

Big Stone County

Shoreland Management Ordinance

Adopted June 15, 2004

**BIG STONE COUNTY
SHORELAND MANAGEMENT ORDINANCE, 2004**

ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS June 15, 2004

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BIG STONE COUNTY SHORELAND MANAGEMENT ORDINANCE, 2004

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1. STATUTORY AUTHORIZATION AND POLICY

1.1. STATUTORY AUTHORIZATION

This Shoreland Ordinance is adopted pursuant to the authorization and policies contained in Minnesota Statutes, Chapter 103.F. and Minnesota zoning enabling legislation in Minnesota Statutes, Chapter 394.

- 1.2. The uncontrolled use of shorelands of Big Stone County, Minnesota, affects the public health safety and general welfare, not only by contributing to pollution of public waters, but also by impairing the local tax base. Therefore, it is in the best interests of the public health, safety and welfare to provide for the wise subdivision, use and development of shorelands of public waters. The Legislature of Minnesota has delegated responsibility to local governments of the state to regulate the subdivision, use and development of the shoreland of public waters, conserve the economic and natural environmental values of shorelands, and provide for the wise use of waters and related land resources. This responsibility is hereby recognized by Big Stone County, Minnesota.

It is the policy of Big Stone County to gain voluntary compliance with appropriate regulations via providing information and technical assistance to the public. Enforcement will be as stated in Section 2.5., Enforcement, and Section 3.9., Violations, of this Ordinance only when other means for compliance have failed.

2. GENERAL PROVISIONS AND DEFINITIONS

2.1. TITLE

This Ordinance shall be known and cited as the “Big Stone County Shoreland Management Ordinance”; when referred to herein, it shall be known as the “Ordinance”.

2.2. JURISDICTION

2.2.1. Jurisdiction of this Ordinance shall apply to all areas of Big Stone County, outside the incorporated limits of any municipalities. The County may from time to time venture into a joint powers agreement or joint zoning board as permitted by statute, or relinquish its zoning jurisdiction, but only to the extent as permitted by Minnesota state law, as ultimately determined pursuant to the provisions and action taken by the Planning Commission and the Board of County Commissioners.

2.2.2. The provisions of this Ordinance shall apply to the shorelands of the public water bodies as classified in Section 4.0 of this Ordinance. Pursuant to Minnesota Regulations, Parts 6120.2500 – 6120.3900, no lake, pond, or flowage less than 25 acres in size in unincorporated areas need be regulated in a local government’s shoreland regulations. A body of water created by a private use where there was no previous shoreland may, at the discretion of the governing body, be exempt from this Ordinance.

2.3. EFFECTIVE DATE

From and after the effective date of this Ordinance, the use of all shoreland, including individual on-site sewage treatment systems, and every building erected, altered in respect to height and area, added to or relocated, and every use within a building or use accessory thereto in Big Stone County, shall be in conformity with the provisions of this Ordinance.

2.4. 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 or shoreland vegetation; and the subdivision of land shall be in full compliance with the terms of this Ordinance and other applicable regulations.

2.5. ENFORCEMENT

2.5.1 The Environmental Officer is responsible for the administration and enforcement of this Ordinance. Violations of this Ordinance can occur regardless of whether or not a permit is required for a regulated activity pursuant to Section 3.9. of this Ordinance.

2.5.2 In the event of a violation or a threatened violation of this ordinance, Big Stone County, in addition to other remedies, may institute appropriate actions or proceedings to prevent, restrain, or abate such violations or threatened violations. The Environmental Officer may and is empowered to issue cease and desist orders to halt the progress of any on-going violation. When the work has been stopped by the Environmental Officer for any valid reason, it shall not be resumed until the reasons for the work stoppage have been completely satisfied and the cease and desist order lifted.

2.5.3 Any taxpayer of Big Stone County or person with standing, may institute mandamus proceedings in the District Court to compel specific performance by the proper official or officials of any duty required by this ordinance.

2.5.4 Any person, firm or corporation (whether landowner or landowner's authorized agent) who violates, disobeys, omits, neglect or refuses to comply with, or who resists the enforcement of any other provisions of the ordinance shall be guilty of a misdemeanor, punishable by \$1000.00 and/or 90 days imprisonment or both. Each day that a violation is permitted to exist shall constitute a separate offense. The County Attorney shall have the authority to prosecute any and all violations of this Ordinance.

2.5.5 Any application for a permit which is made after the work is commenced and which requires a permit shall be charged five (5) times the permit fee or five (5) percent of the project cost, whichever is greater. The Planning Commission and/or Board of Adjustment may require correction and/or restoration of the property to its original state before the permit is considered.

2.6. INTERPRETATION

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

2.7. SEVERABILITY AND REPEAL OF CONFLICTING ORDINANCE

2.7.1. Severability

If any section, clause, provision, or portion of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby.

2.7.2. Repeal of Conflicting Ordinance

The Big Stone County Shoreland Management Ordinance passed March 23, 1993, all amendments thereof and supplemental thereto, are hereby repealed.

2.8. ABROGATION AND GREATER RESTRICTIONS

It is not intended by this Ordinance to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Ordinance imposes greater restrictions, the provisions of this Ordinance shall prevail. All other ordinances inconsistent with this Ordinance are hereby repealed to the extent of the inconsistency only.

2.9. DEFINITIONS

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 this Ordinance its most reasonable application. For the purpose of this Ordinance, the words “must” and “shall” are mandatory and not permissive. All distances, unless otherwise specified, shall be measured horizontally.

2.9.1 **Accessory structure or facility** - any building or improvement subordinate to a principal use, which, because of the nature of its use, can reasonably be located at or greater than normal structure setbacks.

2.9.2 **Big Stone County** – a political subdivision of the State of Minnesota who address is 20 Southeast Second Street, Ortonville, Minnesota 56278.

2.9.3. **Bluff** - a topographic feature such as a hill, cliff, or embankment having the following characteristics (an area with an average slope of less than 18 percent over a distance for 50 feet or more shall not be considered part of the bluff):

2.9.3.1. Part or all of the feature is located in a shoreland area;

2.9.3.2. The slope rises at least 25 feet above the ordinary high water level of the waterbody.

2.9.3.3. 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; and

2.9.3.4. The slope must drain toward the waterbody.

2.9.4. **Bluff impact zone** - a bluff and land located within 20 feet from the top of a bluff.

2.9.5. **Board of Adjustment** - the established Board of Adjustment appointed by the Board of County Commissioners.

2.9.6. **Boathouse** - a structure designed and used solely for the storage of boats or boating equipment.

2.9.7. **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.

2.9.8. **Commercial planned unit developments** - are typically uses that provide transient, short-term lodging spaces, rooms, or parcels and their operations are essentially service oriented. For example, hotel/motel accommodations,

resorts, recreational vehicle and camping parks, and other primarily service-oriented activities are commercial planned unit developments.

- 2.9.10. **Commissioner** – means the Commissioner of the Department of Natural Resources (DNR).
- 2.9.11. **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 find that certain conditions as detailed in the zoning ordinance exist, the use or development conforms to the comprehensive land use plan of the county, and the use is compatible with the existing neighborhood.
- 2.9.12. **County Board** - the Board of County Commissioners of Big Stone County, Minnesota.
- 2.9.13. **Deck** - a horizontal, unenclosed platform with or without attached railings, seats, trellises, or other features, attached or functionally related to the principal use or site.
- 2.9.14. **Duplex, triplex, and quad** - a dwelling structure on a single lot, having two, three, and four units, respectively, being attached by common walls and each unit equipped with separate sleeping, cooking, eating, living, and sanitation facilities.
- 2.9.15. **Dwelling site** - a designated location for residential use by one or more persons using temporary or movable shelter, including camping and recreational vehicle sites.
- 2.9.16. **Dwelling unit** - any structure or portion of a structure, or other shelter designed as short- or long-term living quarters for one or more persons, including rental or timeshare accommodations such as motel, hotel, and resort rooms and cabins.
- 2.9.17. **Environmental Officer** - the Planning and Zoning Administrator for Big Stone County.
- 2.9.18. **Extractive use** - the use of land for surface or subsurface removal of sand, gravel, rock, industrial minerals, other nonmetallic minerals, and peat not regulated under Minnesota Statutes, Sections 93.44 to 93.51.
- 2.9.19. **Flowage** - a waterbody which is in the act of flowing or overflowing.
- 2.9.20. **Forest land conversion** - the clear cutting of forested lands to prepare for a new land use other than the reestablishment of subsequent forest stand.
- 2.9.21. **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.
- 2.9.22. **Hardship** - the same as that term as defined in Minnesota Statutes, Chapter 394. Hardship as used in connection with the granting of a variance means the property in question cannot be put to a reasonable use if used under the conditions allowed by this Ordinance; the plight of the landowner is due to circumstances unique to the property not created by the landowner; and the variance, if granted will not alter the essential character of the locality.
- 2.9.23. **Height of building** - the vertical distance between the highest adjoining ground level at the building or 10 feet above the lowest ground level, whichever is lower, and the highest point of a flat roof or average height of the highest gable of a pitched or hipped roof.

- 2.9.24. **Industrial use** - the use of land or buildings for the production, manufacture, warehousing, storage, or transfer of goods, products, commodities, or other wholesale items.
- 2.9.25. **Intensive vegetation clearing** - the complete removal of trees or shrubs in contiguous patch, strip, row or block.
- 2.9.26. **Line fence** – any fence or shrubbery line placed or planted along property lines or within the required setback lines that presents the appearance of a continuous structure not to exceed 4 feet in height.
- A line fence exceeding the structure setback shall be constructed of material such as chainlink or split rail so as not to restrict view or air movement.
 - A line fence shall maintain a 20 foot setback to the Ordinary High Water Level unless associated with a water accessory structure within the required setback distance.
 - A line fence shall not be placed on a property line also serving as a right-of-way line.
 - Line fences shall be accomplished on the property where the fence landscape originates including branches and leaves on shrubbery except by written permission by the adjacent landowner.
 - Failure to maintain lines fences or prune shrubbery to an aesthetically acceptable level is a violation of this Ordinance. (Examples: leaning, rotting, peeling, overgrown, etc.)
- 2.9.27. **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.
- 2.9.28. **Lot of Record** – a lot which is part of a subdivision the plat of which has been recorded in the office of the County Recorder of Big Stone County, or a lot described by metes and bounds, the deed of which has been recorded in the office of the County Recorder of Big Stone County. No new metes and bounds descriptions will be accepted by Big Stone County.
- 2.9.29. **Lot Width** – the shortest distance between lot lines measured at the midpoint of the building line.
- 2.9.30. **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.
- 2.9.31. **Nonriparian** – a lot that is not contiguous with the ordinary high water mark of a body of water.
- 2.9.32. **Ordinary high water level** – the boundary of public waters and wetlands, and shall be an elevation delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape, commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial. For watercourses, the ordinary high water level is the elevation of the top of the bank of the channel.

