

MAHNOMEN COUNTY SHORELAND MANAGEMENT ORDINANCE

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PREAMBLE

Statutory Authorization

Pursuant to the authority conferred by the State of Minnesota in Minnesota Statutes, Chapter 103, Minnesota Regulations, Parts 6120.2500 – 6120.3900, and the planning and zoning enabling legislation in Minnesota Statutes, Chapter 394 and for the purpose of; preserving and enhancing the quality of surface waters, preserving the economic and natural environmental values of shorelands, and providing for the wise utilization of waters and related land resources.

Policy

The uncontrolled use of shorelands of Mahnomen 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. It is, therefore, in the best interest of the public health, safety and welfare to provide for the wise subdivision, use and development of shorelands of public waters. The Minnesota State Legislature has delegated responsibility to local governments of the state to regulate the subdivision, use and development of the shorelands of public waters in order to preserve and enhance the quality of surface waters, conserve the economic and natural environmental values of shorelands, and to provide for the wise use of waters and related land resources. This responsibility is hereby recognized by Mahnomen County, and will be accomplished through the enforcement of the Ordinance which shall be known and cited as the Mahnomen County Shoreland Management Ordinance.

Statement of Purpose

The purpose of the Mahnomen County Shoreland Management Ordinance is to achieve the aforementioned policies and to:

- Designate suitable management districts for each public water;
- Regulate the placement of sanitary and waste treatment facilities on lots;
- Regulate the area of lot and the length of water frontage suitable for a building site;
- Regulate alterations of the shorelands of public waters;
- Regulate alterations of natural vegetation and the natural topography; and
- Regulate the subdivision of land in unincorporated areas.

The County Commissioners of Mahnomen County, Minnesota do ordain as follows:

ARTICLE I

DEFINITIONS AND GENERAL PROVISIONS

Section 101. Definitions as Used in this Ordinance

Unless specifically defined below, words or phrases used in this Ordinance shall be interpreted so as to give them the same meaning as they have in common usage and so as to give the Ordinance its most reasonable application. For the purpose of this Ordinance, the words “must” and “shall” are mandatory; the word “may” is permissive. All distances, unless otherwise specified, shall be measured horizontally. Words used in the present tense shall include the future, and words used in the singular number shall include the plural number as well.

ACCESSORY STRUCTURE OR FACILITY. Any structure or facility incidental to another structure or facility on the same lot which, because of its nature, can reasonably be located at or greater than normal structure setback.

ACCESSORY USE. Any use which is incidental to the principal use of a lot.

AGRICULTURE. The use of land for agricultural purposes including: farming; dairying; pasturage; horticulture; floriculture; viticulture; animal and poultry husbandry and the necessary accessory uses for packing, treating and storing the produce, provided that the operation of any such accessory uses shall be secondary to that of the principal agricultural activities.

AGRICULTURAL STRUCTURE. Any structure existing or erected and used principally for agricultural purposes, with the exception of dwelling units.

BLUFF. A topographic feature such as a hill, cliff, or embankment having the following characteristics:

- 1 Part or all of the feature is located within a shoreland area;
- 2 The slope rises at least 25 feet above the ordinary high-water level of the waterbody;
- 3 The grade of the slope from the toe of the bluff to a point 25 feet or more above the ordinary high-water level averages 30 percent or greater;
- 4 The slope drains toward the waterbody.

An area with an area with an average slope of less than 18 percent over a distance of 50 feet or more shall not be considered part of the bluff.

BLUFF IMPACT ZONE. A bluff and land located within 20 feet of the top of a bluff.

BOARD OF ADJUSTMENT. The Mahnomen County Board of Adjustment as appointed by the Mahnomen County Board of Commissioners.

BOARD OF COUNTY COMMISSIONERS. The Mahnomen County Board of Commissioners.

BOATHOUSE. A structure used solely for the storage of boats or boating operations.

BUILDING. Any structure, either temporary or permanent, having a roof or other covering, and designed for the shelter or enclosure of any person, animal or property of any kind, including tents, awnings or vehicles situated on private property and used for purposes of a building.

BUILDING LINE. A line parallel to a lot line or the ordinary high-water level at the required setback beyond which a structure may not extend.

CHURCH. A building wherein persons regularly assemble for religious worship, which is used only for such purpose and those accessory activities as are customarily associated therewith.

CLEAR CUTTING. The removal of an entire stand of trees.

COMMERCIAL PLANNED UNIT DEVELOPMENT. Uses that provide transient, short-term lodging spaces, rooms or parcels with primarily service-oriented operations. Hotel/motel accommodations, bed and breakfast accommodations, resorts, recreational vehicle and camping parks, and other primarily service-oriented activities are examples of commercial planned unit developments.

COMMERCIAL USE. The principal use of land or buildings for the sale, lease, rental, or trade of products, goods or services.

COMMISSIONER. The Commissioner of the Department of Natural Resources.

CONDITIONAL USE. A land use or development as defined by Ordinance that would not be appropriate generally but may be allowed with appropriate restrictions as provided by official controls upon a finding that standards and criteria stated in the shoreland ordinance will be satisfied. A conditional use must be compatible with the existing neighborhood.

COOPERATIVE HOUSING. One or more residential units in a building or buildings owned or leased by a corporation, association, organization, or other legal entity, the shareholders or members of which are entitled, solely by reason of their ownership of stock or membership certificates in such entity to occupy said residential units.

DECK. A horizontal unenclosed and unroofed platform with or without attached railings, seats, trellises or other features, attached or functionally related to a principal use or site and at any point extending above grade.

DUPLEX, TRIPLEX AND QUAD. Dwelling structures on a single lot having two, three and four units respectively, being attached by common walls and each unit having separate sleeping, cooking, eating, living and sanitation facilities.

DWELLING SITE. A designated location for residential use by one or more person using temporary or movable shelter, including camping and recreational vehicle sites.

DWELLING UNIT. Any structure, or portion of a structure, or other shelter, designated as short- or long-term living quarters for one or more person, including rental or timeshare accommodations such as motel, hotel and resort rooms and cabins.

EASEMENT. A grant by a property owner for specified use of land by a corporation, the public or specified persons.

EXTRACTIVE USE. The use of land for surface or subsurface removal of sand, gravel, rock, industrial minerals, other non-metallic minerals and peat not regulated under Minnesota Statutes, sections 93.44 through 93.51.

FAMILY. An individual or group of two or more persons related by blood, marriage or adoption, together with not more than three additional persons not related by blood, marriage or adoption, living together as a single housekeeping unit.

FEEDLOT. A lot or building or group of lots or buildings intended for the confined feeding, breeding, raising or holding of animals. This definition includes areas specifically designed for confinement in which manure may accumulate or any area where the concentration of animals is such that a vegetative cover cannot be maintained.

FOREST LAND CONVERSION. The clear cutting of forested lands to prepare for a new land use other than reestablishment of a subsequent forest land.

FRONT LOT LINE. For a riparian lot, the front lot line is that line indicating the ordinary high-water level. For a non-riparian lot, a front lot line is a line dividing a lot from any public highway, except a limited or controlled access highway to which the lot has no access.

GARAGE. A fully enclosed building designed or used for the storage of motor vehicles not including buildings in which fuel is sold or in which repair or other services are performed.

GUEST COTTAGE. A structure used as a dwelling unit that may contain sleeping spaces and kitchen and bathroom facilities in addition to those provided in the primary dwelling unit on a lot.

HARDSHIP. A hardship exists when the property in question cannot be put to reasonable use under the strict interpretation of the official controls; the plight of the landowner is due to circumstances unique to his property and was not created by the landowner; and the variance, if granted, would not alter essential character of the locality. Economic considerations alone shall not constitute a hardship if a reasonable use for the property exists under the terms of the official controls.

HEIGHT OF BUILDING. The vertical distance between the highest adjoining ground level at the building or ten feet above the lowest ground level, whichever is lowest, and the highest point of a flat roof or average height of the highest gable of a pitched or hipped roof.

INDIVIDUAL SEWAGE TREATMENT SYSTEM. A sewage treatment system, other than a public or community system, which receives sewage from an individual establishment. Unless otherwise indicated the word "system", as it appears in this Ordinance, means an individual sewage treatment system.

INDUSTRIAL USE. The use of land or buildings for the production, manufacture, warehousing, storage or transfer of goods, products, commodities or other wholesale items.

INTENSIVE VEGETATIVE CLEARING. The substantial removal of trees or shrubs in a contiguous patch, strip, row or block.

LOT. A parcel of land designated by plat, metes and bounds, registered land survey, auditors' plat or other accepted means and separated from other parcels or portions by said description for the purpose of sale, lease, or separation. For purposed of those parts, a lot shall be considered to be an individual dwelling site which shall be occupied by no more than one principal structure or dwelling site equipped with sanitary facilities.

LOT AREA. The area of land within the boundaries of a lot.

LOT LINE. A line marking a boundary of a lot.

LOT WIDTH. The horizontal distance between the side lot lines of a lot measured at right angles to the depth.

MANUFACTURED HOUSING. Mobile homes, modular homes and/or prefabricated housing.

MINING. The use of land for surface or subsurface removal of metallic minerals and peat as regulated under Minnesota Statutes, Sections 93.44 through 9.51.

MOBILE HOME. A structure designed or used for residential occupancy built upon or having a frame or chassis to which wheels may be attached by which it may be moved upon a highway, whether or not such structure actually has, at any given time, such wheels attached, or is jacked up or skirted. Mobile homes shall be treated as single household housing units.

MOBILE HOME PARK. Any premises on which two or more mobile or manufactured homes, or any premises used or held out for the purpose of supplying to the public a parking space for two or more of such mobile or manufactured homes. Sales lots on which automobiles or unoccupied mobile or manufactured homes, new or used, are parked for purposes of inspection or sale are not included in this definition. For purposes of this Ordinance mobile home parks shall be considered a residential planned unit development.

MULTIPLE DWELLING. A structure designed or used for residential occupancy by more than one household, with or without separate kitchen or dining facilities, including apartment houses, rooming houses, boarding hotels, hospitals or nursing homes.

NONCONFORMITY. Any legal use, structure or parcel of land already in existence, recorded, or authorized before the adoption of official controls or amendments thereto that would not have been permitted to become established under the terms of the official controls as now written, if the official controls had been in effect prior to the date it was established, recorded or authorized.

ORDINARY HIGH-WATER LEVEL. The boundary of public waters and wetlands indicated by an elevation delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape, commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial. For watercourses, the ordinary high-water level is the elevation of the top of the bank of the channel. For reservoirs and flowages, the ordinary high-water level is the operating elevation of the normal summer pool.

PERFORMANCE BOND. A bond which may be required by the County Board, Planning Commission, or Board of Adjustment to insure the completion of any activity falling under the jurisdiction of this Ordinance.

PLANNED UNIT DEVELOPMENT (PUD). A type of development characterized by a united site design for a number of dwelling units or dwelling sites on a parcel, whether for sale, rent, or lease, and also usually involving clustering of these units or sites to provide areas of common open space, density increases, and a mix of structure types and land uses. These developments may be organized and operated as condominiums, time-share condominiums; cooperative housing; full fee ownership, commercial enterprises; or any combination of these, or cluster subdivisions of dwelling units; residential condominiums; townhouse; apartment buildings; campgrounds; recreational vehicle parks; mobile home parks; resorts; hotels; motels; and conversions of structures and land uses to these uses.

PUBLIC WATERS. Any waters as defined in Minnesota Statutes, Section 103G.005, subdivisions 15-18. However, no lake, pond or flowage of less than 25 acres in size will be regulated for purposes of these parts. A body of water created by a private user where there was no previous shoreland shall be exempt from the provisions of this ordinance. The official determination of the size of public water basins and physical limits of drainage areas of rivers and streams shall be made by the Commissioner.

REAR LOT LINE. Any lot line which is not a front or side lot line and which, if extended in either direction, would not cross the lot.

RECREATIONAL VEHICLE. Any vehicle or vehicular portable structure built on a chassis designed to be used as a temporary dwelling for travel, recreation or other vacation use.

RECREATIONAL VEHICLE CAMPGROUND. Any area, whether privately or publicly owned, used on a daily, nightly, weekly or longer basis for the accommodation of five or more tents or recreational vehicles, either free of charge or for compensation.

RECREATIONAL PLANNED UNIT DEVELOPMENT. A use where the nature of residency is non-transient, and the major or primary focus of the development is not service-oriented. For example, single family residences; duplexes; triplexes; residential apartments; mobile home parks; condominiums; time share condominiums; townhouses; cooperatives; and conversions of structures and land use to those. To qualify as a residential planned unit development, a development must contain at least five dwelling units or sites.

RESORT. A private commercial recreational development which includes multiple units intended for habitation on a temporary basis for relaxation or recreational purposes.

SEMIPUBLIC USE. The use of land by a private nonprofit organization to provide a public service that is ordinarily open to some persons outside the regular constituency of the organization.

SENSITIVE RESOURCE MANAGEMENT. The preservation and management of areas unsuitable for development in their natural state due to constraints such as shallow soils over groundwater or bedrock, highly erosive or expansive soils, steep slopes, susceptibility to flooding, or occurrence of flora or fauna in need of special protection.

SEPTIC TANK. Any water-tight, covered receptacle designed and constructed to receive the discharge of sewage from a building's sewer, to separate solids from liquids, digest organic matters, and store liquids for a period of detention, and allow the liquids to discharge to a soil treatment system.

SETBACK. The minimum horizontal distance between a structure, sewage treatment system, or other facility and an ordinary high-water level, sewage treatment system, top of a bluff, road, highway, property line, or other facility.

