of the district in which the project is to be located.
- a. Final Action by the Applicant. The applicant shall then review his application and plan in its final approved form and sign a statement

that the Planned Unit Development Plan in its final form shall be made binding on the applicant, any successors in interest and assigns.

- b. Control of Planned Unit Development Following Acceptance. All changes in use, or rearrangement of lots, blocks, and building tracts, any changes in the provision of common open spaces, and all other changes in the approved final plan must be approved by the Town Board, under the procedures authorized for the amendment of this Chapter. No amendments may be made in the approved final plan unless they are shown to be required by changes in conditions that have occurred since the final plan was approved or by changes in the development policy of the Town.
- c. Amendments to the Final Development Plan. All changes in use, or rearrangement of lots, blocks, and building tracts, any changes in the provision of common open spaces, and all other changes in the approved final plan must be reviewed by the Planning Commission and approved by the Town Board. No amendments may be made to the approved final plan unless they are shown to be required by changes in conditions that have occurred since the final plan was approved or by changes in the development policy of the Town.
- d. Failure to Begin Planned Unit Development. If no construction has begun or no use is established in the PUD within one (1) year from the final approval of the final development plan, the final development plan shall lapse and be of no further effect. In its discretion and for good cause, the Town Board may extend for one (1) additional year the period for the beginning of construction.

Sections 20-162 thru 20-170. Reserved.