For reservoirs and flowages, the ordinary high water level is the operating elevation of the normal summer pool.

- 2.9.33. **Planned unit development** – a type of development characterized by a unified site design for a number of dwelling units or dwelling sites on a parcel, whether for sale, rent, or lease, and also usually involving clustering of three 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, cooperatives, full fee ownership, commercial enterprises, or any combination of these, or cluster subdivisions of dwelling units, residential condominiums, townhouses, apartment buildings, campgrounds, recreational vehicle parks, resorts, hotels, motels, and conversions of structures and land uses to these uses.
- 2.9.34. **Planning and Zoning Administrator** – the Environmental Officer for Big Stone County.
- 2.9.35. **Planning Commission** – the established Big Stone County Planning Commission appointed by the Board of County Commissioners.
- 2.9.36. **Privacy fences** – any fence, shrubbery line or tree planting that presents the appearance of a continuous structure and exceeds 4 feet in height. Privacy fences require a land use permit and must maintain the required setbacks to property lines and structure setbacks to the Ordinary High Water Level.
- 2.9.37. **Public Waters** – any waters as defined in Minnesota Statutes, Section 103G.005 (15).
- 2.9.38. **Residential 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, residential apartments, manufactured home parks, time-share condominiums, townhouses, cooperatives, and full fee ownership residences would be considered as residential planned unit developments. To qualify as a residential planned unit development, a development must contain at least five dwelling units or sites.
- 2.9.39. **Riparian** – a lot that is contiguous with the ordinary high water mark of a body of water.
- 2.9.40. **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.
- 2.9.41. **Sensitive resource management** – the preservation and management of areas unsuitable for development in their natural state due to constraints such as shallow soils, steep slopes, susceptibility to flooding, or occurrence of flora or fauna in need of special protection.
- 2.9.42. **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.
- 2.9.43. **Sewage treatment system** – a septic tank and soil absorption system or other individual or cluster type sewage treatment system as described and regulated in Section 5.7.2. of this Ordinance.
- 2.9.44. **Sewer system** – pipelines on conduits, pumping stations, and force main, and all other construction, devices, appliances, or appurtenances used for conducting sewage or industrial waste or other wastes to a point of ultimate treatment.

- 2.9.45. **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.
- 2.9.46. **Shoreland** – land located within the following distances from public waters; 1000 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 when approved by the Commissioner.
- 2.9.47. **Significant historic site** – any archaeological site, standing structure, or other property that meets the criteria for eligibility to the National Register of Historic Places or is listed in the State Register of Historic Sites, or is determined to be an unplatted cemetery that falls under the provisions of Minnesota Statutes, Section 307.08. A historic site meets these criteria if it is presently listed on either register or if it is determined to meet the qualifications for listing after review by the Minnesota state archaeologist or the director of the Minnesota Historical Society. All unplatted cemeteries are automatically considered to be significant historic sites.
- 2.9.48. **Steep slope** – land where agricultural activity or development is either not recommended or described as poorly suited due to slope steepness and the site’s soil characteristics, as mapped and described in available county soil surveys or other technical reports, unless appropriate design and construction techniques and farming practices are used in accordance with the provisions of this Ordinance. Where specific information is not available, steep slopes are lands having average slopes over 12 percent, as measured over horizontal distances of 50 feet or more, that are not bluffs.
- 2.9.49. **Structure** - any building or appurtenance, including decks, patios, and privacy fences. Exceptions are aerial or underground utility lines, such as sewer, electric, telephone, telegraph, gas lines, towers, poles, and other supporting facilities.
- 2.9.50. **Subdivision** – land that is divided for the purpose of sale, rent, or lease, including planned unit developments.
- 2.9.51. **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.
- 2.9.52. **Toe of the bluff** – the lower point of a 50-foot segment with an average slope exceeding 18 percent.
- 2.9.53. **Top of the bluff** – the higher point of a 50-foot segment with an average slope exceeding 18 percent.
- 2.9.54. **Variance** – any modification or variation of official controls where it is determined that, by reason of exceptional circumstances, the strict enforcement of the official controls would cause unnecessary hardship, Minnesota Statutes, Chapter 394.22, Subd. 10.
- 2.9.55. **Water-oriented accessory structure or facility** – a small, above ground building or other improvement, except stairways, fences, docks, and retaining walls, which, because of the relationship of its use to a surface water feature, reasonably needs to be located closer to public waters than the normal

structure setback. Examples of such structures and facilities include boathouses, gazebos, screen houses, fish houses, pump houses, and detached decks.

2.9.56. **Wetland** – a surface water feature classified as a wetland in the United States Fish and Wildlife Service Circular No. 39 (1971 edition).

3. ADMINISTRATION

3.1. PERMITS REQUIRED

3.1.1. A permit is required for the construction of buildings or building additions and including such related activities as construction of decks, concrete patios or pads exceeding four feet in width and signs, the installation and/or alteration of sewage treatment systems, vegetation alterations in shore impact zones and on steep slopes, and those grading and filling activities not exempted by Section 5.3.2.1. of this Ordinance. Application for a permit shall be made to the Environmental Officer on the forms provided. The application shall include the necessary information so that the Environmental Officer can determine the site's suitability for the intended use and that a compliant sewage treatment system will be provided.

3.1.2. A permit authorizing an addition to an existing structure shall stipulate that an identified nonconforming sewage treatment system, as defined by Section 6.3., shall be reconstructed or replaced in accordance with the provisions of this Ordinance. (NOTE: Section 6.3.1. states that "a sewage treatment system not meeting the requirements of Section 5.7.2. of this Ordinance must be upgraded, at a minimum, at any time a land transfer occurs or when a permit or variance of any type is required for any improvement on, or use of, the property." For the purposes of this provision, a sewage treatment system shall not be considered nonconforming if the only deficiency is the sewage treatment system's improper setback from the ordinary high water level. (Note: Refer to Definitions – 2.9.44. Sewage system data form.))

3.2. PROCEDURE FOR APPLICATION

3.2.1. Application for said permit shall be made to the Environmental Officer on a form to be provided by Big Stone County.

3.2.2. Each application shall indicate the use to be made of the structure, location and dimensions of the property and the nature of the proposed construction, alteration or repair.

3.3. FEES

3.3.1. A fee shall be paid to the Environmental Officer before any application is processed and said fee shall be transferred to the County Auditor for deposit to the account of the County Revenue Fund.

3.3.2. The amount of the fee shall be determined by the County Board by resolution.

3.4. ISSUANCE OF PERMIT

3.4.1. Upon determining that the proposed construction, alteration or repair conforms to all provisions of this Ordinance and other applicable codes and ordinances, the Environmental Officer shall issue said permit.

- 3.4.2. No permit shall be required for interior alterations or remodeling of structures provided that the building use is not changed. A change in outside dimensions including height, requires a permit.
- 3.4.3. One (1) copy of the said permit and application shall be returned to the applicant and the other shall be retained permanently as part of the records of the Environmental Officer.

3.5. CERTIFICATE OF ZONING COMPLIANCE

The Environmental Officer shall issue a certificate of zoning compliance for each activity requiring a permit as specified in Section 3.1. of this Ordinance. This certificate will specify that the use of land conforms to the requirements of this Ordinance. Any use, arrangement, or construction at variance with that authorized by permit shall be deemed a violation of this Ordinance and shall be punishable as provided in Section 2.5 of this Ordinance.

3.6. AMENDMENT

The provisions of the Big Stone County Land and Related Resources Ordinance, 1998, Section 9 dealing with Amendment of that Ordinance are incorporated herein and shall be the procedure used for any amendment of this Ordinance. Amendment procedures are as specified in the Big Stone County Land and Related Resources Ordinance, 1998, Section 9.

3.7. CONDITIONAL USES

The provisions of the Big Stone County Land and Related Resources Ordinance, 1998, Section 11, dealing with Conditional Uses, are incorporated herein and shall be the procedures used for any Conditional Use under this Ordinance. Conditional uses allowable within shoreland areas shall be subject to the review and approval procedures, and criteria and conditions for review of conditional uses established county-wide.

3.7.1. Purpose

Recognizing that certain uses may or may not be compatible with the principal permitted uses in the various zoning districts, depending on the particular case, the authority to permit such uses is vested in the Big Stone County Board of Commissioners according to the procedures in this Section.

3.7.2. Procedure for Application

3.7.2.1. An application for a conditional use permit shall be filed with the Environmental Officer on a form prescribed by the County Board.

3.7.2.2. The application shall be accompanied by a map showing lands proposed to be changed and all lands within ¼ mile of the property.

3.7.2.3. The application shall be forwarded to the Planning Commission and shall be accompanied by such additional information as prescribed by the Planning Commission.

3.7.3. Fees

3.7.3.1 A fee shall be paid to the Environmental Officer before an application is processed and said fee shall be transferred to the County Auditor for deposit to the account of the County Revenue Fund.

- 3.7.3.2 The amount of the fee shall be determined by the County Board by resolution.
- 3.7.4. Notice and Hearing
 - 3.7.4.1. The Planning Commission shall hold at least 1 public hearing in a location to be prescribed by the Planning Commission.
 - 3.7.4.2. Notice of the time and place of such hearing shall be published in the official newspaper of Big Stone County at least 10 days in advance of each hearing.
 - 3.7.4.3. Written notice shall be given to the township in which the conditional use is proposed to be located and to any municipality within 2 miles.
 - 3.7.4.4. All property owners with one quarter (1/4) mile of the affected property or the nearest 10 property owners of the affected property, whichever is the most property owners, shall be notified by U.S. mail as to the time and place of the public hearing.
 - 3.7.4.5. Report of the Planning Commission to the County Board: The Environmental Officer, on behalf of the Planning Commission, shall report to the County Board its findings and recommendations, including the stipulation of additional conditions and guarantees that such conditions will be compiled with when they are deemed necessary for the protection of the public interest.
- 3.7.5. Conditional Use Review Criteria

No Conditional use shall be recommended by the Planning Commission unless said Planning Commission shall find:

 - 3.7.5.1. That the use is one of the conditional uses specifically listed for the district in which it is to be located;
 - 3.7.5.2. That the conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish nor impair property values within the immediate vicinity;
 - 3.7.5.3. That the establishment of the conditional use will not impede the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area;
 - 3.7.5.4. That adequate utilities, access roads, drainage and other necessary facilities have been or are being improved;
 - 3.7.5.5. That adequate measures have been or will be taken to provide sufficient off –street parking and loading space to serve the proposed use; and
 - 3.7.5.6. That adequate measures have been or will be taken to prevent or control offensive odor, fumes, dust, noise or vibration, so that none of these will constitute a nuisance, and to control lighted signs and other lights in such a manner that no disturbance to neighboring properties will result.
- 3.7.6. Shoreland Specific Evaluation Criteria

Additional evaluation criteria and conditions apply within shoreland areas. A thorough evaluation of the waterbody and the topographic, vegetation, and soils conditions on the site must be made to ensure:

- 3.7.6.1. The prevention of soil erosion or other possible pollution of public waters, both during and after construction;
 - 3.7.6.2. The visibility of structures and other facilities as viewed from public waters is limited;
 - 3.7.6.3. The site is adequate for water supply and on-site sewage treatment; and
 - 3.7.6.4. The types, uses, and numbers of watercraft that the project will generate are compatible in relation to the suitability of public waters to safely accommodate these watercraft.
- 3.7.7. Conditions Attached to Conditional Use Permits
 The Planning Commission, upon consideration of the criteria listed above and the purposes of this Ordinance, shall attach such conditions to the issuance of the conditional use permits as it deems necessary to fulfill the purposes of this Ordinance. Such conditions may include, but are not limited to, the following:
- 3.7.7.1. Increased setbacks from the ordinary high water level;
 - 3.7.7.2. Limitations on the natural vegetation to be removed or the requirement that additional vegetation be planted; and
 - 3.7.7.3. Special provisions for the location, design, and use of structures, sewage treatment systems, watercraft launching and docking areas, and vehicle parking areas.