SEWAGE TREATMENT SYSTEM. A system whereby sewage tank effluent is treated and disposed of below the ground surface by filtration and percolation through the soil. This includes those systems commonly known as: Seepage bed, disposal field, and mounds.

SEWER SYSTEM. Pipelines, conduits, pumping stations, force main and all other construction, devices, appliances, or appurtenances used for conducting sewage or industrial or other wastes to a point of ultimate disposal.

SHORE IMPACT ZONE. Land located between the ordinary high-water level of a public water and a line parallel to it at a setback of 50 percent of the structure setback.

SHORELAND. Land located within the following distances from public waters: 1,000 feet from the ordinary high-water level of a lake, pond or flowage; and 300 feet from a river or stream, or the landward extent of a floodplain designated by ordinance on a river or stream, whichever is greater. The limits of shorelands may be reduced whenever the waters involved are bounded by topographic divides which extend landward from the waters for lesser distances and where approved by the Commissioner.

SIDE LOT LINE. Any lot line which meets the end of a front lot line and any other lot line within thirty degrees of being parallel to such a line, except a front lot line.

SIGNIFICANT HISTORIC SITE. Any archeological site, standing structure, or other property that meets the criteria for eligibility to the National Register of Historic Places or is listed in the State Register of Historic Sites, or is determined to be an unplatted cemetery that falls under the provisions of Minnesota Statutes, Section 307.08. A historic site meets these criteria if it is presently listed on either register or if it is determined to meet the qualifications for listing after review by the Minnesota State Archaeologist or Director of the Minnesota Historical Society. All unplatted cemeteries are automatically considered to be significant historic sites.

SINGLE FAMILY DWELLING. A structure, designated or used for residential occupancy by one family.

STEEP SLOPE. Land where agricultural activity or development is either not recommended or described as poorly suited due to slope steepness and the soil characteristics of the site, as mapped and described in available County soil surveys or other technical reports, unless appropriate design and construction techniques and farming practices are used in accordance with the provisions of this Ordinance. Where specific information is not available, steep slopes are lands having slopes over twelve percent, as measured over horizontal distances of fifty feet or more, that are not bluffs.

STRUCTURE. That which is built or constructed, an edifice or building or appurtenance thereto, or any piece of work artificially built up, or composed of parts joined together in some definable manner, except aerial or underground utility lines such as: sewer, electric, telephone, telegraph, gas lines, towers, poles, fences and other supporting appurtenances.

SUBDIVIDER. Any person who undertakes the subdivision of land as defined herein. The subdivider may be the owner or the authorized agent of the owner of the land to be subdivided.

SUBDIVISION. Land that is divided for the purpose of sale, rent or lease, including planned unit developments.

SUBSTANDARD USE. Any use of shorelands existing prior to the date of enactment of this Ordinance which is permitted in the applicable zoning districts but does not meet the minimum lot area, length of water frontage, structure setbacks or other dimensional standards of this Ordinance.

SURFACE WATER-ORIENTED COMMERCIAL USE. The use of land for commercial purposes, where access to and use of a surface water feature is an integral part of the normal conductance of business. Marinas, resorts, and restaurants with transient docking facilities are examples of such use.

TEMPORARY STRUCTURE. Any structure which has been erected or moved onto a lot in order to be utilized for any purpose for a period not to exceed six (6) months. Any structure which is not a temporary structure is considered a permanent structure and must comply with all provisions of this Ordinance.

TOE OF THE BLUFF. The lower point of a fifty (50) foot segment with an average slope in excess of eighteen (18) percent.

TOP OF THE BLUFF. The higher point of a fifty (50) foot segment with an average slope in excess of eighteen (18) percent.

UNINCORPORATED AREA. The area outside of the incorporated area of a city.

VARIANCE. Relief from certain provisions of this Ordinance may be granted when, due to the particular physical surroundings, shape or topographical condition of the property, compliance would result in a hardship upon the property owner. A hardship is distinguished from a mere inconvenience or a desire to increase the value of the property. A variance shall not be used to permit a use in a district in which it is not allowed. Variances shall only be granted in compliance with M.S. Chapter 394.

WATER-ORIENTED ACCESSORY STRUCTURE OR FACILITY. A small, above ground building or other improvement, except stairways, fences, docks and retaining walls, which, because of its relationship of its use to a surface water feature reasonably needs to be located closer to public waters than the normal structure setback. Examples of such structures include boathouses, gazebos, screen houses, fish houses, pump houses and detached decks.

WATER SUPPLY PURPOSE. Any use of water for domestic, commercial, industrial or agricultural purpose.

WETLAND. A surface water feature classified as a wetland in the United States Fish and Wildlife Service Circular No. 39 (1971 Edition).

ZONING ADMINISTRATOR. The zoning administrator of Mahnommen County or its authorized agent or representative.

Section 102. Jurisdiction

The provision of this Ordinance shall apply to the shorelands of the public water bodies as classified in Article II of this Ordinance. Pursuant to Minnesota Regulations, Parts 6120.2500 – 6120.3900, no lake, pond, or flowage less than twenty-five (25) acres in size will be regulated by county shoreland management regulations. A body of water created by a private user where there was no previous shoreland is exempt from this Ordinance.

Section 103. Compliance

The use of any shoreland of public waters; the size and shape of lots; the use, size, type and location of structures on lots; the installation and maintenance of water supply and waste treatment systems; the grading and filling of any shoreland area; the cutting of shoreland vegetation; and the subdivision of land shall be in full compliance with the terms of this Ordinance and other applicable regulations.

Section 104. Enforcement

The Mahnommen County Board of Commissioner shall bear ultimate responsibility for the administration and enforcement of this Ordinance. Any violation of the provisions of this Ordinance or failure to comply with any of its requirements, including failure to comply with special conditions attached to granted conditional uses or variances, shall constitute a misdemeanor and shall be punishable as defined by law. Violations of this Ordinance can occur regardless of whether or not a permit is required for a regulated activity pursuant to Article XI.

Section 105. Interpretation

In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements and shall be liberally construed in favor of Mahnommen County and shall not be deemed a limitation or repeal of any other powers granted by State Statutes.

Section 106. Severability

This Ordinance and the various parts, sentences, paragraphs, sections and clauses thereof are hereby declared to be severable. If any part, sentence, paragraph, section or clause is judged to be unconstitutional or otherwise invalid for any reason by a court of competent jurisdiction, such finding shall not affect the remaining portions of this Ordinance.

Section 107. Abrogation and Greater Restrictions

Notwithstanding the provisions of Minnesota Statutes Section 396.05, this Ordinance shall not require approval or be subject to disapproval by any Town or Town Board. However, this Section does not prohibit a Town from adopting or continuing in force, regulations which are more restrictive than those required by this Ordinance. It is not intended by this Ordinance to repeal, abrogate, or impair any existing easements, covenants, or deed

restrictions. However, where this Ordinance imposes greater restrictions, the provisions of this Ordinance shall prevail.

Section 108. Effective Date

This Ordinance, as amended, shall take effect and be in force on and after April 17, 1991.

ARTICLE II

SHORELAND CLASSIFICATION SYSTEM

Section 201. Shoreland Classification System

The public waters of Mahnomen County have been classified below consistent with criteria found in Minnesota Regulations, Part 6120.3300, and the Protected Waters Inventory Map for Mahnomen County, Minnesota.

The shoreland areas for the waterbodies listed in sections 201.1 through 201.6 shall be as defined in Section 101 of this Ordinance for those waterbodies listed herein and as shown on the Official Shoreland Management Map for Mahnomen County. The public waters of Mahnomen County have been classified as follows:

Section 201.1. Natural Environment Lakes

Lake Identification

<u>Name</u>	<u>Lake Name</u>
44-2	Lone Lake
44-6	Bass Lake
44-10	Sawmill Lake
44-11	Little Elbow Lake
44-12	Stump Lake
44-19	Little Rice Lake
44-24	Rice Lake
44-27	Washington Lake
44-28	Lambert Lake
44-29	Tamarack Lake
44-32	Goodwin Lake
44-33	Double Lake
44-36	Greer Lake
44-37	Zig Zag Lake
44-42	Wolf Lake
44-44	Long Lake
44-46	Gull Lake
44-47	Woodchuck Lake
44-49	Sugar Bowl Lake
44-58	Pigeon Lake
44-59	Fowl Lake
44-62	Sucker Lake
44-63	Nest Lake
44-64	Rooster Lake

44-66	Jay Lake
44-67	Big Lake
44-69	Hen Lake
44-72	Duck Lake
44-76	Capon Lake
44-78	Wadena Lake
44-82	Jessie Lake
44-92	Erie Lake
44-98	Daigle Lake
44-100	Gardner Lake
44-101	Pine Lake
44-110	Hart Lake
44-111	Packard Lake
44-113	Sawmill Lake
44-115	Perch Lake
44-121	Snetsinger Lake
44-122	Wakefield Lake
44-123	Bushman Lake
44-131	Deep Pothole Lake
44-142	Edwin Lake
44-151	LaDue Lake
44-152	Ketchum Lake
44-154	Frethern Lake
44-162	Simonson Lake
44-469	Little Vanose Lake
44-180	Chief Lake
44-185	Grove Lake
44-187	Santwer Lake
44-188	Waubun Lake
44-196	Squirrel Lake
44-199	Bark Lake
44-207	Gardner Lake
44-208	Sandy Lake
44-210	Little Oak Lake
44-215	Fish Lake
44-220	Can Pot Lake
44-221	Warren Lake
44-22	Aspinwal Lake
44-224	Chief Lake
44-239	Foot Lake
44-242	Beaulieu Lake
44-248	Chuck Lake

44-251	Gregory Like
44-255	Moore Lake
44-260	Peshegeshig Lake
44-263	Bejou Lake
44-263	Frog Lake

Boundary Lakes

Lake Identification

<u>Name</u>	<u>Lake Name</u>
60-69	Sandy Hill Lake
60-71	LaBrie Lake

Section 201.2. Recreational Development Lakes

Lake Identification

<u>Name</u>	<u>Lake Name</u>
44-1	Simon Lake
44-3	Tulaby Lake
44-14	South Twin Lake
44-23	North Twin Lake
44-38	Island Lake
44-45	Snider Lake
44-80	McCraney Lake
44-108	Sargent Lake
44-179	Vanose Lake

Section 201.3. Remote River Segments

<u>River</u>	<u>From</u>	<u>To</u>
Wild Rice	East section line, Sec. 18, T145N, R39W	West section line, Sec. 35, T145N, R40W

Section 201.4. Forested River Segments

<u>River</u>	<u>From</u>	<u>To</u>
Wild Rice	Border of Mahnommen and Clearwater Counties	West section line, Sec 17, T145N, R39W

Section 201.5. Agriculture Segments

<u>River</u>	<u>From</u>	<u>To</u>
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Wild Rice East section line, Sec. 34, T145N, R40W Border of Mahnomen and Norman Counties

Sand Hill Border of Mahnomen and Polk Counties Border of Mahnomen and Norman Counties

Section 201.6. Tributaries

<u>Name</u>	<u>From</u>	<u>To</u>
Roy Lake Creek	Sec. 36 (at Basin 44-1) T145N, R39W	Sec. 36 (at confluence with Wild Rice River) T146N, R39W
Unnamed to Roy Lake	Sec. 10, T144N, R39W	Sec. 35 (at confluence with Roy Lake Creek) T146N, R39W
Unnamed to Wild Rice River	Sec. 25 (at Co. Rd. 1) T146N, R39W	Sec. 25 (at confluence with Wild Rice River) T146N, R39W
Island Lake Creek	Sec. 30 (at Basin 44-38) T146N, R39W	Sec. 18 (at confluence with Wild Rice River) T145N, R39W
Schimmethorn Creek	Sec. 6, T144N, R39W	Sec. 26 (at confluence with Wild Rice River) T145N, R40W
Unnamed to Schimmethorn Creek	Sec. 31 (at Co. Rd. 22) T145N, R39W	Sec. 25 (at confluence with Schimmethorn Creek) T145N, R40W
Twin Lake Creek	Sec. 31 (at Basin 44-14) T144N, R39W	Sec. 34 (at confluence with Wild Rice River) T144N, R40W
Badboy Creek	Sec. 13, T144N, R39W	Sec. 28 (at Basin 44-23) T144N, R39W
Unnamed to Badboy Creek	Sec. 1, T143N, R39W	Sec. 28 (at confluence with Badboy Creek) T144N, R39W
Unnamed to Twin Lake Creek	Sec. 18 (at Basin 44-17) T144N, R39W	Sec. 12 (at confluence with Twin Lake Creek) T144N, R40W
White Earth River	Sec. 32, T143N, R40W	Sec. 1 (at confluence with Wild Rice River) T144N, R42W
Gull Creek	Sec. 14 (at Basin 44-61) T143N, R40W	Sec. 34, T143N, R40W
Tulaby Creek	Sec. 33 (at Basin 44-3) T143N, R39W	Sec. 25 (at Basin 44-80) T143N, R40W
Little Elbow Creek	Sec. 22 (at Basin 44-11) T143N, R39W	Sec. 17 (at Basin 44-45) T143N, R39W

Unnamed to White Earth River	Sec. 33 (at Basin 44-87) T143N, R40W	Sec. 32 (at confluence with White Earth River) T143N, R40W
Unnamed to White Earth River	Sec. 32, T143N, R40W	Sec. 32 (at confluence with White Earth River) T143N, R40W
Unnamed to White Earth River	Sec. 28, T143N, R40W	Sec. 29, T143N, R40W
Unnamed to White Earth River	Sec. 12, T143N, R41W	Sec. 32, T144N, R41W
Unnamed to White Earth River	Sec. 28, T143N, R41W	Sec. 29, T144N, R41W
Whiskey Creek	Sec. 33, T144N, R40W	Sec. 20 (at confluence with White Earth River) T144N, R41W
Unnamed to White Earth River	Sec. 8, T144N, R41W	Sec. 7 (at confluence with White Earth River) T144N, R41W
Unnamed to Wild Rice River	Sec. 25, T144N, R42W	Sec. 9 (at confluence with Wild Rice River) T144N, R42W
Unnamed to Wild Rice River	Sec. 8, T144N, R42W	Sec. 19 (at confluence with Wild Rice River) T144N, R42W
Spring Creek	Sec. 3, T143N, R42W	Sec. 30 (at Border of Mahnomen and Norman Counties) T144N, R42W
Marsh Creek	Sec. 4, T145N, R42W	Sec. 6 (at Border of Mahnomen and Norman Counties) T144N, R42W
Unnamed to March Creek	Sec. 29, T145N, R42W	Sec. 30 (at confluence with Marsh Creek) T145N, R42W
Unnamed to Sand Hill River	Sec. 4, T146N, R42W	Sec. 4 (at confluence with Sand Hill River) T146N, R42W
Unnamed to Vanose Lake	Sec. 7, T145N, R40W	Sec. 7 (at Basin 44-179) T145N, R40W
Sugar Bush Creek	Sec. 7 (at Basin 44-49) T146N, R39W	Sec. 6, T146N, R39W

All protected watercourses in Mahnomen County Shown on the Protected Water Inventory Map for Mahnomen County, which is hereby adopted by reference, not given a classification in Sections 201.1 through 201.6 of this Ordinance, shall be considered “tributary”.

