



## **Lake of the Woods County Zoning Ordinance**

**Effective Date: February 1, 2017**

# LAKE OF THE WOODS COUNTY ZONING ORDINANCE

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# **PREAMBLE**

## **Statutory Authorization**

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

## **Policy**

The uncontrolled use of lands of Lake of the Woods County, Minnesota affects the public health, safety and general welfare not only by contributing to pollution of public land and waters, but also by impairing the local tax base. It is, therefore, in the best interest of the public health, safety, and welfare to provide for the wise subdivision, use, and development of all land within Lake of the Woods County. The Minnesota State Legislature has delegated responsibility to local governments of the state to regulate the subdivision, use and development of the shorelands of public waters located in the unincorporated area of Lake of the Woods County in order to preserve and enhance the quality of surface waters, conserve the economic and natural environmental values of shorelands, and to provide for the wise use of waters and related land resources. This policy is herein extended to include all unincorporated areas within Lake of the Woods County. This responsibility is hereby recognized by Lake of the Woods County, and will be accomplished through the enforcement of this Ordinance which shall be known and cited as the Lake of the Woods County Zoning Ordinance.

Pursuant to the authority granted under Minnesota Statutes Section 375.51, the County Board of Lake of the Woods County ordains as follows:

# **ARTICLE I**

## **GENERAL PROVISIONS AND DEFINITIONS**

### **Section 101      Jurisdiction**

The provisions of this Ordinance shall apply to all unincorporated land in Lake of the Woods County including the shorelands of the public water bodies as classified in Article II of this Ordinance. The shoreland of public water bodies extend 1,000 feet landward from the Ordinary High Water Level (OHWL) of Lake of the Woods, 300 feet landward from the OHWL of the Rainy River and all classified Tributaries, and 500 feet landward from the OHWL of the Rapid River.

### **Section 102      Compliance**

The use of any unincorporated land; the use of shoreland; the size and shape of lots; the use, size, type and location of structures on lots; the installation and maintenance of water supply and waste treatment systems; the grading and filling of any shoreland area; the cutting of shoreland vegetation; and the subdivision of land shall be in full compliance with the terms of this Ordinance and other applicable regulations. The construction of buildings and sewage treatment systems, and grading and filling in shoreland areas shall require a permit unless specifically excluded by the requirements of this Ordinance.

It shall be unlawful for the owner, agent, or persons having control of any land within the jurisdiction of this ordinance to subdivide or lay out such land into lots, blocks, highways, streets, avenues, alleys, public ways and grounds, unless by plat in accordance with Minnesota Statute §505, as amended, and the provisions of this Ordinance, except as herein allowed.

### **Section 103      Enforcement**

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

### **Section 104      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 Lake of the Woods County and shall not be deemed a limitation or repeal of any other powers granted by State Statutes. Interpretation shall be made by the Zoning Administrator, subject to appeal to the Board of Adjustment.

### **Section 105      Severability**

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

## **Section 106      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.

## **Section 107      Effective Date**

This Ordinance shall take effect and be in force from February 1, 2017 and after the date of passage, approval, and publication, as provided by law.

## **Section 108      Definitions as Used in this Ordinance**

Unless specifically defined below, words or phrases used in this Ordinance shall be interpreted so as to give them the same meaning as they have in common usage and so as to give the Ordinance its most reasonable application. For the purpose of this Ordinance, the words “must” and “shall” are mandatory; the word “may” is permissive. All distances, unless otherwise specified, shall be measured horizontally. Words used in the present tense shall include the future, and words used in the singular number shall include the plural number as well. Unless otherwise defined in the Ordinance, the definition of any term used in the Ordinance shall be as used in: Moskowitz, Harvey S., and Carl G. Lindbloom, *The Latest Illustrated Book of Development Definitions*, Rutgers University, Center for Urban Policy, 2004.

**ACCESSORY STRUCTURE OR FACILITY.** Any building, structure or facility incidental to another structure or facility on the same lot which, because of its nature, can reasonably be located at or greater than normal structure setback. Examples of such structures and facilities include but are not limited to: Swimming pools; tennis courts; saunas; solar collectors; wind generators; satellite dishes; detached garages; storage buildings; and recreational trailers and vehicles.

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

**ADDITION.** A structure added laterally or vertically to an existing building. Minor structural elements such as chimneys, bay windows, and roof overhangs of two (2) feet or less shall not be considered as an addition. The enclosure or partial enclosure of an existing screened porch, deck, roofed deck, patio, or roofed patio shall be considered an addition.

**ADMINISTRATOR.** The administrator of the Lake of the Woods County Land and Water Planning Office or its authorized agent or representative.

**AGENT.** An attorney, realtor, broker, employee, family member, friend, or other person acting with the authority of the owner(s).

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

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

**APPLICANT.** Any person who undertakes the subdivision of land as defined herein. The applicant may be the owner or the agent of the land to be subdivided.

**APPLICATION.** First application to the county zoning administrator providing preliminary data and a sketch plat on a form provided by the county.

**BED AND BREAKFAST.** An owner-occupied single family residential structure used in part as rental units for lodging and providing one or more meals as part of the rental fee.

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

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

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

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

**BOARD OF ADJUSTMENT.** The Lake of the Woods County Board of Adjustment as appointed by the Lake of the Woods County Board of Commissioners.

**BOARD OF COUNTY COMMISSIONERS.** The Lake of the Woods County Board of Commissioners.

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

**BUFFER.** A strip of land intended to create a physical separation between potentially incompatible uses of land.

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

**BUILDING LINE.** That line measured across the length or width of a lot beyond which the principal structure cannot extend without violating setback provisions.

**BUNKHOUSE.** A residential accessory structure used for sleeping quarters with no sanitation, water supply, or cooking facilities.

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

**CIC PLAT.** “CIC Plat” has the meaning as defined in Minnesota Statute, chapter 515B.

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

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

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

**COMMISSION OR PLANNING COMMISSION.** Lake of the Woods County Planning Advisory Commission, Lake of the Woods County, Minnesota.

**COMMISSIONER.** The Commissioner of the Department of Natural Resources.

**COMMON INTEREST COMMUNITY (CIC).** “Common Interest Community” has the meaning as defined in Minnesota Statutes, chapter 515B.

**COMPREHENSIVE PLAN.** Refers to the Lake of the Woods County Comprehensive Land Use Plan, adopted in March, 2000.

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

**CONDOMINIUM.** “Condominium” has the meaning as defined in Minnesota Statutes, chapter 515B.

**CONTROLLED ACCESS OR RECREATIONAL LOT.** A riparian lot which is intended to be used as a private access to public waters for non-riparian or riparian lots and/or dwelling units in any existing or proposed subdivision, outlot development or planned unit development.

**COOPERATIVE.** “Cooperative” has the meaning as defined in Minnesota Statutes, chapter 515B.

**COUNTY.** Lake of the Woods County, Minnesota.

**COUNTY BOARD.** Lake of the Woods County Board.

**CUL-DE-SAC.** A road with only one outlet that contains an area at the end to allow vehicles to turn around.

**DAY.** Working days when used in a time period of 15 days or less and calendar days when used in a time period greater than 15 days. The day of the event shall not be used in counting any period of time.

**DECK.** A horizontal unenclosed platform with or without attached railings, seats, trellises or other features, attached or functionally related to a principal use or site and at any point extending more than three feet above ground.

**DEVELOPMENT OBJECTIVE.** Those goals determined from time to time in plan or policy form as part of the county's comprehensive development program which indicate how the county wishes to promote or develop itself.

**DRIVEWAY.** A private roadway providing access to a street or highway.

**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 having separate sleeping, cooking, eating, living and sanitation facilities.

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

**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.

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

**ENVIRONMENTAL ASSESSMENT WORKSHEET (EAW).** A brief document, in worksheet format, that helps local governments determine if a proposed action is a major action with a potential for significant environmental effects and, in the case of private action, whether it is of more than local significance.

**ENVIRONMENTAL IMPACT STATEMENT (EIS).** An informational document which contains a thorough evaluation of the environmental effects of a proposed project. The EIS provides information for agencies and private persons, which helps in the evaluation of the impacts of proposed actions, which have the potential for significant environmental effects, but also to consider alternatives and to institute methods for reducing environmental effects.

**EXPLORATORY BORING.** A surface drilling done to explore or prospect for oil, natural gas, and metallic minerals, including iron, copper, zinc, lead, gold, silver, titanium, vanadium, nickel, cadmium, molybdenum, chromium, manganese, cobalt, zirconium, beryllium, thorium, uranium, aluminum, platinum, palladium, radium, tantalum, tin, and niobium, and a drilling or boring for petroleum.

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

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

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

**FENCE.** Any partition, structure, wall, or gate erected as a dividing marker, barrier, or enclosure and located along the boundary, or within the property boundaries.

**FINAL PLAT.** A drawing of a subdivision, meeting all of the requirements of Lake of the Woods County and Minnesota State Statutes regarding the platting of land and in a form that is recordable with the County Recorder's Office.

**FISH HOUSE.** A portable structure, constructed and maintained for the purpose of providing shelter during ice fishing that must be placed on the ice at least once during the winter season.

**FISH HOUSE, DEAD STORAGE.** Fish houses which are not used as temporary residences during the off season.

**FISH HOUSE, LIVE IN.** Fish houses which are used as temporary residences during the off season.

**FISH HOUSE PARK.** A lot or parcel used for the storage of more than five (5) Live-in fish houses.

**FLOOD PLAIN.** The area adjoining a lake, watercourse or wetland, which has been, or hereafter may be covered by a regional flood.

**FLOOD FRINGE.** The area of the flood plain outside of the flood way.

**FLOODWAY.** The channel of the watercourse and those portions of the adjoining flood plains, which are reasonably required to carry and discharge the regional flood.

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

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

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

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

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

**HOLDING TANK.** A watertight tank for storage of sewage until it can be transported to a point of approved treatment and disposal.

**HOME OCCUPATION.** Any activity carried out for financial gain by a resident which is clearly secondary to the principal use when carried on within the principal residence and not in any accessory building and which employs no more than one (1) full time person other than members of the household occupying the premises.

**IMPERVIOUS SURFACE.** “Impervious surface” means a constructed hard surface that either prevents or retards the entry of water into the soil and causes water to run off the surface in greater quantities and at an increased rate of flow than prior to development. Examples include rooftops, decks, sidewalks, patios, parking lots, storage areas, and concrete, asphalt or gravel driveways.

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

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

**INSPECTOR.** An authorized representative of the county board or board of adjustment assigned to make any or all necessary inspections of the work performed and materials furnished by the developer.

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

**LANDFILL.** A disposal site in which refuse and earth, or other suitable cover material, are deposited and compacted in alternating layers of specified depth in accordance with an approved plan.

**LANDING.** A level area at the top, bottom, or a switchback point of a section of stairway, with or without a railing.

**LIFT.** A mechanical device, motorized or otherwise that aids in the ascent or descent of steep slopes or bluffs.

**LOT.** A designated parcel, tract, or area of land established by plat, subdivision, or as otherwise permitted by law, to be separately owned, used, developed, or built upon.

**LOT AREA.** The area of land within the boundaries of a lot, excluding any part below the ordinary high water level.

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

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

**MANUFACTURED HOME.** A structure transportable in one or more sections, which in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation.

**MINING.** The use of land for surface or subsurface removal of metallic minerals and peat as regulated under Minnesota Statutes, sections 93.44 through 93.51.

**MOBILE HOME.** (See Manufactured Home).

**MANUFACTURED HOME PARK.** Any premises on which two (2) or more manufactured homes, or any premises used or held out for the purpose of supplying to the public a parking space for two or more of such manufactured homes. Sales lots on which automobiles or unoccupied manufactured homes, new or used, are parked for purposes of inspection or sale are not included in this definition. For purposes of this Ordinance manufactured home parks shall be considered a residential planned unit development.

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

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

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

**OWNER.** Any individual, firm, association, syndicate or partnership, corporation, trust, or any other legal entity having sufficient proprietary interest in the land sought to be subdivided to commence and maintain proceedings to subdivide the same under this ordinance. The owner(s) shall be responsible for their own actions, as well as the action(s) of their agent(s) in regard to any violation of this ordinance.

**PASTURE.** Areas where grass or other growing plants are used for grazing and where the concentration of animals is such that a vegetative cover is maintained during the growing season except in the immediate vicinity of temporary supplemental feeding or watering devices.

**PATIO DECK.** A horizontal unenclosed platform with or without attached railings, seats, trellises or other features that at no point extends more than three feet above ground.

**PEAT MINING.** The removal of peat for commercial purposes, including activities associated with the removal, such as draining, stockpiling, processing, storing, transporting, and reclaiming any material in connection with the commercial development of peat.

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

**PLANNED COMMUNITY.** “Planned Community” has the meaning as defined in Minnesota Statutes, chapter 515B.

**PLANNED UNIT DEVELOPMENT (PUD).** A type of development characterized by a united site design for a number of dwelling units or dwelling sites on a parcel, whether for sale, rent, or lease, and also usually involving clustering of these units or sites to provide areas of common open space, density increases, and a mix of structure types and land uses. These developments may be organized and operated as condominiums, time-share condominiums; 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 structure and land uses to these uses.

**PLAT.** The drawing of a subdivision prepared for filing of record in accordance with Minnesota Statute Chapter 505 and containing all elements and requirements in this Ordinance pursuant to Minnesota Chapters 394 and 505.

**PLATFORM.** A horizontal, unenclosed structure without railings, seats, trellises, or other features attached or functionally related to a principal use or site at ground level or at any point extending above the ground level but less than three (3) feet above the ground. Platforms with railings, seats, trellises or other features shall be regulated as decks regardless of height above ground level.

**PRELIMINARY PLAT.** A drawing of a proposed subdivision prepared in the manner and containing the data, documents, and information required by Article X of this Ordinance.

**PREMISES.** A lot, parcel, tract, or plot of land together with the buildings and structures thereon.

**PRIVY.** An aboveground structure with an underground cavity that is used for the storage or treatment and dispersal of toilet wastes, excluding water for flushing and graywater.

**PRIVATE ROAD.** Any vehicular way which is not an existing federal, state, county, or township roadway; or is not shown upon a certificate of survey, administrative subdivision, or plat approved pursuant to law; or is not dedicated to public use. A driveway is a private road serving no more than two residential lots.

**PROTECTED WATER.** Those waters of the state identified as public waters or wetlands under Minnesota Statute 103 G.005, Subd. 15 and 18.

**PUBLIC IMPROVED STREET.** Any street that complies in width and construction with municipal standards, or a street meeting lesser standards that the municipality agrees to accept.

**PUBLIC ROAD.** Any vehicular way which is an existing federal, state, county, or township roadway; or is shown upon a certificate of survey, administrative subdivision, or plat approved pursuant to law; or is dedicated for public use.

**PUBLIC WATERS.** Any waters as defined in Minnesota Statutes, 103G.005, sub. 15-18.

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

**RECREATIONAL VEHICLE.** A vehicular-type portable structure without permanent foundation that can be towed, hauled, or driven and is primarily designed as a temporary living accommodation for recreational and camping purposes. Examples of "Recreational Vehicles" include, but are not limited to, travel trailers, truck campers, camping trailers, and self-propelled motor homes.

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

**REGIONAL FLOOD.** A flood which is representative of large floods known to have occurred generally in Minnesota and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of the 100 year recurrence interval.

**REGULATORY FLOOD PROTECTION LEVEL.** A point not less than one foot above the water surface profile associated with the regional flood plus any increase in flood heights attributable to encroachments on the flood plain, it is the elevation to which uses regulated by this Ordinance are required to be elevated or flood proofed.

**RELOCATION.** The physical movement of an existing structure to a new location, or the removal of an existing structure and construction of a new structure at a new location.

**REPAIRS AND MAINTENANCE.** An alteration of the interior or exterior portion of a structure that does not involve the replacement of the main structural frame, walls, or changes in the exterior dimensions of the structure. Repairs and maintenance of an existing structure shall be considered one or more of the following:

1. Work performed on the interior of the structure;
2. Work performed on the exterior of the structure to include the following;
  - A. Painting, replacement of siding, windows, doors, soffit, fascia, re-roofing (to include shingles and sheeting), roofing (if roofing replacement does not increase the height by more than two (2) feet, or increase living space) and ornamentation. This also includes replacement of rotten or deteriorated material associated with the replacement of above items;
  - B. Additional doors or windows;
  - C. Repairs to the foundation provided the existing building floor elevation is not raised more than thirty-six (36) inches above its previous floor elevation; and,
  - D. Incidental repairs to decks and platforms (i.e. new floor board and/or railings).

Under no conditions shall repairs and maintenance constitute replacement of the main structural frame, walls, or changes in the exterior dimensions.

**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, single family residences; duplexes; triplexes; residential apartments; manufactured home parks; condominiums; time-share condominiums; townhouses; cooperatives; and conversions of structures and land uses to these. To qualify as a residential planned unit development, a development must contain at least five (5) dwelling units or sites.

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

**RIPARIAN LOT.** Any lot, which is bounded on one or more sides by public water frontage.

**RESIDENTIAL DISTRICT (R1).** The Residential District (R1) is established to preserve areas suitable for moderate density seasonal and year-round residential uses. It is also established to prevent various commercial, industrial, and other incompatible uses in these areas that may cause conflicts or problems for residential uses.

**RURAL RESIDENTIAL DISTRICT (R2).** The Rural Residential District (R2) is established to preserve areas suitable for agricultural and low density residential uses in rural areas. It is also established to prevent various commercial, industrial, and other incompatible uses in these areas that may cause conflicts or problems for agricultural and low density residential uses. Development in this district shall maintain a low density rural environment until such time as the need for additional moderate residential development and rezoning to Residential (R1).

**SCHOOL.** Any building or part thereof that is designed, constructed, or used for education or instruction in any branch of knowledge.

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

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

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

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

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

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

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

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

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

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

**SKETCH.** An approximate scale drawing of a proposal not based on an actual survey.

**SOIL TREATMENT SYSTEM.** A system where sewage tank effluent is treated and disposed of into the soil by percolation and filtration, and includes trenches, seepage beds, drainfields, at-grade systems, and mound systems".

**STEEP SLOPE.** Land where agricultural activity or development is either not recommended or described as poorly suited due to slope steepness and the soil characteristics of the site, as mapped and described in available

County soil surveys or other technical reports, unless appropriate design and construction techniques and farming practices are used in accordance with the provisions of this Ordinance. Where specific information is not available, steep slopes are lands having slopes over twelve percent, as measured over horizontal distances of fifty feet or more, which are not bluffs.

**STRUCTURE.** Any building or appurtenance, including decks, but not including aerial or underground utility lines such as; sewer, electric, telephone, telegraph, gas lines, towers, poles, or other supporting facilities.