3.8. VARIANCES

- 3.8.1. The provisions of the Big Stone County Land and Related Resources Ordinance, 1998, Section 12, dealing with variances, are incorporated herein and shall be the procedures used for any variance under this Ordinance.
- 3.8.2. Variances may only be granted in accordance with Minnesota Statutes, Chapter 394, as applicable. A variance may not circumvent the general purposes and intent of this Ordinance. No variance may be granted that would allow any use that is prohibited in the zoning district in which the subject property is located. Conditions may be imposed in the granting of a variance to ensure compliance and to protect adjacent properties and the public interest. In considering a variance request, the Board of Adjustment must also consider whether the property owner has reasonable use of the land without the variance, whether the property is used seasonally or year-round, whether the variance is being requested solely on the basis of economic considerations, and the characteristics of development on adjacent properties.
- 3.8.3. The Board of Adjustment shall hear and decide requests for variances in accordance with the rules that it adopted for the conduct of business. When a variance is approved after the Department of Natural Resources has formally recommended denial in the hearing record, the notification of the approved variance required in Section 3.10.2. below shall also include the Board of Adjustment's summary of the public record/testimony and the findings of facts and conclusions which supported the issuance of the variance.
- 3.8.4. For existing developments, the application for variance must clearly demonstrate whether a conforming sewage treatment system is present for the intended use of the property. The variance, if issued, must require reconstruction of a nonconforming sewage treatment system.

3.9. VIOLATIONS

- 3.9.1. Any person, firm or corporation who violates any of the provisions of this Ordinance, or who fails to comply with any of the provisions of this Ordinance, shall be guilty of a misdemeanor.
- 3.9.2. Each day that a violation continues shall constitute a separate offense.
- 3.9.3. In the event of a violation or a threatened violation of the Ordinance, the Environmental Officer or the Board of County Commissioners or any member thereof, 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 County Attorney to pursue legal action.
- 3.9.4. Any taxpayer or taxpayers of Big Stone County may institute mandamus proceedings in District Court to compel specific performance by the proper official or officials of any duty required by this Ordinance.

3.10. NOTIFICATION TO THE DEPARTMENT OF NATURAL RESOURCES

- 3.10.1. Copies of all notices of any public hearings to consider variances, amendments, or conditional uses under local shoreland management controls must be sent to the Commissioner or the Commissioner's designated representative and postmarked at least ten days before the hearings. Notices of hearings to consider proposed subdivisions/plats must include copies of the subdivision/plat.
- 3.10.2. A copy of approved amendments and subdivisions/plats, and final decisions granting variances or conditional uses under local shoreland management controls must be sent to the Commissioner or the Commissioner's designated representative and postmarked within ten day of final action.

4. SHORELAND CLASSIFICATION SYSTEM AND LAND USE DISTRICTS

4.1. SHORELAND CLASSIFICATION SYSTEM

The public waters of Big Stone County have been classified below consistent with the criteria found in Minnesota Regulations, Part 6120.3300, and the Protected Waters Inventory Map for Big Stone County, Minnesota. Said map is hereby made a part of this Ordinance and shall be know as the "County Protected Waters Map". Said Map, consisting of sheets and all notations, references and data shown thereon are herby incorporated by reference into this Ordinance and shall be as much a part of it as if all were fully described herein. It shall be the responsibility of the Environmental Officer to maintain said maps, and amendments thereto shall be recorded on said County Protected Waters Map within thirty (30) days after the official adoption of the amendments. The Official Protected Waters Map shall be kept on file in the office of the Big Stone County Environmental Officer.

- 4.1.1. The shoreland area for the waterbodies listed in Section 4.1.2. and 4.1.3. shall be as defined in Section 2.9.46. and as shown on the Official Zoning Map.

4.1.2. Lakes – Protected Waters

4.1.2.1 Natural Environment Lakes

Rec. NO.	REG NO.	CO. NO.	MUNIC NAME	MUNI CODE	BDRY	LAKE NAME	LAKE NO.	LAKE CLASS
1052	4	6		0		Marsh	6001	NE
1053	4	6		0		Artichoke	6002	NE
1054	4	6		0		Unnamed	6003	NE
1055	4	6		0		Unnamed	6004	NE
1056	4	6		0		Unnamed	6005	NE
	4	6		0		Unnamed	6006	NE
	4	6		0		Unnamed	6009	NE
1057	4	6		0		Unnamed	6011	NE
1058	4	6		0		Unnamed	6013	NE
1059	4	6		0		Unnamed	6014	NE
1060	4	6		0		Unnamed	6017	NE
1061	4	6		0		Unnamed	6019	NE
1062	4	6		0		Long	6020	NE
1063	4	6		0		Unnamed	6021	NE
1064	4	6		0		Unnamed	6024	NE
1065	4	6		0		Unnamed	6027	NE
1066	4	6		0		Peterson	6028	NE
1067	4	6		0		Long Tom	6029	NE
1068	4	6		0		Horeshoe	6032	NE
1069	4	6		0		Unnamed	6035	NE
1070	4	6		0		Unnamed	6038	NE
1071	4	6		0		Unnamed	6040	NE
1072	4	6		0		Unnamed	6041	NE
1073	4	6		0		Unnamed	6042	NE
1074	4	6		0		Unnamed	6044	NE
1075	4	6		0		Unnamed	6046	NE
1076	4	6		0		Unnamed	6047	NE
1077	4	6		0		Unnamed	6048	NE
1078	4	6		0		Unnamed	6049	NE
1079	4	6		0		Otre	6050	NE
1080	4	6		0		Unnamed	6051	NE
1081	4	6		0		Unnamed	6052	NE
1082	4	6		0		Unnamed	6053	NE
1083	4	6		0		Larson Slough	6054	NE
1084	4	6		0		Unnamed	6055	NE
1085	4	6		0		Unnamed	6058	NE
1086	4	6		0		Unnamed	6059	NE
	4	6		0		Unnamed	6065	NE
1087	4	6		0		Olson	6069	NE
1088	4	6		0		Unnamed	6070	NE
1089	4	6		0		Unnamed	6071	NE
1090	4	6		0		Unnamed	6072	NE
1091	4	6		0		Dismal Swamp	6073	NE

1092	4	6		0		Unnamed	6075	NE
1093	4	6		0		Unnamed	6076	NE
1094	4	6		0		Unnamed	6078	NE
1095	4	6		0		Unnamed	6080	NE
1096	4	6		0		Unnamed	6081	NE
1097	4	6		0		Karl Slough	6089	NE
1098	4	6		0		Bentsten	6090	NE
1099	4	6		0		Olson	6101	NE
1100	4	6		0		Thielke	6102	NE
1101	4	6		0		Swenson	6103	NE
1102	4	6		0		Moulton	6104	NE
1103	4	6		0		Unnamed	6106	NE
1104	4	6		0		Unnamed	6107	NE
1105	4	6		0		Twin	6109	NE
1106	4	6		0		Unnamed	6114	NE
1107	4	6		0		Bassett	6115	NE
1108	4	6		0		Lysing	6116	NE
1109	4	6		0		Sweetwater	6117	NE
1110	4	6		0		Cup	6120	NE
1111	4	6		0		Unnamed	6121	NE
1112	4	6		0		Unnamed	6122	NE
1113	4	6		0		Unnamed	6124	NE
1114	4	6		0		Unnamed	6128	NE
1115	4	6		0		Eli	6129	NE
1116	4	6		0		Unnamed	6130	NE
1117	4	6		0		Unnamed	6132	NE
1118	4	6		0		Unnamed	6133	NE
1119	4	6		0		South Rockwell	6135	NE
1120	4	6		0		West Toqua	6137	NE
1122	4	6		0		Lannon	6139	NE
1123	4	6		0		Unnamed	6140	NE
1124	4	6		0		Unnamed	6143	NE
1125	4	6		0		Lone Tree Slough	6144	NE
1126	4	6		0		Humpty Dumpty	6145	NE
1127	4	6		0		North Rockwell	6147	NE
1128	4	6		0		Leo	6148	NE
1129	4	6		0		Unnamed	6149	NE
1130	4	6		0		Smithwicks	6151	NE
1132	4	6		0		Unnamed	6154	NE
1133	4	6		0		Unnamed	6155	NE
1134	4	6		0		Unnamed	6157	NE
1135	4	6		0		Unnamed	6159	NE
1136	4	6		0		Unnamed	6160	NE
1137	4	6		0		Unnamed	6162	NE
1138	4	6		0		Unnamed	6163	NE
1139	4	6		0		Smithwicks Slough	6165	NE
1140	4	6		0		Unnamed	6168	NE

1141	4	6		0		Barry	6170	NE
1142	4	6		0		Unnamed	6174	NE
1143	4	6		0		Unnamed	6175	NE
1144	4	6		0		Unnamed	6176	NE
1145	4	6		0		Unnamed	6178	NE
1146	4	6		0		Unnamed	6179	NE
1147	4	6		0		Fogarty	6183	NE
1148	4	6		0		Unnamed	6184	NE
1149	4	6		0		Unnamed	6185	NE
1150	4	6		0		Unnamed	6186	NE
1151	4	6		0		Unnamed	6187	NE
1152	4	6		0		Unnamed	6188	NE
1153	4	6		0		Unnamed	6191	NE
1154	4	6		0		Unnamed	6193	NE
1155	4	6		0		Unnamed	6194	NE
1156	4	6		0		Unnamed (B)	78026	NE
1157	4	6	Beardsley	6999		Unnamed	6195	NE

4.1.2.2. General Development Lakes

REC NO.	REG NO.	CO NO.	MUNIC NAME	MUNI CODE	BDRY	LAKE NAME	LAKE NO.	LAKE CLASS
1159	4	6	Graceville	6049		East Toqua	6138	GD
1160	4	6	Ortonville	6999	B	Big Stone	6152	GD

4.1.3. Rivers and Streams

4.1.3.1. Transition Rivers

CLASS	RIVER	FROM	TO
T	Minnesota	West section line, Sec. 26, T121N, R46W	East section line in Sec.29, T121N, R45W
T	Minnesota	West section line, Sec. 11, T120N, R45W	Inlet of Marsh Lake in Sec. 21, T120N, R44W
TR	All other non-classified watercourses as shown on County protected waters inventory map and list.		