ARTICLE III

ESTABLISHMENT OF SHORELAND MANAGEMENT DISTRICTS

Section 301. Establishment of Shoreland Management Districts

The development of shoreland of public waters shall be controlled by means of shoreland management districts which are designated to be compatible with the classification of public waters. For purposes of this Ordinance, the following districts are created:

1. Natural Environment
2. Recreational Development
3. Remote River
4. Forested River
5. Agricultural River
6. Transitional River
7. Tributary

Section 302. Management Goals and Objectives

1. The Natural Environmental (NE) management district is established 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.
2. The Recreational Development (DE) management district is established to manage proposed development 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 for a multiplicity of lake uses; and to protect areas unsuitable for residential and commercial uses for development.
3. The Remote River (RR) management district is established to preserve wilderness and near wilderness settings along protected watercourses.
4. The Forested River (FR) management districts is established to maintain existing levels of development densities while preserving the natural setting along protected watercourses.
5. The Agricultural River (AR) management district is established to protect shore areas from potentially adverse impacts of agricultural uses.
6. The Transitional River (TR) management district is established to protect remaining natural shoreland areas from agricultural encroachment and impacts.

7. The Tributary (Tr) management district is established to maintain or establish vegetated buffer strips to improve water quality along protected watercourses.

Section 303. Shoreland Management Map

An official shoreland management map, on file at the Zoning and Sanitation Office, Mahnomon Count Courthouse, is hereby adopted by reference.

ARTICLE IV

SHORELAND MANAGEMENT DISTRICT REQUIREMENTS

Section 401. Natural Environment Management District

- A. Permitted Uses
 - 1. Single family residential
 - 2. Accessory buildings
 - 3. Pasture and cropland
 - 4. Forestry
 - 5. Mining

- B. Uses Requiring a Conditional Use Permit
 - 1. Parks
 - 2. Roads
 - 3. Duplex, triplex and quads
 - 4. Residential planned unit developments
 - 5. Mobile home parks, as residential planned unit developments, provided:
 - a. Site plans must be approved by the Planning Commission.
 - b. Mobile home parks must be licensed by the Minnesota Department of Health (MDH) and must meet all MDH requirements in addition to the requirements of this Ordinance.
 - c. Each mobile home must meet minimum setback from both roads and the ordinary high-water mark.
 - d. There shall be a minimum of fifteen (15) feet between the sides of adjacent mobile homes, including their attachments, and a minimum of ten (10) feet between mobile homes when parked end to end.
 - e. Each mobile home site shall be a minimum of 6,000 square feet in area.
 - f. A centralized sewage treatment system which meets all standards, criteria, rules and regulations of the Minnesota Department of Health and Pollution Control Agency must be installed. The system must meet the minimum setback provisions of this Ordinance.
 - g. Individual on-site sewage treatment systems shall not be used unless the site meets the minimum lot size requirements of this Ordinance.
 - h. Vegetative screening shall be maintained for the mobile home park in a manner consistent with the general intent of this Ordinance.
 - 6. Cooperative housing and condominiums, as residential planned unit developments
 - 7. Commercial planned unit developments
 - 8. Stables, horse barns and barns for livestock
 - 9. Historic sites
 - 10. Recreational Vehicle Camping Areas; provided:
 - a. Site plans must be approved by the Planning Commission.
 - b. Recreational vehicle camping areas shall be licensed by and meet the minimum requirements of the Minnesota Department of Health in addition to the requirements of this Ordinance.

- c. All recreational vehicles must meet the setback from ordinary high-water mark for the applicable class of public waters.
- d. Each recreational vehicle camping site must be a minimum of 3,000 square feet in area.
- e. A centralized sewage treatment system which meets the standards, criteria, rules and regulations of the Minnesota Department of Health and Pollution Control Agency must be installed. The system must meet the minimum setback provisions of this Ordinance.
- f. Individual on-site sewage treatment systems shall not be used unless the size meets the minimum lot size requirements of this Ordinance.
- g. Vegetative screening of the recreational vehicle camping area shall be maintained consistent with the intent of this Ordinance.

Section 402. Recreational Development Management District

A. Permitted Uses

- 1. Single family residential
- 2. Duplex, triplex and quads
- 3. Accessory buildings
- 4. Pasture and cropland
- 5. Forestry
- 6. Nature areas
- 7. Hiking and riding trails
- 8. Mining

B. Uses Requiring a Conditional Use Permit

- 1. Churches; chapels; temples; synagogues; including Sunday Schools, convents, and parish houses meeting the requirements of this district
- 2. Parks
- 3. Roads
- 4. Historic sites
- 5. Stables, horse barns and barns for livestock
- 6. Residential planned unit developments
- 7. Mobile home parks, as residential planned unit developments, provided that the requirements of 401(B)5 are met
- 8. Cooperative housing and condominiums as residential planned unit developments
- 9. Commercial planned unit developments
- 10. Recreational vehicle camping areas, as commercial planned unit developments, provided that the conditions specified in 401(B)10 are met
- 11. Resorts, hotels and motels, as commercial planned unit developments
- 12. Restaurants, drive-ins, dinner clubs, taverns and private clubs
- 13. Retail businesses

Section 403. Remote River Management District

- A. Permitted Uses
 - 1. Single family residential
 - 2. Accessory buildings
 - 3. Pasture and cropland
 - 4. Forestry
 - 5. Mining

- B. Uses Requiring a Conditional Use Permit
 - 1. Parks and campgrounds
 - 2. Roads
 - 3. Historic sites
 - 4. Stables, horse barns and barns for livestock
 - 5. Duplex, triplex and quads
 - 6. Residential planned unit developments
 - 7. Mobile home parks, as residential planned unit developments, provided that the requirements of 401(B)5 are met
 - 8. Cooperative housing and condominiums as residential planned unit developments
 - 9. Commercial planned unit developments
 - 10. Recreational vehicle camping areas, as commercial planned unit developments, provided that the conditions specified in 401(B)10 are met

Section 404. Forested River Management District

- A. Permitted Uses
 - 1. Single family residential
 - 2. Accessory buildings
 - 3. Pasture and cropland
 - 4. Forestry
 - 5. Mining

- B. Uses Requiring a Conditional Use Permit
 - 1. Roads
 - 2. Parks and campgrounds
 - 3. Historic sites
 - 4. Stables, horse barns and barns for livestock
 - 5. Duplex, triplex and quads
 - 6. Churches; chapels; temples; synagogues; including Sunday Schools, convents, and parish houses meeting the requirements of this district
 - 7. Residential planned unit developments
 - 8. Mobile home parks, as residential planned unit developments, provided that the requirements of 401(B)5 are met

9. Cooperative housing and condominiums as residential planned unit developments
10. Commercial planned unit developments
11. Recreational vehicle camping areas, as commercial planned unit developments, provided that the conditions specified in 401(B)10 are met
12. Hotels and motels, as commercial planned unit developments
13. Restaurants, drive-ins, dinner clubs, taverns and private clubs
14. Retail businesses

Section 405. Agricultural River Management District

A. Permitted Uses

1. Single family residential
2. Accessory buildings
3. Pasture and cropland
4. Forestry
5. Mining

B. Uses Requiring a Conditional Use Permit

1. Roads
2. Parks and campgrounds
3. Historic sites
4. Stables, horse barns and barns for livestock
5. Duplex, triplex and quads
6. Churches; chapels; temples; synagogues; including Sunday Schools, convents, and parish houses meeting the requirements of this district
7. Residential planned unit developments
8. Mobile home parks, as residential planned unit developments, provided that the requirements of 401(B)5 are met
9. Cooperative housing and condominiums as residential planned unit developments
10. Commercial planned unit developments
11. Recreational vehicle camping areas, as commercial planned unit developments, provided that the conditions specified in 401(B)10 are met
12. Hotels and motels, as commercial planned unit developments
13. Restaurants, drive-ins, dinner clubs, taverns and private clubs
14. Retail businesses

Section 406. Tributary River Management District

A. Permitted Uses

1. Single family residential
2. Accessory buildings
3. Pasture and cropland
4. Forestry

5. Mining

B. Uses Requiring a Conditional Use Permit

1. Roads
2. Parks and campgrounds
3. Historic sites
4. Stables, horse barns and barns for livestock
5. Duplex, triplex and quads
6. Churches; chapels; temples; synagogues; including Sunday Schools, convents, and parish houses meeting the requirements of this district
7. Residential planned unit developments
8. Mobile home parks, as residential planned unit developments, provided that the requirements of 401(B)5 are met
9. Cooperative housing and condominiums as residential planned unit developments
10. Commercial planned unit developments
11. Recreational vehicle camping areas, as commercial planned unit developments, provided that the conditions specified in 401(B)10 are met
12. Hotels and motels, as commercial planned unit developments
13. Restaurants, drive-ins, dinner clubs, taverns and private clubs
14. Retail businesses

ARTICLE V

HEIGHT AND PLACEMENT REGULATIONS

Except as otherwise specifically provided for in this ordinance, no new lot shall be created, by plat or by metes and bounds description, which does not meet the following minimum dimensional requirements as specified in this Ordinance. Not lot area shall be so reduced or diminished so that the yards or other open spaces are smaller than prescribed herein, nor shall the number of dwelling units be increased in any manner except in conformity with the area regulations in this Ordinance. The area of any lot shall not be reduced below the minimum standards specified herein.

Section 501. Lot Area Requirements

Following are the area requirements for all lots created after the date of enactment of this Ordinance.

Section 501.1. Natural Environment Lakes

<u>Riparian Lots</u>		<u>Non-Riparian Lots</u>	
Single	80,000 Sq. Ft.	Single	80,000 Sq. Ft.
Duplex	120,000 Sq. Ft.	Duplex	160,000 Sq. Ft.
Triplex	160,000 Sq. Ft.	Triplex	240,000 Sq. Ft.
Quad	200,000 Sq. Ft.	Quad	320,000 Sq. Ft.

Section 501.2. Recreational Development Lakes

<u>Riparian Lots</u>		<u>Non-Riparian Lots</u>	
Single	80,000 Sq. Ft.	Single	80,000 Sq. Ft.
Duplex	120,000 Sq. Ft.	Duplex	160,000 Sq. Ft.
Triplex	160,000 Sq. Ft.	Triplex	240,000 Sq. Ft.
Quad	200,000 Sq. Ft.	Quad	320,000 Sq. Ft.

Section 502. Lot Width Requirements

Following are the minimum width requirements, measured at both the building line and at the ordinary high-water level, for all lots created after the date of enactment of this Ordinance.

Section 502.1. Natural Environment Lakes

<u>Riparian Lots</u>		<u>Non-Riparian Lots</u>	
Single	200 Sq. Ft.	Single	200 Sq. Ft.
Duplex	300 Sq. Ft.	Duplex	400 Sq. Ft.

Triplex	400 Sq. Ft.	Triplex	600 Sq. Ft.
Quad	500 Sq. Ft.	Quad	800 Sq. Ft.

Section 502.2. Recreational Development Lakes

<u>Riparian Lots</u>		<u>Non-Riparian Lots</u>	
Single	150 Sq. Ft.	Single	150 Sq. Ft.
Duplex	225 Sq. Ft.	Duplex	265 Sq. Ft.
Triplex	300 Sq. Ft.	Triplex	375 Sq. Ft.
Quad	375 Sq. Ft.	Quad	490 Sq. Ft.

Section 502.3. Rive Segments and Tributaries

	<u>Remote</u>	<u>Forested</u>	<u>Agricultural</u>	<u>Transitional</u>	<u>Tributaries</u>
Single	300	200	150	250	100
Duplex	450	300	225	375	150
Triplex	600	400	300	500	200
Quad	750	500	375	625	250

Section 503. Setback Provisions

Structures constructed, or placed, after the date of enactment of this Ordinance shall meet the setbacks prescribed in this section.