**STRUCTURE REPAIRS AND MAINTENANCE.** An alteration of the interior or exterior portion of a structure that does not involve the replacement of the main structural frame, walls, or changes in the dimensions of the structure.

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

**SUBDIVISION.** The division of a single lot, tract or parcel of land, or a part thereof, including planned unit developments, into two or more lots, tracts or parcels of land for the purpose, whether immediate or future, of transfer of ownership for residential, commercial or industrial purposes; or of the division of a single lot, tract or parcel of land, or a part thereof, into two or more lots, tracts or parcels of land by means of buildings, building groups, streets, alleys, parking areas or leaseholds, for the purpose, whether immediate or future, of building development for residential, commercial, or industrial purposes.

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

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

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

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

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

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

**WASTEWATER.** The liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, and institutions, whether treated or untreated, which is discharged into or permitted to enter a WWTS.

**WASTEWATER TREATMENT FACILITIES (WWTS).** Any facility, appurtenant structures, or arrangement of devices used for the treatment of wastewater.

**WATERCOURSE.** The word watercourse shall include channel, creek, drainage ditch, river, and stream.

**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 and is not located within ten (10) feet of another structure and/or building. Examples of such structures include boathouses, gazebos, screen houses, fish houses, pump houses and detached decks.

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

**WETLAND.** Lands transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water. For purposes of this definition, wetland must have the following three attributes:

1. Have a predominance of hydrologic soils.
2. Are inundated or saturated by surface or ground water at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions.
3. Under normal circumstances support a prevalence of such vegetation.
  - A. Wetlands do not include public waters wetlands as identified under Minnesota Statutes, section 103G.005, subdivision 15a, or 103G.201, as shown on the public water inventory map.

**WIND TURBINE.** A wind turbine is any piece of electrical generating equipment that converts the kinetic energy of blowing wind into electrical energy through the use of airfoils or similar devices to capture the wind.

**WIND ENERGY CONVERSION SYSTEM (WECS).** An electrical generating facility comprised of one or more wind turbines and accessory facilities, including but not limited to: power lines, transformers, substations and meteorological towers that operate by converting the kinetic energy of wind into electrical energy. The energy may be used on-site or distributed into the electrical grid.

**COMMERCIAL WECS:** A WECS of equal to or greater than 100 kW in total name plate generating capacity.

**NON-COMMERCIAL WECS:** A WECS of less than 100 kW in total name plate generating Capacity.

**ZONING ADMINISTRATOR.** The zoning administrator of Lake of the Woods County Land and Water Planning Office or his/her authorized agent or representative.

## ARTICLE II SHORELAND CLASSIFICATION SYSTEM

### Section 201      Shoreland Classification System

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

The shoreland areas for the water bodies listed in sections 201.1 through 201.5 shall be as defined in section 101 of this Ordinance and as shown on the Official Shoreland Management Map for Lake of the Woods County. The public waters of Lake of the Woods County have been classified as follows:

#### Section 201.1      Natural Environment Lakes

<u>Lake ID Number</u>	<u>Lake Name</u>	<u>Location</u>
39-3	Winter Road Lake	T160N, R34W, Sections 8, 9, 16, 17
39-5	Lost Lake	T158N, R35W, Section 5

#### Section 201.2      General Development Lakes

<u>Lake ID Number</u>	<u>Lake Name</u>	<u>Location</u>
39-2	Lake of the Woods	T162-168N, R31-36W

#### Section 201.3      Remote River Segments

<u>River</u>	<u>From</u>	<u>To</u>
South Branch Rapid River	Sec. 34, T157N, R35W at the border of Beltrami and Lake of the Woods Counties	West section line of Sec. 29, T157N, R34W
South Branch Rapid River	West section line of Sec. 24, T157N, R34W	West section line of Sec. 20, T158N, R31W
Roseau	Outlet of Lost Lake (Basin 39-5), Sec. 5, T158N, R35W	Sec. 6, T158N, R35W, at the border of Beltrami and Lake of the Woods Counties
Roseau	Sec. 34, T159N, R36W, at the border of Beltrami and Lake of the Woods Counties	Sec. 31, T159N, R36W, at the border of Roseau and Lake of the Woods Counties

**Section 201.4 Forested River Segments**

<u>River</u>	<u>From</u>	<u>To</u>
Rapid	Sec. 2, T158N, R31W, at confluence with North and South Branch of the Rapid River	Sec. 1, T159N, R30W, at the border of Koochiching and Lake of the Woods Counties
South Branch Rapid	West section line Sec. 20, T158N, R31W	Sec. 2, T158N, R31W, at confluence with North and South Branch of the Rapid River
South Branch Rapid	West section line, Sec. 29, T157N, R34W	East section line, Sec. 23, T157N, R34W

**Section 201.5 Agricultural River Segments**

<u>River</u>	<u>From</u>	<u>To</u>
Rainy	Sec. 12, T160N, R30W, at the border of Koochiching and Lake of the Woods Counties	Sec. 6, T160N, R30W, at the eastern corporate limits of the City of Baudette
Rainy	Sec. 27, T161N, R31W, at the western corporate limits of the City of Baudette	Sec. 19, T162N, R31W, at the inlet of Lake of the Woods

**Section 201.6 Tributaries**

All protected watercourses in Lake of the Woods County shown on the Protected Waters Inventory Map for Lake of the Woods County, which is hereby adopted by reference, not given a classification in Sections 201.1 through 201.5 of this Ordinance, shall be considered 'tributary'.

## **ARTICLE III ESTABLISHMENT OF ZONING DISTRICTS**

### **Section 301        Establishment of Zoning Districts**

1. Special Protection District (SP)
2. Residential District (R1)
3. Rural Residential District (R2)
4. Commercial-Recreation District (CR)
5. General Use District (GU)

### **Section 302        Management Goals and Objectives**

The Special Protection (SP) District is established to limit the development of areas not suitable for development due to wet soils, steep slopes or large areas of exposed bedrock, and to protect areas of unique natural and biological characteristics from incompatible land uses.

The Residential District (R1) is established to preserve areas suitable for moderate density seasonal and year-round residential uses. It is also established to prevent various commercial, industrial, and other incompatible uses in these areas that may cause conflicts or problems for residential uses.

The Rural Residential District (R2) is established to preserve areas suitable for agricultural and low density residential uses in rural areas. It is also established to prevent various commercial, industrial, and other incompatible uses in these areas that may cause conflicts or problems for agricultural and low density residential uses. Development in this district shall maintain a low density rural environment until such time as the need for additional moderate residential development and rezoning to Residential (R1).

The Commercial-Recreation (CR) District is established to centralize service facilities for recreational areas and to enhance the economic growth potential of those areas suitable for limited commercial development.

The General Use (GU) District is established to promote the orderly development of areas which are suitable for residential, commercial, or industrial development.

### **Section 303        Land Use Zoning Map**

The following maps, on file at the Land and Water Planning Office, Lake of the Woods County Government Center, are hereby designated as the official zoning maps of Lake of the Woods County, Minnesota, and are hereby adopted by reference:

1. The official Land Use Zoning Plat Map of Lake of the Woods County, Minnesota.
2. High Level Aerial Blue Line Photography Prints dated 1969, scale 1:24,000 of Lake of the Woods County, Minnesota.

The final determination of land use zoning district boundaries shall be made by the Zoning Administrator subject to appeal to the Board of Adjustment as provided in Article XI of this Ordinance.

## **ARTICLE IV ZONING DISTRICTS REQUIREMENTS**

### **Section 401      Permitted, Conditional and Non-Permitted Uses**

The following table shows the permitted, conditional, and non-permitted uses for non-shoreland areas, and for the shoreland of each class of public waters as defined in Article II of this Ordinance. Uses identified with a (P) are permitted provided that all of the requirements of this Ordinance are complied with and a permit, if applicable, has been obtained. Uses identified with a (C) are allowed provided that the applicant meets certain predetermined conditions as prescribed in this Ordinance, and a conditional use permit has been obtained. Uses identified with an (S) are permitted provided that all of the performance standards identified in Section 402 are met. Uses which are identified as non-permitted (N), or which are not identified as either permitted or conditional uses in a particular zoning district, are not allowed.

Table 1							
Use by Zoning District and Classification							
A. Special Protection District							
Use by District	Classification						
	Non-Shoreland	NE Lakes	GD Lakes	Remote Rivers	Forested Rivers	Ag. Rivers	Tributaries
Agriculture: Cropland and pasture	P*	P*	P*	P*	P*	P*	P*
Extractive	C	N	C	C	C	C	C
Forest Management	P*	P*	P*	P*	P*	P*	P*
Parks and Historic Sites	C	C	C	C	C	C	C
**NO RIVER SEGMENTS ARE CURRENTLY ZONED WITH THIS DESIGNATION							

B. Residential District (R1)							
Use by District	Classification						
	Non-Shoreland	NE Lakes	GD Lakes	Remote Rivers	Forested Rivers	Ag. Rivers	Tributaries
Accessory Structures	P	N	P	P	P	P	P
Commercial	C	N	C	C	C	C	C
Duplex, Triplex and Quads	P	N	P	P	P	P	P
Fish House Storage and/or Park	C	N	C	C	C	C	C
Forest Management	P*	N	P*	P*	P*	P*	P*
Home Occupation	S	N	S	S	S	S	S
Mining	C	N	C	C	C	C	C
Parks and Historic Sites	P*	N	C	C	C	C	C
Residential Planned Unit Dev.	C	N	C	C	C	C	C
Semipublic	P	N	C	C	C	C	C
Single Family Residential	P	N	P	P	P	P	P
Recreational Vehicle	P	N	P	C	C	C	C
Utility transmission line(s)	P	N	P	C	C	C	C
Wastewater Treatment Facilities	C	N	C	N	N	N	N

<b>C. Rural Residential District (R2)</b>							
<b>Use by District</b>	<b>Classification</b>						
	<u>Non-Shoreland</u>	<u>NE Lakes</u>	<u>GD Lakes</u>	<u>Remote Rivers</u>	<u>Forested Rivers</u>	<u>Ag. Rivers</u>	<u>Tributaries</u>
Accessory Structures	P	N	P	P	P	P	P
Agriculture: Cropland and pasture	P*	N	P*	P*	P*	P*	P*
Agricultural Feedlots	C	N	C	C	C	C	C
Commercial Uses	C	N	C	C	C	C	C
Duplex, Triplex and Quads	P	N	P	C	C	C	C
Extractive	C	N	C	C	C	C	C
Fish House Storage and/or Park	C	N	C	C	C	C	C
Forest Management	P*	N	P*	P*	P*	P*	P*
Hazardous waste processing & storage	N	N	N	N	N	N	N
Home Occupation	S	N	S	S	S	S	S
Industrial	N	N	N	N	N	N	N
Landfills	N	N	N	N	N	N	N
Mining	C	N	C	C	C	C	C
Parks and Historic Sites	P*	N	C	C	C	C	C
Recreational Vehicle	C	N	P	C	C	C	C
Residential Planned Unit Development	C	N	C	C	C	C	C
School	C	N	C	C	C	C	C
Semipublic	P	N	C	C	C	C	C
Single Family Residential	P	N	P	P	P	P	P
Utility transmission line(s)	P	N	P	C	C	C	C
Wastewater Treatment Facilities	C	N	C	N	N	N	N
Wind Energy Conversion System	C	N	N	N	N	N	N

<b>D. Commercial-Recreation District</b>							
<b>Use by District</b>	<b>Classification</b>						
	<u>Non-Shoreland</u>	<u>NE Lakes</u>	<u>GD Lakes</u>	<u>Remote Rivers</u>	<u>Forested Rivers</u>	<u>Ag. Rivers</u>	<u>Tributaries</u>
Accessory Structures	P	N	P	P	P	P	P
Agriculture: Cropland and pasture	P*	N	P*	P*	P*	P*	P*
Commercial	P	N	P	C	C	C	C
Commercial Planned Unit Dev.	C	N	C	C	C	C	C
Duplex, Triplex and Quads	P	N	P	P	P	P	P
Fish House Storage Park	C	N	C	C	C	C	C
Forest Management	P*	N	P*	P*	P*	P*	P*
Home Occupation	S	N	S	S	S	S	S
Mining	C	N	C	C	C	C	C
Parks and Historic Sites	P*	N	C	C	C	C	C
Residential Planned Unit Development	C	N	C	C	C	C	C
School	P	N	C	C	C	C	C
Semipublic	P	N	C	C	C	C	C
Signs	P	N	P	C	C	C	C
Single Family Residential	P	N	P	P	P	P	P
Recreational Vehicle	P	N	P	C	C	C	C
Utility transmission line(s)	P	N	P	C	C	C	C

<b>E. General Use District</b>							
<b>Use by District</b>	<b>Classification</b>						
	<u>Non-Shoreland</u>	<u>NE Lakes</u>	<u>GD Lakes</u>	<u>Remote Rivers</u>	<u>Forested Rivers</u>	<u>Ag. Rivers</u>	<u>Tributaries</u>
Accessory Structures	P	N	P	P	P	P	P
Commercial	P	N	P	C	C	C	C
Commercial Planned Unit Dev.	C	N	C	C	C	C	C
Duplex, Triplex and Quads	P	N	P	P	P	P	P
Extractive	P*	N	C	C	C	C	C
Fish House Storage and/or Park	C	N	C	C	C	C	C
Forest Management	P*	N	P*	P*	P*	P*	P*
Hazardous waste processing & storage	C	N	N	N	N	N	N
Home Occupation	S	N	S	S	S	S	S
Industrial	P	N	N	N	N	N	N
Landfills	C	N	N	N	N	N	N
Mining	P*	N	P*	C	C	C	C
Parks and Historic Sites	P*	N	C	C	C	C	C
Public and Semipublic	P	N	P	C	C	C	C
Single Family Residential	P	N	P	P	P	P	P
Signs	P	N	P	C	C	C	C
Utility transmission line(s)	P	N	P	C	C	C	C
Wastewater Treatment Facilities	C	N	N	N	N	N	N
Wind Energy Conversion System	C	N	N	N	N	N	N
<p>*Denotes uses that are permitted without the issuance of a land use permit from Lake of the Woods County. All provisions of this Ordinance must be complied with.</p>							

## **Section 402      Special Provisions**

The following uses are subject to the following provisions in addition to all other requirements of this Ordinance.

1. Home occupations must be consistent with the following provisions:
  - A. The home occupation shall be conducted principally by the members of the family occupying the dwelling.
  - B. Conduct of the home occupation shall not change the residential character thereof.
  - C. No more than one (1) employee other than members of the family living on the premises may be employed on or report to the premises.
  - D. Signage shall consist of no more than one (1) non-illuminated single or double-faced sign with a maximum area of twelve (12) square feet per side.
  - E. No outdoor display of goods.
  - F. Except for goods or articles produced on the premises, no stock in-trade shall be sold on the premises.
  - G. No traffic shall be generated by the home occupation beyond that which is reasonable and normal for the area.
  - H. All home occupations shall conform to Section 401.
  - I. Should the occupation be a professional service, clients shall not exceed 3 at any one time and related supplies shall not be considered stock-in-trade.
  - J. Should the home occupation be repair, the items repaired shall be of a size or nature that repairs can occur within the dwelling. An attached or detached garage is not considered part of the dwelling.
  - K. No outside storage is permitted.
  - L. The home occupation shall not generate sewage of a nature or type that cannot be treated by a permitted on-site sewage treatment system.
  - M. No equipment or process shall be used in the home occupation which creates noise, vibration, glare, fumes, odors or electrical interference detectable off the premises.

### **Section 402.1      Fish House Regulations**

Lake of the Woods County has established the following regulations governing the dead storage and live-in status of fish houses in the County. All fish house activities must conform to the provisions as outlined below:

#### **Requirements**

The provisions of this Section must be adhered to unless a variance is granted as per Section 1203 of this Ordinance.

1. Dead Storage Fish Houses
  - A. Must be setback in accordance with Section 503 of this Ordinance.
  - B. Must be accessible to emergency vehicles.
  - C. A Conditional Use Permit is not required for the outdoor storage of up to five (5) fish houses provided that only two (2) are visible and they must be treated to reduce visibility as viewed from public waters, public roads, and adjacent properties by vegetation assuming summer leaf-on conditions, increased setbacks or be of earth tone colors.
  - D. A Conditional Use Permit is limited to and required for parcels zoned as a Residential (R1), Rural Residential (R2), or General Use Zoning District, unless previously approved, providing for the outdoor storage of more than five (5) fish houses.

2. Live-in Fish House
  - A. A Land Use Permit may be required if not a temporary structure, as defined in Section 108 of this Ordinance.
3. Fish House Park
  - A. Shall be processed as a Planned Unit Development (PUD) and be platted in accordance with Section 1105. In addition to the requirements outlined in Article X, of this Ordinance, the follow shall apply:

#### **General**

1. Fish houses and other structures in a fish house park (FHP) must be setback in accordance with Section 503 of this Ordinance.
2. In a FHP, an adequate number of fly-tight, watertight and rodent-proof containers must be provided for all garbage and refuse. Garbage must be collected for disposal as often as necessary to prevent nuisance conditions and at least once each week.
3. FHPs must be maintained free of accumulations of debris or material which may provide rodent harborage or breeding places for insect pests. Areas in FHPs must be maintained free of growths of noxious weeds.
4. All walkways, drives, and commonly used areas in FHPs must be provided with adequate night lighting.
5. In a FHP, bottled gas cylinders must be firmly mounted in an upright position and must not be located within 5 feet of any fish house door, unless the mounting brackets are part of manufacture's design.
6. In a FHP, fuel oil storage tanks must be securely fastened in place and fuel oil tank stands must be constructed of a noncombustible material. Fuel oil tanks must be located at least 5 feet from any fish house exit.
7. Domestic animals or pets must not be allowed to run at large or cause any nuisances within a FHP. Any kennels, pens or other facilities provided for animals must be maintained in a sanitary condition.
8. A maximum speed limit of 10 miles per hour must be clearly posted throughout the FHP.
9. Vehicle parking on a public highway, street, or alley is prohibited in a FHP.

#### **Spacing**

1. Each fish house site must face or be next to a driveway or clear unoccupied space at least sixteen (16) feet wide. That space must have unobstructed access to a public highway, street, or alley.
2. Space between the fish houses may be used for parking vehicles and other property not attached to the fish house.
3. Minimum site size of 2,000 square feet for each fish house with a minimum width of fifty (50) feet.

#### **Water Supply**

1. The water supply system, in a FHP, must meet all applicable Minnesota Department of Health (MDH) requirements for public water supplies (Minnesota Rules, Chapter 4720) and water wells (Minnesota Rules, Chapter 4725).

2. Water must be available within 400 feet of every fish house.
3. A minimum supply of seventy-five (75) gallons per day for each fish house shall be provided.
4. Minimum water riser pipe size is 3/4 inch; water riser and sewer riser must be constructed of approved materials and separated by at least ten (10) feet.
5. All plumbing must be installed in accordance with the Minnesota Plumbing Code, Chapter 4715.