4.1.3.2. Agricultural Rivers

CLASS	RIVER	FROM	TO
A	Little Minnesota	Border of Traverse and Big Stone Counties	Inlet of Big Stone Lake in Sec. 15, T124N, R49W

CLASS	RIVER	FROM	TO
A	Minnesota	Outlet of Big Stone Lake in Sec. 9, T121N, R46W	Eastern section line, Sec. 27, T121N, R46W
A	Minnesota	West section line, Sec. 30, T121N, R45W	East section line, Sec. 10, T120N, R45W

4.2. LAND USE DISTRICT DESCRIPTIONS

4.2.1. Criteria For Designation

The land use districts in Section 4.2.2., and the delineation of a land use district's boundaries on the Official Zoning Map, must be consistent with the goals, policies, and objectives of the comprehensive land use plan and the following criteria, considerations, and objectives:

4.2.1.1. General Considerations and Criteria for All Land Uses:

- 4.2.1.1.1. Preservation of natural areas
- 4.2.1.1.2. Present ownership and development of shoreland areas;
- 4.2.1.1.3. Shoreland soil types and their engineering capabilities;
- 4.2.1.1.4. Topographic characteristics;
- 4.2.1.1.5. Vegetative cover;
- 4.2.1.1.6. In-water physical characteristics, values, and constraints;
- 4.2.1.1.7. Recreational use of the surface water;
- 4.2.1.1.8. Road and service center accessibility;
- 4.2.1.1.9. Socioeconomic development needs and plans as they involve water and related land resources;
- 4.2.1.1.10. The land requirements of industry which, by its nature, requires location in shoreland areas; and
- 4.2.1.1.11. The necessity to preserve and restore certain areas having significant historical or ecological value.

4.2.1.2. Factors and Criteria for Planned Unit Developments:

- 4.2.1.2.1. Existing recreational use of the surface waters and likely increases in use associated with planned unit developments;
- 4.2.1.2.2. Physical and aesthetic impacts of increased density;
- 4.2.1.2.3. Suitability of lands for the planned unit development approach;
- 4.2.1.2.4. Level of current development in the area; and
- 4.2.1.2.5. Amounts and types of ownership of undeveloped lands.

4.2.2. Land Use District Descriptions

The land use districts provided below, and the allowable land uses therein for the given classifications of waterbodies, shall be properly delineated on the Official Zoning Map for the shorelands of this community. These land use districts are in conformance with the criteria specified in Minnesota Regulation, Part 6120.3200, Subp. 3.

4.2.2.1.	Land Use Districts for Lakes		
	General Development Lakes.....	GDL	
	Natural Environment Lakes	NEL	
	Permitted.....	P	
	Conditional Use Permit Required	C	
	Non-permitted	N	

4.2.2.1.1.	Special Protection District Uses	<u>GDL</u>	<u>NEL</u>
4.2.2.1.1.1.	Forest management	P	P
4.2.2.1.1.2.	Sensitive resource mgmt	P	P
4.2.2.1.1.3.	Agricultural:cropland	P	P
	pasture	P	P
4.2.2.1.1.4.	Agricultural feedlots	C	C
4.2.2.1.1.5.	Parks & historic sites	C	C
4.2.2.1.1.6.	Extractive use	C	C
4.2.2.1.1.7.	Single residential	C	C
4.2.2.1.1.8.	Mining of metallic minerals and peat	P	P
4.2.2.1.2.	Residential District Uses	<u>GDL</u>	<u>NEL</u>
4.2.2.1.2.1	Single Residential	P	P
4.2.2.1.2.2.	Semipublic	C	P
4.2.2.1.2.3.	Parks & historic sites	C	C
4.2.2.1.2.4.	Extractive use	C	C
4.2.2.1.2.5.	Duplex, triplex, quad residential	P	C
4.2.2.1.2.6.	Forest management	P	P
4.2.2.1.2.7.	Mining of metallic minerals and peat	P	P
4.2.2.1.3.	High Density Residential District Uses	<u>GDL</u>	<u>NEL</u>
4.2.2.1.3.1.	Residential planned Unit development	C	C
4.2.2.1.3.2.	Single residential	P	P
4.2.2.1.3.3.	Surface water-oriented commercial	C	C
4.2.2.1.3.4.	Semipublic	C	C
4.2.2.1.3.5.	Parks & historic sites	C	C
4.2.2.1.3.6.	Duplex, triplex, quad residential	P	P
4.2.2.1.3.7.	Forest management	P	P
4.2.2.1.4.	Water-Oriented Commercial District Uses	<u>GDL</u>	<u>NEL</u>
4.2.2.1.4.1.	Surface water oriented Commercial	P	C
4.2.2.1.4.2.	Commercial planned unit development	C	C
4.2.2.1.4.3.	Public, semipublic	C	C
4.2.2.1.4.4.	Parks & historic sites	C	C

4.2.2.1.4.5.	Forest management	P	P
4.2.2.1.5.	General Use District Uses	<u>GDL</u>	<u>NEL</u>
4.2.2.1.5.1.	Commercial	P	C
4.2.2.1.5.2.	Commercial planned unit development	C	C
4.2.2.1.5.3.	Industrial	C	N
4.2.2.1.5.4.	Public, semipublic	P	P
4.2.2.1.5.5.	Extractive use	C	C
4.2.2.1.5.6.	Parks & historic sites	C	C
4.2.2.1.5.7.	Forest management	P	P
4.2.2.1.5.8.	Mining of metallic minerals and peat	P	P
4.2.2.2.	Land Use Districts for Rivers and Streams		
	Transition	T	
	Agricultural	A	
	Permitted	P	
	Conditional Use Permit Required	C	
	Non-Permitted	N	
4.2.2.2.1.	Special Protection District Uses	<u>T</u>	<u>A</u>
4.2.2.2.1.1	Forest management	P	P
4.2.2.2.1.2.	Sensitive resource mgmt.	P	P
4.2.2.2.1.3.	Agricultural: cropland	C	C
	pasture	C	C
4.2.2.2.1.4.	Agricultural feedlots	C	C
4.2.2.2.1.5.	Parks & historic sites	C	C
4.2.2.2.1.6.	Extractive use	C	C
4.2.2.2.1.7.	Single residential	C	C
4.2.2.2.1.8.	Mining of metallic minerals and peat	P	P
4.2.2.2.2.	Residential District Uses	<u>T</u>	<u>A</u>
4.2.2.2.2.1.	Single residential	P	P
4.2.2.2.2.2.	Semipublic	C	C
4.2.2.2.2.3.	Parks & historic sites	C	C
4.2.2.2.2.4.	Extractive uses	C	C
4.2.2.2.2.5.	Duplex, triplex, quad residential	C	C
4.2.2.2.2.6.	Forest management	P	P
4.2.2.2.2.7.	Mining of metallic minerals and peat	P	P
4.2.2.2.3	High Density Residential Uses	<u>T</u>	<u>A</u>
4.2.2.2.3.1.	Residential planned unit developments	C	C
4.2.2.2.3.2.	Single residential	P	P

4.2.2.2.3.3.	Surface water-oriented commercial	C	C
4.2.2.2.3.4.	Semipublic	C	C
4.2.2.2.3.5.	Parks & historic sites	C	C
4.2.2.2.3.6.	Duplex, triplex, quad residential	P	P
4.2.2.2.3.7.	Forest management	P	P
4.2.2.2.4.	Water-Oriented Commercial Uses	<u>T</u>	<u>A</u>
4.2.2.2.4.1.	Surface water-oriented	C	C
4.2.2.2.4.2.	Commercial planned unit development	C	C
4.2.2.2.4.3.	Public, semipublic	C	P
4.2.2.2.4.4.	Parks & historic sites	C	C
4.2.2.2.4.5.	Forest management	P	P
4.2.2.2.5.	General Use District Uses	<u>T</u>	<u>A</u>
4.2.2.2.5.1.	Commercial	C	C
4.2.2.2.5.2.	Commercial planned unit development	C	C
4.2.2.2.5.3.	Industrial	N	N
4.2.2.2.5.4.	Public, semipublic	C	C
4.2.2.2.5.5.	Extractive use	C	C
4.2.2.2.5.6.	Parks & historic sites	C	C
4.2.2.2.5.7.	Forest management	P	P
4.2.2.2.5.8.	Mining of metallic minerals and peat	P	P

4.2.3. Use and Upgrading of Inconsistent Land Use Districts

4.2.3.1. The land use districts adopted in the Big Stone County Land and Related Resources Ordinance as they apply to shoreland areas, and their delineated boundaries on the Official Zoning Map, are not consistent with the land use district designation criteria specified in Section 4.2.2. herein. These inconsistent land use district designations may continue until revisions are proposed to change either the land use district designation within an existing land use district boundary shown on the Official Zoning Map or to modify the boundary of an existing land use district shown on the Official Zoning Map.

4.2.3.2. When a revision is proposed to an inconsistent land use district provision, the following additional criteria and procedures shall apply:

4.2.3.2.1. For Lakes

When a revision to a land use district designation on a lake is considered, the land use district boundaries and use provisions therein for all the shoreland areas within the jurisdiction of this Ordinance on said lake must be revised to make them

substantially compatible with the framework in Sections 4.2.1. and 4.2.2. of this Ordinance.

4.2.3.2.2. For Rivers and Streams

When a revision to a land use district designation on a river or stream is proposed, the land use district boundaries and the use provisions therein for all shoreland on both sides of the river or stream within the same classification within the jurisdiction of this Ordinance, must be revised to make them substantially compatible with the framework in Sections 4.2.1. and 4.2.2. of this Ordinance. If the same river classification is contiguous for more than a five-mile segment, only the shoreland for a distance of 2.5 miles upstream and downstream, or to the class boundary if closer, need be evaluated and revised.

4.2.3.2.3. When an interpretation question arises about whether a specific land use fits within a given “use” category, the interpretation shall be made by the Board of Adjustment. When a question arises as to whether a land use district’s boundaries are properly delineated on the Official Zoning Map, this decision shall be made by the Planning Commission.

4.2.3.2.4. When a revision is proposed to an inconsistent land use district provision by an individual party or landowner, this individual party or landowner will only be responsible to provide the supporting and/or substantiating information for the specific parcel in question. The Planning Commission will direct the Environmental Officer to provide such additional information for this waterbody as is necessary to satisfy Sections 4.2.3.1. and 4.2.3.2.

4.2.3.2.5. The Planning Commission must make a detailed finding of fact and conclusion when taking final action that this revision, and the upgrading of any inconsistent land use district designations on said waterbody, are consistent with the enumerated criteria and use provisions of Section 4.2.