Section 503.1. Natural Environmental Lakes

Structure setback from ordinary high-water level	150 Ft.
Structure setback from side lot line	20 Ft.
Structure setback from top of bluff	30 Ft.
Structure setback from unplatted cemetery	50 Ft.
Structure setback from Federal, State, or Country Highway Right of Way	50 Ft.
Structure setback from Right of Way of other roads	20 Ft.
Sewage treatment system setback from ordinary high water level	150 Ft.

Section 503.2. Recreational Development Lakes

Structure setback from ordinary high-water level	100 Ft.
Structure setback from side lot line	20 Ft.
Structure setback from top of bluff	30 Ft.
Structure setback from unplatted cemetery	50 Ft.
Structure setback from Federal, State, or Country Highway Right of Way	50 Ft.
Structure setback from Right of Way of other roads	20 Ft.
Sewage treatment system setback from ordinary high water level	75 Ft.

Section 503.3. Remote River Segments

Structure setback from ordinary high-water level	200 Ft.
Structure setback from side lot line	20 Ft.
Structure setback from top of bluff	30 Ft.
Structure setback from unplatted cemetery	50 Ft.
Structure setback from Federal, State, or Country Highway Right of Way	50 Ft.
Structure setback from Right of Way of other roads	20 Ft.
Sewage treatment system setback from ordinary high water level	150 Ft.

Section 503.4. Forested River Segments

Structure setback from ordinary high-water level	150 Ft.
Structure setback from side lot line	20 Ft.
Structure setback from top of bluff	30 Ft.
Structure setback from unplatted cemetery	50 Ft.
Structure setback from Federal, State, or Country Highway Right of Way	50 Ft.
Structure setback from Right of Way of other roads	20 Ft.
Sewage treatment system setback from ordinary high water level	100 Ft.

Section 503.5. Agricultural River Segments

Structure setback from ordinary high-water level	100 Ft.
Structure setback from side lot line	20 Ft.
Structure setback from top of bluff	30 Ft.
Structure setback from unplatted cemetery	50 Ft.
Structure setback from Federal, State, or Country Highway Right of Way	50 Ft.
Structure setback from Right of Way of other roads	20 Ft.
Sewage treatment system setback from ordinary high water level	75 Ft.

Section 503.6. Transitional River Segments

Structure setback from ordinary high-water level	150 Ft.
Structure setback from side lot line	20 Ft.
Structure setback from top of bluff	30 Ft.
Structure setback from unplatted cemetery	50 Ft.
Structure setback from Federal, State, or Country Highway Right of Way	50 Ft.
Structure setback from Right of Way of other roads	20 Ft.
Sewage treatment system setback from ordinary high water level	100 Ft.

Section 503.7. Tributaries

Structure setback from ordinary high-water level	100 Ft.
Structure setback from side lot line	20 Ft.
Structure setback from top of bluff	30 Ft.

Structure setback from unplatted cemetery	50 Ft.
Structure setback from Federal, State, or Country Highway Right of Way	50 Ft.
Structure setback from Right of Way of other roads	20 Ft.
Sewage treatment system setback from ordinary high water level	75 Ft.

Section 503.8. Alternative to Side Yard Setback

Side yard structure setbacks can be reduced to 20% of the lot width at the ordinary high-water level as an alternative to the standard prescribed in Sections 503.1 through 503.7, provided that no side yard setback less than 10 feet shall be allowed without a variance.

Section 504. Bluff Impact Zones

Structure or facilities, except stairways and landings, must not be placed within bluff impact zones.

Section 505. Height of Structures

No structures, except churches and non-residential agricultural structures, shall exceed twenty-five (25) feet in height. Guest cottages shall not exceed fifteen (15) feet in height.

Section 506. Uses Without Water-Oriented Needs

Uses without water-oriented needs must be located on lots or parcels without public water frontage, or, if located on lots or parcels with public water 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.

Section 507. Guest Cottages

One guest cottage may be allowed on lots meeting or exceeding the duplex lot area and width dimension requirements prescribed in Sections 501 and 502 of this Ordinance, provided the following minimum standards are met:

1. for lots exceeding the minimum lot dimensions of duplex lots, the guest cottage must be located within the smallest duplex-sized lot that could be created including the principal unit;
2. a guest cottage must not cover more than 700 square feet of land surface and must not exceed 15 feet in height;
3. a guest cottage must be located or designed to reduce its visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks or color, assuming summer, leaf-on conditions.

Section 508. Design Criteria for Structures

Structures must be placed, and lots developed, in accordance with the following design criteria.

Section 508.1. High Water Elevations

Structures must be placed in accordance with any floodplain regulations applicable to the site. Where such 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 lowest floor at least three feet above the highest known water level, or three feet above the ordinary high-water level, whichever is higher;
2. for rivers and streams, by placing the lowest floor at least three feet above the flood of record, if data are available. If data are not available, by placing the lowest floor at least three feet above the ordinary high-water level, or by conducting a technical evaluation to determine the 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 Statewide Floodplain Management Rules parts 6120.5000 to 6120.6200. If more than one approach is used, the highest flood protection elevation determined must be used for placing structure and other facilities.

Section 508.2. Stairways, Lifts and Landings

Stairways and lifts are the preferred alternative to major topographic alterations for achieving access up and down bluffs and steep slopes to shore areas. Stairways, lifts and landings must meet the following design requirements.

1. stairways and lifts must not exceed four feet in width on residential lots. Wider stairways may be used for commercial properties, public open-space recreational properties, and planned unit developments if specifically authorized in a conditional use permit.
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 allowed for commercial properties, public open-space recreational properties, and planned unit developments if specifically authorized in a conditional use permit;
3. canopies or roofs are not allowed on stairways, lifts or landings;
4. stairways, lifts or 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 or landings must be located in the most visually inconspicuous portions of lots, as viewed from the surface of the public waters assuming summer, leaf-on conditions, whenever practical; and
6. facilities such as ramps, lifts or mobility paths for physically handicapped person are also allowed as a conditional use for achieving access to shore area, provided that the dimensional and performance

standards of this section, and the requirements of State Building Code, Minnesota Regulations 1340, are complied with.

Section 509. 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.

Section 510. Steep Slopes

The Zoning and Sanitation Office will, to the extent possible, evaluate, with the assistance from SCS or SWCD staff, possible soil erosion impacts and development visibility from public waters before issuing a permit for the construction of sewage treatment systems, roads, driveways, structures, or other improvements on steep slopes. When determined necessary, conditions must be attached to issued permits to prevent erosion and to preserve existing vegetation screening of structures, vehicles, and other facilities as viewed from the surface of public waters, assuming summer, leaf-on conditions.

ARTICLE VI

NONCONFORMITIES AND SUBSTANDARD LOTS OF RECORD

All legally established nonconformities existing as of the date of enactment of this Ordinance may continue provided that they are managed in accordance with applicable state statutes and the following standards.

Section 601. Nonconforming Use of Land

The nonconforming lawful use of land where no structure exists as the effective date of this Ordinance may continue provided:

1. The nonconforming use of land shall in no way be expanded or extended either on the same or adjoining property.
2. If the nonconforming use of land is discontinued for a period of twelve consecutive months, the new use of such land must be in conformity with the provisions of this Ordinance.
3. Uses which are declared to be public nuisances shall not be allowed to continue as legal nonconforming uses.

Section 602. Extension of Nonconforming Uses

A nonconforming use may be extended throughout a building or structure, provided no structural alterations or changes are made therein, except those required by statute or by ordinance or such as may be required for safety, or such as may be necessary to secure or insure the continued use of the building or structure for the duration of its natural life.

Section 603. Change of a Nonconforming Use

A nonconforming use may be changed to a different nonconforming use, or to a conditional use, only upon approval of a conditional use permit by the County Board. Whenever a nonconforming use has been changed to a conforming use, it shall not thereafter be changed to a nonconforming use. If a nonconforming use is discontinued for a period of twelve (12) consecutive months, any future use of the building, structure or land shall be in conformance with the terms of this Ordinance.

Section 604. Change of Ownerships of a Nonconforming Use

The nonconforming use of land or structure shall be reviewed, and a new permit required, at the time of a change of ownership of such land and/or structures.

Section 605. Nonconforming Structures

Buildings or structures which were legally constructed prior to the adoption of this Ordinance, but that do not meet the provisions of the Ordinance, may continue in use. Additions or alterations to nonconforming

structures are allowed, provided that any such additions or alterations are in full compliance with the provisions herein. Any addition or alteration to the outside dimensions of a nonconforming structure must be authorized by a variance pursuant to Article XI of this Ordinance.

Section 606. Damage to Nonconforming Structures

Nonconforming structures which are damaged by fire, collapse or acts of God or public enemy may be rebuilt at their existing location without a variance if such damage reduces the value of such structures by 50% or less. Structures which are reduced in value by more than 50% must meet the provisions of this Ordinance or obtain a variance through the procedures outlined in Article XI of this Ordinance.

Section 607. Substandard Lots of Record

All lots of record in the office of the County Recorder, as of the effective date of this ordinance, that do not meet the minimum requirements specified for lot area and lot width may be allowed as building sites without variances from the lot size requirements provided that:

1. the use is permitted in the shoreland district;
2. the lot has been in separate ownership from the abutting lands at all times since it became substandard;
3. the lot was created compliant with official controls in effect at that time; and
4. the sewage treatment and setback requirements of this Ordinance are met.

A variance from setback requirements must be obtained before any use, sewage treatment system, or building permit is issued for a lot that does not net setback requirements. 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.

If, in a group of two or more contiguous lots under the same ownership, any individual lot does not meet the minimum lot width and lot area requirements specified in this Ordinance, the lot shall not be considered as a separate parcel of land for the purposes of sale or development. The lot must be combined with one or more contiguous lots so that they equal one or more parcels of land, each meeting the requirement of lot area and lot width requirements as much as possible.

Section 608. Nonconforming Sewage Treatment Systems

A sewage treatment system that does not meet the requirements specified in Article VIII of this Ordinance must be upgraded, at a minimum, at any time that a variance or permit of any type is required for any improvements on, or use of, the property. For the purposes of this provision, a sewage treatment system shall not be considered nonconforming if the only deficiency is setback of the sewage treatment system from the ordinary high-water level.

The Mahanomen County Board of Commissioners has, by formal resolution, notified the Commissioner of its program to identify nonconforming sewage treatment systems. Mahanomen County will require upgrading or replacement of any nonconforming system identified through this program within two years of identification by the Zoning and Sanitation Office. Sewage treatment systems installed according to all applicable local shoreland

management standards adopted under MS 103 in effect at the time of installation may be considered as conforming unless they are determined to be failing, except that systems using cesspools, leaching pits, seepage pits, or other deep disposal methods, or systems with less soil treatment area separation above groundwater than required by the Minnesota Pollution Control Agency's Chapter 7080 for design of on-site sewage treatment systems shall be considered nonconforming.

ARTICLE VII

ACCESSORY USES AND STRUCTURES

Section 701. Accessory Uses and Structures

Where a lot is devoted to a permitted principal use, customary accessory uses and structures are authorized except as prohibited specifically or by necessary implication in this or any other ordinance. The following special rules are applicable:

1. All accessory buildings, including carports and breezeways, attached to the principal building on a lot shall be made structurally a part thereof and shall comply in all respects with the requirements of the Ordinance applicable to the principal building.
2. All detached accessory buildings or structures shall be located on the side or rear yards. They shall comply with all setback requirements applicable to the principal building within the management district.
3. Piers and docks are allowed but shall be controlled by applicable State and local regulations.

ARTICLE VIII

SANITATION STANDARDS

Section 801. Sewage Treatment Standards

Any premises used for human occupancy must be provided with an adequate method of sewage treatment, as follows:

1. Publicly-owned sewer systems must be used where available.
2. All private sewage treatment systems must meet or exceed Minnesota Pollution Control Agency's standards for individual sewage treatment contained in the document titled "Individual Sewage Treatment System Standards, Chapter 7080", which is hereby adopted by reference and declared to be a part of this Ordinance. A copy of this document is on file in the Zoning and Sanitation Office, Mahnommen County Courthouse.
3. On-site sewage treatment systems must be set back from the ordinary high-water level in accordance with the minimum standards specified in Section 503 of this Ordinance. Additionally, systems must be set back a minimum of twenty (20) feet from any building intended for human occupancy, ten (10) feet from any lot lines, fifty (50) feet from a well or other water supply, and, where feasible, shall be placed downside from said water supply.
4. Non-conforming sewage treatment systems shall be regulated and upgraded in accordance with Section 609 of this Ordinance.
5. Sewage treatment systems shall not be permitted in shoreland areas where any of the following conditions are presents:
 - A. low, swampy areas, or areas subject to recurrent flooding: or
 - B. areas where the highest known groundwater table is within four feet from the bottom of the sewage treatment system at any time: or
 - C. areas of exposed bedrock or shallow bedrock within four feet of the bottom of a sewage treatment system or any other geological formation which prohibits percolations of the effluent.

Section 802. Sewage Treatment Permit Requirements

No person, firm or corporation shall install, alter, repair or extend any individual sewage treatment system without first obtaining a permit therefore from the Mahnommen County Zoning and Sanitation Office for the specific installation, alteration, repair or extension to be performed. If the installation, construction, or modification is performed by a licensed sewage treatment installer, said installer shall be responsible for obtaining a permit. Permits shall be valid for a period not to exceed six (6) months from the date of issuance.