### **Sewage Disposal**

1. All sewage and waste water, in a FHP, must be discharged into an approved municipal sewage system if one is available or an individual on-site sewage treatment system that meets the requirements of the Lake of the Woods County Subsurface Sewage Treatment System Ordinance.
2. Each fish house site shall have a 4 inch minimum diameter sewer riser pipe. The sewer riser must be capped when a site is not occupied by a fish house. Surface drainage must be directed away from the riser, the riser pipe must extend at least four (4) inches above ground elevation.
3. Toilet and shower facilities must be provided in all FHPs which harbor any fish house which is not equipped with toilet and bathing facilities. Toilet and shower facilities shall be adequately heated, ventilated and lighted and have durable, washable, floors, walls, and ceilings and meet ADA requirements. Toilet facilities must be provided within four-hundred (400) feet of any fish house and as follows:
  - A. Two (2) toilets are required for up to fifteen (15) fish houses
  - B. Three (3) toilets are required for more than fifteen (15) fish houses
4. FHP areas harboring fish houses with self-contained waste water tanks must provide a sanitary dumping station in the ratio of one (1) sanitary station for each one-hundred (100) sites. Sanitary stations must be adequately screened and located at least fifty (50) feet from any FHP site.

### **Storm Shelters**

1. A FHP with less than ten (10) fish houses must provide a plan for the evacuation and sheltering of the residents of the park in times of severe weather such as tornadoes, high winds, or floods. The shelter or evacuation plan must be conspicuously posted in the park and the park owner must provide each resident with a copy of the approved shelter or evacuation plan.
2. A FHP with ten (10) or more fish houses must provide an approved shelter or an approved evacuation plan for the residents of the park in times of severe weather such as tornadoes, high winds, or floods. The shelter location or evacuation plan must be conspicuously posted in the park and the park owner must provide each resident with a copy of the approved shelter location or evacuation plan.
3. The storm shelter shall be constructed to meet the Department of Labor and Industry (DOLI) standards, see Minnesota Rules Chapter 1370 for requirements.

## **ARTICLE V HEIGHT AND PLACEMENT REGULATIONS**

Except as otherwise specifically provided for in this Ordinance, no new lot shall be created, by plat or by metes and bounds description, which does not meet the following minimum dimensional requirements as specified in this Ordinance. No lot area shall be so reduced or diminished so that the yards or other open spaces are smaller than prescribed herein, nor shall the number of dwelling units be increased in any manner except in conformity with the area regulations in this Ordinance. The area of any lot shall not be reduced below the minimum standards specified herein. No land below the ordinary high water level or any portion of a lot that is less than thirty (30) feet in width shall be used in determining minimum lot area.

### **Section 501      Lot Area Requirements**

Following are the minimum area requirements for all lots.

#### **Section 501.1      Non-Shoreland Lots**

Non-shoreland lots must meet the following minimum lot sizes:

Special Protection District	5 Acre
Residential District (R1)	
Single and Duplex	1 Acre
Triplex	60,000 Sq. Ft.
Quad	80,000 Sq. Ft.
Rural Residential District (R2)	5 Acres
Commercial-Recreation District	1 Acre
General Use District	1 Acre

#### **Section 501.2      Shoreland Lots**

All shoreland lots must meet the following minimum lot size requirements:

##### **Section 501.2.1      Natural Environment Lakes**

Note: The two existing Natural Environment Lakes in the county have no shoreland property in private ownership, are inaccessible, and have no developable property.

##### **Section 501.2.2      General Development Lake**

Riparian Lots		Non-Riparian Lots	
Single	20,000 Sq. Ft.	Single	40,000 Sq. Ft.
Duplex	40,000 Sq. Ft.	Duplex	80,000 Sq. Ft.
Triplex	60,000 Sq. Ft.	Triplex	120,000 Sq. Ft.
Quad	80,000 Sq. Ft.	Quad	160,000 Sq. Ft.

### **Section 501.2.3 River Segments (Remote, Forested, Agricultural, and Tributary)**

	Remote	Forested	Agricultural	Tributaries
Single-Platted	2.5 acres	2.5 acres	45,000 sq. ft.	20,000 sq. ft.
Single-Not Platted	5 acres	5 acres	5 acres	20,000 sq. ft.
Duplex	2.5 acres	2.5 acres	45,000 sq. ft.	40,000 sq. ft.
Triplex	5 acres	5 acres	5 acres	60,000 sq. ft.
Quad	5 acres	5 acres	5 acres	80,000 sq. ft.

### **Section 502 Lot Width Requirements**

Following are the minimum width requirements. Non-shoreland lots shall be measured at the building line. Shoreland lots shall be measured at both the building line and at the ordinary high water level.

#### **Section 502.1 Natural Environment Lakes**

Note: The two existing Natural Environment Lakes in the County have no shoreland property in private ownership, are inaccessible, and have no developable property.

#### **Section 502.2 General Development Lake**

Riparian Lots		Non-Riparian Lots	
Single	100 Ft.	Single	150 Ft.
Duplex	180 Ft.	Duplex	265 Ft.
Triplex	260 Ft.	Triplex	375 Ft.
Quad	340 Ft.	Quad	490 Ft.

#### **Section 502.3 River Segments**

	Remote	Forested	Agricultural	Tributaries
Single	300	200	150	100
Duplex	450	300	225	150
Triplex	600	400	300	200
Quad	750	500	375	250

#### **Section 502.4 Non-Shoreland Lots**

All non-shoreland lots shall be a minimum of 100 feet in width. Refer to Sections 1005 and 1006 for additional requirements that may apply.

### **Section 503 Setback Provisions**

Structures and sewage treatment systems constructed, or placed, after the date of enactment of this Ordinance shall meet the setbacks prescribed in this section. When more than one setback applies to a site, structures or facilities must be located to meet all setbacks. Recreational vehicles are not considered structures but must be parked or stored in accordance with setback requirements of this Ordinance and may require a Conditional Use Permit.

Where residential structures exist on the adjoining lots on both sides of a proposed building site, residential structure setbacks may be altered without variance to conform to the average adjoining setbacks from the ordinary high water level provided the proposed building site is not located in a shore or bluff impact zone. The existing residential structures on the adjoining lots must be of a quality such that a reasonable and prudent person would use the same for the purpose of habitation, and must not be a recreational vehicle, guest cottage, or accessory structure. This provision only applies to vacant lots which new residences are to be constructed.

### **Section 503.1 Natural Environment Lakes**

Note: The two existing Natural Environment Lakes in the county have no shoreland property in private ownership, are inaccessible, and have no developable property.

### **Section 503.2 General Development Lake (Lake of the Woods)**

• Structure setback from ordinary high water level	75 Feet
• Structure setback from side lot line	10 Feet*
• Structure setback from top of bluff	30 Feet
• Structure setback from Federal, State or County Highway Right of Way	50 Feet
• Structure setback from Right of Way of other roads	20 Feet
• Sewage treatment system setback from ordinary high water level	50 Feet

### **Section 503.3 Remote River Segments**

• Structure setback from ordinary high water level	200 Feet
• Structure setback from side lot line	10 Feet*
• Structure setback from top of bluff	30 Feet
• Structure setback from Federal, State or County Highway Right of Way	50 Feet
• Structure setback from Right of Way of other roads	20 Feet
• Sewage treatment system setback from ordinary high water level	200 Feet*

### **Section 503.4 Forested River Segments**

• Structure setback from ordinary high water level	150 Feet
• Structure setback from side lot line	10 Feet*
• Structure setback from top of bluff	30 Feet
• Structure setback from Federal, State or County Highway Right of Way	50 Feet
• Structure setback from Right of Way of other roads	20 Feet
• Sewage treatment system setback from ordinary high water level	150 Feet*

### **Section 503.5 Agricultural River Segments**

• Structure setback from ordinary high water level	100 Feet
• Structure setback from side lot line	10 Feet*
• Structure setback from top of bluff	30 Feet
• Structure setback from Federal, State or County Highway Right of Way	50 Feet
• Structure setback from Right of Way of other roads	20 Feet
• Sewage treatment system setback from ordinary high water level	100 Feet*

## **Section 503.6 Tributaries**

- Structure setback from ordinary high water level ..... 100 Feet
- Structure setback from side lot line ..... 10 Feet\*
- Structure setback from top of bluff ..... 30 Feet
- Structure setback from Federal, State or County Highway Right of Way ..... 50 Feet
- Structure setback from Right of Way of other roads ..... 20 Feet
- Sewage treatment system setback from ordinary high water level ..... 100 Feet\*

## **Section 503.7 Non-Shoreland Lots**

- Structure setback from side lot line ..... 10 Feet\*
- Structure setback from Federal, State or County Highway Right of Way ..... 50 Feet
- Structure setback from Right of Way of other roads ..... 20 Feet

\* The Zoning Administrator may administratively, without a variance according to Section 1203 of this Ordinance, allow a lesser setback in the following circumstances:

1. A lot line setback where no feasible alternative exists and the landowner and adjacent landowner(s) enter into a Reduced Setback Agreement which attests to the location of the property line or a certified survey establishes the property line. The Reduced Setback Agreement document is available upon request from the Land and Water Planning Office.
2. For River Segments, identified in Section 503 of this Ordinance, where no feasible alternative exists as determined by a licensed designer and confirmed by the Land and Water Planning Office, the following Ordinary High Water Mark (OHWM) setback may apply:
  - A. Agricultural – 75 feet
  - B. Forested – 100 feet
  - C. Remote – 150 feet
  - D. Tributary – 75 feet

All other deviations from the setback requirements must be approved by a variance according to Section 1203 of this Ordinance.

## **Section 504 Unplatted Cemeteries**

All structures shall be set back a minimum of 50 feet from unplatted cemeteries.

## **Section 505 Bluff Impact Zones**

Structures or facilities, except stairways and landings meeting the requirements of Section 509.2, must not be placed within bluff impact zones.

## **Section 506 Height of Structures**

No structures, except churches and non-residential agricultural structures shall exceed thirty-five (35) feet in height or within the shoreland area of the Rainy and Rapid Rivers, shall exceed twenty-five (25) feet in height.

Free standing guest cottages shall not exceed fifteen (15) feet in height. Guest cottages constructed above a garage must not exceed twenty-five (25) feet in height.

## **Section 507        Uses without Water-Oriented Needs**

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

## **Section 508        Guest Cottages in Shoreland**

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

1. For lots exceeding the minimum lot dimensions of duplex lots, the guest cottage must be located within the smallest duplex-sized lot that could be created including the principal unit;
2. A guest cottage must not cover more than 700 square feet of inside living space and must not exceed fifteen (15) feet in height unless such structure is constructed above a garage. In such cases the maximum height shall be twenty-five (25) feet.
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, leaf-on conditions.
4. If sanitary facilities are to be provided with a guest cottage, such facilities shall utilize the same treatment system as the principal structure, except in cases where topographic features or location would result in practical difficulties during installation as determined by the Land and Water Planning Office in consultation with the septic designer and/or installer.

## **Section 509        Design Criteria for Structures**

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

### **Section 509.1      High Water Elevations**

Structures must be placed in accordance with Lake of the Woods County Floodplain regulations applicable to the site. On Lake of the Woods, the lowest floor of all structures shall be placed at a minimum elevation of 1,065 feet above mean sea level (NAVD88 Datum).

For rivers and streams, by placing the lowest floor at least three feet above the flood of record, if data is available. If data is not available, by placing the lowest floor at least three feet above the ordinary high water level or by conducting a technical evaluation to determine 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 6120.5000 to 6120.6200 governing the management of flood plain areas. If more than one approach is used, the highest flood protection elevation determined must be used for placing structures and other facilities.

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.

### **Section 509.2 Stairways, Lifts and Landings in Shoreland**

In shoreland areas, no stairways, lifts, or landings shall be constructed until a permit is obtained from the Zoning Administrator. Stairways and lifts are the preferred alternative to major topographic alterations for achieving access up and down bluffs and steep slopes to shore areas. Stairways, lifts and landings must meet the following design requirements:

1. Stairways and lifts must not exceed four feet in width on residential lots. Wider stairways may be used for commercial properties, public open-space recreational properties, and planned unit developments if specifically authorized in a conditional use permit;
2. Landings for stairways and lifts on residential lots must not exceed 32 square feet in area. Landings larger than 32 square feet may be allowed for commercial properties, public open-space recreational properties, and planned unit developments if specifically authorized in a conditional use permit;
3. Canopies or roofs are not allowed on stairways, lifts, or landings;
4. Stairways, lifts or landings may be either constructed above the ground on posts or pilings, or placed into the ground provided they are designed and built in a manner that ensures control of soil erosion;
5. Stairways, lifts or landings must be located in the most visually inconspicuous portions of lots, as viewed from public waters assuming summer, leaf-on conditions, whenever practical; and,
6. Facilities such as ramps, lifts, or mobility paths for physically handicapped persons are also allowed as a conditional use for achieving access to shore areas, provided that the dimensional and performance standards of this section, and the requirements of the State Building Code, Minnesota Regulations 1340, are complied with.

### **Section 509.3 Significant Historic Sites**

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

### **Section 509.4 Steep Slopes**

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

### **Section 509.5 Special Restrictions for Northwest Angle Islands**

The placement of manufactured homes is prohibited on all NW Angle Islands.

## **ARTICLE VI**

### **NONCONFORMITIES AND NONCONFORMING LOTS OF RECORD**

All legally established nonconformities, including the lawful use or occupation of land or premises existing as of the date of enactment of this Ordinance, may be continued, including through repair, replacement, restoration, maintenance, or improvement, but not including expansion, provided that they are managed in accordance with applicable state statutes and the following standards.

#### **Section 601        Nonconforming Use of Land**

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

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

#### **Section 602        Nonconforming Buildings or Structures**

Buildings or structures which were legally constructed prior to the adoption of this Ordinance, but that do not meet the provisions of this Ordinance, may continue in use. If the nonconforming use or occupancy is discontinued for a period of more than one (1) year any subsequent use or occupancy of the land or premises must be a conforming use or occupancy. Routine maintenance such as painting, staining, and replacement of shingles, siding, windows, and doors, is allowed on all legal nonconforming structures. Additions, alterations, or expansions to nonconforming structures are allowed, provided that any such additions, alterations, or expansions are in full compliance with the provisions herein. No addition, alteration, or expansion to the outside dimensions of a nonconforming structure which does not comply with the dimensional requirements of this Ordinance may be authorized without a variance issued in accordance with Article XII of this Ordinance with the following exception:

Additions, alterations, reconstruction, or relocation of legal nonconforming structures in a commercial planned unit development, where such nonconformity is caused by excess density within a development tier, may be allowed as a conditional use in all districts. A conditional use permit may be granted provided that any addition, alteration, reconstruction, or relocation comply with all of the requirements of the Ordinance other than density, that the total number of units shall not be increased, the overall square footage of unit floor area within the PUD shall be maintained or reduced, any units to be relocated or reconstructed shall be placed in development tiers farther from the shoreline to the extent possible, and the addition, alteration, reconstruction, or relocation shall comply with the requirements prescribed by Section 1015 of this Ordinance. Increased square footage needed in order to comply with Americans with Disabilities Act requirements shall not be computed for purposes of determining the overall square footage of structures as used in this Section, provided that no increase allowed under this exception may exceed 10% of the square footage of the existing structure.

## **Section 603      Deck and Platform Additions to Nonconforming Structures**

Deck and platform additions are allowed to structures that do not meet the minimum setback from the ordinary high water level or to those structures that minimally meet setback requirements, without a variance, provided:

1. The structure existed on the date the structure setbacks were established;
2. A thorough evaluation of the property and structure reveals no reasonable location for a deck or platform which meets or exceeds the setback from the ordinary high water level;
3. The deck or platform encroachment toward the ordinary high water level does not exceed fifteen (15) percent of the existing setback of the structure from the ordinary high water level, or does not encroach closer than thirty (30) feet, whichever is more restrictive; and,
4. The deck or platform is constructed primarily of wood, and is not roofed or screened.

## **Section 604      Damage to Nonconforming Buildings or Structures**

If a nonconforming building or structure is destroyed by fire or other peril to the extent of greater than fifty (50) percent of its estimated market value, as indicated in the records of the County Assessor at the time of damage, and no land use permit has been applied for within 180 days of when the property is damaged, any subsequent use or occupancy of the land or premises must be a conforming use or occupancy.

If a nonconforming building or structure is destroyed by fire or other peril to the extent of greater than fifty (50) percent of its estimated market value, as indicated in the records of the County Assessor at the time of damage, and a land use permit has been applied for within 180 days of when the property is damaged, the County may impose reasonable conditions upon a land use permit in order to mitigate any newly created impact on adjacent property or water body.

When a nonconforming structure located in the bluff or shore impact zone within the shoreland district is destroyed by fire or other peril to greater than fifty (50) percent of its estimated market value, as indicated in the records of the County Assessor at the time of damage, the structure setback may be increased if practicable and reasonable conditions are placed upon a land use permit to mitigate created impacts on the adjacent property or water body.

In determining if a building or structure is destroyed greater than fifty (50) percent of its estimated market value, the landowner is required to obtain a contractor's construction estimate for the repair or replacement of the building or structure and submit it to the Land & Water Planning Office. This estimate will then be compared with the County Assessor's estimated market value of the structure or building in determining the fifty (50) percent requirement.

### **Section 604.1      Excess Density Within a Commercial PUD**

Restoration, reconstruction, or relocation of legal nonconforming structures in a commercial planned unit development, where such nonconformity is caused by excess density within a development tier, may be allowed as a conditional use in all districts. A conditional use permit may be granted provided that any restoration, reconstruction, or relocation comply with all of the requirements of the Ordinance other than density, that the total number of units shall not be increased, the overall square footage of unit floor area within the PUD shall be maintained or reduced, and any units to be relocated or reconstructed shall be placed in development tiers

farther from the shoreline to the extent possible, and any addition, alteration, reconstruction or relocation shall comply with the requirements prescribed by Section 1015 of this Ordinance. Increased square footage needed in order to comply with Americans with Disabilities Act requirements shall not be computed for purposes of determining the overall square footage of structures as used in this Section, provided that no increase allowed under this exception may exceed 10% of the square footage of the existing structure.

## **Section 605        Nonconforming Lots of Record**

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

1. The use is permitted in the zoning district;
2. The lot has been in separate ownership from abutting lands at all times since it became nonconforming;
3. The lot was created compliant with official controls in effect at that time;
4. A Type 1 sewage treatment system consistent with Minnesota Rules, chapter 7080, can be installed or the lot is connected to a public sewer;
5. The impervious surface coverage does not exceed twenty-five (25) percent of the lot;
6. The sewage treatment and structure setback requirements of this Ordinance are met; and
7. A land use permit is obtained from the Office of Land and Water Planning.