4.2.4 If an area has not been officially designated as a specific district, the uses which are permitted in the area will be those that are designated as permitted uses in a residential district. All other uses will be considered conditional uses except no industrial uses shall be allowed either as a permitted use or a conditional use.

5. ZONING AND WATER SUPPLY/SANITARY PROVISIONS

5.1. LOT AREA AND WIDTH STANDARDS

The usable (non-wetland and out of bluff areas) lot area (in square feet) and lot width standards (in feet) for single, duplex, triplex and quad residential lots created after the

date of enactment of this Ordinance for the lake and river/stream classifications are the following:

5.1.1. Unsewered Lakes

5.1.1.1. Natural Environment

	Riparian Lots		Nonriparian Lots	
	Area	Width	Area	Width
Single	80,000	200	80,000	200
Duplex	120,000	300	160,000	400
Triplex	160,000	400	240,000	600
Quad	200,000	500	320,000	800

5.1.1.2. General Development

	Riparian Lots		Nonriparian Lots	
	Area	Width	Area	Width
Single	30,000	100	60,000	150
Duplex	50,000	180	100,000	265
Triplex	70,000	260	140,000	375
Quad	90,000	340	180,000	490

5.1.2. Sewered Lakes (Public or Centrally Managed On-Site System)

5.1.2.1. Natural Environment

	Riparian Lots		Nonriparian Lots	
	Area	Width	Area	Width
Single	40,000	150	35,000	125
Duplex	70,000	250	65,000	225
Triplex	100,000	350	95,000	325
Quad	130,000	450	125,000	425

5.1.2.2. General Development

	Riparian Lots		Nonriparian Lots	
	Area	Width	Area	Width
Single	20,000	100	15,000	100
Duplex	40,000	200	35,000	200
Triplex	60,000	300	55,000	300
Quad	80,000	400	75,000	400

5.1.3. River/Stream Lot Width Standards

There are no minimum lot size requirements for rivers and streams. The lot width standards for single, duplex, triplex and quad residential developments for the six river/stream classifications are:

	<u>Transitional</u>	<u>Agricultural</u>	<u>Tributary</u>	
			<u>No Sewer</u>	<u>Sewer</u>
Single	250	150	100	75
Duplex	375	225	150	115
Triplex	500	300	200	150
Quad	625	375	250	190

5.1.4. Additional Special Provisions

5.1.4.1. Residential subdivisions with dwelling unit densities exceeding those in the tables in Section 5.1.2. and 5.1.3. can only be allowed if designed and approved as residential planned unit developments under Section 8.0. of this Ordinance. Only land above the ordinary high water level of public waters can be used to meet lot standards, and lot width standards must be met at both the ordinary high water level and at the building line. The sewer lot area dimensions in Section 5.1.2. can only be used if publicly owned sewer system service is available to the property.

5.1.4.2. Subdivisions of duplexes, triplexes, and quads on Natural Environment Lakes must also meet the following standards:

- 5.1.4.2.1. Each building must be set back at least 200 feet from the ordinary high water level;
- 5.1.4.2.2. Each building must have common sewage treatment and water systems in one location and serve all dwelling units in the building;
- 5.1.4.2.3. Watercraft docking facilities for each lot must be centralized in one location and serve all dwelling units in the building; and
- 5.1.4.2.4. No more than 25 percent of a lake's shoreline can be in duplex, triplex, or quad development.

5.1.4.3. One guest cottage may be allowed on lots meeting or exceeding the duplex lot area and width dimensions presented in Sections 5.1.1. – 5.1.3., provided the following standards are met:

- 5.1.4.3.1. 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 dwelling unit;
- 5.1.4.3.2. A guest cottage must not cover more than 700 square feet of land surface and must not exceed 15 feet in height; and
- 5.1.4.3.3. 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.

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

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

<u>Controlled Access Lot Frontage Requirements</u>	
Ratio of lake size to shore length (acres/mile)	Required increase in frontage (percent)
Less than 100	25
100-200	20
201-300	15
301-400	10
Greater than 400	5

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

5.2. PLACEMENT, DESIGN, AND HEIGHT OF STRUCTURES

5.2.1. Placement of Structures on Lots

When more than one setback applies to a site, structures and facilities must be located to meet all setbacks. Where structures exist on the adjoining lots on both sides of a proposed building site, structure setbacks may be altered without a variance to conform to the adjoining setbacks from the ordinary high water level, provided the proposed building site is not located in a shore or bluff impact zone or is not closer than 50 feet to the OHWL. Where structures exist on both sides of a proposed building site with setbacks from the shoreline greater than those required, structure setbacks from the shoreline shall conform to the adjoining setbacks. This section applies only to the primary dwelling unit.

Structures shall be located as follows:

5.2.1.1. Structure and On-Site Sewage System Setbacks (in feet) from Ordinary High Water Level

Setbacks*

Classes of Public Waters	Structures		Sewage Treatment System
	Unsewered	Sewered	
<u>Lakes</u>			
Natural Environment	150	150	150
General Development	75	75	75
<u>Rivers</u>			
Transition	150	150	100
Agriculture & Tributary	100	75	75

* One water-oriented accessory structure designed in accordance with Section 5.2.2. of this Ordinance may be set back a minimum distance of 10 feet from the Ordinary high water level.

5.2.1.2. Additional Setbacks for Structures

The following additional structure setbacks apply, regardless of the classification of the waterbody:

	<u>Setback From:</u>	<u>Setback (in feet)</u>
5.2.1.2.1.	Sidyard property line or 20% of lot width, whichever is least	20
5.2.1.2.2.	Top of bluff	30
5.2.1.2.3.	Unplatted cemetery	50
5.2.1.2.4.	Right-of-way line of federal, state, or county highway, and.....	50
5.2.1.2.5.	Right-of-way line of township road, public street, or other roads or streets not classified	20

- 5.2.1.3. Bluff Impact Zones
Structures, on-site sewage treatment systems and accessory facilities, except stairways and landings, must not be placed within bluff impact zones.
- 5.2.1.4. Uses Without Water-Oriented Needs
Uses without water-oriented needs must be located on lots or parcels without public waters frontage, or, if located on lots or parcels with public waters frontage, must either be set back double the normal ordinary high water level setback or be substantially screened from view from the water by vegetation or topography assuming summer, leaf-on conditions.
- 5.2.2. Design Criteria For Structures
 - 5.2.2.1. Structures must be placed in accordance with any floodplain regulations applicable to the site. Where these controls do not exist, the elevation to which the lowest floor, including basement, is placed or flood-proofed, must be determined as follows:
 - 5.2.2.1.1. For lakes, by placing the lowest floor at a level at least 3 feet above the highest known water level, or 3 feet above the ordinary high water level, whichever is higher;
 - 5.2.2.1.1. For rivers and streams, by placing the lowest floor at least 3 feet above the flood of record, if data are available. If data are not available, by placing the lowest floor at least 3 feet above the ordinary high water level, or by conducting a technical evaluation to determine effects of proposed construction upon flood stages and flood flows and to establish a flood protection elevation. Under all three approaches, technical evaluations must be done by a qualified engineer or hydrologist consistent with Parts 5120.5000 to 5120.6200 governing the management of floodplain areas. If more than one approach is used, the highest flood protection elevation determined is used, the highest flood protection elevation determined must be used for placing structures and other facilities; and
 - 5.2.2.1.3. Water-oriented accessory structures may have the lowest floor placed lower than the elevation determined in this item if the structure is constructed of flood-resistant materials to the elevation, electrical and mechanical equipment is placed above the elevation and, if long duration flooding is anticipated, the structure is built to withstand ice action and wind-driven waves and debris.
 - 5.2.2.2. Water-Oriented Accessory Structures
Each lot may have one water-oriented accessory structure, including decks, not meeting the normal structure setback in Section 5.2.1. of this Ordinance if this water-oriented accessory structure complies with the following provisions:

- 5.2.2.2.1. The structure or facility must not exceed 10 feet in height, exclusive of safety rails, and cannot occupy an area greater than 250 square feet. Detached decks must not exceed 8 feet above grade at any point;
 - 5.2.2.2.2. The setback of the structure or facility from the ordinary high water level must be at least 10 feet;
 - 5.2.2.2.3. The structure or facility must be treated to reduce visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks or color, assuming summer, leaf-on conditions;
 - 5.2.2.2.4. The roof may be used as a deck with safety rails, but must not be enclosed or used as a storage area;
 - 5.2.2.2.5. The structure or facility must not be designed or used for human habitation and must not contain water supply or sewage treatment facilities; and
 - 5.2.2.2.6. As an alternative for general development waterbodies, water-oriented accessory structures used solely for watercraft storage, and including storage of related boating and water-oriented sporting equipment, may occupy an area up to 400 square feet, provided the maximum width of the structure is 20 feet as measured parallel to the configuration of the shoreline width of the lot is at least 100 feet. Conditional use permits will be required for these structures and will take into consideration vegetative screening and topography.
- 5.2.2.3. Stairways, Lifts, and Landings
- Stairways and lifts are the preferred alternative to major topographic alterations for achieving access up and down bluffs and steep slopes to shore areas. Stairways and lifts must meet the following design requirements:
- 5.2.2.3.1. Stairways and lifts must not exceed 4 feet in width on residential lots. Wider stairways may be used for commercial properties, public open-space recreational properties, and planned unit developments;
 - 5.2.2.3.2. Landings for stairways and lifts on residential lots must not exceed 32 square feet in area. Landings larger than 32 square feet may be used for commercial properties, public open-space recreational properties, and planned unit developments;
 - 5.2.2.3.3. Canopies or roofs are not allowed on stairways, lifts or landings;
 - 5.2.2.3.4. Stairways, lifts, and landings may be either constructed above the ground on posts or pilings, or placed into the ground, provided they are designed and built in a manner that ensures control of soil erosion;
 - 5.2.2.3.5. Stairways, lifts, and landings must be located in the most visually inconspicuous portions of lots, as viewed

from the surface of the public water assuming summer, leaf-on conditions, whenever practical; and

5.2.2.3.6. Facilities such as ramps, lifts, or mobility paths for physically handicapped persons are also allowed for achieving access to shore areas, provided that the dimensional and performance standards of Sections 5.2.2.3.1. – 5.2.2.3.5. are complied with in addition to the requirements of Minnesota Regulations, Chapter 1340.

5.2.3. Significant Historic Sites

No structure may be placed on a significant historic site in a manner that affects the value of the site unless adequate information about the site has been removed and documented in a public repository.

5.2.4. Steep Slopes

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

5.2.5. Height of Structures

All structures in residential districts, except churches and nonresidential agricultural structures, must not exceed 25 feet in height.

5.3. SHORELAND ALTERATIONS

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

5.3.1. Vegetation Alterations

5.3.1.1. Vegetation alteration necessary for the construction of structures and sewage treatment systems and the construction of roads and parking areas regulated by Section 5.4. of this Ordinance are exempt from the vegetation alteration standards that follow.