1. Applications for permits shall be made in writing upon forms provided by the Zoning and Sanitation Office, and shall be signed by the applicant.
2. Each application for a sewage treatment system shall include:
 - A. a correct legal description of the property on which the proposed installation, alteration, repair or extension will occur;
 - B. a plan of the site of reasonable scale and accuracy showing: the location of any proposed and existing buildings, water supply, property lines, underground and overhead utility lines, and an arrow indication the direction of North;
 - C. a complete plan of the sewage treatment system showing the location, size and design of all parts of the system to be installed, altered, repaired or extended;
 - D. the name of the person, firm or corporation which will install the system;
 - E. any other pertinent information as requested by the Zoning and Sanitation Office.

Section 803. Revision to Approved Plan

In the event that necessity requires a modification to an approved plan, the installer shall, before commencing or resuming construction of the system, contact the Zoning Administrator and submit to the Zoning and Sanitation Office a revised plan including the proposed modification.

Section 804. Sewage Treatment System Inspection

The Zoning Administrator shall cause such inspection or inspections which are necessary to determine compliance with this Ordinance. No part of the system shall be covered until it has been inspected and approved. It shall be the responsibility of the licenses installer to notify the Zoning Administrator whether the installation, modification, or construction of the sewage treatment system is ready for inspection, and it shall be the duty of the Zoning Administrator to make inspections within three regular working days, excluding Saturday, Sunday, and all holidays, after such notice has been given. The owner or occupant of the property shall give the Zoning Administrator or his designated inspector access to the property at reasonable times for the purpose of making said inspections. Following final inspection of the system, the county shall require the installer to sign an Affidavit of Installation, stating that the sewage treatment system has been installed in compliance with MPCA regulations. If the System is backfilled before a final inspection is made, the system shall be unearthed for final inspection.

The Zoning Administrator may assign the responsibilities for the administration of these provisions to a qualified inspector.

Section 805. Water Supply Standards

All public or private supplies of water for domestic purposes must meet or exceed the standards for water quality of the Minnesota Department of Health and the Minnesota Pollution Control Agency. All wells must be located, constructed, maintained and sealed in accordance with the Well Water Construction Code of the Minnesota Department of Health.

ARTICLE IX

GENERAL SHORELAND REQUIREMENTS

Section 901. Vegetative Alterations

Removal or alteration of vegetation, except for agricultural and forest management uses as regulated by Sections 906 and 907 of this Ordinance, is allowed subject to the following standards:

1. Intensive vegetative clearing within the shore and bluff impact zones and on steep slopes it not allowed. Intensive vegetative clearing for forest land conversion to another use outside of those areas is allowed as a conditional use provided an erosion control and sedimentation plan is developed and approved by the Mahnommen Soil and Water Conservation District.
2. In shore and bluff impact zones and on steep slopes, limited clearing of trees and shrubs and cutting and 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, lifts and landings, picnic areas, access paths, livestock watering areas and beach and watercraft access areas, provided that:
 - A. the screening of structures, vehicles, or other facilities as viewed from the water, assuming summer, leaf-on conditions, is not substantially reduced;
 - B. along rivers, existing shading of water surfaces is preserved; and
 - C. the above provisions are not applicable to the removal of trees, limbs, or branches that are dead, diseased, or pose safety hazards.
3. Vegetative alterations necessary for the construction of structures and sewage treatment systems and the construction of roads and parking areas regulated by Section 903 of this Ordinance are exempt from the vegetative alteration standards prescribed in this Section.

Section 902. Topographic Alterations/Grading and Filling

1. With some specified exceptions, a Type I grading and filling permit will be required for:
 - A. the cumulative movement of less than ten (10) cubic yards of material on steep slopes or within shore or bluff impact zones; and
 - B. the cumulative movement of less than fifty (50) cubic yards of material outside of steep slopes and shore and bluff impact zones.
2. With some specified exceptions, a Type II grading and filling permit will be required for:
 - A. the cumulative movement of more than ten (10) cubic yards of materials on steep slopes or within shore or bluff impact zones; and

- B. the cumulative movement of more than fifty (50) cubic yard of material outside of steep slopes or within shore or bluff impact zones.
3. 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 prescribed in this Section must be incorporated into the issuance of permits for the construction of structures, sewage treatment systems, and driveways.
 4. Public roads and parking areas must meet the requirements prescribed in Section 903 of this Ordinance.
 5. The following consideration and conditions must be adhered to for the issuance of construction permits, grading and filling permits, conditional use permits, variances and subdivision approvals:
 - A. grading and 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, including: sediment and pollution trapping and retention; storage of surface runoff to prevent or reduce flood damage; fish and wildlife habitat; recreational use; shoreline or bank stabilization; and noteworthiness, including special qualities such as historic significance, and critical habitat for endangered plants and animals. This evaluation must also include a determination of whether the wetland alteration being proposed requires permits, reviews, or approvals by other local, state or federal agencies such as a watershed district, the Minnesota Department of Natural Resources, or the United States Army Corp of Engineers. The applicant will be so advised by the Zoning and Sanitation Office;
 - B. alterations must be conducted in a manner that ensures that only the smallest amount of bare ground is exposed for the shortest time possible;
 - C. mulches or similar materials must be used, where necessary, for temporary bare soil coverage, and a permanent vegetative cover must be established as soon as possible;
 - D. methods to minimize soil erosion and to trap sediments before they reach any surface water feature must be used;
 - E. altered areas must be stabilized to acceptable erosion control standards consistent with the field office technical guides of the Mahnomon Soil and Water Conservation District and the United States Soil Conservation Service;
 - F. fill or excavated material must not be placed in a manner that creates an unstable slope;
 - G. plans to place fill or excavated material on steep slopes must be reviewed by qualified professionals for continued slope stability and must not create finished slopes of thirty (30) percent or greater;
 - H. fill or excavated material must not be placed in bluff impact zones;
 - I. any alterations below the ordinary high-water level of public waters must first be authorized by the Commissioner of Natural Resources under Minnesota Statutes, Section 103;
 - J. alterations of topography must only be allowed if they are accessory to permitted or conditional uses and do not adversely affect adjacent or nearby properties; and

- K. placement of natural rock riprap, including associated grading of shoreline and placement of a filter blanket, is permitted if the finished slope does not exceed three feet horizontal to one foot vertical, the landward extent of the riprap is within ten feet of the ordinary high-water level, and the height of the riprap above the ordinary high-water level does not exceed three feet.
6. Excavating where the intended purpose is connection to a public water, such as boat slips, canals, lagoons, and harbors, requires a conditional use permit from the Zoning and Sanitation Office. Such conditional use permit shall only be granted after the Commissioner of Natural Resources has approved the proposed connection to public waters.

Section 903. 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 view from public waters. Documentation must be provided by a qualified individual that all roads and parking areas are designed and constructed to minimize and control erosion to public waters consistent with the technical guides of the Mahanomen Soil and Water Conservation District, or other 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 alternatives exist, they may be placed within these areas, but 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 that the vegetative screening and erosion control conditions of this Section are met. For private facilities, the grading and filling provisions prescribed in Section 902 of this Ordinance must be met, and the screening and erosion control conditions prescribed in this section must be met.

Section 904. Stormwater Management Standards

1. When possible, existing natural drainageways, wetlands and vegetated soil surfaces must be used to convey, store, filter, and retain stormwater runoff before discharge to public waters.
2. Development must be planned and conducted in a manner that will minimize the extent of disturbed areas, runoff velocities, erosion potential, and reduce and delay runoff volumes. Disturbed areas must be stabilized and protected as soon as possible and facilities or methods used to retain sediment on the site.
3. When development density, topographic features, and soil and vegetation conditions are not sufficient to adequately handle storm water runoff using natural features and vegetation, various types of constructed facilities such as diversions, settling basins, skimming devices, dikes, waterways, and ponds

may be used. Preference must be given to designs using surface drainage, vegetation, and infiltration rather than buried pipes and manmade materials and facilities.

4. 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 Mahnommen Soil and Water Conservation District.
5. Newly constructed stormwater outfalls to public waters must provide for filtering or settling of suspended solids and skimming of surface debris before discharge.
6. Impervious surface coverage of lots must not exceed 25 percent of the lot area.

Section 905. Special Provisions for Commercial, Industrial, Public and Semipublic Uses

1. Surface water-oriented commercial uses and industrial, public, or semipublic uses with similar needs to have access to and use of public waters may be located on parcels or lots with frontage on public waters. Those uses with water-oriented needs must meet the following standards:
 - A. in addition to meeting impervious coverage limits, setback and other dimensional provisions of this Ordinance, the uses must be designed to incorporate topographic and vegetative screening of parking areas and structures;
 - B. uses that require short-term watercraft mooring for patrons must centralize these facilities and design them to avoid obstructions of navigation and to be the minimum size necessary to meet the need; and
 - C. uses that depend on patrons arriving by watercraft may use signs and lighting to convey needed information to the public, subject to the following general standards:
 - (1) no advertising signs or supporting facilities for signs may be placed in or upon public waters. Signs conveying information or safety messages may be placed in or upon public waters by a public authority or under a permit issued by the Mahnommen County Sheriff;
 - (2) signs may be placed, when necessary, within the shore impact zone if they are designed and sized to be the minimum necessary to convey the location and name of the establishment and the general type of goods or services available. The signs must not contain other detailed information such as product brands and prices, must not be located higher than ten feet above the ground, and must not exceed 32 square feet in size. If illuminated by artificial lighting, such lights shall be shielded or directed to prevent illumination out across public waters; and
 - (3) other outside lighting may be located within the shore impact zone or over public waters if it is used primarily to illuminate potential safety hazards and is shielded or otherwise directed to prevent direct illumination out across public waters. This section does not preclude the use of navigational lighting.
2. Uses without water-oriented needs must be located on lots or parcels without public water frontage, or, if located on lots with public water frontage, must either be set back double the normal setback from

the ordinary high water level or be substantially screen from view from the water by vegetation or topography, assuming summer, leaf-on conditions.

Section 906. Special Provisions for Agricultural Uses

1. General cultivation farming, grazing, nurseries, horticulture, truck farming, sod farming, and wild crop harvesting are permitted uses if steep slopes and shore and bluff impact zones are maintained in permanent vegetation or operated under an approved conservation plan consistent with the field office technical guides of the Mahnommen Soil and Water Conservation District or the United States Soil Conservation Service, as provided by a qualified agency or individual. The shore impact zone for parcels with permitted agricultural land uses is equal to a line parallel to and 50 feet from the ordinary high-water level, or half of the structure setback from the ordinary high-water level within the particular management district, whichever is greater.
2. Animals feedlots must meet the following standards:
 - A. new feedlots must not be located in the shoreland of watercourses or in bluff impact zones and must meet a minimum setback of 300 feet from the ordinary high-water level of all public water basins; and
 - B. modifications or expansions to existing feedlots that are located within 300 feet of the ordinary high-water level or within a bluff impact zone are allowed if they do not further encroach into the existing ordinary high-water level setback or encroach on bluff impact zones.
3. Agricultural practices and associated uses must be conducted consistent with the provisions of Agriculture and Water Quality, “Best Management Practices for Minnesota”.

Section 907. Special Provisions for Forest Management

The harvesting of timber and associated reforestation must be conducted consistent with the provisions of the Minnesota Nonpoint Source Pollution Assessment – Forestry and the provision of Water Quality in Forest Management “Best Management Practices in Minnesota”.

Section 908. Special Provisions for Extractive Uses

1. 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 discharge, hours and duration of operation, and anticipated vegetation and topographic alterations. The plan must also identify action to be taken during operation to mitigate adverse environmental impacts, particularly erosion, and must clearly explain how the site will be rehabilitated after extractive activities end.
2. Processing machinery must be located consistent with setback standards for structures from the ordinary high-water level of public waters and from bluffs.

3. Mining of metallic minerals and peat, as defined in Minnesota Statutes, Section 93.44 to 93.51, shall be a permitted use provided the provisions of the specified Sections of Minnesota Statutes are satisfied.

ARTICLE X

SUBDIVISIONS AND PLANNED UNIT DEVELOPMENTS

Section 1001. Applicability

All plats, replats or modifications thereof shall be submitted to the Mahnomen County Board of Commissioners in the manner set forth in this Ordinance, and shall be in conformity therewith, and with such regulations as may be established by resolution of the Mahnomen County Board. Any plat hereafter made for each subdivision or each part thereof lying within the jurisdiction of this Ordinance shall be prepared, presented for approval, modified as required, and recorded as herein prescribed. The regulations contained herein; including the platting requirement, shall apply to the subdivision of a lot, tract or parcel of land into two or more lots, tracts or other division of land for the purpose of sale or of building development, with the following exception. All subdivisions that create land parcels that are five acres or more in area shall not be processed as a plat and shall be exempt from the subdivision process on the condition that the newly created land parcels satisfy size and shape requirements of Article V of the Ordinance.