A variance from setback requirements must be obtained before any use, sewage treatment system, or land use permit is issued for a lot that does not meet the setback provisions of this ordinance. 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.

### **Section 605.1        Nonconforming Contiguous Lots of Record**

In a group of two or more contiguous lots of record under a common ownership, an individual lot must be considered as a separate parcel of land for the purpose of sale or development, if it meets the following requirements:

1. The lot must be at least sixty-six (66) percent of the dimensional standard for lot width and lot size for the shoreland classification consistent with Minnesota Rules, chapter 6120;
2. The lot must be connected to a public sewer, if available, or must be suitable for the installation of a Type 1 sewage treatment system consistent with Minnesota Rules, chapter 7080, and local government controls;
3. Impervious surface coverage must not exceed Twenty-five (25) percent of each lot; and,
4. Development of the lot must be consistent with an adopted comprehensive plan.

An individual lot not meeting the requirements subparts 1-4 above, must be combined with the one or more contiguous lots so they equal one or more conforming lots.

Notwithstanding the requirements of subparts 1-4 above, contiguous nonconforming lots of record in shoreland areas under a common ownership must be able to be sold or purchased individually if each lot contained a habitable residential dwelling at the time the lots came under common ownership and the lots are suitable for, or served by, a sewage treatment system consistent with the requirements of Minnesota Statute 115.55 and Minnesota Rules, chapter 7080, or connected to a public sewer.

For lots subject to the requirements of subparts 1-4 above, in evaluating all variances, zoning and land use permit applications, or conditional use requests, the zoning authority shall require the property owner to address, when appropriate, storm water runoff management, reducing impervious surfaces, increasing setback, restoration of wetlands, vegetative buffers, sewage treatment and water supply capabilities, and other conservation-designed actions.

A portion of a conforming lot may be separated from an existing parcel as long as the remainder of the existing parcel meets the lot size and sewage system requirements of the zoning district for a new lot and the newly created parcel is combined with an adjacent parcel.

## **Section 606      Failing Sewage Treatment Systems**

A sewage treatment system that does not meet the requirements specified in Article VIII of this Ordinance must be upgraded, at a minimum; at any time that a land use permit, variance, or conditional use permit 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 failing if the only deficiency is the setback of the sewage treatment system from the ordinary high water level.

The Lake of the Woods County Board of Commissioners has, by formal resolution, notified the Commissioner of its program to identify nonconforming sewage treatment systems. Lake of the Woods County will require upgrading or replacement of any nonconforming system identified through this program within two years of identification by the Land and Water Planning Office. Sewage treatment systems installed according to all applicable local shoreland management standards adopted under MS 103 in effect at the time of installation may be considered as conforming unless they are determined to be failing, except that systems using cesspools, leaching pits, seepage pits, or other deep disposal methods, or systems with less soil treatment area separation above groundwater than required by the Minnesota Pollution Control Agency's Chapters 7080-7083 for design of on-site sewage treatment systems shall be considered failing.

## **ARTICLE VII**

### **ACCESSORY USES AND STRUCTURES**

#### **Section 701      Accessory Uses and Structures**

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

1. All accessory buildings, including carports and breezeways, attached to the principal building on a lot shall be made structurally a part thereof and shall comply in all respects with the requirements of the Ordinance applicable to the principal building.
2. All detached accessory buildings or structures shall be located in compliance with setback requirements applicable to the principal dwelling within the management district with the exception of a water-oriented accessory structure as described in Paragraph #4.
3. Piers and docks are allowed, but shall be controlled by applicable State and local regulations.
4. Each riparian lot, except those in the Special Protection (SP) District, may have one water-oriented accessory structure not meeting the normal setback from the ordinary high water level as specified in Article V of this Ordinance, provided that such structure complies with the following provisions:
  - A. For all public waters the structure must not exceed ten (10) feet in height, exclusive of safety rails, and shall not occupy an area greater than 250 square feet with the following exception:
    - a. For Lake of the Woods, the Rainy River and classified Tributaries directly accessible by boat from Lake of the Woods or the Rainy River, the structure must not exceed ten (10) feet in height, exclusive of safety rails, and shall not occupy an area greater than 400 square feet. Detached decks must not exceed eight (8) feet above ground at any point.
  - B. The setback of the structure from the ordinary high water level must be at least ten (10) feet;
  - C. The structure must be treated to reduce visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks or color assuming summer, leaf-on conditions;
  - D. The roof may be used as a deck with safety rails, but shall not be enclosed; and,
  - E. The structure shall not be designed or used for human habitation and shall not contain water supply or sewage treatment facilities.
5. A sanitary system will be allowed in garages provided that the lot meets duplex sizing requirements, the system is connected into the individual sewage treatment system servicing the principal residential dwelling, the existing individual sewage treatment system is of sufficient size to handle the additional wastewater, and the system meets or exceeds the standards in the Lake of the Woods County Subsurface Sewage Treatment System Ordinance. The use of a holding tank is allowed where it is not practicable, nor feasible, to connect into the existing individual sewage treatment system as long as it meets the standards in the Lake of the Woods County Subsurface Sewage Treatment System Ordinance.

## **ARTICLE VIII SANITATION AND WATER SUPPLY STANDARDS**

### **Section 801      Sewage Treatment Standards**

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

1. Publicly-owned sewer systems must be used where available.
2. All private individual sewage treatment systems must meet or exceed all provisions of the Lake of the Woods County Subsurface Sewage Treatment System Ordinance and the current edition of the Minnesota Rules, Chapter 7080-7083 in all respects, which is hereby adopted by reference and declared to be a part of this Ordinance. Copies of these documents are on file at the Office of Land and Water Planning, Lake of the Woods County Government Center.
3. Individual sewage treatment systems must be set back from the ordinary high water level in accordance with the minimum standards specified in Section 503 of this Ordinance and in Section 5.10 of the Lake of the Woods County Subsurface Sewage Treatment System Ordinance. In cases where no feasible alternative exists and a written statement signed by all adjacent property owners attests to the location of the property line or a certified survey establishes the property line the Zoning Administrator may allow a lesser lot line setback administratively.
4. Non-compliant sewage treatment systems shall be regulated and upgraded in accordance with the Lake of the Woods County Subsurface Sewage Treatment System Ordinance.
5. Any structure that generates sewage and is served by a pressurized water supply system must be served by a compliant SSTS. The use of holding tank(s) is permitted only where there is no other reasonable alternative to treating and disposing of wastewater. A licensed designer must submit a site design indicating that the use of holding tank(s) is the only alternative and state the reasons why a drainfield is not viable. If the use of holding tank(s) is permitted, the landowner must acquire and place on file in the Land and Water Planning Office a maintenance agreement.

### **Section 802      Sewage Treatment Permit Requirements**

No person, firm, or corporation shall install, alter, repair or extend any individual sewage treatment system without first obtaining a permit therefore from the Lake of the Woods County Office of Land and Water Planning for the specific installation, alteration, repair or extension to be performed. If the installation, construction, or modifications are performed by someone other than the property owner the installer shall be a licensed State of Minnesota certified sewage treatment installer, and said installer shall be responsible for obtaining a permit if the property owner fails to do so.

1. Applications for permits shall be made in writing upon forms provided by the Lake of the Woods County Office of Land and Water Planning and shall be signed by the applicant, or agent.
2. Each application for a sewage treatment system shall include:
  - A. A correct legal description of the property on which the proposed installation, alteration, repair or extension will occur;

- B. A plan of the site of reasonable scale and accuracy showing: the location of any proposed and existing buildings, water supply, property lines, underground and overhead utility lines, and an arrow indicating the direction of North;
  - C. A complete plan, by a licensed designer, of the sewage treatment system showing the location, size and design of all parts of the system to be installed, altered, repaired or extended;
  - D. The name of the person, firm, or corporation which will install the system; and,
  - E. Any other pertinent information as requested by the Land and Water Planning Office.
3. All sewage treatment systems must be installed by MPCA certified installers, or by the owner of the private property.

### **Section 803      Revision to Approved Plan**

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

### **Section 804      Sewage Treatment System Inspection**

The Zoning Administrator shall cause such inspection or inspections which are necessary to determine compliance with this Ordinance. No part of the system shall be covered until it has been approved. It shall be the responsibility of the licensed installer, or property owner, to notify the Office of Land and Water Planning when the installation, modification, or construction of the sewage treatment system is ready for inspection. The Zoning Administrator shall make inspections within three regular working days, excluding Saturday, Sunday, and all holidays, after such notice has been given. The owner or occupant of the property shall give the Zoning Administrator or his designated inspector access to the property at reasonable times for the purpose of making said inspections. If the system is backfilled before a final inspection is made, the county reserves the right to require the system to be unearthed for final inspection. The Zoning Administrator may assign the responsibilities for the administration of these provisions to a qualified inspector.

### **Section 805      Water Supply Standards**

All public or private supplies of water for domestic purposes must meet or exceed the standards for water quality of the Minnesota Department of Health and the MPCA.

Private wells must be located, constructed, maintained and sealed in accordance with the Water Well Construction Code of the Minnesota Department of Health.

## **ARTICLE IX GENERAL SHORELAND REQUIREMENTS**

The following standards apply only in shoreland areas, as defined in Article I of this Ordinance.

### **Section 901        Vegetative Alterations**

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

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

### **Section 902        Topographic Alterations/Grading and Filling**

Topographic alterations, including grading or filling, shall not be allowed without a conditional use permit, with the following exceptions:

1. The cumulative movement of less than ten (10) cubic yards of material on steep slopes or within shore or bluff impact zones may be undertaken without a permit.
2. The cumulative movement of less than fifty (50) cubic yards of material outside of steep slopes and shore and bluff impact zones may be undertaken without a permit.
3. Grading and filling and excavations necessary for the construction of structures, sewage treatment systems, and driveways under validly issued construction permits for these facilities do not require the issuance of a separate grading and filling permit. However, the grading and filling standard prescribed in this Section must be incorporated into the issuance of permits for the construction of structures, sewage treatment systems, and driveways.
4. Public roads and parking areas must meet the requirements prescribed in Section 903 of this Ordinance.

5. The following considerations and conditions must be adhered to for the issuance of construction permits, grading and filling permits, conditional use permits, variances, and subdivision approvals:
  - A. Grading and filling in any type 2,3,4,5,6,7 or 8 wetland must be evaluated to determine how extensively the proposed activity would affect the functional qualities of the wetland, including: sediment and pollutant trapping and retention; storage of surface runoff to prevent or reduce flood damage; fish and wildlife habitat; recreational use; shoreline or bank stabilization; and noteworthiness, including special qualities such as historic significance, and critical habitat for endangered plants and animals. This evaluation must also include a determination of whether the wetland alteration being proposed requires permits, reviews, or approvals by other local, state or federal agencies such as a watershed district, the Minnesota Department of Natural Resources, or the United States Army Corps of Engineers. The applicant will be so advised by the Land and Water Planning Office.
  - B. Alterations must be conducted in a manner that ensures that only the smallest amount of bare ground is exposed for the shortest time possible;
  - C. Mulches or similar materials must be used, where necessary, for temporary bare soil coverage, and a permanent vegetative cover must be established as soon as possible;
  - D. Methods to minimize soil erosion and to trap sediments before they reach any surface water feature must be used;
  - E. Altered areas must be stabilized to acceptable erosion control standards consistent with the field office technical guides of the Lake of the Woods Soil and Water Conservation District and the United States Soil Conservation Service.
  - F. Fill or excavated material must not be placed in a manner that creates an unstable slope;
  - G. Plans to place fill or excavated material on steep slopes must be reviewed by qualified professionals for continued slope stability and must not create finished slopes of thirty (30) percent or greater;
  - H. Fill or excavated material must not be placed in bluff impact zones;
  - I. Any alterations below the ordinary high water level of public waters must first be authorized by the Commissioner of Natural Resources under Minnesota Statutes, Section 103G;
  - J. Alterations of topography must only be allowed if they are accessory to permitted or conditional uses and do not adversely affect adjacent or nearby properties; and,
  - K. Placement of natural rock riprap, including associated grading of the shoreline and placement of a filter blanket, is permitted if the finished slope does not exceed three feet horizontal to one foot vertical, the landward extent of the riprap is within ten feet of the ordinary high water level, and the height of the riprap above the ordinary high water level does not exceed three feet.
  - L. Installation of conservation practices, which have been designed by the North Central Minnesota Joint Powers Board (NCMJPB) Engineer in consultation with the Lake of the Woods County Soil and Water Conservation District (SWCD), is exempt from obtaining a grading and filling permit. Also, a landowner that is undertaking a conservation practice with the Natural Resources Conservation Service (NRCS) and their engineers are exempt from obtaining a grading and filling permit.
6. Excavating where the intended purpose is connection to a public water, such as boat slips, canals, lagoons and harbors, requires a conditional use permit from the Office of Land and Water Planning. Such conditional use permit shall only be granted after the Commissioner of Natural Resources has approved the proposed connection to public waters.

## **Section 903          Placement and Design of Roads, Driveways, Recreational Trails and Parking Areas**

Public and private roads, recreational trails, and parking areas must be designed to take advantage of natural vegetation and topography to achieve maximum screening from view from public waters. Documentation must be provided by a qualified individual that all roads and parking areas are designed and constructed to minimize and control erosion to public waters consistent with the technical guides of the Lake of the Woods Soil and Water Conservation District, or other technical materials.

Roads, driveways, recreational trails and parking areas must meet structure setbacks and must not be placed within bluff and shore impact zones when other reasonable and feasible placement alternatives exist. If no alternatives exist, they may be placed within these areas, but must be designed to minimize adverse impacts.

Public and private watercraft access ramps, approach roads, may be placed within shore impact zones provided the vegetative screening and erosion control conditions of Section 901 are met. For private facilities, the grading and filling provisions of Section 902 of this Ordinance must be met.

## **Section 904          Stormwater Management Standards**

When possible, existing natural drainage ways, wetlands, and vegetated soil surfaces must be used to convey, store, filter, and retain stormwater runoff before discharge to public waters.

Development must be planned and conducted in a manner that will minimize the extent of disturbed areas, runoff velocities, erosion potential, and reduce and delay runoff volumes. Disturbed areas must be stabilized and protected as soon as possible and facilities or methods used to retain sediment on the site.

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 manmade materials and facilities.

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 Lake of the Woods Soil and Water Conservation District.

Newly constructed stormwater outfalls to public waters must provide for filtering or settling of suspended solids and skimming of surface debris before discharge.

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

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

Surface water-oriented commercial uses and public, or semipublic uses with similar needs to have access to and use of public waters may be located on parcels or lots with frontage on public waters. Those uses with water-oriented needs must meet the following standards:

1. In addition to meeting impervious coverage limits, setbacks and other dimensional provisions of this Ordinance, the uses must be designed to incorporate topographic and vegetative screening of parking areas and structures;

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,
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:
  - A. No advertising signs or supporting facilities for signs may be placed in or upon public waters. Signs conveying information or safety messages may be placed in or on public waters by a public authority or under a permit issued by the Lake of the Woods County Sheriff;
  - B. Signs may be placed, when necessary, within the shore impact zone if they are designed and sized to be the minimum necessary to convey the location and name of the establishment and the general type of goods or services available. The signs must not contain other detailed information such as product brands and prices, must not be located higher than ten feet above the ground, and must not exceed 32 square feet in size. If illuminated by artificial lighting, such lights shall be shielded or directed to prevent illumination out across public waters; and,
  - C. Other outside lighting may be located within the shore impact zone or over public waters if it is used primarily to illuminate potential safety hazards and is shielded or otherwise directed to prevent direct illumination out across public waters. This section does not preclude the use of navigational lighting.
4. Uses without water-oriented needs must be located on lots or parcels without public water frontage, or, if located on lots with public water frontage, must either be set back double the normal setback from the ordinary high water level or be substantially screened from view from the water by vegetation or topography, assuming summer, leaf-on conditions.

## **Section 906      Special Provisions for Agricultural Uses**

General cultivation farming, grazing, nurseries, horticulture, truck farming, sod farming, and wild crop harvesting are permitted uses if steep slopes and shore and bluff impact zones are maintained in permanent vegetation or operated under an approved conservation plan consistent with the field office technical guides of the Lake of the Woods Soil and Water Conservation District or the Natural Resource Conservation Service, as provided by a qualified agency or individual. The shore impact zone for parcels with permitted agricultural land uses is equal to a line parallel to and 50 feet from the ordinary high water level, or half of the structure setback from the ordinary high water level within the particular management district, whichever is greater.

Animal feedlots must meet the following standards:

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 of all public water basins; and,
2. Modifications or expansions to existing feedlots that are located within 300 feet of the ordinary high water level or within a bluff impact zone are allowed if they do not further encroach into the existing ordinary high water level setback or encroach on bluff impact zones.
3. Feedlots must comply with Minnesota Pollution Control Agency Rules 7020.0100 - 7020.1900.

Agricultural practices and associated uses must be conducted consistent with the provisions of Agriculture and Water Quality, "Best Management Practices for Minnesota".

## **Section 907        Special Provisions for Forest Management**

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

## **Section 908        Special Provisions for Extractive Uses in Shoreland Areas**

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. The plan 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.

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

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

## **ARTICLE X**

### **GENERAL PROVISIONS FOR SUBDIVISIONS AND PLANNED UNIT DEVELOPMENTS**

#### **Section 1001      Purpose**

This Article shall apply to the subdivision of a lot, tract, or parcel of land into two or more lots, tracts or other division of land for the purpose of sale or development, so that new subdivisions will be integrated with the development objectives of Lake of the Woods County and contribute to an attractive, stable and wholesome environment, adequate public services, an integrated and safe street and highway system and to improve land records by establishing standards for surveys and plats.

Any subdivision that is not exempt under Section 1004 and does not meet the Administrative or Minor Subdivision standards must be processed as a Plat according to Section 1007. All plats, replats or modifications thereof shall be submitted to the Lake of the Woods County Board in the manner set forth in Article XI, and shall be in conformity therewith, and with such regulations as may be established by resolution of the Lake of the Woods County Board of Commissioners. Any plat hereafter made for each subdivision or each part thereof lying within the jurisdiction of this Article shall be prepared, presented for approval, modified as required, and recorded as herein prescribed.

#### **Section 1002      Consistency with other Controls**

Subdivisions, and lots created within subdivisions, must be zoned and suited for its intended purpose and must conform to the official controls prescribed in this Ordinance. A subdivision will not be approved where a variance from the official controls will later be needed in order to use a lot for its intended purpose. In areas not served by publicly owned sewer and water systems, a subdivision will not be approved unless a sewage treatment system in full compliance with Section 801 can be provided for every lot. Each lot in a subdivision shall meet the minimum lot size and dimensional requirements prescribed in Article V. Each lot shall also include a minimum contiguous lawn area that is free of limiting factors, sufficient for the construction of two standard sewage treatment systems. Subdivisions which include lots that would require holding tanks shall not be approved.