5.3.1.2. Removal or alteration of vegetation, except for agricultural and forest management uses as regulated in Sections 5.6.2. and 5.6.3., respectfully, is allowed, subject to the following standards:

5.3.1.2.1. Intensive vegetation clearing within the shore and bluff impact zones and on steep slopes is not allowed. Intensive vegetation clearing for forest land conversions to another use outside of these areas is allowable as a conditional use if an erosion control and sedimentation plan is developed and approved by the Soil and Water Conservation District in which the property is located; and

5.3.1.2.2. A site review is required prior to vegetative clearing in the shore impact and bluff impact zone and on steep slopes. In shore and bluff impact zones and on steep slopes, no clearing or cutting of trees and shrubs will be

allowed until a plan along with the land/vegetation alteration permit application is submitted to, and approved by, the Big Stone County Environmental Services Office. The approval of the plan may require re-vegetation of the shore impact zone to meet the intent of this section. Limited pruning, cutting and trimming of trees and shrubs, is allowed to provide a view, to the water from the principal dwelling site and to accommodate the placement of stairways and landings, picnic areas, access paths, beach and watercraft access areas, and permitted water-oriented accessory structures or facilities provided that:

5.3.1.2.2.1. The screening of structures, vehicles, or other facilities as viewed from the water, assuming summer, leaf-on conditions, is not substantially reduced;

5.3.1.2.2.2. Along rivers, existing shading of water surfaces is preserved.

5.3.1.2.3 If the shore impact zone has had no past vegetation removal, as a general rule, the plan would allow removal of up to 25% of the trees greater than 5” in diameter 4.5 feet above ground level, diameter at breast height (DBH), and 25% of the trees/shrubs less than 5” (DBH) as long as screening is maintained and shading of the shoreline is still provided. To allow access to water bodies for individual lot owners, an open area of 25 feet, or 25% of the lot width, whichever is least, may be allowed to be cleared of trees as long as the above 25% tree/shrub removal guideline is followed. This clearing shall not extend more than 25 feet landward from the OHWL and shall be maintained as grass to prevent erosion to the water body.

5.3.1.2.4 The above provisions are not applicable to the removal of trees, limbs, or branches that are dead, diseased, or pose safety hazards.

5.3.1.2.5 Clearing of invasive shrubbery species may be allowed by permit after a site review is completed by the Environmental Services Office. Re-planting of desirable shrubbery in the same density will be required.

5.3.1.2.6. On previously altered lots, or where the 25% rule cannot be followed, trees that must be removed to deal with erosion problems shall be replaced 1:1 and shall be approximately four inches (4”) in diameter.

5.3.2. Topographic Alterations/Grading and Filling

5.3.2.1. Grading and filling and excavations necessary for the construction of structures, sewage treatment systems, and driveways under validity issued construction permits for these facilities, do not require the issuance of a separate grading and filling (land

alteration) permit. However, the grading and filling standards in this Section must be incorporated into the issuance of permits for construction of structures, sewage treatment systems, and driveways.

5.3.2.2. Public roads and parking areas are regulated by Section 5.4. of this Ordinance.

5.3.2.3. Notwithstanding items 5.3.2.1 and 5.3.2.2. above, a grading and filling permit will be required for:

5.3.2.3.1. Movement of any material in the shore or bluff impact zones where the Environmental Services Office determines there is potential for erosion;

5.3.2.3.2. The movement of more than 10 cubic yards of material on steep slopes or within shore or bluff impact zones; and

5.3.2.3.3. The movement of more than 50 cubic yards of material outside of steep slopes and shore and bluff impact zones.

5.3.2.4. The following considerations and conditions must be adhered to during the issuance of construction permits, grading and filling permits, conditional use permits, variances and subdivision approvals:

5.3.2.4.1. Grading or filling in any type 2, 3, 4, 5, 6, 7, or 8 wetland must be evaluated to determine how extensively the proposed activity would affect the following functional qualities of the wetland*:

5.3.2.4.1.1. Sediment and pollutant trapping and retention;

5.3.2.4.1.2. Storage of surface runoff to prevent or reduce flood damage;

5.3.2.4.1.3. Fish and wildlife habitat;

5.3.2.4.1.4. Recreation use;

5.3.2.4.1.5. Shoreline or bank stabilization; and

5.3.2.4.1.6. Noteworthiness, including special qualities such as historic significance, critical habitat for endangered plants and animals, or others.

* 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 Corps of Engineers. The applicant will be so advised by the Environmental Officer.

5.3.2.4.2. Alterations must be designed and conducted in a manner that ensures only the smallest amount of bare ground is exposed for the shortest time possible;

5.3.2.4.3. Mulches, rolled erosion control products or similar materials must be used, where necessary, for temporary bare soil coverage and shall be installed within 48

- hours, or 7 days outside of shore and bluff impact zones, of project completion; a permanent vegetation cover must be established as soon as possible;
- 5.3.2.4.4. Methods to minimize soil erosion and to trap sediments before they reach any surface water feature must be used;
 - 5.3.2.4.5. Altered areas must be stabilized to acceptable erosion control standards consistent with the field office technical guides of the local Soil and Conservation Districts and the United States Soil Conservation Service;
 - 5.3.2.4.6. Fill or excavated material must not be placed in a manner that creates an unstable slope;
 - 5.3.2.4.7. 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 30 percent or greater;
 - 5.3.2.4.8. Fill or excavated material must not be placed in bluff impact zones;
 - 5.3.2.4.9. Any alterations below the ordinary high water level of public waters must first be authorized by the Commissioner under Minnesota Statutes, Section 105.42;
 - 5.3.2.4.10. 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
 - 5.3.2.4.11. Placement of natural rock riprap, including associated grading of the shoreline and placement of a filter blanket is permitted if the finished slope does not exceed 3 feet horizontal to 1 foot vertical, the landward extent of the riprap is within 10 feet of the ordinary high water level, and the height of the riprap above the ordinary high water level does not exceed 3 feet. A land alteration permit from the county for placing rip-rap is not needed as long as the appropriate DNR permit is obtained;
 - 5.3.2.4.12. Alterations on steep slopes or within bluff and shore impact zones will not be allowed between September 1 and April 1, unless otherwise authorized by permit to deal with slumping or severe erosion problems.
 - 5.3.2.4.13. Conditional use permits shall be required where excavations for walk-out basements extend into shore impact zones. Excavations for walk-outs that extend into bluff impact zones or shore impact zones that exceed 12% shall be prohibited.
- 5.3.2.5. **Connections to Public Waters**
Excavations where the intended purpose is connection to a public water, such as boat slips, canals, lagoons, and harbors, must be controlled by local shoreland controls. Permission for excavations

may be given only after the Commissioner has approved the proposed connection to public waters.

5.4. PLACEMENT AND DESIGN OF ROADS, DRIVEWAYS, AND PARKING AREAS

- 5.4.1. 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 field office technical guides of the local Soil and Water Conservation District, or other applicable technical materials.
- 5.4.2. Roads, driveways, and parking areas must meet structure setback and OHWL setbacks and must not be placed within bluff and shore impact zones, when other reasonable and feasible placement alternatives exist. If no alternatives exist, they may be placed within these areas, and must be designed to minimize adverse impacts.
- 5.4.3. Public and private watercraft access ramps, approach roads, and access-related parking areas may be placed within shore impact zones provided the vegetative screening and erosion control conditions of this Section are met. For private facilities, the grading and filling provisions of Section 5.3.2. of this Ordinance must be met. Private watercraft access ramps will only be allowed by permit where no excavation is required. If excavation is required, a conditional use permit will be required. Ramps will not be allowed on slopes exceeding 12%.

5.5. STORM WATER MANAGEMENT

The following general and specific standards shall apply:

5.5.1. General Standards

- 5.5.1.1. 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.
- 5.5.1.2. Development must be planned or 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.
- 5.5.1.3. When development density, topographic features, and soil and vegetation conditions are not sufficient to adequately handle stormwater runoff using natural features and vegetation, various types of constructed facilities such as diversions, settling basins, skimming devices, dikes, waterways, and ponds may be used. Preference must be given to designs using surface drainage, vegetation, and infiltration rather than buried pipes and man-made materials and facilities.

5.5.2. Specific Standards

- 5.5.2.1. Impervious surface coverage of lots must not exceed 25 percent of the lot area.

- 5.5.2.2. When constructed facilities are used for stormwater management, documentation must be provided by a qualified individual that they are designed and installed consistent with the field office technical guide of the local Soil and Water Conservation Districts.
- 5.5.2.3. New constructed stormwater outfalls to public waters must provide for filtering or settling of suspended solids and skimming of surface debris before discharge.
- 5.5.2.4. Fertilizer containing phosphorus shall not be used to maintain established lawns, but can be used to establish new lawns where soil tests indicate phosphorus is needed.

5.6. SPECIAL PROVISIONS FOR COMMERCIAL, INDUSTRIAL, PUBLIC/SEMI-PUBLIC, AGRICULTURAL, FORESTRY AND EXTRACTIVE USES AND MINING OF METALLIC MINERALS AND PEAT

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

5.6.1.1. Surface water-oriented commercial uses and industrial, public, or semi-public uses with similar needs have 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:

- 5.6.1.1.1. In addition to meeting impervious coverage limits, setbacks, and other zoning standards in this Ordinance, the uses must be designed to incorporate topographic and vegetative screening of parking areas and structures;
- 5.6.1.1.2. 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
- 5.6.1.1.3. 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:
 - 5.6.1.1.3.1. No advertising signs or supporting facilities for signs may be placed in or upon public waters. Signs conveying information or safety messages may be placed in or on public waters by a public authority or under any other permit required;
 - 5.6.1.1.3.2. Signs may be placed, when necessary, within the shore impact zone if they are designed and sized to be the minimum necessary to convey needed information. They must only convey the location and name of the establishment and the general types of goods or services available. The signs must not contain other detailed information such as product brands and prices, must not be

located higher than 10 feet above the ground, and must not exceed 32 square feet in size. If illuminated by artificial lights, the lights must be shielded or directed to prevent illumination out across public waters; and

5.6.1.1.3.3. Other outside lighting may be located within the shore impact zone or over public waters if it is used primarily to illuminate potential safety hazards and is shielded or otherwise directed to prevent direct illumination out across public waters. This does not preclude use of navigational lights.

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

5.6.2. Agriculture Use Standards

5.6.2.1. General cultivation farming, grazing, nurseries, horticulture, truck farming, sod farming, and wild crop harvesting are permitted uses if steep slopes and shore and bluff impact zones are maintained in permanent vegetation or operated under an approved conservation plan (Resource Management Systems) consistent with the field office technical guides of the local Soil Conservation Service, as provided by a qualified individual or agency. The shore impact zone for parcels with permitted agricultural land uses is equal to a line parallel to and 50 feet from the ordinary high water level.

5.6.2.2. Animal Feedlots Standards:

5.6.2.2.1. 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 and must not encroach on bluff impact zones.