Section 1002. Land Suitability

- A. Each lot created through the subdivision process, including planned unit developments authorized under the provisions of this Ordinance, must be suitable in its natural state for the proposed use with the minimal alteration. Suitability analysis by Mahnomen County will consider susceptibility to flooding, existence of wetlands, soil and rock formations with severe limitations for development, severe erosion potential, steep topography, inadequate water supply or sewage treatment capabilities, near-shore aquatic conditions unsuitable for water-based recreation, important fish and wildlife habitat, presence of significant historic sites, or any other feature of the natural land likely to be harmful to the health, safety or welfare of future residents of the proposed subdivision or of Mahnomen County.
- B. Sufficient information must be submitted by the applicant to enable Mahnomen County to make a determination of land suitability. The information shall include at least the following:
 - 1. topographic contours at five foot intervals from the United States Geological Survey (USGS) maps or more accurate sources, showing limiting site characteristics;
 - 2. the surface water features required by Minnesota Statutes, section 505.02, subdivision 1, to be shown on plats, obtained from the United States Geological Survey quadrangle topographic maps or more accurate sources;
 - 3. adequate soils information to determine suitability for building and on-site sewage capabilities for every lot from the most current existing sources or from field investigations such as soil borings, percolation tests, or other methods;
 - 4. information regarding adequacy of domestic water supply;
 - 5. extent of anticipated vegetation and topographic alterations;
 - 6. near-shore aquatic conditions including depths, types of bottom sediments, and aquatic vegetation;

7. proposed methods for controlling storm water runoff and erosion both during, and after, construction activities;
 8. location of 100-year floodplain areas and floodway districts from existing adopted maps or data; and
 9. a line or contour representing the ordinary high-water level, the toe and the top of bluffs, and the minimum building setback distances from the top of bluff, and from the public waters.
- C. The Mahanomen County Board of Commissioners shall make its decision, in writing, specifying the facts upon which the suitability determination is made. If a determination is made that the land is not suitable for development the applicant will be notified, in writing, regarding the particular facts leading to such determination. The applicant will be afforded the opportunity to appeal such determination in accordance with the procedure for appeal specified in Article XI of this Ordinance.

Section 1003. Consistency with other Controls

- A. Subdivisions, and lots created within subdivisions, must conform to all of the official controls prescribed in this Ordinance. A subdivision will not be approved where a variance from the official controls will later be needed in order to use a lot for its intended purpose. A subdivision will not be approved unless domestic water supply is available and a sewage treatment system in full compliance with Section 801 of this Ordinance can be provided for every lot. Each lot in a subdivision shall meet the minimum lot size and dimensional requirements prescribed in Article V of this Ordinance. Each lot shall also include a minimum contiguous lawn area, that is free of limiting factors, sufficient for the construction of two standard sewage treatment systems. Subdivisions which include lots that would require holding tanks shall not be approved.
- B. Subdivision of duplexes, triplexes and quads on Natural Environmental Lakes must also meet the following standards:
1. each building must be set back at least 200 feet from the ordinary high-water level;
 2. each building must have common sewage treatment and water systems in one location and serve all dwelling units in the building;
 3. watercraft docking facilities for each lot must be centralized in a location and serve all dwelling units in the building; and
 4. no more than twenty-five (25) percent of the shoreline of a lake shall be in duplex, triplex or quad developments.

Section 1004. Dedications

- A. The County Board of Commissioners may require that suitable sites within a subdivision be dedicated or reserved for future public use such as: parks, public access or open space as needed by the particular subdivision.
- B. The County Board of Commissioners may require that easements for drainage ways of width sufficient to accommodate anticipated storm water runoff be provided.

C. The County Board of Commissioners may require that easements for public utilities be provided.

Section 1005. Controlled Access on Recreational Lots

A riparian lot which is intended to be used as a private access to public waters for non-riparian lots and/or dwelling units in any existing or proposed subdivision, out lot development or planned unit development shall require a conditional use permit, and shall comply with the following provisions:

A. Access lots must meet the minimum width and size requirements for residential lots. In addition, the access lot shall have a minimum width of 200 feet at the water line, and shall extend a minimum of 400 feet back from the ordinary high-water level or to the back limits of the development. If docking, mooring, or over-water storage of watercraft is intended at a controlled access lot, then the width of the lot must be increased by the percent of the minimum lot width requirement for riparian residential lots for each watercraft provided for beyond six, consistent with the following table:

<u>Ratio of Lake Size (acres) to Shore Length (miles)</u>	<u>Required Increase in Frontage (%)</u>
Less than 100	25
100-200	20
201-300	15
301-400	10
More than 400	5

B. A minimum of twenty-five (25) foot side yard area on both sides of the private access lot shall be maintained with vegetative cover and screening abutting lots.

C. The ownership and the responsibility for the maintenance and upkeep of a private access lot shall be vested in an incorporated association of the dwelling unit owners and their successors in interest who have access privileges over and upon such lots. The non-riparian dwelling units and lots shall be subjected to restrictive conditions and covenants for the equitable proration and assessment of the cost of maintenance and upkeep of the private access lot. Covenants must be developed which specify which lot owners have authority to utilize the access lot, and activities that are allowed on such lots. Further, the covenants shall limit the total number of vehicles parked and watercraft moored, docked, beached or otherwise situated to be visible to users of the public water to a maximum on one year of each per lot served. Covenants must require centralization of all facilities and activities in the most suitable locations on the lot to minimize topographic and vegetative alterations. They must also require all buildings, parking areas and other facilities to be screened by vegetation or topography as much as practical from view the public water, assuming summer, leaf-on conditions.

D. The construction of any facility including: docks, roadways, launching facilities, playground, parking facility, or sports and game facility on any private access lot shall require the issuance of a Conditional Use Permit. The application for such permit shall be made by the corporation charged with the maintenance and upkeep

of the lot. All facilities, with the exception of docks, must meet the setback provisions specified in Article V of this Ordinance.

- E. No watercraft access lot may provide access rights for more than twenty-five (25) non-riparian lots.

Section 1006. Lot Size

- A. Newly created lots shall be of size and shape to satisfy all requirements of Article V of this Ordinance.
- B. The shape of individual lots may render parts unusable for the installation of private sewage disposal systems or to provide adequate separation distance between them and watercourses or water wells. Therefore, any portion of a lot that is less than thirty (30) feet in width shall not be used in computing the minimum lot area.

Section 1007. Public and Private Streets

- A. The design of all streets shall be considered in relation to existing and planned streets, to reasonable circulation of traffic, and to the proposed uses of the area to be served. Topographic conditions shall be considered, including the heaving capacity and erosion potential of the soil. Streets shall be designed to facilitate snowplowing and fire protection.
- B. Where adjoining areas are not subdivided, the arrangement of streets in new subdivisions shall make provisions for the proper projection of streets. When a new subdivision adjoins undivided land susceptible to being subdivided, then the new street shall be carried to the boundaries of such undivided land.
- C. When new streets are extensions of existing streets, the new streets shall be at the same or greater width than such existing streets, but in no case may a new street be less than the minimum width required by this Section.
- D. All streets, roads and easements intended for vehicular traffic, and all platted streets and roads within a subdivision shall meet the following minimum standards:
 - 1. The right-of-way shall be a minimum of sixty-six (66) feet in width, and shall have minimum of twenty-six (26) feet of road top.
 - 2. The road shall have a surface so that such road is a serviceable road.
 - 3. The slope of the road must be seeded in order to prevent erosion. Drainage and topography shall meet the requirements of the Mahnomen SWCD.
 - 4. In the case of special circumstances or proven hardship a private easement for vehicular traffic may be allowed provide:
 - a. A 66-foot right-of-way is provided.
 - b. The travelled portion of the easement is graded and is a serviceable road.
 - 5. The purchaser of any lot abutting a private street shall be notified, in writing, that it is a private street and that it is not required to be maintained by the township or by Mahnomen County.

6. If, in the event a private street is petitioned to be public, the lot owners within the development shall be responsible for the cost of constructing the road to required specifications. This requirement shall be given, in writing, to the purchaser of any lot within the subdivision, and shall be affixed to the final plat.

Section 1008. Storm Drainage

Storm drainage facilities, where required, shall be designed to permit the unimpeded flow of natural water courses, ensure the drainage of all points along the line of streets, and provide positive drainage away from on-site sewage disposal facilities. In designing storm drainage facilities, special consideration shall be given to protection against shoreland erosion and siltation of surface waters and the prevention of excess runoff onto adjacent property.

Section 1009. Water Supply Facilities

Where there is an existing public water supply system on or near the proposed subdivision, the County Board, along with the local municipality, shall determine the feasibility of service and the requirements to be followed by the subdivider in connecting to the system. Where there is no public water supply system, individual water supply systems will be permitted in accordance with Minnesota Department of Health Standards for water quality. Such water supply systems must be located in accordance with Minnesota Department of Health Standards and the requirement of this Ordinance.

Section 1010. Sanitary Sewerage

- A. In areas having a public sanitary sewer system on or near the proposed subdivision. The County Board, along with the local municipality, will determine the feasibility of service and the requirements to be followed by the subdivider in connecting to the system.
- B. In areas not served by a public sewer system, on-site sewage treatment systems will be allowed provided that all requirements of the Minnesota Pollution Control Agency "Individual Sewage Treatment System Standards", Chapter 7080, and appendices, are complied with.
- C. Sewage treatment systems shall be constructed to meet the requirements of Minnesota Department of Health, and shall meet the standards prescribed in Article V and Article VIII of this Ordinance.

Section 1011. Platting Requirements

No land platted under the jurisdiction of this Ordinance may be recorded or sold until the subdivision process described in this Article is completed. This process consists of: a preapplication meeting between the applicant and the County Board of Commissioners; the submission and review of preliminary and final plats by the County Board; submission of proposed plats to the Commissioner of Natural Resources; and the approval of the final plat by the Mahnomen County Board.

- A. Prior to the submission of a preliminary plat to the Mahnomen County Board under the provisions of this Ordinance, the subdivider shall meet with the Mahnomen County Board or its authorized representative to

introduce himself/herself as a potential subdivider, and to learn what shall be expected of him/her in such a capacity. He/she shall also present a sketch of the proposed subdivision containing: his/her proposed lots and roads; and the physical features of the property. The sketch plan shall be signed and dated by the applicant.

- B. After the preapplication meeting the subdivider shall submit five (5) copies of a preliminary plat to the Zoning Administrator along with the required fees at least thirty (30) days prior to the next regularly scheduled meeting of the County Board at which the plat is to be reviewed. The preliminary plat shall show: present property lines; natural and man-made features; the proposed location of streets, alleys, lots and existing public facilities; the name of the subdivider; the name of the proposed subdivision; contours with intervals of ten (10) feet; an arrow indication the direction north; and the appropriate scale.
- C. The Mahanomen County Board shall review the preliminary plat from the standpoint of the public health, safety and welfare. The County Board shall conduct a public hearing on the proposed plat as required by law within thirty (30) days, unless they provide for an extension.

The County Board shall provide, in writing, its approval, conditional approval or disapproval of the proposed subdivision. If the County Board approves the preliminary plat, such approval shall mean the acceptance of the design as the basis for preparation of the final plat. If said preliminary plat is disapproved, the grounds for any such disapproval shall be set forth in the minutes of the proceedings of the hearing and shall be reported to the subdivider. If disapproved, applicants may resubmit the preliminary plat after appropriate changes are made.

- D. The subdivider shall file three (3) copies of the final plat, at a minimum scale of two hundred (200) feet to the inch, with the Zoning Administrator at least ten (10) days before the next regularly scheduled meeting of the County Board. These copies shall conform substantially to the preliminary plat, as approved by the County Board.

The final plat shall include: the boundary lines of the area being subdivided with accurate distances and bearings; the date, scale, arrow indication the direction north, and the subdivision name; the lot lines of all adjoining properties and the lines of adjoining streets and alleys indication their width and their name; the boundaries of properties intended to be dedicated for public use; all dimensions given to the nearest one hundredth (1/100) of a foot for all lots, streets, alleys, and easements; the radii, arcs, chords, points of tangency and central angles for all curvilinear streets and radii for wounded curves; the location of all survey monuments and benchmarks; the certificate of the surveyor attesting to the accuracy of the survey and the correct location of all monuments and benchmarks; and certificates of approval for endorsement by the Mahanomen County Board.

The Mahanomen County Board shall check the final plat to ensure that it is in substantial agreement with the preliminary plat as approved. In the event of problems identified with the plat, the subdivider will be notified of the time and place of the County Board meeting at which (s)he will be given an opportunity to appear. The Zoning Administrator shall forward a copy of the plat to the Commissioner of Natural Resources

at least ten (10) days before a hearing is conducted by the County Board. Such hearing shall be conducted in accordance with MS 394.26.

The County Board shall act upon the final plat within sixty (60) days after receipt of the final plat. The County Board of Commissioners may either approve or disapprove the final plat. Plat approval shall be null and void if the plat is not filed with the County Recorder within thirty (30) days after the date of approval, unless an application for extension has been made to the County Board of Commissioners, and such extension is granted.

Section 1012. Planned Unit Development Review

Planned unit developments (PUD's) are allowed as conditional uses for new projects on undeveloped land, redevelopment of previously built sites, or conversions of existing buildings and land in those management districts where specifically identified in Article V. Planned unit developments shall be processed as a conditional use, except that an expansion to an existing commercial PUD involving six or fewer new dwelling units or sites since the date of enactment of this Ordinance is allowed as a permitted use provided that the total project density does not exceed the allowable densities as prescribed in this Section. Approval shall not occur until the environmental review process (EAW/EIS) has been completed.