All divisions of land shall be done in accordance with this Article and Article XI, which shall supplement the requirements of Minnesota Statutes, Chapters 505, 515, 515A, 515B, and all other applicable laws of the State of Minnesota.

Reserve strips or landlocked areas shall not be created. Every lot created must have legal access.

No land subdivided under the jurisdiction of this Ordinance shall be recorded or sold until the subdivision process, as outlined in this Ordinance, is completed.

No land use permits shall be issued until all final approvals required by this Article have been granted, including, but not limited to, final approvals for required improvements.

If deemed mandatory by the Land & Water Planning Director or by proper petition, environmental review documents must be completed in accordance with Minnesota Rules 4410.022-4410.7800.

## **Section 1003      Land Suitability**

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

1. Sufficient information must be submitted by the applicant to enable the Land & Water Planning Office to make a determination of land suitability. The information shall include at least the following:
  - A. Topographic contours at ten foot intervals from United States Geological Survey (USGS) maps or more accurate sources, showing limiting site characteristics;
  - B. The surface water features required by Minnesota Statutes, section 505.02, subdivision 1, to be shown on plats, obtained from the United States Geological Survey quadrangle topographic maps or more accurate sources;
  - C. Subsurface Sewage Treatment System (SSTS) site evaluations submitted by a State of Minnesota licensed designer indicating suitability for building and placement of two standard sewage treatment systems for every lot from field investigations such as soil borings, percolation tests, or other methods;
  - D. Information regarding adequacy of domestic water supply;
  - E. Extent of anticipated vegetation and topographic alterations;
  - F. Near-shore aquatic conditions including depths, types of bottom sediments, and aquatic vegetation;
  - G. Proposed methods for controlling stormwater runoff and erosion both during, and after, construction activities which may require a Stormwater Pollution Prevention Plan (SWPPP);
  - H. Location of 100 year floodplain areas and floodway districts from existing adopted maps or data;
  - I. A line or contour representing the ordinary high water level, the toe and the top of bluffs, and the minimum building setback distances from the top of bluff, and from the public waters; and,
  - J. A wetland delineation.

The Land & Water Planning Office shall make its decision, in writing within fifteen (15) days of receipt of all the information as outlined above, specifying the facts upon which the suitability determination is made. If a determination is made that the land is not suitable for development the applicant will be notified, in writing, regarding the particular facts leading to such determination. The applicant will be afforded the opportunity to appeal such determination in accordance with the procedure for appeal specified in Article XII.

## **Section 1004      Exemptions**

All new subdivisions of land in Lake of the Woods County meeting any of the following shall be exempt from this Article:

1. Creation of cemetery lots;
2. Actions resulting from court order or mortgage foreclosures;
3. Transfers of small parcels to governmental units in case of encroachments, road right-of-way, or utility easements.

## **Section 1005      Administrative Subdivisions**

The purpose of the Administrative Subdivisions is to allow relatively simple and timely procedures for the subdivision of single parcels of land. The provisions in this Section are not intended for the subdivision of land that results in the creation of undeveloped parcels or remnants that may be further subdivided nor are these provisions intended to replace platting requirements for larger parcels. Any subsequent subdivision of any parcels of land, any of which have been included in an Administrative Subdivision shall be processed as a Minor Subdivision or plat, as outlined in Sections 1104 and 1105, respectively.

The following shall be considered an Administrative Subdivision and shall be subject to the requirements of Section 1104:

1. The exchange of abutting land between owners, the addition of land to an existing lot or the relocation of the boundary line between two abutting, existing parcels of property provided that:
  - A. The exchange does not create a non-conforming parcel;
  - B. The exchange does not increase the degree of non-conformity for either parcel; and,
  - C. The exchange does not cause previously conforming structures to be non-conforming.
2. Lots within an Administrative Subdivision may be described by Federal Subdivision, recorded plat, registered land survey, or by metes and bounds description. Metes and bounds descriptions using angles by degrees or curved boundaries must be accompanied by a certificate of survey.
3. A division of property results in no more than four (4) lots.
4. The minimum lot size is five (5) acres or one-half quarter quarter quarter ( $\frac{1}{2} \frac{1}{4} \frac{1}{4} \frac{1}{4}$ ) section unless a certificate of survey is provided.
5. The proposed lot(s) shall have a minimum width at the building setback line and/or shoreline in accordance with Section 502.
6. The division does not require creation of a new road, and all lots shall have frontage on an existing public road or public waterbody or appropriate provisions are made for future access and/or any shared driveway to prevent landlocked parcels within the land being subdivided in the form of an easement. There must be a maintenance agreement for existing access and/or any shared driveway. Alternatively, in lieu of a maintenance agreement, the Subdivider may provide proof to the County that the Subdivider has provided, or will provide a disclosure of the status of maintenance responsibilities to all prospective purchasers.
7. The subdivision request shall be accompanied by a permit for access to a County or State road as applicable.
8. There shall be no subsequent subdivision of any parcels of land in contiguous ownership, any of which have been included in an Administrative Subdivision, within a period of three (3) years of the date any such subdivision of land was recorded as part of an earlier Administrative Subdivision.

Shared driveway access on existing public roads is encouraged to enhance highway safety and may be required to meet the Lake of the Woods County Public Works Department or Minnesota Department of Transportation (MNDOT) access spacing guidelines. Shared driveway access is accommodated by creating private easements on one or more parcels that allow private access to one or more parcels. Shared access easements may be

located on common lot lines or may be located exclusively on one parcel. Easement dimensions shall be sixty-six (66) feet in width to contain the driveway improvements, including drainage and snow storage areas. Easements shall be in a form approved by the County and recorded against the encumbered properties.

## **Section 1006      Minor Subdivisions**

The purpose of the Minor Subdivisions is to allow relatively simple and timely procedures for the subdivision of single parcels of land. The provisions in this Section are not intended for the subdivision of land that results in the creation of undeveloped parcels or remnants that may be further subdivided nor are these provisions intended to replace platting requirements for larger parcels. Any subsequent subdivision of any parcels of land, any of which have been included in a Minor Subdivision shall be processed as a plat as outlined in Section 1105.

The following shall be considered a Minor Subdivision and shall be subject to the requirements of Section 1104:

1. Lots within a Minor Subdivision may be described by Federal Subdivision, recorded plat, registered land survey, or by metes and bounds description. Metes and bounds descriptions using angles by degrees or curved boundaries must be accompanied by a certificate of survey.
2. The subdivision results in a maximum of eight (8) lots.
3. The minimum lot size is five (5) acres or one-half quarter quarter quarter ( $\frac{1}{2} \frac{1}{4} \frac{1}{4} \frac{1}{4}$ ) section unless a certificate of survey is provided.
4. The proposed lot(s) shall have a minimum width at the building setback line and/or shoreline in accordance with Section 502.
5. The division may require creation of a new road constructed according to the design standards set forth by the Lake of the Woods County Public Works Department, as amended, or all lots shall have frontage on an existing public road or public waterbody, or appropriate provisions are made for future access and/or any shared driveway to prevent landlocked parcels within the land being subdivided in the form of an easement. There must be a maintenance agreement for existing access and/or any shared driveway. Alternatively, in lieu of a maintenance agreement, the Subdivider may provide proof to the County that the Subdivider has provided, or will provide a disclosure of the status of maintenance responsibilities to all prospective purchasers.
6. The subdivision request shall be accompanied by a permit for access to a County or State road as applicable.
7. There shall be no subsequent subdivision of any parcels of land in contiguous ownership, any of which have been included in a Minor Subdivision, within a period of three (3) years of the date any such subdivision of land was recorded as part of an earlier Minor Subdivision.

Shared driveway access on existing public roads is encouraged to enhance highway safety and may be required to meet the Lake of the Woods County Public Works Department or Minnesota Department of Transportation (MNDOT) access spacing guidelines. Shared driveway access is accommodated by creating private easements on one or more parcels that allow private access to one or more parcels. Shared access easements may be located on common lot lines or may be located exclusively on one parcel. Easement dimensions shall be sixty-

six (66) feet in width to contain the driveway improvements, including drainage and snow storage areas. Easements shall be in a form approved by the County and recorded against the encumbered properties.

## **Section 1007      Platting**

Any division of land not meeting the requirements of Sections 1004, 1005, or 1006 will be subject to the platting process as outlined in Section 1105 of this Ordinance.

## **Section 1008      Common Interest Community (CIC) Plat**

Conversion to or newly developed common interest communities, and other developments under similar forms of ownership, shall be evaluated and considered as a standard plat and shall be subject to all applicable state and county regulations, including those of a planned unit development.

## **Section 1009      Conservation Subdivisions**

The purpose of the Conservation Subdivision is to allow the creation of lots which place structures, such as houses, in closer proximity to each other than would be allowed in a given zoning district, in order to set aside open space.

A Conservation Subdivision is permitted when a minimum of 50% of the land area of the subdivision is preserved as open space and a concept plan is submitted to the County, which meets the standards for an open space subdivision. The density of development shall remain the same as that allowed by zone district regulations, but greater alternatives for land use design become possible. Road access is simpler; utility and service-access to lots can be less expensive; collector sewer and water systems are possible; wetlands, forested areas, and difficult terrain can more easily be avoided or preserved; and areas most suitable for recreation and scenic views can be preserved.

Conservation Subdivisions shall require the density of development to be no greater than the prevailing density of the existing zone district. For developments that are located in more than one zone district, the density of development may be transferred between zone districts. However, in no case shall the density of development in shoreland areas exceed the maximum density allowance established by calculating the minimum lot width and area requirements of the Minnesota Department of Natural Resources, Shoreland Regulations, and the Lake of the Woods County Zoning Ordinance. Flexibility in the location and size of individual lots shall be allowed.

The County may require a lower base density for Conservation Subdivisions when it is determined by the County that conditions such as protection of wilderness characteristics, topography, environmental conditions, or other similar site-specific conditions exist that warrant a lower base density.

Deed restrictions, covenants, permanent easements, public dedication and acceptance, or other equally effective means as determined by the County, must be provided to assure long term preservation of open space. The instruments must include protections for at least the following:

1. Significant vegetation, natural habitats, wetlands, scenic areas, historic values, topography or other values for which the open space was set aside;
2. Consistency with open space use plans and landscape preservation standards or plans; and,
3. Open space recreation plans.

Creation of an owners association shall be required for all Conservation Subdivisions. The following shall be required as part of the owners association:

1. Membership shall be mandatory for each lot owner and any successive owner;
2. Each member shall pay a pro-rata share of the associations expenses, and unpaid assessments shall become liens on lots; and,
3. The association shall be responsible for insurance and taxes on commonly owned property and facilities.

Conservation Subdivisions shall contain at least 50% open space, which must exclude lots upon which dwellings are located, Road Rights-of-Way(s), parking areas, developed areas or land cover. Open Space must meet all the following criteria:

1. Open space must include, when present, areas with physical characteristics unsuitable for development in their natural state, and areas containing significant historic sites or unplatted cemeteries;
2. Open space may include outdoor recreational facilities for use by owners of dwelling units or sites, and by the general public;
3. Open space may include sewage treatment systems if the use of the treatment space is restricted to avoid adverse impacts on the systems; and,
4. In Shoreland areas, the area within 50 feet of the Ordinary High Water Level must be included as open space.

The Subdivider of Conservation Subdivisions shall evaluate the feasibility of designing and installing centralized or cluster systems for water supply and sewage treatment. Each subdivision shall contain an area equivalent to a minimum of two sites for the installation of a primary and secondary sewage treatment system for each lot created. The location of these sites may be as a collector system, cluster system or individual systems, or any combination of alternatives that meet the intent of the regulations.

Minimum lot area within a Conservation Subdivision is one (1) acre.

Minimum lot width within a Conservation Subdivision is one-hundred fifty (150) feet.

Maximum lot coverage, for impervious surface, within a Conservation Subdivision is ten (10) percent

The application requirements shall follow the platting procedure as outlined in Section 1105, including the pre-application meeting and the information requested for the preliminary and final plats. In addition, the following information will be required:

1. Open space location and use;
2. Percentage of open space; and,
3. Proposed method of open space preservation.

## **Section 1010      Planned Unit Developments**

In order to permit the use of more flexible land use regulations, and to facilitate use of the most advantageous techniques of land development, planned unit developments are authorized under the provisions of this Article. Planned unit developments allow the subdivision of land into smaller lots than would typically be allowed. Planned unit developments allow the County to relax any other performance standards contained herein, or in any other official controls that may apply. They provide a public benefit by allowing construction to be clustered in one part of the property. Utility services can be delivered more efficiently and natural resources are protected. The lot owners can enjoy the use of vacant land for recreation, screening, or any other purpose consistent with the development restrictions in place. The layout can be designed to allow public and private services to be delivered more efficiently than other plats.

Similar to new subdivisions of land, planned unit developments will be platted in accordance with Section 1105. Planned unit developments shall be created in harmony with the general purpose and intent of this Article and with the Lake of the Woods Land Use Plan, but may differ in one or more respects from the zoning regulations applicable within the districts in which they are located. Planned unit developments are allowed as conditional uses for new projects on undeveloped land, redevelopment of previously built sites, or conversions of existing buildings and land in those management districts where specifically identified in Article IV. Planned unit developments shall be processed as a conditional use, except that an expansion to an existing commercial PUD involving six or fewer new dwelling units or sites since the date of enactment of this Ordinance is allowed as a permitted use provided that the total project density does not exceed the allowable densities as prescribed in this Section.

## **Section 1011      PUD Site Suitability Evaluation**

Proposed new, or expansions to existing, planned unit developments shall be evaluated using the following procedures and standards to determine the suitable area for the dwelling unit/dwelling site evaluation described in Section 1012.

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:
  - A. General Development lakes – first tier                      200 feet
  - B. General Development lakes – other tiers                      267 feet
  - C. Rivers and Tributaries – only a single tier                      300 feet
2. The suitable area within each tier is next calculated by excluding from the tier area all wetlands, bluffs, and land below the ordinary high water level of public waters. This suitable area and the proposed development are then subjected to either the residential or commercial planned unit development density evaluation steps to arrive at an allowable number of dwelling units or sites within each tier.

## **Section 1012      Residential and Commercial PUD Density Evaluation**

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

To determine the allowable density for Residential Planned Unit Developments:

1. The suitable area within each tier is divided by the single residential lot size standard for the applicable management district.
2. Proposed locations and numbers of dwelling units or sites for the residential planned unit developments are then compared with the tier, density, and suitability analyses herein and the maintenance and design criteria prescribed in Section 1013.

To determine the allowable density for Commercial Planned Unit Developments:

1. The average inside living area size of dwelling units or sites is computed. Computation of inside living area need not include decks; patios; stoops; elevators; steps; garages; porches; basements; stairways; and entryways attached to stairways that provide access to units located above first floor units, provided that such entryways shall not exceed 100 square feet in size; unless such areas are habitable space;
2. The appropriate floor area ratio is then selected from the following table based upon the average unit floor area for the appropriate public water classification;

<b>COMMERCIAL PLANNED UNIT DEVELOPMENT*</b> <b>Floor Area Ratio by Public Waters Classification</b>			
Average Unit Floor Area (sq. ft.)	GD Lakes (1 <sup>st</sup> Tier), Agricultural Rivers, Non-Shoreland Areas, Tributaries	GD Lakes (except 1 <sup>st</sup> Tier), Forested, River Segments	Remote River Segments
200 or less	.040	.020	.010
300	.048	.024	.012
400	.056	.028	.014
500	.065	.032	.016
600	.072	.038	.019
700	.082	.042	.021
800	.091	.046	.023
900	.099	.050	.025
1,000	.108	.054	.027
1,100	.116	.058	.029
1,200	.125	.064	.032
1,300	.133	.068	.034
1,400	.142	.072	.036
1,500 or more	.150	.075	.038
*For recreational camping areas, use the ratios listed for the average floor area of 400 square feet. Manufactured home sites in recreational camping areas shall use a ratio equal to the size of the manufactured home, or if unknown, shall use the ratio listed for the average floor area of 1,000 square feet.			

3. The suitable area within each tier is multiplied by the floor area ratio to yield the total floor area in each tier allowed to be used for dwelling units or sites;

4. The total floor area for each tier is divided by the average living area size to yield the number of dwelling units or sites allowed for each tier;
5. Proposed locations and numbers of dwelling units or sites for the commercial planned unit developments are then compared with the tier, density and suitability analyses herein and the maintenance and design criteria prescribed in Section 1013. Any proposed project that meets all of the design standards prescribed in Section 1013, and exceeds at least one standard, is allowed an increase in the maximum allowable density in accordance with the following table.

<b>MAXIMUM ALLOWABLE DWELLING UNIT ON SITE DENSITY INCREASES FOR COMMERCIAL PLANNED UNIT DEVELOPMENTS</b>	
<b>Tier</b>	<b>Maximum Density Increase Percentage</b>
First	50
Second	100
Third	200
Fourth	200

6. Allowable densities may be transferred from any tier to any other tier farther from the public water, but shall not be transferred to any tier closer to public water.

### **Section 1013      PUD Maintenance and Design Criteria**

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

1. Commercial uses shall be prohibited in residential planned unit developments;
2. Vegetative and topographic alterations, except for routine maintenance, shall be prohibited;
3. Construction of additional buildings or the storage of vehicles and/or other materials is prohibited; and,
4. Uncontrolled beaching of watercraft shall be prohibited.

All residential planned unit developments must have a property owners association with the following features:

1. Membership shall be mandatory for each dwelling unit or site owner;
2. Each member must pay a pro-rata share of the expenses of the association, and unpaid assessments may become liens on units or sites;
3. Assessments must be adjustable to accommodate changing conditions; and,
4. The association shall be responsible for insurance, taxes, and maintenance of all commonly owned property and facilities.

All planned unit developments must contain open space meeting all of the following criteria:

1. At least Fifty (50) percent of the total project area must be preserved as open space;
2. Dwelling units or sites, road rights-of-way, land covered by road surfaces, parking areas, and structures are developed areas and shall not be included in the computation of open space;
3. Open space must include those areas with physical characteristics unsuitable for development in their natural state and areas containing significant historic sites or unplatted cemeteries;
4. Open space may include outdoor recreational facilities for use by owners or dwelling units or sites, by guests staying in commercial dwelling units or sites, and by the general public;
5. Open space may include subsurface sewage treatment systems provided the use of the space is restricted to avoid adverse impacts on such systems;
6. Open space must not include commercial facilities or uses;
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; and,
8. The shore impact zone based upon normal structure setbacks, must be included as open space. For residential planned unit developments, at least 50 percent of the shore impact zone of existing developments and at least 70 percent of the shore impact zone area of new developments must be preserved in its natural or existing state. For commercial planned unit developments, at least 50 percent of the shore impact zone must be preserved in its natural state.