5.6.3. Forest Management Standards

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

5.6.4. Extractive Use Standards

5.6.4.1. Site Development and Restoration Plan

An extractive use site development and restoration plan must be developed, approved, and followed over the course of operation of the site. The plan must address dust, noise, possible pollutant discharges, hours and duration of operation, and anticipated vegetation and topographic alterations. It must also identify actions to be taken during operation to mitigate adverse

environmental impacts, particularly erosion, and must clearly explain how the site will be rehabilitated after extractive activities end.

5.6.4.2. Setbacks for Processing Machinery

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

5.6.5. Mining of Metallic Minerals and Peat

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

5.7. Water Supply

5.7.1. Water Supply

Any public or private supply of water for domestic purposes must meet or exceed standards for water quality of the Minnesota Department of Health and the Minnesota Pollution Control Agency.

5.7.2. Sewage Treatment

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

5.7.2.1. Publicly-owned sewer systems must be used where available;

5.7.2.2. All private sewage treatment systems must meet or exceed the Minnesota Pollution Control Agency's standards for individual sewage treatment systems contained in the document titled, "Individual Sewage Treatment Systems Standards, Chapter 7080", a copy of which is hereby adopted by reference and declared to be a part of this Ordinance;

5.7.2.3. On-site sewage treatment systems must be set back from the ordinary high water level in accordance with the setbacks contained in Section 5.2.1. of this Ordinance; and

5.7.2.4. All proposed sites for individual sewage treatment systems shall be evaluated in accordance with the criteria in sub-items 5.7.2.4.1 – 5.7.2.4.4. If the determination of a site's suitability cannot be made with publicly available, existing information, it shall then be the responsibility of the applicant to provide sufficient soil borings and percolation tests from on-site field investigations.

Evaluation Criteria:

5.7.2.4.1. Depth to the seasonal high water table, as defined in MN Rules Ch. 7080 or bedrock;

5.7.2.4.2. Soil conditions, properties, and permeability;

5.7.2.4.3. Slope; and

5.7.2.4.4. The existence of lowlands, local surface depressions, and rock outcrops.

5.7.2.5. Nonconforming sewage treatment systems shall be regulated and upgraded in accordance with Section 6.3. of this Ordinance.

5.7.2.6. Portable, vault and pit privies shall be centrally located and meet all other setbacks contained in Section 5.2.1. of this Ordinance.

6. NONCONFORMITIES

All legally established nonconformities as of the date of this Ordinance may continue, but they will be managed according to applicable state statutes (394.36) and other regulations of this county for the subjects of alterations and additions, repair after damage, discontinuance of use, and intensification of use; except that the following standards will also apply in shoreland areas:

6.1. CONSTRUCTION OF NONCONFORMING LOTS OF RECORD

- 6.1.1. Lots of record in the office of the County Recorder on the date of enactment of local shoreland controls that do not meet the requirements of Section 5.1. of this Ordinance may be allowed as building sites without variances from lot size requirements, provided the use is permitted in the zoning district, the lot has been in separate ownership from abutting lands at all times since it became substandard, was created compliant with official controls in effect at the time, and sewage treatment and setback requirements of this Ordinance are met.
- 6.1.2. A variance from setback requirements must be obtained before any use, sewage treatment system, or building permit is issued for a lot. In evaluating the variance, the Board of Adjustment shall consider sewage treatment and water supply capabilities or constraints of the lot and shall deny the variance if adequate facilities cannot be provided.
- 6.1.3. If, in a group of two or more contiguous lots under the same ownership, any individual lot does not meet the requirements of Section 5.1. of this Ordinance, the lot must not be considered as a separate parcel of land for the purposes of sale or development. The lot must be combined with the one or more contiguous lots so they equal one or more parcels of land, each meeting the requirements of Section 5.1. of this Ordinance as much as possible. Lots created in conformity with the 1993 Shoreland Management Ordinance (100' wide/20,000 sq. ft. on General Development Lakes or 150' wide/ 40,000 sq. ft. on Natural Environment Lakes) shall be considered conforming and may be sold separately.

6.2. ADDITIONS/EXPANSIONS TO NONCONFORMING STRUCTURES

- 6.2.1. All additions or expansions to the outside dimensions of an existing nonconforming structure must meet the setback, height, and other requirements of Section 5.0. of this Ordinance. Any deviation from these requirements must be authorized by a variance pursuant to Section 3.8.
- 6.2.2. Deck additions may be allowed without a variance to a structure not meeting the required setback from the ordinary high water level, if all of the following criteria and standards are met:
 - 6.2.2.1. The structure existed on the date the structure setbacks were established;
 - 6.2.2.2. A thorough evaluation of the property and structure reveals no reasonable location for a deck meeting or exceeding the existing ordinary high water level setback of the structure;
 - 6.2.2.3. The deck encroachment toward the ordinary high water level does not exceed 15 percent of the existing setback of the structure from the ordinary high water level or does not encroach closer than 30 feet, whichever is more restrictive; and

6.2.2.4. The deck is constructed primarily of wood, and is not roofed or screened.

6.3. NONCONFORMING SEWAGE TREATMENT SYSTEMS

- 6.3.1. A sewage treatment system not meeting the requirements of Section 5.7.2. of this Ordinance must be upgraded, at a minimum, at any time a land transfer occurs or when a permit or variance of any type is required for any improvement on, or use of, the property. For the purposes of this provision, a sewage treatment system shall not be considered nonconforming if the only deficiency is the sewage treatment system's improper setback from the ordinary high water level or well.
- 6.3.2. The governing body of Big Stone County has by formal resolution notified the Commissioner of its program to identify nonconforming sewage treatment systems. Big Stone County will require upgrading or replacement of any nonconforming system identified by this program within a reasonable period of time which will not exceed 5 years. Sewage systems installed according to all applicable local Shoreland Management standards adopted under Minnesota Statutes, Section 103F.211, 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 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.

7. SUBDIVISION/PLATTING PROVISIONS

7.1. LAND SUITABILITY

Each lot created through subdivision, including planned unit developments authorized under Section 8.0 of this Ordinance, must be suitable in its natural state for the proposed use with minimal alteration. Suitability analysis by the local unit of government shall consider susceptibility to flooding, existence of wetlands, soil and rock formations with severe limitations for development, severe erosion potential, steep topography, inadequate water supply or sewage treatment capabilities, near-shore aquatic conditions unsuitable for water-based recreation, important fish and wildlife habitat, presence of significant historic sites, or any other feature of the natural land likely to be harmful to the health, safety, or welfare of future residents of the proposed subdivision of Big Stone County.

7.2. CONSISTENCY WITH OTHER CONTROLS

Subdivisions must conform to all official controls of Big Stone County. A subdivision will not be approved where a later variance from one or more standards in official controls would be needed to use the lots for their intended purpose. In areas not served by publicly owned sewer and water systems, a subdivision will not be approved unless domestic water supply is available and a sewage treatment system consistent with Section 5.7.1 and 5.7.2 can be provided for every lot. Each lot shall meet the minimum lot size and dimensional requirements of Section 5.1., including at least a minimum contiguous lawn area, that is free of limiting factors sufficient for the construction of two standard soil treatment systems. Lots that would require use of holding tanks must not be approved.

7.3. INFORMATION REQUIREMENTS

Sufficient information must be submitted by the applicant for the community to make a determination of land suitability. The information shall include at least the following:

- 7.3.1. Topographic contours at 10-foot intervals or less from United States Geological Survey maps or more accurate sources, showing limiting site characteristics;
- 7.3.2. The surface water features required in Minnesota Statutes, Section 505.02, Subdivision 1, to be shown on plats, obtained from United States Geological Survey quadrangle topographic maps or more accurate sources;
- 7.3.3. Adequate soil information to determine suitability for building and on-site sewage treatment capabilities for every lot from the most current existing sources or from field investigations such as soil borings, percolation tests, or other methods;
- 7.3.4. Information regarding adequacy of domestic water supply; extent of anticipated vegetation and topographic alterations; near shore aquatic conditions, including depths, types of bottom sediments, and aquatic vegetation; and proposed methods for controlling storm water runoff and erosion, both during and after construction activities;
- 7.3.5. Location of 100-year floodplain areas and floodway districts from existing adopted maps or data; and
- 7.3.6. A line or contour representing the ordinary high water level, the “toe” and the “top” of bluffs, and the minimum building setback distances from the top of the bluff and the lake or stream.

7.4. DEDICATIONS

When a land or easement dedication is a condition of subdivision approval, the approval must provide easements over natural drainage or ponding areas for management of stormwater and significant wetlands.

7.5. PLATTING

All subdivisions that create 3 or more lots or parcels that are 2 ½ acres or less in size shall be processed as a plat. No permit for construction of buildings or sewage treatment systems shall be issued for lots created after these official controls were enacted unless the lot was approved as part of a formal subdivision.

7.6. CONTROLLED ACCESS OR RECREATIONAL LOTS

Lots intended as controlled accesses to public waters or for recreational use areas for use by non-riparian lots within a subdivision must meet or exceed the sizing criteria in Section 5.1.4.4. of this Ordinance.

8. PLANNED UNIT DEVELOPMENTS (PUD's)

8.1. TYPES OF PUDs PERMISSIBLE

PUDs are allowed for new projects on undeveloped land, redevelopment of previously built sites, or conversions of existing buildings and land. The land use districts in which they are an allowable use are identified in the land use district description in Section 4.2. of this Ordinance and the Official Zoning Map.

8.2. PROCESSING OF PUDs

PUDs must be processed as a conditional use, except that an expansion to an existing commercial PUD involving 6 or less new dwelling units or sites since the date this Ordinance was adopted is permissible as a permitted use, provided the total project density evaluation procedures in Section 8.5. Approval cannot occur until the environmental review process (EAW/EIS) is complete.

8.3. APPLICATION FOR A PUD

The applicant for a PUD must submit the following documents prior to final action being taken on the application request:

- 8.3.1. A site plan and/or plat for the project showing locations of property boundaries, surface water features, existing and proposed structures and other facilities, land alterations, sewage treatment and water supply systems (where public systems will not be provided), and topographic contours at 10-foot intervals or less. When a PUD is a combined commercial and residential development, the site plan and/or plat must indicate and distinguish which buildings and portions of the project are residential, commercial, or a combination of the two.
- 8.3.2. A property owner’s association agreement (for residential PUDs) with mandatory membership, and all in accordance with the requirements of Section 8.6. of this Ordinance.
- 8.3.3. Deed restrictions, covenants, permanent easements or other instruments that:
 - 8.3.3.1. Properly address future vegetative and topographic alterations, construction of additional buildings, beaching of watercraft, and construction of commercial buildings in residential PUDs; and
 - 8.3.3.2. Ensure the long-term preservation and maintenance of open space in accordance with the criteria and analysis specified in Section 8.6. of this Ordinance.
 - 8.3.3.3. When necessary, a master plan/drawing describing the project and the floor plan for all commercial structures to be occupied.
 - 8.3.3.4. Those additional documents as requested by the Environmental Officer and/or the Planning Commission that are necessary to explain how the PUD will be designed and will function.