An Applicant for a PUD shall submit the following documents prior to final action being taken on the application request:

- A. A site plan and/or plat for the project showing: the boundary of the proposed development; surface water features and other natural and man-made features; existing and proposed structures and other facilities, proposed land alterations; the location of existing and proposed sewage treatment and water supply systems; and topographic contours at a minimum of five-foot intervals. A PUD that combines commercial and residential structures shall indicate and distinguish which buildings and portions of a project are commercial, residential or a combination of the two.
- B. For residential planned unit developments a property owners association agreement with mandatory membership, all in accordance with the maintenance and administrative requirements prescribed in Section 1015 of this Ordinance.
- C. Deed restrictions, covenants, permanent easements or other instruments that:
 - 1. properly address future vegetative and topographic alteration; construction of additional buildings; beaching of watercraft; and construction of commercial buildings in residential PUD's; and,
 - 2. ensures the long-term preservation and maintain of open space in accordance with the criteria and analysis specified in the maintenance and administrative requirements of this Section.
- D. For commercial planned unit developments, and for commercial structures within residential planned unit developments; a master plan/drawing describing the proposed project and the floor plan for all commercial structures to be occupied.

- E. Any additional documents as requested by the Mahanomen County Planning Commission that are necessary to explain how the PUD will be designed and will function.

Section 1013. PUD Site Suitability Evaluation

Proposed new, or expansions to existing, planned unit developments shall be evaluated using the following procedures and standards to determine the suitable area for the dwelling unit/dwelling site evaluation described in Section 1014.

- A. The project parcel must be divided into tiers by locating one or more lines approximately parallel to a line that identifies the ordinary high-water level at the following intervals, proceeding landward:
 - 1. Recreational Development Lakes 267 ft.
 - 2. Natural Environmental Lakes 400 ft.
 - 3. Rivers and Tributaries 300 ft.
- B. The suitable area within each tier is next calculated by excluding from the tier area all wetlands, bluffs, and land below the ordinary high-water level of public waters. This suitable area and the proposed development are then subjected to either the residential or commercial planned unit development density evaluation steps to arrive at an allowable number of dwelling units or sites within each tier.

Section 1014. Residential and Commercial PUD Density Evaluation

The procedures for determining the allowable density of residential and commercial planned unit developments are as follows. Allowable densities may be transferred from a tier to any other tier farther from the public water, but shall not be transferred to any tier closer to the public water.

- A. To determine the allowable density for Residential Planned Unit Developments:
 - 1. the suitable area within each tier is divided by the single residential lot size standard for the applicable management district.
 - 2. Proposed location and numbers of dwelling units or sites for the residential planned unit developments are then compared with the tier, density, and suitability analysis herein and the maintenance and design criteria prescribed in Section 1015.
- B. To determine the allowable density for Commercial Planned Unit Developments:
 - 1. the average inside living area size of dwelling units or sites is computed. Computation of inside living area need not include decks, patios, stoops, steps, garages, porches or basements unless such areas are habitable space;
 - 2. the appropriate floor area ratio is then selected from the following table based upon the average unit floor area for the appropriate public water classification;

COMMERCIAL PLANNED UNIT DEVELOPMENT*
Floor Area Ratio by Public Waters Classification

Average Unit Floor Area (sq. ft.)	<u>Tributaries</u>	RD Lakes, Forested/Transition <u>River Segments</u>	NE Lakes, <u>Remote River Segments</u>
200 or less	.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 or more	.150	.075	.038

** For recreational camping areas, use the ratios listed for the average floor area of 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, shall use the ratio listed for the average floor area of 1,000 square feet.*

3. the suitable area within each tier is multiplied by the floor area ratio to yield the total floor area in each tier allowed to be used for dwelling units or sites;
4. the total floor area for each tier is divided by the average living area size to yield the number of dwelling units or sites allowed for each tier;
5. proposed locations and numbers of dwelling units or sites for the commercial planned unit developments are then compared with the tier, density and suitability analysis herein and the maintenance and design criteria prescribed in Section 1015.

Section 1015. PUD Maintenance and Design Criteria

- A. Before final approval of a planned unit development may be granted, adequate provisions must be developed for the preservation and maintenance of open spaces in perpetuity, and for the continued existence and functioning of the development.
- B. Deed restrictions, covenants, permanent easements, public dedication and acceptance, or other equally effective and permanent means shall be provided to ensure long-term preservation and maintenance of open space. The instruments must include all of the following protections:
 1. commercial uses shall be prohibited in residential planned unit developments;

2. vegetative and topographic alterations, except for routine maintenance, shall be prohibited;
 3. construction of additional buildings or the storage of vehicles and/or other materials is prohibited;
 4. uncontrolled beaching of watercraft shall be prohibited.
- C. All residential planned unit developments must have a property owners association with the following features:
1. memberships shall be mandatory for each dwelling unit or site owner;
 2. each member must pay a pro-rata share of the expenses of the association, and unpaid assessments may become liens on units or sites;
 3. assessments must be adjustable to accommodate changing conditions; and
 4. the association shall be responsible for insurance, taxes, and maintenance of all commonly owned property and facilities.
- D. All planned unit developments must contain open space meeting all of the following criteria:
1. at least 50 percent of the total project areas must be preserved as open space;
 2. dwelling units or sites, road rights-of-way, land covered by road surfaces, parking areas, and structures are developed areas and shall not be included in the computation of open space;
 3. open space must include those 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 may include subsurface sewage treatment systems provided the use of the space is restricted to avoid adverse impacts on such systems;
 6. open space must not include commercial facilities or use;
 7. 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 quality effective and permanent means; and
 8. the shore impact zone, based upon normal structure setbacks, must be included as open space. For residential planned unit developments, at least 50 percent of the shore impact zone of existing developments and at least 70 percent of the shore impact zone area of new developments, at least 50 percent of the shore impact zone must be preserved in its natural state.
- E. Erosion control and stormwater management plans must be developed and the PUD must:
1. 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, vegetative buffer strips, or other appropriate techniques must be used to minimize erosion impacts on surface water features. Erosion control plans approved by the Mahnomen Soil and Water Conservation District may be required if warranted by project size and/or the physical characteristic of the site;

2. be designed and constructed to effectively manage reasonable expected quantities of stormwater runoff. Impervious surface coverage within any tier must not exceed 25 percent of the tier area, except that for commercial planned unit developments 35 percent impervious surface coverage may be allowed in the first-tier general development lakes with an approved stormwater management plan consistent with Section 904 of this Ordinance.

F. Centralization and design of facilities and structures be done according to the following standards:

1. 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 Articles V and VIII of this Ordinance. On-site sewage treatment systems must be located on the most suitable 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;
2. dwelling units or sites must be cleared 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 applicable shoreland classification: setback from the ordinary high-water level; elevation above the surface water features; and maximum height;
3. shore recreation facilities, including but not limited to swimming areas, docks and watercraft mooring areas and launching ramps must be centralized and located in suitable areas. 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;
4. 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, assuming summer, leaf-on conditions. Vegetative and topographic screening must be preserved, if existing, or may be required to be provided;
5. accessory structures and facilities must meet the required principal structure setback, and must be centralized.

Section 1016. Conversions to PUD's

Conversions of resorts or other land uses and/or facilities may be converted to residential planned unit developments provided all of the following standards are met:

- A. Proposed conversions must be initially evaluated using the same procedures as for the residential planned unit developments involving all new construction. Inconsistencies between existing features of the development and the PUD standards shall be identified.

- B. Deficiencies involving water supply and sewage treatment, impervious surface 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:
 - 1. removal of extraneous buildings, docks, or other facilities that no longer need to be located in shore or bluff impact zones;
 - 2. remedial measures to correct erosion sites and improve the vegetative cover and screening of buildings and other facilities as viewed from the water; and
 - 3. if existing dwelling units are located in shore or bluff impact zones, conditions that preclude exterior expansions in any dimension or substantial alteration are attached to approvals of all conversions. 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.

- D. Existing dwelling unit or dwelling site densities that exceed standards prescribed in Section 1014 of this Ordinance may be allowed to continue but shall not be increased, either at the time of conversion or in the future. Efforts must be made during any such 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.

ARTICLE XI
ADMINISTRATION

Section 1101. Zoning Administrator

The position of Zoning Administrator is hereby established within the Office of Zoning and Sanitation. The Zoning Administrator shall be appointed by the County Board of Commissioners and shall serve at its pleasure. The Zoning Administrator shall receive such compensation as the County Board may, from time to time, determine. The Zoning Administrator shall:

- A. Act as Inspector for the County;
- B. Inspect all construction and development to ensure that the standards of this Ordinance are complied with;
- C. Enforce and administer the provisions of this Ordinance;
- D. Issue permits for permitted uses and/or activities which comply with the provisions of this Ordinance;
- E. Receive applications for conditional use permits and forward, along with recommendations, to the County Board;
- F. Receive applications for variance request and forward, along with recommendations, to the Board of Adjustment;
- G. Receive applications for zoning amendments and forward, along with recommendations, to the County Board;
- H. Maintain all records relating to the application for and deliberations relating to the issuance or denial of permits;
- I. Develop and maintain a public information bureau relating to shoreland management;
- J. Maintain the County Shoreland Management Map as described in Article II.

Section 1102. Board of Adjustment

There is hereby established a Board of Adjustment vested with the authority as is hereinafter provided, and as provided in Minnesota Statutes Chapter 394. The Board of Adjustment shall consist of three (3) members, and one alternate, appointed by the County Board. At least one member from the Board of Adjustment shall be a resident of and unincorporated area of the County. No member of the Board of Adjustment may be an elected county official nor an employee of Mahnomon County.

- A. The Board of Adjustment shall elect a Chairperson and a Vice Chairperson from among its members. It shall adopt rules or bylaws, for the transaction of its business and shall keep a permanent public record of its proceedings. Findings and determination. The Board of Adjustment shall cause all such records of its proceedings, findings and determinations to be filed in the Office of Zoning and Sanitation, Mahanomen County Courthouse.
- B. The meeting of the Board of Adjustments shall be held as specified in the rules or bylaws, and at other such times as the Chairperson of the Board shall seem necessary and appropriate.
- C. The Board of Adjustment shall have the exclusive power concerning the following:
 - 1. to grant variances from the strict enforcement of the standards and provisions prescribed by this Ordinance. Variances shall only be granted based upon the criterion prescribed in Section 1105 of this Ordinance;
 - 2. to hear and decide any appeal from an order, requirement, decision, or determination made by the Zoning Administrator;
 - 3. to interpret any management district boundary on the Official Shoreland Management Map;
 - 4. all decisions by the Board of Adjustment in granting variances, or in hearing any appeals from administrative order, requirement, decision or determination shall be final except that any aggrieved person, department, agency, Board of Commission shall have the right to appeal to the District Court within thirty (30) days after receipt of the notice of the decision made by the Board of Adjustment.

Section 1103. Permits

All contractors, subcontractors, builders or other person having charge of the erection, alteration, moving, change or remodeling of the exterior of any building or structure that will change the outside dimensions of such building shall apply for a building permit from the Mahanomen County Zoning Administrator before beginning or undertaking such work. After the appropriate fee has been paid, and if the proposed work does not conflict with any portion of the Mahanomen County Shoreland Management Ordinance, the permit shall be granted. If the permit is not granted, the reasons for such denial will be provided, in writing, to the applicant.

All building permit applications shall be examined and process within thirty (30) days of receipt of such application unless the time limit for such processing is extended by the County Board of Commissioners.

- A. Application for a building permit shall be made to the Zoning Administrator on blank forms to be provided by the County. Each application for a permit to construct, alter, move or change as building shall be accompanied by a plan, drawn to scale, showing: the dimension of the lot to be built upon; and the size and location of the buildings and accessory building. Applications for building permits shall contain other such information as may be deemed necessary for the proper enforcement of this Ordinance.
- B. Permits for the installation of water supply and sewage disposal systems, for excavations intended for the connection to a public water, and for the erection of signs in shoreland areas must also be obtained from the Zoning Administrator before such installation or erection has begun.

C. All building, sanitary, excavation and related permits shall expire six months from the date of approval.

Section 1104. Conditional Use Permits

Any use listed as a Conditional Use in this Ordinance shall be permitted only upon application to the Zoning Administrator, and approval and issuance of a Conditional Use Permit by the Mahnomon County Board of Commissioners. The applicant for a Conditional Use Permit shall fill out and submit to the Zoning Administrator an Application for Conditional Use Permit. When such permit is submitted the appropriate fee shall be paid in order for the application to receive consideration by the County Board.

A. In considering the granting of any Conditional Use Permit the County Board of Commissioners shall evaluate the effect of the proposed use upon:

1. the maintenance of the public health, safety and welfare;
2. the prevention and control of water pollution, including sedimentation and nutrient loading;
3. existing topography and drainage features and vegetative cover on the site;
4. the location of the site with respect to floodplains and floodways of rivers or tributaries;
5. the erosion potential of the site based upon the degree and direction of slope, soil type and existing vegetative cover;
6. the location of the site with respect to existing and proposed access roads;
7. its compatibility with adjacent land uses;
8. the need for the proposed use for a shoreland location;
9. the amount of liquid waste to be generated and the adequacy of the proposed sewage disposal system;
10. the visibility of structures and other facilities as viewed from public waters;
11. the adequacy of the site for water supply and on-site sewage treatment systems;
12. the types, uses and numbers of watercraft that the project will generate in relation to the suitability of public waters to safely accommodate these watercraft.