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

1. Be designed, and the construction managed, to minimize the likelihood of serious erosion occurring either during or after construction. This must be accomplished by limiting the amount and length of time of bare ground exposure. Temporary ground covers, sediment entrapment facilities, vegetative buffer strips, or other appropriate techniques must be used to minimize erosion impacts on surface water features. Erosion control plans approved by the Lake of the Woods Soil and Water Conservation District may be required if warranted by project size and/or the physical characteristics of the site;
2. Be designed and constructed to effectively manage reasonably expected quantities of stormwater runoff. Impervious surface coverage within any tier must not exceed 25 percent of the tier area, except that for commercial planned unit developments 35 percent impervious surface coverage may be allowed in the first tier of general development lakes with an approved stormwater management plan consistent with Sections 901, 902, and 904.

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

1. Planned unit developments must be connected to publicly owned water supply and sewer systems, if available. On-site water supply and sewage treatment systems must be centralized and designed and installed to meet or exceed applicable standards or rules of the Minnesota Department of Health and Articles V and VIII. On-site sewage treatment systems must be located on the most suitable areas of the

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

2. Dwelling units or sites must be 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 applicable shoreland classification: setback from the ordinary high water level; elevation about the surface water features; and maximum height;
3. Shore recreation facilities, including but not limited to swimming areas, docks and watercraft mooring areas and launching ramps must be centralized and located in suitable areas. Evaluation of suitability must include consideration of land slope, water depth, vegetation, soils, depth to groundwater and bedrock, or other relevant factors. The number of spaces provided for continuous beaching, mooring, or docking of watercraft must not exceed one for each allowable dwelling unit or site in the first tier (not withstanding existing mooring sites in an existing commercially used harbor). Launching ramp facilities, including a small dock for loading and unloading equipment, may be provided for use by occupants of dwelling units or sites located in other tiers;
4. Structures, parking areas, and other facilities must be treated to reduce visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks, color, or other means, assuming summer, leaf-on conditions. Vegetative and topographic screening must be preserved, if existing, or may be required to be provided; and,
5. Accessory structures and facilities must meet the required principal structure setback, and must be centralized.

#### **Section 1014      Conversions to Residential PUDs**

Resorts or other land uses and/or facilities may be converted to residential planned unit developments with the issuance of a conditional use permit, provided all of the following standards are met:

1. Proposed conversions shall be initially evaluated using the same procedures as for residential planned unit developments involving all new construction. Inconsistencies between existing features of the development and the PUD standards shall be identified.
2. Deficiencies involving water supply and sewage treatment shall be corrected as part of the conversion as specified in the conditional use permit.
3. Shore and bluff impact zone deficiencies, as well as impervious surface coverage, open space and shore recreation facilities shall be evaluated and reasonable improvements made as part of the conversion. These improvements shall include, where applicable, the following:
  - A. Removal of extraneous buildings, docks, or other facilities that no longer need to be located in shore or bluff impact zones;
  - B. Remedial measures to correct erosion sites and improve the vegetative cover and screening of buildings and other facilities as viewed from the water; and,
  - C. If existing dwelling units are located in shore or bluff impact zones, conditions that preclude exterior expansions in any dimension or substantial alteration are attached to approvals of all conversions. The conditions shall 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.

4. Efforts must be made during any such conversion to limit impacts of high densities by requiring seasonal use, improving vegetative screening, centralizing shore recreation facilities, installing new sewage treatment systems, or other means.
5. Inconsistencies relating to density shall be corrected consistent with the standards that would apply to the converted use as if it were new construction.

## **Section 1015      Special Provisions for Nonconforming Commercial PUD's**

No conditional use permit for additions, alterations, reconstruction or relocation of structures within a nonconforming commercial planned unit development may be authorized without being subject to the following conditions, in addition to any reasonable conditions deemed necessary and appropriate by the Lake of the Woods County Board:

1. Proposed additions, alterations, reconstruction or relocation of structures must be evaluated using the same procedures as commercial planned unit developments involving new construction. Inconsistencies between existing features of the development and the PUD standards shall be identified.
2. No conditional use permit shall be issued for a nonconforming commercial planned unit development without inclusion of a specific condition that limits the density of development of any future use of the property should it cease to be used as a commercial PUD. Such density limitation shall be consistent with the standards that would apply to the converted use as if it were new construction.
3. Deficiencies involving water supply and sewage treatment, impervious surface coverage, open space and shore recreation facilities must be corrected within a time frame specified in an implementation plan to be kept on file at the Courthouse. The correction of deficiencies within the specified time frame shall be conditions of the permit.
4. Improvements to existing structures that are nonconforming, where such nonconformity is due to excess density within a development tier, and where there is allowable density in a tier farther from the shoreline, may only be allowed provided that a plan is prepared and placed on file at the Lake of the Woods County Government Center specifying the specific actions that will be undertaken to bring the PUD into compliance with Section 602 or Section 604. The correction of the nonconforming density within the PUD, but not necessarily within each individual tier, within the specified time frame, shall be a condition of the permit.
5. Shore and bluff impact zone deficiencies must be evaluated and corrected as part of the proposed activities. These corrections must include, as applicable, the following:
  - A. Removal of extraneous buildings, docks, or other facilities that no longer need to be located in shore or bluff impact zones;
  - B. Remedial measures to correct erosion sites and improve the vegetative cover and screening of buildings and other facilities as viewed from the water; and,
  - C. If existing habitable structures are located in shore or bluff impact zones, conditions that preclude their expansion or reconstruction shall be attached to any granted permit. Conditions shall also require future relocation of any such structure to locations meeting all setback and elevation requirements, and a time line for achieving the relocation shall be specified as a condition of the permit.

## **Section 1016      Dedications**

The County Board of Commissioners may require that suitable sites within a subdivision be dedicated or reserved for future public use such as: parks, public access or open space as needed by the particular subdivision.

The County Board of Commissioners may require that easements for drainage ways or ponding areas of widths sufficient to accommodate anticipated storm water runoff be provided.

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

## **Section 1017      Public Sites and Open Spaces**

Public Sites and Open Spaces: where a proposed park, playground, public access, school, or other public use shown in the Lake of the Woods County Comprehensive Land Use Plan is located in whole or in part in a subdivision, the planning commission may require a reservation of such area within the subdivision. Such reservation shall not be for a period to exceed three (3) years and the purchase price shall not exceed the fair market value of such land at the time of purchase.

When deemed essential by the planning commission, upon consideration of the particular type of development proposed in a subdivision, and especially in a large scale neighborhood development not anticipated in the Lake of the Woods County Comprehensive Land Use Plan, the Planning Commission, subject to the approval of the County Board, may require a reservation of such other areas or sites of a character, extent, and location suitable to the needs created by such development for schools, parks, public access, and other neighborhood purposes, such reservation to be for a period not to exceed three years and the purchase price shall not exceed the fair market value of such land at the time of purchase.

## **Section 1018      Controlled Access on Recreational Lots**

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

1. Access lots must meet the minimum width and size requirements for residential lots. If docking, mooring, or over-water storage of watercraft is intended at a controlled access lot, then the width of the lot must be increased by the percent of the minimum lot width requirement for riparian residential lots for each watercraft provided for beyond six, consistent with the following table:

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

2. For all river segments, lots intended as controlled accesses or as recreation areas for use by owners of non-riparian lots within subdivisions are permissible and must meet or exceed the following standards:
  - A. They must meet the width and size requirements for residential lots, and be suitable for the intended uses of controlled access lots.

- B. If docking, moorings, 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 (while keeping the same lot depth) must be increased by the percent of the requirements for riparian residential lots for each watercraft beyond six, which is 20% for the Rainy River and 25% for the rivers classified as Tributary, Forested, or Remote.
3. A minimum of twenty-five (25) foot sideyard area on both sides of the private access lot shall be maintained with vegetative cover and screening abutting lots.
  4. The ownership and the responsibility for the maintenance and upkeep of a private access lot shall be vested in an incorporated association of the dwelling unit owners and their successors in interest who have access privileges over and upon such lots. The non-riparian dwelling units and lots shall be subjected to restrictive conditions and covenants for the equitable proration and assessment of the cost of maintenance and upkeep of the private access lot. Covenants must be developed which specify which lot owners have authority to utilize the access lot, and activities that are allowed on such lots. Such activities may include watercraft launching, loading, storage, beaching, moorings or docking. The Covenants must also include other outdoor recreational activities that do not significantly conflict with general public use of the public water or the enjoyment of normal property rights by adjacent property owners. Examples of the non-significant conflict activities include swimming, sunbathing, or picnics. Further, the covenants shall limit the total number of vehicles parked and watercraft moored, docked, beached or otherwise situated to be visible to users of the public water to a maximum of one of each per lot served. Covenants must require centralization of all facilities and activities in the most suitable locations on the lot to minimize topographic and vegetative alterations. They must also require all buildings, parking areas and other facilities to be screened by vegetation or topography as much as practical from view from the public water, assuming summer, leaf-on conditions.
  5. The construction of any facility including: docks, roadways, launching facilities, playground, parking facility, or sports and game facility on any private access lot shall require the issuance of a Conditional Use Permit. The application for such permit shall be made by the corporation charged with the maintenance and upkeep of the lot. All facilities, with the exception of docks, must meet the setback provisions specified in Article V of this Ordinance.
  6. No watercraft access lot may provide access rights for more than twenty-five (25) non- riparian lots.

## **Section 1019      Storm Drainage**

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

## **Section 1020      Water Supply Facilities**

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

quality. Such water supply systems must be located in accordance with Minnesota Department of Health Standards and the requirements of this Ordinance.

## **Section 1021      Sanitary Sewerage**

In areas having a public sanitary sewer system on or near the proposed subdivision, the County Board along with the local municipality, will determine the feasibility of service and the requirements to be followed by the subdivider in connecting to the system.

In areas not served by a public sewer system, on-site sewage treatment systems will be allowed provided that all requirements of the Lake of the Woods County Subsurface Sewage Treatment System Ordinance and the current edition of the Minnesota Rules, Chapter 7080-7083, as amended, appendices, and future amendments are complied with.

Sewage treatment systems shall be constructed to meet the requirements of the Minnesota Department of Health, and shall meet the standards prescribed in Article V and Article VIII.

## **ARTICLE XI**

### **PROCEDURES FOR APPROVAL OF SUBDIVISIONS AND PLANNED UNIT DEVELOPMENTS (PUDs)**

#### **Section 1101      Subdivisions and PUDs**

The regulations contained herein shall apply to the subdivision of a lot, tract or parcel of land into two or more lots, tracts or other division of land for the purpose of sale or building development. All plats, replats or modifications thereof shall be submitted to the Lake of the Woods County Board in the manner set forth in this Ordinance and shall be in conformity therewith, and with such regulations as may be established by resolution of the Lake of the Woods County Board of Commissioners. Any plat hereafter made for each subdivision or each part thereof lying within the jurisdiction of this Article shall be prepared, presented for approval, modified as required, and recorded as herein prescribed.

#### **Section 1102      Pre-Application Requirements**

Prior to submitting an application to subdivide or plat, the subdivider shall schedule a pre-application meeting with the Zoning Administrator. The subdivider will prepare a sketch plan for review at the pre-application meeting. The sketch plan shall not constitute filing of a preliminary plat, but will serve as the basis for discussion between the subdivider and staff. This discussion will help the subdivider by providing information regarding the extent to which the proposed subdivision conforms to the requirements of this Ordinance, and possible modifications necessary to secure approval of the plan.

The general sketch plan of the proposed land to be subdivided shall include the following information:

1. A line drawing to accurate scale, with measurements depicting the proposed plan;
2. Proposed lot lines;
3. General location of all proposed or existing buildings and their proposed or current use;
4. General location of roads and/or access; and,
5. Other information as may be requested by the Land and Water Planning Director.

The County Public Works Director shall prepare general specifications for the construction of all public roads, public utilities and other required improvements within the proposed subdivision. If possible, the Public Works Director shall supply these specifications to the applicant at this meeting.

#### **Section 1103      Application for PUDs**

An applicant for a PUD shall submit the following documents to the Land & Water Planning Office prior to final action being taken on the application request:

1. A sketch plan for the project showing: the boundary of the proposed development; surface water features and other natural and man-made features; existing and proposed structures and other facilities, proposed land alterations; the location of existing and proposed sewage treatment and water supply systems. A PUD that combines commercial and residential structures shall indicate and distinguish which buildings and portions of a project are commercial, residential or a combination of the two.

2. For residential planned unit developments a property owner's association agreement with mandatory membership, all in accordance with the maintenance and administrative requirements prescribed in Article X, Section 1015 of this Ordinance.
3. Deed restrictions, covenants, permanent easements or other instruments that address the following:
  - A. Future vegetative and topographic alterations; construction of additional buildings; beaching of watercraft; and construction of commercial buildings in residential PUD's; and,
  - B. The long term preservation and maintenance of open space in accordance with the criteria analysis specified in the maintenance and administrative requirements of this Section.
4. For commercial planned unit developments and for commercial structures within a residential planned unit development, a master plan/drawing describing the proposed project and the floor plan for all structures to be occupied.
5. Any additional documents as requested by the Lake of the Woods County Planning Commission that is necessary to explain how the PUD will be designed and will function.

## **Section 1104      Administrative and Minor Subdivisions**

### **Administrative Subdivision Procedure**

Following the pre-application meeting, the subdivider shall submit the following information to the Land & Water Planning Office:

1. The subdivider shall make a request for approval of an Administrative Subdivision to the Lake of the Woods County Land & Water Planning Office.
2. The subdivider shall submit documents demonstrating the subdivider has ownership or sufficient interest in the property to make a request for an Administrative Subdivision.
3. The Zoning Administrator may require the subdivider to submit a map or sketch, a certificate of survey when determined necessary by the Zoning Administrator and/or the following information, as needed:
  - A. The original property description and the proposed legal descriptions of the proposed lots.  
Boundary line of proposed subdivision with land ties to at a minimum one corner and one line of the Public Land Survey or two corners of the Public Land Survey.
  - B. Proposed new property lines with the dimensions noted.
  - C. Proposed use.
  - D. Proposed driveway locations on the lots and means of access from each lot to a public road.
  - E. Location of all existing structures and distances from existing and proposed lot lines.
  - F. Location and provisions for individual water supply and sewage disposal that meets the requirements of the *Lake of the Woods County Subsurface Sewage Treatment System Ordinance*. For lots that are ten acres (10) or more in area, the location of two suitable sites for a standard ISTS is waived.
4. Name and address, including telephone number, of the property owner, the subdivider, and surveyor.
5. A fee, if any, established by resolution of the County Board.
6. Any other information as required by the Zoning Administrator.

The Zoning Administrator may refer the documents to the County Surveyor, County Engineer and the Soil and Water Conservation District for review and comment.

The Zoning Administrator may approve the Administrative Subdivision when the subdivider has supplied all of the information requested.

### **Minor Subdivision Procedure**

Following the pre-application meeting, the subdivider shall submit the following information to the Land & Water Planning Office:

1. Prior to subdividing the property, the subdivider shall file an application for approval of a Minor Subdivision including the following:
  - A. A completed application on a form provided by the Land & Water Planning Office, and documents demonstrating the subdivider has ownership or sufficient interest in the property to apply for a Minor Subdivision.
  - B. Submittal of twelve (12) 22'x34' paper copies of the proposed subdivision, prepared by a registered land surveyor to the Land & Water Planning Office, with the following information:
    - a. The original property description and the proposed legal descriptions of the proposed lots. Boundary line of proposed subdivision with land ties to at a minimum one corner and one line of the Public Land Survey or two (2) corners of the Public Land Survey.
    - b. Proposed property lines with dimensions noted.
    - c. Proposed use.
    - d. Proposed driveway locations on the lots and means of access from each lot to a public road.
    - e. Proposed building envelope showing applicable setback lines.
    - f. Location of all existing structures and distances from existing and proposed lot lines.
    - g. General location of any existing tile lines, individual sewage treatment systems, existing and abandoned wells, water courses, drainageways, lakes and delineated wetlands under the Wetland Conservation Act, the ordinary high water level and 100 year flood elevations (if available or required by the Zoning Administrator), and the toe and top of any bluff.
    - h. Location and provisions (indicate square feet and type of septic system) for individual water supply and sewage disposal that meets the requirements of the *Lake of the Woods County Subsurface Sewage Treatment System Ordinance*. For lots that are ten acres (10) or more in area, the location of two suitable sites for a standard ISTS is waived.
    - i. Setback distances from proposed well and septic system locations.
    - j. Citation and location of any existing legal rights-of-way or easement affecting the property, as documented on a current Abstract or Title Opinion.
    - k. Evidence that the property meets the Land Suitability requirements outlined in Article X, Section 1003.
    - l. Name and address, including telephone number, of the property owner, the subdivider, and surveyor.
    - m. A fee established by resolution of the County Board.
2. The Zoning Administrator shall notify the subdivider, within fifteen (15) days of receipt of the application, if the application is found incomplete and shall identify the items required to complete the submittal.
3. The Zoning Administrator shall distribute the paper copies, upon receipt, to the following County Offices: Recorder, Surveyor, Assessor, Attorney, Public Works, Manager of Information Systems

(MIS), Soil and Water Conservation District (SWCD) and when required, Minnesota Department of Transportation (MNDOT) and Minnesota Department of Natural Resources (MNDNR). Also, one (1) copy will be forwarded to the appropriate public utility companies. These offices shall have fifteen (15) days to review and comment on the proposed subdivision.