8.4. SITE “SUITABLE AREA” EVALUATION

Proposed new or expansions to existing PUDs must be evaluated using the following procedures and standards to determine the suitable area for the dwelling unit/dwelling site density evaluation in Section 8.5.

- 8.4.1. 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:

<u>Shoreland Tier Dimensions</u>	<u>Unsewered</u> (feet)	<u>Sewered</u> (feet)
General Development Lakes		
First Tier	200	200
Second & additional tiers	267	200

<u>Shoreland Tier Dimensions</u>	<u>Unsewered</u> (feet)	<u>Sewered</u> (feet)
Natural Environment Lakes	400	320
All River Classes	300	300

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

8.5. RESIDENTIAL AND COMMERCIAL PUD DENSITY EVALUATION

The procedures for determining the “base” density of a PUD and density increase multipliers are as follows. Allowable densities may be transferred from any tier to any other tier further from the waterbody, but must not be transferred to any other tier closer.

8.5.1. Residential PUD “Base” Density Evaluation

8.5.1.1. The suitable area within each tier is divided by the single residential lot size standard for lakes or, for rivers, the single residential lot width standard times the tier depth, unless the local unit of government has specified an alternative minimum lot size for rivers, which shall then be used to yield a base density of dwelling units or sites for each tier. Proposed locations and numbers of dwelling units or sites for the residential PUDs are then compared with the tier, density, and sustainability analyses herein and the design criteria in Section 8.6.

8.5.2. Commercial PUD “Base” Density Evaluation

8.5.2.1. Determine the average inside living area size of dwelling units or sites within each tier, including both existing and proposed units and sites. Computation of inside living area sizes need not include decks, patios, stoops, steps, garages, or porches and basements, unless they are habitable space.

8.5.2.2. Select the appropriate floor area ratio from the following table:

Commercial Planned Unit Development Floor Area Ratios*

*Average unit floor area (sq. ft)	Public Waters Classes		
	Sewered general development lakes; first tier on unsewered general development lakes; agricultural, river segments	Second and additional tiers on unsewered general development lakes; transition river segments	Natural Environment Lakes
200	.040	.020	.010
300	.048	.024	.012
400	.056	.028	.014
500	.065	.032	.016
600	.072	.038	.019
700	.082	.042	.021
800	.091	.046	.023
900	.099	.050	.025
1,000	.108	.054	.027
1,100	.116	.058	.029
1,200	.125	.064	.032
1,300	.133	.068	.034
1,400	.142	.072	.036
1,500	.150	.075	.038

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

8.5.2.3. Multiply the suitable area within each tier by the floor area ratio to yield total floor area for each tier allowed to be used for dwelling units or sites.

8.5.2.4. Divide the total floor area by tier computed in Section 8.5.2.2. above by average inside living area size determined in Section 8.5.2.1. above. This yields a base number of dwelling units and sites for each tier.

8.5.2.5. Proposed locations and numbers of dwelling units or sites for the commercial PUD are then compared with the tier density and suitability analyses herein and the design criteria in Section 8.6.

8.5.3. Density Increase Multipliers

8.5.3.1. Increases to the dwelling unit or dwelling site base densities previously determined are allowable if the dimensional standards in Section 5.0 are met or exceeded and the design criteria in Section 8.6. are satisfied. The allowable density increases as

shown below will only be allowed if structure setbacks from the ordinary high water level are increased to at least 50 percent greater than the minimum setback, or the impact on the waterbody is reduced an equivalent amount through vegetative management, topography, or additional means acceptable to the local unit of government and the setback is at least 25 percent greater than the minimum setback.

8.5.3.2. Allowable Dwelling Unit or Dwelling Site Density Increases for Residential or Commercial PUDs

Density Evaluation Tiers	Maximum Density Increase Within Each Tier (Percent)
First	50
Second.....	75
Third.....	75
Fourth.....	75
Fifth.....	75

8.6. MAINTENANCE AND DESIGN CRITERIA

8.6.1. Maintenance and Administration Requirements

8.6.1.1. Before final approval of a PUD, adequate provisions must be developed for preservation and maintenance in perpetuity of open spaces and for the continued existence and functioning of the development.

8.6.1.2. Open Space Preservation

Deed restrictions, covenants, permanent easements, public dedication and acceptance, or other equally effective and permanent means must be provided to ensure long-term preservation and maintenance of open space. The instruments must include all of the following protections:

8.6.1.2.1. Commercial uses prohibited (for residential PUDs); vegetation and topographic alterations other than routine maintenance prohibited;

8.6.1.2.2. Construction of additional buildings or storage of vehicles and other materials prohibited; and

8.6.1.2.3. Uncontrolled beaching of watercraft prohibited.

8.6.1.3. Development, Organization and Functioning

Unless an equally effective alternative community framework is established, when applicable, all residential PUDs must use an owner association with the following features:

8.6.1.3.1. Membership must be mandatory for each dwelling unit or site purchaser and any successive purchasers;

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

8.6.1.3.3. Assessments must be adjustable to accommodate changing conditions; and

8.6.1.3.4. The association must be responsible for insurance, taxes, and maintenance of all commonly owned property and facilities.

8.6.2. Open Space Requirements

PUDs must contain open space meeting all of the following criteria:

- 8.6.2.1. At least 50 percent of the total project area must be preserved as open space;
- 8.6.2.2. Dwelling units or sites, road rights-of-way, or land covered by road surfaces, parking areas, or structures, except water-oriented accessory structures or facilities, are developed areas and shall not be included in the computation of minimum open space;
- 8.6.2.3. Open space must include areas with physical characteristics unsuitable for development in their natural state, and areas containing significant historic sites or unplatted cemeteries;
- 8.6.2.4. 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;
- 8.6.2.5. Open space may include subsurface sewage treatment systems, if the use of the space is restricted to avoid adverse impacts on the systems;
- 8.6.2.6. Open space must not include commercial facilities or uses, but may contain water-oriented accessory structures or facilities;
- 8.6.2.7. 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 equally effective and permanent means;
- 8.6.2.8. The shore impact zone, based on normal structure setbacks, must be included as open space. For residential PUDs, at least 50 percent of the shore impact zone area of existing developments or at least 70 percent of the shore impact zone area of new developments must be preserved in its natural or existing state. For commercial PUDs, at least 50 percent of the shore impact zone must be preserved in its natural state.

8.6.3. Erosion Control and Stormwater Management

Erosion control and stormwater management plans must be developed and the PUD must:

- 8.6.3.1. 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, vegetated buffer strips, or other appropriate techniques must be used to minimize erosion impacts on surface water features. Erosion control plans approved by the Soil and Water Conservation District and/or the Watershed District may be required if project size and site physical characteristics warrant; and
- 8.6.3.2. Be designed and constructed to effectively manage reasonably expected quantities and qualities of stormwater runoff. Impervious surface coverage within any tier must not exceed 25 percent of the

tier area, except that for commercial PUDs, 35 percent impervious surface coverage may be allowed in the first tier of general development lakes with an approved stormwater management plan and consistency with Section 5.3.

8.6.4. Centralization and Design of Facilities

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

- 8.6.4.1. PUDs 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 Sections 5.7.1. and 5.7.2. 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;
- 8.6.4.2. Dwelling units or sites must be clustered into one or more groups and located on suitable areas of the development. They must be designed and located to meet or exceed the following dimensional standards for the relevant shoreland classification: setback from the ordinary high water level must be increased in accordance with Sections 8.5.3. of this Ordinance for developments with density increases;
- 8.6.4.3. Shore recreation facilities, including but not limited to swimming areas, docks, and watercraft mooring areas and launching ramps, must be centralized and located in areas suitable for them.
- 8.6.4.4. 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 acceptable to the local unit of government, assuming summer, leaf-on conditions. Vegetative and topographic screening must be preserved, if existing or may be required to be provided;
- 8.6.4.5. Accessory structures and facilities, except water-oriented accessory structures, must meet the required principal structure setback and must be centralized; and
- 8.6.4.6. Water-oriented accessory structures and facilities may be allowed if they meet or exceed design standards contained in Section 5.2. of this Ordinance and are centralized.

8.7. CONVERSIONS

Local governments may allow existing resorts or other land uses and facilities to be converted to residential PUDs if all of the following standards are met:

- 8.7.1. Proposed conversions must be initially evaluated using the same procedures for residential planned unit developments involving all new construction. Inconsistencies between existing features of the development and these standards must be identified.
- 8.7.2. Deficiencies involving water supply and sewage treatment, structure color, impervious coverage, open space, and shore recreation facilities must be

- corrected as part of the conversion or as specified in the conditional use permit.
- 8.7.3. 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:
 - 8.7.3.1. Removal of extraneous buildings, docks, or other facilities that no longer need to be located in shore or bluff impact zones;
 - 8.7.3.2. Remedial measures to correct erosion sites and improve vegetative cover and screening of buildings and other facilities as viewed from the water; and
 - 8.7.3.3. If existing dwelling units are located in shore or bluff impact zones, conditions are attached to approvals of conversions that preclude exterior expansions in any dimension or substantial alterations. The conditions must also provide for future relocation of dwelling units, where feasible, to other locations, meeting all setback and elevation requirements when they are rebuilt or replaced.
 - 8.7.4. Existing dwelling unit or dwelling site densities that exceed standards in Section 8.5. may be allowed to continue but must not be allowed to be increased, either at the time of conversion or in the future. Efforts must be made during the conversion to limit impacts of high densities by requiring seasonal use, improving vegetative screening, centralizing shore recreation facilities, installing new sewage treatment systems, or other means.

9. ADOPTION OF ORDINANCE

This Ordinance shall become effective and be in force from and after its passage, approval, publication and recording in the office of the County Recorder.

9.1. Recommended by the Planning Commission, Big Stone County, the _____ day of _____, 2004.

Lorinda Riley, Chairperson
Big Stone County Planning Commission

9.2. Passed and approved by the Board of County Commissioners, Big Stone County, Minnesota, this _____ day of _____, 2004.

David Torgerson, Chairman
Big Stone County Board of Commissioners

9.3. Attest:

Michelle Knutson, Big Stone County Auditor

I, Michelle Knutson, do hereby certify that this is a true and correct copy of the Big Stone County Shoreland Management Ordinance as passed by the Board of Commissioners on _____, 2004.

I further certify that on the _____ day of _____, 2004, the County Commissioners duly approved a Summary of the foregoing Ordinance to be published, pursuant to Minn. Stat. 375.51, Subd. 3.

Michelle Knutson, Big Stone County Auditor

Date of publication of Summary of Ordinance: _____, 2004

Filed in the Office of the County Recorder, Big Stone County, Minnesota, this _____ day _____, 2004.

10. PROTECTED WATERS MAP

11. MINNESOTA CHAPTER 7080