B. Upon consideration of the factors listed above, the County Board may attach such conditions, in addition to those required elsewhere in this Ordinance, that it deems necessary for the furtherance of the purposes set forth in this Ordinance. Such conditions attached to Conditional Use Permits may include, but shall not be limited to:

1. type and extent of shore cover;
2. increased yards and setbacks;
3. specified sewage treatment and water supply facilities;
4. landscaping and vegetative screening;
5. periods and/or hours of operation;
6. operational control sureties;
7. deed restrictions;
8. location of piers, docks, parking, and signs;
9. type of constructions;

10. any other reasonable requirements necessary to fulfill the purpose and intent of this Ordinance.
- C. In order to secure information upon which to base the County Board decision, the applicant may be required to furnish, in addition to the information required for the building or other permit, the following:
1. a plan of the proposed project area showing contours, soil types, ordinary high-water level, ground water conditions, bedrock, slope, and vegetative cover;
 2. location of existing and proposed buildings, parking areas, traffic access, driveways, walkways, piers, open spaces and vegetative cover;
 3. plans of buildings, sewage treatment facilities, water supply systems, and arrangements of operations;
 4. specifications for areas of proposed grading, filling, lagooning, dredging, or other topographic alterations;
 5. other pertinent information necessary to determine if the proposal meets the requirements and intent of this Ordinance.
- D. The County Board, in evaluating each conditional use application may request the Mahanomen Soil and Water Conservation District to make available expert assistance to assist in the evaluation and consideration of such applications.

Section 1105. Variances and Appeals

- A. Where there is unnecessary hardship in carrying out the provisions of this Ordinance, an appeal may be made, and a variance may be granted by the Mahanomen County Board of Adjustment. Such variance request may be granted provided that:
1. the condition causing the demonstrated hardship is unique to the property and was not caused by the actions of the applicant(s);
 2. the variance is necessary in order to secure for the applicant those rights enjoyed by other property owners in the same area or district;
 3. the granting of the variance will not be contrary to the public interest or damaging to the rights of other persons or to the property values in the vicinity;
 4. the granting of the variance will not be contrary to management policies of the area or management district;
 5. the property owner or owners would have no reasonable use of the land without the variance;
 6. the existing sewage treatment system, if applicable, is upgraded to current standards before any additional development is approved;
 7. no variance shall be granted on economic considerations without demonstrated hardship;
 8. visibility of structures and facilities, as viewed from public waters, must be limited;
 9. no variance shall be granted simply because there are no objections; or because those who do not object outnumber those who do, nor for any reason other than a proven hardship.

- B. An applicant desiring a variance shall fill out and submit to the Mahnommen County Zoning Administrator an Application for Consideration of Variance Request form, copies of which are available from the Zoning Administrator. The appropriate fee shall be paid in order for the application to receive consideration by the Board of Adjustment.
- C. The Zoning Administrator shall make a recommendation, in writing, to the Board of Adjustment who shall make the final decisions after conducting a public hearing in accordance with M.S. 394.26 and the provisions of this Ordinance.
- D. An appeal of any administrative decision made in the enforcement of this Ordinance shall be made by filling out and submitting to the Zoning Administrator an Application for Appeal, which is available from the Zoning Administrator. Such appeal shall be heard by the Board of Adjustment within sixty (60) days of the date that such application is submitted to the Zoning Administrator.

Section 1106. Amendments

The procedure for amendments to this Ordinance shall be as follows:

- A. An amendment may be initiated by a property owner or the County Board of Commissioners. Property owners wishing to initiate an amendment shall fill out an Application for Amendment form, available from the Zoning Administrator. Such application shall be filled out and submitted to the Zoning Administrator together with the appropriate fee;
- B. The applicant shall appear before the County Board to answer any questions that Commission members may have concerning the amendment request;
- C. A public hearing on the amendment request shall be conducted by the County Board within sixty (60) days following such initial meeting. The public hearing shall be conducted in accordance with M.S. 394.26;
- D. The County Board shall make its decision based upon the information presented at the public hearing.

Section 1107. Public Notice and Hearing Requirement

- A. In addition to the procedures described in preceding sections of this Ordinance, all Conditional Use Permit requests, variance requests, requests for amendments, the final plat approval shall be review at a public hearing conducted at least ten (10) days following official public notification including publication in the Official newspaper of Mahnommen County and notification of all property owners within the following distances of the affected property when such notice applicable: In the case or variance, 500 feet; In the case of conditional uses, one-quarter mile or the ten nearest properties, whichever provides notice to the most property owners; In the case of amendments to the official controls which affect specific properties, and final plat review, one-half mile.

- B. The Commissioner of Natural Resources must also receive at least ten (10) days notification of hearings to be conducted concerning applications for conditional use permits, variances, amendments to final plat approvals. Notice of hearings to consider subdivisions must include copies of the proposed final plat.
- C. The Commissioner must also receive a copy of approved conditional use permits, variance, zoning amendments and final plats postmarked within ten (10) days of final action.

Section 1108. Enforcement and Penalties

- A. In the event of violation or threatened violation of this Ordinance, the County Board of Commissioners, in addition to other remedies, may institute appropriate actions or proceedings to prevent, restrain, correct or abate such violations or threatened violations, and it shall be the duty of the Mahanomen County Attorney to institute such action.
- B. Any person, firm or corporation who shall violate any of the provisions herein, or who shall fail to comply with any of the provisions herein, or who shall make any false statement in any document required to be submitted under such provisions, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by such penalties and fines provided by law.

Section 1109. Fees

In order to defray the administrative costs associated with the processing of applications for building and related permits, conditional use permits, variance requests, amendments and subdivision plat approval, a schedule of fees has been adopted by the Mahanomen County Board of Commissioners. The schedule of fees shall be posted in the Office of Zoning and Sanitation, and may be altered or amended only by resolution of the County Board of Commissioners.

SEWAGE AND WASTEWATER TREATMENT ORDINANCE

An Ordinance authorizing and providing for sewage and wastewater treatment: establishing minimum standards for and regulation or individual sewage treatment systems (ISTS) within the incorporated and unincorporated areas of the County of Mahnomen except incorporated area which has itself adopted standards that comply with Minn. Stat. 115.55 and are at least as strict as this Ordinance; incorporating by reference minimum standards and requirements established by Minnesota Statutes and rules of the Minnesota Pollution Control Agency; requiring permits for installation, alteration, repair or extension of ISTS in the County; establishing standards for upgrade, repair, replacement, or discontinuance of use of ISTS; imposing penalties for failure to comply with these provisions; providing for enforcement of these requirements; and promoting the health, safety and welfare of the public pursuant to Minnesota Statutes Chapters 114, 145A, 375, 394, and 471 specifically SS 115.55, 145A.05, 375.51, 394.21 through 394.37, and 471.82; and in furtherance of county policy stated in the County Shoreland Management Ordinance.

The County Board of Mahnomen County, Minnesota does ordain:

SUBDIVISION 1. PURPOSE AND INTENT

The purpose of the Sewage Treatment Ordinance shall be to provide minimum standards for and regulation of individual sewage treatment systems (ISTS) and septage disposal including the proper location, design, construction, operation, maintenance and repair to protect surface water and ground water from contamination by human sewage and waterborne household and commercial waste; to protect the public's health and safety, and eliminate or prevent the development of public nuisances pursuant to the authority granted under Minnesota Statutes Chapters 115 and 145A and Minnesota Rules Chapter 7080 as amended that may pertain to sewage and wastewater treatment.

SUBDIVISION 2. GENERAL PROVISIONS

- 2.10 STANDARDS ADOPTED BY REFERENCE.** The County hereby adopts, by this reference, Minnesota Rules Parts 7080.0010 to 7080.0315 (and 7080.0910) as now constituted and from time to time amended.
- 2.20 LICENSE REQUIREMENTS.** No person shall engage in the evaluation, inspection, design, installation, construction, alteration, extension, repair, maintenance or pumping of onsite individual sewage treatment systems without first obtaining a license to perform such tasks from the Minnesota Pollution Control Agency, except as provided under part 7080.0700, subpart 1.
- 2.30 COMPLYING SEPTIC SYSTEMS.** A certificate of compliance shall be issued, and copies provided to the property owner and to the County within thirty (30) days of completion of inspection of complying construction or review of complying existing system.
- 2.40 FAILING SEPTIC SYSTEMS.** A Notice of Noncompliance shall be issued, and copies provided to the property owner and to the County within 30 days under the following conditions;
- A.** A failing ISTS shall be upgraded, replaced or its use discontinued within two (2) years
 - B.** An ISTS posing an imminent threat to public health or safety shall be upgraded, replaced, or repaired, or its use discontinued, within an appropriate time no greater than 10 months.

SUBDIVISION 3. INSPECTION REQUIREMENTS

3.10 COMPLIANCE INSPECTION REQUIREMENTS FOR NEW CONSTRUCTION. All new ISTS construction and replacement must be inspected for compliance. Inspections for construction, replacement, alteration, or repair of ISTS shall be conducted by a State licensed inspector who is independent of the owner and installer.

3.20 COMPLIANCE INSPECTION REQUIREMENTS FOR EXISTING SYSTEMS. Only a State licensed inspector who is independent of the owner and the installer shall conduct an inspection when a compliance inspection is required for an existing ISTS.

3.30 MANATORY COMPLIANCE INSPECTIONS OF EXISTING SYSTEMS. An ISTS shall require a compliance inspection upon the request of the Zoning Administrator. The Zoning Administrator can request such an inspection when the Administrator has reasonable suspicion that there may be a system failure or other problems in the system that would require a compliance inspection.

3.40 FINANCIAL RESPONSIBILITY FOR COMPLIANCE INSPECTION. All costs incurred for a compliance inspection shall be the responsibility of the landowner.

SUBDIVISION 4. ADMINISTRATION

4.10 BOARD OF ADJUSTMENT. The Board of Adjustment shall consist of three (3) members, and on alternate, appointed by the County Board. At least one member from the Board of Adjustment shall be a resident of an unincorporated area of the County. No member of the Board of Adjustment may be an elected county official nor an employee of Mahnomon County.

- A.** The Board of Adjustment shall elect a Chairperson and a Vice Chairperson from among its members. It shall adopt rules or bylaws, for the transaction of its business and shall keep a permanent public record of its proceedings, findings and determinations. The Board of Adjustment shall cause all such records of it proceedings, findings and determinations to be filed in the office of Zoning and Sanitation, Mahnomon County.
- B.** The meeting of the Board of Adjustments shall be held as specified in the rules or bylaws, and at other such times as the Zoning Administrator shall deem necessary and appropriate.
- C.** The Board of Adjustment shall have the exclusive power concerning the following:
 - 1.** to grant variances from the strict enforcement of the standards and provisions prescribed by this Ordinance;
 - 2.** to hear and decide any appeal from an order, requirement, decision, or determination made by the Zoning Administrator;
 - 3.** all decisions by the Board of Adjustment in granting variances, or in hearing any appeals from administrative order, requirement, decision or determination shall be final except that any aggrieved person, department, agency, Board or Commission shall have the right to appeal to the District Court within thirty (30) days after receipt of the notice of the decision made by the Board of Adjustment.

4.20 PERMITS. No person shall install, alter, repair or extend an individual sewage treatment system in the County without first applying for and obtaining a permit from the Zoning and Sanitation Office. If the installation, construction, or modification is performed by a licensed sewage treatment installer, said installer shall be responsible for obtaining a permit. Such permit shall be valid for a period of six (6) months from the date of issuance.

- A. The County shall require the installer to sign an Affidavit of Installation, stating that the sewage treatment system has been installed in compliance with Minnesota Pollution Control Agency regulations.

4.30 VARIANCES AND APPEALS. Where there is unnecessary hardship in carrying out the provisions of this Ordinance, an appeal may be made, and a variance may be granted by the Mahnomens County Board of Adjustment.

- A. Such variance request may be granted provided that:
 - 1. the condition causing the demonstrated hardship is unique to the property and was not caused by the actions of the applicant (s);
 - 2. the variance is necessary in order to secure for the applicant those rights enjoyed by other property owners in the same area or district;
 - 3. the granting of the variance will not be contrary to the public interest or damaging to the rights of other persons or to the property values in the vicinity;
 - 4. The granting of the variance will not be contrary to management policies of the area management district;
 - 5. the property owner or owners would have no reasonable use of the land without the variance;
 - 6. no variance shall be granted on economic consideration without demonstrated hardship;
 - 7. no variance shall be granted simply because there are no objections; or because those who do not object outnumber those who do, not for any reason other than a proven hardship.
- B. An applicant desiring a variance shall fill out and submit to the Mahnomens County Zoning Administrator an Application for Consideration of Variance Request form, copies of which are available from the Zoning Administrator. The appropriate fee shall be paid for the application to receive consideration by the Board of Adjustment.
- C. The Zoning Administrator shall make a recommendation to the Board of Adjustment who shall make the final decision after conducting a public hearing in accordance with M.S 394.26.
- D. An appeal of any administrative decision made in the enforcement of this Ordinance shall be made by filling out and submitting to the Zoning Administrator an Application for Appeal, which is available from the Zoning Administrator. Such appeal shall be heard by the Board of Adjustment within sixty (60) days of the date that such application is submitted to the Zoning Administrator.

SUBDIVISION 5. ENFORCEMENT

5.10 PENALTIES. Any person who violates any of the provisions of this Ordinance or who makes any false statement on a Certificate of Compliance, shall be guilty of a misdemeanor, punishable by imprisonment or a fine or both as defined by law.

- A. In the event of a violation of this Ordinance, in addition to other remedies, the County Attorney may institute appropriate actions or proceedings to prevent, restrain, correct or abate such violations.

5.20 FEES. In order to defray the administrative costs associated with the enforcement of this Ordinance, a schedule of fees has been adopted by the Mahanomen County Board of Commissioners. The schedule of fees may be altered or amended only by resolution of the County Board of Commissioners.

SCHEDULE OF FEES

Septic Permit	\$30.00
Variance Permit (Does Not Include Recording Fee)	\$300.00