4. Prior to submittal to the Planning Commission for consideration and action, a subdivision check shall be conducted by a registered land surveyor after any revisions required by other county offices are complete, but prior to filing the final version. Since this is the last step prior to having the subdivision filed, the subdivision check and any required revisions need to be done last.
  - A. Two (2) paper copies of the proposed subdivision shall be submitted to a registered land surveyor for review. The registered land surveyor may also require a CAD drawing for this review.
  - B. A minimum of ten (10) days will be required for review of the subdivision. If any revisions are required, a final copy will need to be provided. After the revisions have been made and verified, the registered land surveyor shall notify the Land & Water Planning Office that the subdivision is complete and accurate.
  - C. The Administrative Subdivision shall be prepared in accordance with Minnesota Platting Statutes, Chapter 505 or with Minnesota CIC Platting Statutes 515, using the MACS/MSPS Plat Manual or the MACS/MSPS CIC Plat Manual as a guideline. Preliminary information such as contour lines, topography, individual lot area, setback lines, proposed buildings and septic systems, etc. should not be shown on the paper copies submitted for the subdivision check.
  - D. The developer and/or surveyor will be billed for the Administrative Subdivision check at the registered land surveyor's established rate.
5. Planning Commission Consideration and Action:
  - A. The Zoning Administrator shall provide a notice to all property owners within one-half (1/2) mile of the proposed Minor Subdivision prior to action by the Planning Commission.
  - B. The subdivider shall appear before the Planning Commission to answer questions pertaining to the application.
  - C. The Planning Commission shall determine whether the Minor Subdivision conforms to the design standards established within this Ordinance and the *Lake of the Woods Comprehensive Land Use Plan*.
  - D. The Planning Commission shall recommend that the County Board approve, approve with modifications, or deny the Minor Subdivision. If approval is not recommended to the County Board, the applicant shall be notified of the reason for denial. The recommendation shall be forwarded to the County Board for consideration.
6. County Board Consideration and Action:
  - A. The County Board shall act on the Minor Subdivision within 120 days of submittal of a complete application, unless a delay is agreed to in writing by the applicant.
  - B. The County Board shall approve, approve with modifications or deny the Minor Subdivision, and shall include Findings of Fact pertaining to the Minor Subdivision as part of the proceedings of the County Board.
7. Recording
  - A. The approved Minor Subdivision becomes void after one (1) year of the date of approval unless the applicant files the deeds of the lots or files two (2) 22"x34" copies and one (1) 11"x17" copy of the final version of the registered land survey with the Lake of the Woods County Recorder's Office.

- B. No permits shall be issued unless the applicant has furnished evidence that the deeds of the lots or registered land survey have been filed with the County Recorder's Office.

Within thirty (30) days of receipt of the approval, a .dwg file or ESRI Geodatabase containing the project must be delivered to the Lake of the Woods County MIS Department.

## **Section 1105      Platting Requirements**

Except for Administrative Subdivisions as provided in Section 1104, all subdivisions of land regulated by this Ordinance shall be platted in accordance with the procedures outlined in Section 1106. No plat shall be approved until the subdivision process is completed.

The subdivider shall apply for and receive approval of a subdivision in accordance with the procedures outlined in Section 1106 before any contract is made for the sale of a portion of property, and prior to an application for a zoning permit for a structure within a proposed subdivision is granted.

## **Section 1106      Procedures for the Submission and Adoption of Plats**

In order that plats required by this ordinance will be presented in a consistent and orderly manner, no plat shall be approved unless the applicant has followed the procedures hereinafter stated.

### **Application**

Following the pre-application meeting, the subdivider shall submit a complete application to plat, including an application fee, to the Zoning Administrator, who shall accept the application on behalf of the County Board. The County Board shall review and approve or disapprove the submitted application within sixty (60) days. Aside from the requirements of Section 1107, additional information may be requested to be submitted as part of the Preliminary Plat. The subdivider shall appear before the County Board to answer questions pertaining to the application.

### **Preliminary Plat**

Within a period of nine (9) months from the date of the approval of the application by the County Board, the subdivider shall:

1. Submit fifteen (15) 22"x34" paper copies along with one (1) 11"x 17" copy for reproducing for public notice, prepared by a registered land surveyor, of the Preliminary Plat, so marked as "Preliminary Plat", to the Zoning Administrator, and,
2. A complete application for the Preliminary Plat phase of the platting process.

The Planning Commission shall have the authority to grant one extension of time (not to exceed nine (9) months) for the applicant to submit the preliminary plat. The Zoning Administrator shall then deliver one copy of the Preliminary Plat to each of the following county officials: Planning Commission members, Recorder, Surveyor, Assessor, Attorney, Public Works, Manager of Information Systems (MIS), Soil and Water Conservation District (SWCD) and when required, Minnesota Department of Transportation (MNDOT) and Minnesota Department of Natural Resources (MNDNR). Also, one (1) copy will be forwarded to the appropriate public utility companies. These offices shall have fifteen (15) days to review and comment on the proposed Preliminary Plat.

Upon receipt of the Preliminary Plat, the Lake of the Woods County Planning Commission shall hold at least one public hearing on the Preliminary Plat in a location to be determined by the Zoning Administrator. At least ten (10) days in advance of the hearing, notice of the time and place of such hearing shall be published in the official paper of the County. All property owners within one-half (1/2) mile of the proposed subdivision shall be notified as to the time and place of the hearing. Following the consideration of the Preliminary Plat by the Planning Commission, the Preliminary Plat will be brought before the County Board at their next regularly scheduled meeting for their consideration. The subdivider shall appear, at the public hearing, before the Planning Commission to answer questions pertaining to the preliminary plat.

Approval of the Preliminary Plat does not constitute an acceptance of the subdivision, but is deemed to be an authorization to proceed to the Final Plat. This approval shall be effective for a period of nine (9) months, extendable up to an additional nine (9) months by the Planning Commission.

Based on appropriate law and the recommendation of the Planning Commission, the County Board shall either approve, with or without comments, or disapprove, with comments, the Preliminary Plat. If the County Board approves the Preliminary Plat, the Zoning Administrator shall give the applicant a copy of the recommendations for incorporation into the Final Plat. If the County Board disapproves the Preliminary Plat, the Zoning Administrator shall notify the applicant within ten (10) days that they must re-submit four (4) copies of a revised Preliminary Plat.

If required, the applicant shall revise their plat to accommodate the requirements of all interested agencies and shall return four (4) copies of the revised Preliminary Plat to the Zoning Administrator within nine (9) months of the date of the disapproval notification.

The Zoning Administrator shall present the revised Preliminary Plat to all appropriate staff members and to the County Board at their next regularly scheduled meeting. When considering the revised Preliminary Plat, the County Board shall consider the written recommendations of the Planning Commission and appropriate county staff.

### **Final Plat**

Following approval of the Preliminary Plat, the applicant shall cause to be prepared the Final Plat with necessary corrections, if any, and a complete application for the Final Plat phase of the platting process to be submitted to the Zoning Administrator.

A plat check shall be conducted by a registered land surveyor after any revisions required by other county offices are complete, but prior to the mylars being made. Since this is the last step prior to having the recorded signature copies made, the plat check and any required revisions need to be done last.

1. Two (2) paper copies of the Final Plat shall be submitted to a registered land surveyor for review. It may be helpful to also provide a CAD drawing, but with a CAD drawing, the correct layers may get turned off, a paper copy of the correct version of the plat being submitted is essential.
2. A minimum of ten (10) days will be required for review of the plat. If any revisions are required, a final copy will need to be provided. After the revisions have been made and verified, the registered land surveyor shall notify the County Board that the plat is complete and accurate.

3. The Final Plat shall be prepared in accordance with Minnesota Platting Statutes, Chapter 505, using the MSPS Plat Manual as a guideline. Preliminary information such as contour lines, topography, individual lot area, setback lines, proposed buildings and septic systems, etc. should not be shown on the Final Plat.
4. The developer and/or surveyor will be billed for the plat check at the registered land surveyor's established rate. The plat check fee shall be paid prior to presentation to the County Board for review.

Within a period of nine (9) months from the date of the approval of the Preliminary Plat by the County Board, and after the surveyor's plat check, the subdivider shall submit fifteen (15) 22"x34" paper copies along with one (1) 11"x17" copy for reproduction, prepared by a registered land surveyor, of the Final plat, so marked as "Final Plat", and applicable fee to the Zoning Administrator. The Planning Commission shall have the authority to grant one extension of time (not to exceed nine (9) months) for the applicant to submit the Final Plat. The Zoning Administrator shall then deliver one copy of the Final Plat to each of the following county officials: Planning Commission members, Recorder, Surveyor, Assessor, Attorney, Public Works, Manager of Information Systems (MIS), Soil and Water Conservation District (SWCD) and when required, Minnesota Department of Transportation (MNDOT) and Minnesota Department of Natural Resources (MNDNR). These offices shall have fifteen (15) days to review and provide additional comments, if any, on the proposed final plat.

Before approval or disapproval of the Final Plat the Planning Commission shall first have the written certification from the Public Works Director that all roads, public utilities, and other improvements have been constructed according to specifications or that a performance bond or cash escrow agreement, has been secured in sufficient amount to guarantee such construction.

After the review and all corrections, if any, have been addressed, the subdivider can move forward with the final approval process.

The following must be submitted for final approval:

1. Two (2) mylar copies of the Final Plat shall be delivered to the Lake of the Woods County Land and Water Planning Office. The mylars shall be of uniform size and shall conform to the requirements of Minnesota Statute.

Upon receipt of the Final Plat, the Lake of the Woods County Planning Commission shall conduct a meeting on the Final Plat at a location to be determined by the Zoning Administrator. At least ten (10) days in advance of the hearing, notice of the time and place of such hearing shall be published in the official paper of the County. All property owners within one-half (1/2) mile of the proposed subdivision shall be notified as to the time and place of the hearing. Following the consideration of the Final Plat by the Planning Commission the Final Plat will be presented to the County Board, at their next regularly scheduled meeting, for their consideration.

Within ten (10) days after action by the County Board, the Zoning Administrator will notify the applicant of the approval or disapproval of the Final Plat.

Any approval of the Final Plat by the County Board shall be null and void if the plat is not recorded with the County Recorder within thirty (30) days after the date of notification by the Zoning Administrator, unless a written application to the County Board for an extension of time is made and granted during said thirty (30) day period.

## **Section 1107      Plat Requirements**

In addition to the requirements of Minnesota Statute §505, plats submitted for approval shall include the following:

1. Preliminary Plat: The Preliminary Plat shall consist of a separate map and narrative. It shall incorporate the information below, required changes identified in the written comments, and corrections based on the pre-application meeting.
  - A. Identification and description:
    - a. Proposed name of subdivision, which shall not duplicate the name of any plat heretofore recorded in Lake of the Woods County.
    - b. Location by forty and/or government lot, section, township and range.
    - c. Total approximate acreage in each forty or government lot.
    - d. Date of preparation.
    - e. Complete property description shall accompany the plat.
    - f. Complete name of the property owners, including their marital status, and instrument of dedication.
    - g. North orientation.
    - h. Vicinity map showing the location of the subdivision.
    - i. Scale: one inch equals 200 feet or longer.
  - B. Existing plat conditions:
    - a. Boundary line of proposed plat with land ties to at a minimum one corner and one line of the Public Land Survey or two corners of the Public Land Survey.
    - b. Character and location of buildings or structures, wells, and septic systems.
    - c. Existing roads, streets, alleys, railroads, associated drainage patterns, public utilities and wells located on and immediately adjacent to the proposed plat.
    - d. Existing covenants or easements.
    - e. Present tract designations according to official records in the office of the County Recorder.
    - f. Lakes, watercourses, delineated wetlands, floodplain, rock outcrops, wooded areas, and other significant natural features including direction and gradient of ground.
    - g. Readily available soil, subsurface and groundwater data.
  - C. Proposed developments:
    - a. Estimated proposed lot boundaries, approximate dimensions and square footage of each.
    - b. Locations and types of proposed buildings and septic systems.
    - c. General plans for landscaping, shore protection, harbors and vegetative modification.
    - d. Locations and dimensions of proposed streets, alleys, roads, drainage and public utilities for each lot.
    - e. Proposed covenants.
    - f. Proposed parks, accesses, game preserves and historic sites.
    - g. Names and location of proposed streets or existing streets to be extended into the plat.
    - h. Lot and Block layout with consecutive lot numbering.
    - i. Setback lines.
    - j. Homeowners Association agreement, if applicable.
    - k. Evidence that the property meets the Land Suitability requirements outlined in Article X, Section 1003.
  - D. A current attorney's title opinion must be submitted to the County Recorder with the Preliminary Plat. "Current" is defined as within the last 120 days. The public hearing will not be scheduled until a title opinion is received. A defective title will be accepted at this stage, but must be cured as

evidenced by an amended attorney's title opinion, before approval of the Final Plat by the County Board.

2. Final Plat: In addition to the requirements of Minnesota Statute §505, plats submitted for final approval shall include, at the minimum, the following:
  - A. Scale: one inch equal 200 feet or larger.
  - B. Proposed name of subdivision, which shall not duplicate the name of any plat heretofore recorded in Lake of the Woods County.
  - C. Location by forty or government lot, section, township and range and total approximate acreage in each forty or government lot.
  - D. An amended attorney's title opinion is required if the one filed with the Preliminary Plat was deemed defective. The owners must have good title to the property or additional interest holders of record must join in signing the plat.
  - E. Names and addresses of the surveyor (and or designer) of the proposed plat.
  - F. Complete name of the property owner(s), including marital status, instrument of dedication, and signature lines with proper acknowledgment.
  - G. If any point on the plat is within 1,000 feet of Lake of the Woods or within 300 feet of the Rainy River or designated tributary or 500 feet of the Rapid River, then:
    - a. A statement that the plat lies wholly within such shoreland area, if such is the case, or,
    - b. A line defining the portion of the plat lying within such shoreland area, when the plat lies only partially therein.
  - H. Boundary line of proposed plat clearly indicated, with land ties to at a minimum one corner and one line of the Public Land Survey or two corners of the Public Land Survey. Present tract designation according to official records in the office of the County Recorder, title under which the proposed subdivision is to be recorded, notation stating scale, north arrow, datum, bench marks and certificate of registered surveyor.
  - I. Each lot shall have access to a publicly dedicated road.
  - J. Layout and width of proposed streets, street names, lot dimensions, parks, and other public areas. The name of any street heretofore used within the post office services area of the proposed subdivision shall not be used, unless the proposed street is an extension of an already named street, in which event the name shall be used. Rural street naming requirements are addressed in Section 1108.
  - K. The owner shall dedicate all streets, roads and easements contained within the platted area which are intended for public use.
  - L. The owners and surveyors required in paragraphs E, F, and K must sign the plat and have it properly acknowledged, before it will be presented to the County Board for consideration of approval.
  - M. Certification by a Minnesota licensed land surveyor to the effect that the plat represents a survey made by him/her, and that all monuments and markers shown thereon exist as located, and that all dimensions and geodetic details are correct. A separate certificate of location/relocation for each public land corner used to establish the boundaries of the plat will be filed concurrently with the final plat.
  - N. Certification by the county surveyor, to the effect that the plat has been checked, and that all the mathematical computations are correct, that the plat meets the requirements of Minnesota Statute §505, and that in their professional opinion, the plat is complete and accurate. The applicant is responsible for paying the fees of the county surveyor, as determined by the County Board, in connection with the review and certification.
  - O. Wording for the certification form for the County Board: "The County Board of Lake of the Woods County, Minnesota, this date\_\_\_\_\_, does hereby approve this plat of (*insert name of plat*)

for subdivision, pursuant to Minnesota Statute §505.03, Subd. 2, we are in conformance."

Followed by a signature line for the Chairperson of Lake of the Woods County, MN, Board of Commissioners and a signature line for County Auditor, Lake of the Woods County, MN.

- P. The certification of approval from the Zoning Administrator must be included on the plat as follows: "Approval for recording pursuant to Minnesota Statute §394, dated \_\_\_\_\_."  
Followed by a signature line for the Zoning Administrator, Lake of the Woods County, MN.
- Q. The Treasurer will have two separate certificates that should read as follows: I hereby certify that all taxes for (year) on the land described herein are paid in full." Followed by a signature line for the County Treasurer, Lake of the Woods County, MN. The second certificate must state: "No delinquent taxes due and transfer entered this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_." Also followed by the aforementioned signature line.
- R. The Recorder's certificate shall be as follows: "I hereby certify that this instrument was filed in this office for record on the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_ at \_\_\_\_ o'clock \_\_\_\_m. and was duly recorded in Plat file, Slide No. \_\_\_\_\_, Instrument No. \_\_\_\_\_." Followed by a signature line for the County Recorder, Lake of the Woods, MN.
- S. The Final Plat will be considered recordable after the County Board has approved it, the County Treasurer's office has received payment of any taxes due and the recording fee has been submitted.
- T. The applicant shall furnish one mylar marked as "Official"; one mylar marked as "Copy"; one 11"x17" mylar or other suitable material or composition for duplicating; and within thirty (30) days of the approval of the Final Plat a .dwg file or ESRI Geodatabase containing the project, must be delivered to the MIS Department.
- U. Before any plat shall receive the final approval of the County Board, the applicant shall either have constructed the streets or roads to the standards and specifications of the County, or in the case of incomplete improvements before a final plat is approved, the subdivider shall submit a performance bond or cash escrow agreement, to the Public Works Director, to assure the following:
  - a. The subdivider shall pay for the cost of all improvements required in the subdivision and the subdivision's share of the costs of any trunk facilities to be extended to the subdivision with the exception of individual wells and individual sewage treatment systems.
  - b. Guarantee completion of the required improvements within a two (2) year period.
  - c. Payment by the subdivider for all costs incurred by the County for review and inspection. This would include preparation and review of plans and specifications by technical assistants and costs incurred by the Attorney, as well as other costs of a similar nature. This payment would be in addition to the final plat fee paid with the submission of the final plat.
  - d. The County may elect to install any of the incomplete required improvements under the terms of the cash escrow agreement.
  - e. The performance bond or cash escrow agreement shall be equal to 125% of the estimated cost of the required improvements.
  - f. If the required improvements are not complete within the two (2) year period, all amounts held under the escrow agreement or performance bond shall be turned over and delivered to the County and applied to the cost of the required improvements. Any balance remaining after such improvements have been made shall be returned to the owner or subdivider. If reserved funds are insufficient to complete required improvements, the County may complete them and seek reimbursement through special assessment.

**PUBLIC STREETS**

The design of all streets shall be considered in their relation to existing and planned streets, to reasonable circulation of traffic, to topographic conditions, to runoff of storm waters and of the proposed uses of the area to be served. Roads that will be taken over by the County need to meet the standards and specifications of the County.

Where adjoining areas are not subdivided, the arrangements of streets in the new subdivisions shall make provisions for the proper projection of streets. When a new subdivision adjoins undivided land susceptible to being subdivided, the new street shall be carried to the boundaries of such undivided land or suitable allowances shall be made for future development.

Where new streets extend adjoining streets, their projections shall be at the same or greater width, but in no case less than the minimum width required herein.

All platted streets and roads shall be laid out with construction approval from the County Engineer and constructed with the following minimum cross-sectional dimensions:

1. The right-of-way shall be a minimum of sixty-six (66) feet in width.
2. The right-of-way shall be cleared and grubbed to a minimum of sixty-six (66) feet.
3. The width between shoulder lines shall be uniform and at a minimum eighteen (18) feet in width.
4. Dead-end streets shall be terminated by cul-de-sac (vehicle turn-around) with a minimum radius of sixty-six (66) feet or other recommended turn-around approved by the Public Works Director.
5. Streets shall be surfaced with a minimum of four (4) inches of select granular borrow as specified by the Minnesota Department of Transportation (MNDOT).

As an alternative to item 4 above, in a subdivision in which streets with a residential cross-section are more appropriate than rural cross-section, the specifications of such streets must be approved by the Public Works Director and the County Board prior to the acceptance of the preliminary plat.

Road Naming Conventions for Rural Addressing:

1. All dedicated street names are subject to approval by the Lake of the Woods County Enhanced 911 Committee. The following road designations are used in Lake of the Woods County.
2. Class #1 Roadways: Federal, state, county highways.
3. Class #2 Roadways: Follow the countywide block grid STREETS are defined as roadways that run east-west (ex. 14<sup>th</sup> ST SE). AVENUES are defined as roadways that run north-south. (Ex 46<sup>th</sup> AVE NW).
4. Class #3 Roadways: Roads with three or more homes or lots that are not class 1 or 2.

MAJOR: Exit a class 1 or 2 road.

ROADS are defined as through roadways that run diagonally.

DRIVES are roadways that dead-end.

MINOR: Exit a drive or road.

LANE: Dead end, run E-W.

TRAIL: Dead end, run N-S.

LOOP: Road that returns to the road it came from at a different location than where it started.

CIRCLE: Road that returns to itself and encompasses real property.

COURT: Road with a maintained area to turn around at the end of the road.

5. All streets must have the post directional identified (NE,NW,SE,SW). Class #3 type roads should be named by geographic place names or significance, trees, birds, or flowers. A master street address guide is available from the Manager of Information Systems (MIS) Director.

## **ARTICLE XII ADMINISTRATION**

### **Section 1201      Zoning Administrator**

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

1. Act as Inspector for the County;
2. Inspect all construction and development to ensure that the standards of this Ordinance are complied with;
3. Enforce and administer the provisions of this Ordinance;
4. Issue permits for permitted uses and/or activities which comply with the provisions of this Ordinance;
5. Receive applications for conditional use permits and forward, along with recommendations, to the Planning Commission;
6. Receive applications for variance requests and forward, along with recommendations, to the Board of Adjustment;
7. Receive applications for zoning amendments and forward, along with recommendations, to the Planning Commission;
8. Maintain all records relating to the application for and deliberations relating to the issuance or denial of permits;
9. Develop and maintain a public information bureau relating to shoreland management; and,
10. Maintain the County Zoning Map as described in Article II.

### **Section 1202      Board of Adjustment**

There is hereby established a Board of Adjustment vested with the authority as is hereinafter provided, and as provided in Minnesota Statutes Chapter 394. The Board of Adjustment shall consist of seven (7) members appointed by the County Board. One (1) member shall reside in and be appointed from each County Commissioner District and two (2) members shall be appointed at large by the County Board. No member of the Board of Adjustment may be an elected official or an employee of Lake of the Woods County. The Board of Adjustment members shall be appointed for terms coinciding with terms of membership of their respective County Commissioner.

The Board of adjustment shall elect a Chair and a Vice Chair from among its members and shall appoint a secretary which need not be a member of the Board of Adjustment. It shall adopt rules or bylaws, for the transaction of its business and shall keep a permanent public record of its proceedings, findings, and determinations. The Board of Adjustment shall cause all such records of its proceedings, findings, and

determinations to be filed in the Office of Land and Water Planning, Lake of the Woods County Government Center.

The meeting of the Board of Adjustments shall be held as specified in the rules or bylaws and at other such times as the Chair of the Board of Adjustments shall deem necessary and appropriate.

In the event of a vacancy, appointments shall be made by the County Board to fill any vacancy for the unexpired duration of the term. Vacancies in regular positions shall be declared by the County Board under any of the following conditions:

1. Death of a member.
2. Resignation of a member.
3. Removal of a member for cause as provided in this ordinance.

The following shall be deemed sufficient cause for the County Board to remove any Board of Adjustment member. The County Board may remove any member upon the occurrence of any of the following conditions, as reported to the County Board by either the Chair of the Board of Adjustment or the Zoning Administrator, by four-fifth (4/5) vote and may fill vacancies for any unexpired term.

1. A member who fails to attend one-third (1/3) of the regularly scheduled Board of Adjustment meetings in any 12 month period.
2. A member who fails to attend four consecutive regular Board of Adjustment meetings.
3. Attendance at several regular Board of Adjustment meetings for such a short length of time as to render the member's services of little value to the County.
4. Any change in residency status from unincorporated to incorporated, if the change causes the make-up of the Board of Adjustment to be inconsistent with this Section. Also any change in residency from the commissioner district the member was appointed to represent.
5. Inability to carry out the duties of the Board of Adjustment due to a conflict of interest.
6. A member who at the Board of Adjustment meeting engages in offensive, obscene, or abusive language or in boisterous and noisy conduct tending reasonably to arouse, alarm, anger, or resentment in others.

The Board of Adjustment shall have the exclusive power concerning the following:

1. To grant variances from the strict enforcement of the standards and provisions prescribed by this Ordinance. Variances shall only be granted based upon the criterion prescribed in Section 1203 of this Ordinance;
2. To hear and decide any appeal from an order, requirement, decision, or determination made by the Zoning Administrator; and,
3. To interpret any management district boundary on the Official Zoning Map.

All decisions by the Board of Adjustment in granting variances, or in hearing any appeals from administrative order, requirement, decision or determination shall be final except that any aggrieved person, department, agency, Board or Commission shall have the right to appeal to District Court within thirty (30) days after receipt of the notice of the decision made by the Board of Adjustment.

## **Section 1203      Variances and Appeals**

The Lake of the Woods County Board of Adjustment shall have the exclusive power to order the issuance of variances from the requirements of any official; controls including restrictions placed on nonconformities. Variances shall only be permitted when they are in harmony with the general purposes and intent of the official control and when the variances are consistent with the comprehensive plan. Pursuant to Minnesota Statute 394.27, a variance may be granted when the applicant/owner establishes that:

1. The granting of the variance will be in harmony with the general purpose and intent of this Ordinance and consistent with the comprehensive plan;
2. The property owner is proposing to use the property in a reasonable manner;
3. The condition causing the practical difficulty is unique to the property;
4. The practical difficulty was not caused by the actions of the landowner;
5. The variance, if granted will not alter the essential character of the locality; and,
6. The granting of the variance is not based solely on economic considerations.

The Board of Adjustment must make finding on all of the six criteria listed above in order to grant or deny a variance. The applicant requesting a variance has the burden of proof to show that all of the criteria listed above have been satisfied. A variance shall not be granted for a use that is not permitted under this Ordinance.

The Board may impose conditions upon a variance that relate to the purposes and objectives of this Ordinance. If conditions are imposed, the variance shall not be effective until the conditions are fully complied with. A conditional variance shall be in effect only as long as the condition is complied with. If a condition is not complied with, the variance may be revoked by the Board of Adjustment at its next meeting with public notice and the County may pursue the enforcement remedies set forth in Section 1209 herein.

An applicant desiring a variance shall fill out and submit to the Lake of the Woods County Zoning Administrator an Application for Consideration of Variance Request form, copies of which are available from the Zoning Administrator. A current compliance inspection report must be submitted for each of the existing sewage treatment systems located on the subject property for which a variance application is submitted and the appropriate fee shall be paid in order for the application to receive consideration by the Board of Adjustment.

The Zoning Administrator shall make a recommendation, in writing, to the Board of Adjustment who shall make the final decision after conducting a public hearing in accordance with M.S. 394.26 and the provisions of this Ordinance.

An appeal of any administrative decision made in the enforcement of this Ordinance shall be made within fifteen (15) days of the date of the administrative decision by filling out and submitting to the Zoning Administrator an Application for Appeal, which is available from the Zoning Administrator. Such appeal shall

be heard by the Board of Adjustment within sixty (60) days of the date that such application and fee is submitted to the Zoning Administrator.

All decisions made by the Board of Adjustment in approving or denying variance request are final except that any aggrieved person, department, agency, board, commission or other entity shall have the right to appeal to the District Court in Lake of the Woods County within thirty (30) days after receipt of a written notice of the decision made by the Board of Adjustment.

A variance shall expire and be considered null and void one (1) year after the Board of Adjustment's final decision to grant the variance, unless a longer timeframe is specified as a condition upon approval, if not acted upon by the applicant or his/her assigns within that time. One administrative extension of up to one (1) year may be granted by the Zoning Administrator upon written request of the property owner, provided there is reasonable cause for the request and further provided that the written request is made no less than thirty (30) days prior to expiration of the variance.

#### **Section 1204      Planning Commission**

There is hereby created a Planning Commission consisting of eight (8) members. The members of the Planning Commission shall be appointed by the County Board of Commissioners, consistent with M.S. Chapter 394 and as prescribed in the Planning Commission bylaws as adopted by the Lake of the Woods County Board of Commissioners. At least two members shall be residents of the portion of the County outside the corporate limits of municipalities. No more than one voting member of the commission shall be an officer or employee of the county. No voting member of the commission shall have received, during the two years prior to appointment, any substantial portion of income from business operations involving the development of land within the county for urban and urban related purposes. The term of office and removal of any member for nonperformance of duty or misconduct in office as well as filling vacancies on the board shall be the same as Section 1202.

The Planning Commission shall elect a Chair and Vice Chair from among its members and cooperate with the Zoning Administrator and other employees of the County in carrying out the provisions of this Ordinance.

The meeting of the Planning Commission shall be as specified in the rules or bylaws.

The Planning Commission shall be advisory in nature, and shall serve at the pleasure of the County Board of Commissioners. In this advisory role, the Planning Commission shall:

1. Assist the County Board in the formulation of goals, policies and programs for the future development of shoreland areas of Lake of the Woods County;
2. Assist the County Board in the preparation of development controls designed to promote development consistent with adopted goals and policies;
3. Review applications for conditional use permits and Ordinance amendments, conduct public hearings in accordance with the provisions of this Ordinance, and make recommendations to the County Board;
4. Review subdivision proposals for compliance with the provisions of this Ordinance, conduct public hearings, and forward preliminary and final plats along with recommendation to the County Board of Commissioners; and,

5. Any other such duties as required or requested by the County Board of Commissioners to further goals and policies in furtherance of the intent of this Ordinance.

## **Section 1205      Conditional Use Permits**

Any use listed as a Conditional Use in this Ordinance shall be permitted only upon application to the Zoning Administrator, review and recommendation of the Planning Commission, and approval and issuance of a Conditional Use Permit by the Lake of the Woods County Board of Commissioners. The applicant for a conditional use permit shall fill out and submit to the Zoning Administrator an Application for Conditional Use Permit. When such permit is submitted, the appropriate fee shall be paid in order for the application to receive consideration by the Planning Commission. A thorough site evaluation shall be conducted by the Zoning Administrator and the Planning Commission prior to consideration of the permit.

In considering the granting of any conditional use permit the Planning Commission and County Board of Commissioners shall evaluate the effect of the proposed use upon:

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

Upon consideration of the factors listed above, the Planning Commission or County Board of Commissioners may attach such conditions in addition to those required elsewhere in this Ordinance that it deems necessary for the furthering of the purposes set forth in this Ordinance. Such conditions attached to conditional use permits may include, but are not limited to:

1. Type and extent of shore cover;
2. Limitations on the natural vegetation to be removed or the requirement that additional vegetation be planted;
3. Increased yards and setbacks;
4. Specified sewage treatment and water supply facilities;
5. Landscaping and vegetative screening;
6. Periods and/or hours of operation;
7. Operational control sureties;
8. Deed restrictions;
9. Location of piers, docks, parking and signs;
10. Type of construction;
11. Special provisions for the location, design and use of structures, sewage treatment systems, watercraft launching and docking areas and vehicle parking areas; and,
12. Any other reasonable requirements necessary to fulfill the purposes and intent of this Ordinance.

In order to secure information, upon which to base the Planning Commission's recommendation and County Board approval, the applicant may be required to furnish, in addition to the information required for the land use or other permit, the following:

1. A plan of the proposed project area showing contours, soil types, ordinary high water level, ground water conditions, bedrock, slope, and vegetative cover;
2. Location of existing and proposed buildings, parking areas, traffic access, driveways, walkways, piers, open spaces, and vegetative cover;
3. Plans of buildings, sewage treatment facilities, water supply systems, and arrangements of operations;
4. Specifications for areas of proposed grading, filling, lagooning, dredging, and other topographic alterations; and,
5. Other pertinent information necessary to determine if the proposal meets the requirements of this Ordinance.

The Planning Commission or County Board of Commissioners, in evaluating each conditional use application, may request the Lake of the Woods Soil and Water Conservation District for expert assistance to assist in the evaluation and consideration of such application.

The County Board of Commissioners shall make the final determination approving or denying applications for conditional use permits. An appeal of any County Board determination relating to such determination may be made by the applicant to the District Court in Lake of the Woods County within thirty (30) days after receipt of the notice of the decision made by the County Board.

## **Section 1206      Amendments**

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

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

## **Section 1207      Public Notice and Hearing Requirements**

In addition to the procedures described in preceding sections of this Ordinance, all conditional use permit requests, variance requests, request for amendments, and final plat approvals shall be reviewed at a public hearing conducted at least ten (10) days following the official public notification including publication in the Official newspaper of Lake of the Woods County and notification of all property owners within the following distances from the affected property when such notice is applicable: In the case of variances, 500 feet; In the case of conditional uses, one-quarter mile (1320 feet) or the ten nearest properties, whichever provides notice to the most property owners. In the case of final plat approvals and amendments to official controls which affect specific properties, one-half (1/2) mile.

The Commissioner of Natural Resources must also receive at least ten (10) days notification of hearings to be conducted concerning applications for conditional use permits, variances, amendments, or final plat approvals, within shoreland areas. Notice of hearings to consider subdivisions must include copies of the proposed final plat.

The Rainy/Rapid Rivers Management Board (RRRMB) will receive copies of all notices of any public hearings within the shoreland areas of the Rainy and Rapid Rivers at least ten (10) days before the conduct of any such meeting to allow time to comment and question. A copy of approved amendments and subdivision/plats, and final decisions granting variances or conditional uses under local shoreland management controls must be sent to the RRRMB or designated representative and postmarked prior to the ten (10) days of final action. The local units of government will take into consideration recommendations from the RRRMB before final decisions are granted on uses in the Rainy/Rapid Rivers corridor. Local units of government have the final decisions after all public notifications and hearings are made on all uses of the river corridor.

The Commissioner of Natural Resources must also receive a copy of approved conditional use permits, variances, zoning amendments and final plats, within shoreland areas, postmarked within ten (10) days of the final action.

## **Section 1208      Access to Private Property**

The Zoning Administrator or his or her agent shall have the right, at all reasonable times, to enter upon private property for the purpose of administration or enforcement of this Ordinance. This includes the right to conduct investigations, sampling, test borings, and other actions necessary for the enforcement of this Ordinance.

## **Section 1209      Enforcement and Penalties**

In the event of violation or threatening violation of this Ordinance, the County Board of Commissioners in addition to other remedies including prosecution under Section 1209, Subpart 2 below, 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 Lake of the Woods County Attorney to institute such action.

The Lake of the Woods County Board of Commissioners hereby empowers the Land & Water Planning Office to issue Cease and Desist Orders (CDO) to halt the progress of any on-going violation. A CDO may be issued when the Land & Water Planning Office has probable cause that an activity regulated by this Ordinance is:

1. Being or has been conducted without a Land Use Permit or is in violation of an issued Land Use Permit;
2. Requires a variance or is in violation of the approved variance; or,
3. Requires a conditional use permit or is in violation of the approved conditional use permit.

When work has been stopped by a CDO, the work shall not resume until the violation has been corrected, any administrative fees paid, and the CDO rescinded.

Any person, firm or corporation who shall violate any of the provisions herein, or who shall fail to comply with any of the provisions herein, or who shall make any false statement in any document required to be submitted under such provisions, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by such penalties and fines provided by law. Each day that the violation continues shall constitute a separate offense.

Any application for a permit which is made after the work is commenced and which requires a permit shall be charged an after-the-fact administrative fee, as established by resolution of the Lake of the Woods County Board of Commissioners. The Planning Commission and/or Board of Adjustment may require administrative penalties, correction and/or restoration of the property to its original state before the permit is considered. If such payment is not received within the specified time, such costs shall be certified to the County Auditor/Treasurer and shall be added to the property taxes of the violator.

After two or more attempts to achieve compliance, the Land & Water Planning Office may charge for the enforcement of violations of this Ordinance to recover actual costs for staff time, mileage and supplies. This cost shall be above and beyond any other fee imposed by this ordinance. Such payment shall be due within thirty (30) days of notification from the County. If such payment is not received within the specified time, such costs shall be certified to the County Auditor/Treasurer and shall be added to the property taxes of the violator.

## **Section 1210      Fees**

In order to defray the administrative costs associated with the processing of applications for land use and related permits, conditional use permits, variance requests, amendments and subdivision plat approvals, a schedule of fees has been adopted by the Lake of the Woods County Board of Commissioners. The schedule of fees shall be posted in the Office of Land and Water Planning, and may be altered or amended only by resolution of the County Board of Commissioners.

## **Section 1211      Permits**

**Permits shall be required for the following activities: Building construction/alteration, sewage treatment systems, and grading or filling in shoreland areas.**

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

An application for a land use permit shall be made to the Zoning Administrator on forms to be provided by the County. Each application for a permit to construct, alter, move, or change a building shall be accompanied by a plan, drawn to scale, showing: the dimensions of the lot to be built upon; and the size and location of the buildings and accessory building. Applications for land use permit shall contain other such information as may be deemed necessary for the proper enforcement of this Ordinance.

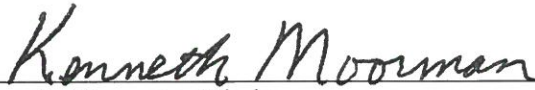
Permits for the installation of sewage treatment systems or grading and filling in shoreland areas must also be obtained from the Zoning Administrator before such installation or shoreland alteration has begun.

All building, sanitary, excavation, and related permits shall expire one (1) year from the date of approval unless a written extension for extenuating circumstances is granted by the Zoning Administrator. Such extension shall not exceed a period of one (1) year. No more than one extension may be granted for any permit.

No permit shall be issued to the landowner of property on which there is an unresolved violation of this Ordinance.

Repairs and maintenance, as defined in Section 101, shall not require a permit.

THIS ORDINANCE IS HERBY ADOPTED BY THE BOARD OF COMMISSIONERS OF LAKE OF THE WOODS COUNTY THIS 14<sup>TH</sup> DAY OF DECEMBER, 2016.



Kenneth Moorman, Chair  
Lake of the Woods County Board of Commissioners

December 14, 2016

Date

ATTEST:



County Auditor/Treasurer

I certify that this is a true and complete copy of the original hereof which is on file and of record in the office of the County Auditor/Treasurer, Lake of the Woods County, Minnesota.

Dated at Baudette, Minnesota, December 14, 2016.



Lorene Hanson, Auditor/Treasurer  
Lake of the Woods County