

**Hubbard County**

**Shoreland Management  
Ordinance No. 17**

**Amendment 17**

**February 25, 2015**



# Hubbard County Shoreland Management Ordinance

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# **General Provisions and Definitions**

## **Section 101. Statutory Authorization**

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

## **Section 102. Policy**

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

## **Section 103. Statement of Purpose**

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

- Designate suitable management districts for each public water;
- Regulate the placement of sanitary and waste treatment facilities on lots;
- Regulate the area of lot and the length of water frontage suitable for a building site;
- Regulate alteration of the shorelands of public waters;
- Regulate alterations of the natural vegetation and the natural topography; and
- Regulate the subdivision of land in unincorporated areas.
- Implement the above-mentioned items in accordance with the Hubbard County Land Use Plan.

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

## **Section 104. Jurisdiction**

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

### **Section 105. Compliance**

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

### **Section 106. Enforcement**

The Hubbard 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 XI of this Ordinance.

### **Section 107. 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 Hubbard County and shall not be deemed a limitation or repeal of any other powers granted by State Statutes. Interpretation shall be made by the Environmental Services Officer with approval of the Board of County Commissioners, subject to appeal to the Board of Adjustment.

### **Section 108. 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 109. Abrogation and Greater Restrictions**

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

### **Section 110. Effective Date**

This Ordinance shall take effect and be in force from February 25, 2015 and after the date of passage, approval, and publication, as provided by law.

## **Section 111. Definitions as Used in this Ordinance**

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

**Accessory structure or facility.** A structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.

**Accessory use.** A use subordinate to and serving the principal use on the same lot, which is compatible with and customarily incidental to the principal use.

**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.

**Antenna.** Any structure or device used for the purpose of collecting or transmitting electromagnetic waves, microwave signals, including, but not limited to directional antennas such as panels, microwave dishes, satellite dishes, and omni-directional antennas such as whip antennas.

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

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

An area with an 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 30 feet from the top of a bluff.

**Board of Adjustment.** The Hubbard County Board of Adjustment as appointed by the Hubbard County Board of Commissioners.

**Board of County Commissioners.** The Hubbard County Board of Commissioners.

**Boardwalk.** A permanent elevated structure used to provide access to a lake or river where a wetland is present and no other access point is available.

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

**Building line.** A line parallel to a lot line or the ordinary high water level at the required setback beyond which a structure may not extend and/or a line parallel to the road right-of-way at any story level of a building and representing the minimum distance which all or any part of the building is set back from said right-of-way line.

**Church.** A building or structure, or groups of buildings or structures, that by design and construction are primarily intended for conducting organized religious services and associated accessory uses where persons regularly assemble for religious worship and are maintained and controlled by a religious body organized to sustain public worship.

**Clear cutting.** The removal of an entire stand of trees.

**Clustered.** A development pattern and technique whereby structures or building sites are arranged in close proximity to one another in non-linear groups, adjacent to permanently preserved common open space so as to make the most efficient and visually aesthetic use of the natural features of the landscape and maximize visualization of the permanently preserved open space.

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

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

**Conditional Use.** A use as this term is defined in Minnesota Statutes, chapter 394. (Note: To provide an idea of what this definition is, the “conditional use” definition in MS 394.22 Subd. 7 on October 28, 2014 was: “Conditional use” means a land use or development as defined by official controls upon a finding that [1] certain conditions as detailed in the zoning ordinance exist, and [2] the use or development conforms to the comprehensive land use plan of the county and [3] is compatible with the existing neighborhood.)

**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.

**County.** The County of Hubbard, Minnesota.

**Crawl space.** A part of a structure, that is an enclosed space below the structure’s lowest story, accessible by crawling, having a clearance less than human height, that is meant to provide access to the structure for maintenance or repair, and not intended for human habitation, provided that the space beneath a mobile home or recreational vehicle, whether enclosed or not, shall not be considered a crawl space for purpose of this ordinance.

**Cul-de-sac.** A street having one end open to traffic and being terminated by a vehicle turn-around.

**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 (3) feet above ground level.

**Department.** Hubbard County Land Records – Environmental Services.

**Duplex, triplex, and quad.** 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, single family.** A residential dwelling structure that is the sole principle structure on a lot, which has common cooking, eating and living facilities which is operated as a single housekeeping unit as distinguished from a boarding house, club house, fraternity house or hotel.

**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.

**Earth tone.** Soft, neutral or weathered colors typically associated with forest vegetation, soil, bark or rock; principally blacks, browns, greens, and grays.

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

**Environmental Services Officer.** The Environmental Services Officer of Hubbard County or the Hubbard County Board's authorized agent or representative.

**Expansion, enlargement, or intensification.** Any increase in a dimension, size, area, volume, or height; any increase in the area of use; any placement of a structure or part thereof where none existed before; any addition of a site feature such as a deck, platform, fence, driveway, parking area, or swimming pool; any improvement that would allow the land to be more intensely developed; any move of operations to a new location on the property; or any increase in intensity of use based on a review of the original nature, function or purpose of the nonconforming use, the hours of operation, traffic, parking, noise, exterior storage, signs, exterior lighting, types of operations, types of goods or services offered, odors, area of operation, number of employees, and other factors deemed relevant by the County.

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

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

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

**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.

**Fill.** Soil, sand, gravel, rock or any similar material that is deposited, placed, pushed or transported.

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

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

**Geothermal energy system.** A system that uses a heat pump to extract heat from the earth in heating mode and/or reject heat into the earth in cooling mode. It is also called a geothermal heat pump system, a ground-coupled heat pump system, an earth-source heat pump system, and a GeoExchange system.

**Group home.** A residential facility licensed by the State of Minnesota or Hubbard County Social Services Department which serves from seven to sixteen mentally handicapped, physically handicapped, or socially maladjusted individuals.

**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 structure.** 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 the structure. The height of the structure does not include any antenna, vent, chimney, satellite receiver or other similar non-structural items in nature.

**Home occupation.** Any occupation or profession engaged in by the occupant of a dwelling, which is clearly secondary to the principal use, and which shows no activity other than activity normally present on a residential site.

**Household.** 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.

**Ice ridge.** A shoreline physical land feature caused by the pushing action of a lake's ice sheet against the shore. The ice sheet scrapes, gouges, and pushes soil and rock into mounds called "ice ridges".

**Impervious surface.** 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, but are not limited to: rooftops, sidewalks, decks, platforms, storage areas, paver rock/stones, and concrete, asphalt, or packed gravel surfaces.

**Improved lot.** A lot that contains a single-family dwelling ready for immediate use as determined by Hubbard County, which is served by a subsurface sewage treatment system or public sewer and water supply that provides running indoor water service.

**Improvement.** It is defined as making the non-conforming use better, more efficient, or more aesthetically pleasing, including any change that does not replicate what pre-existed, but does not include an expansion, enlargement, or intensification.

**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 word "system", as it appears in this Ordinance, means an individual sewage treatment system.

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

**Intensive vegetative clearing.** The substantial removal of trees or shrubs in a contiguous patch, strip, row or block.

**Interim use permit.** A temporary use of property until a particular date, until the occurrence of a particular event, until zoning regulations no longer permit it, or until the land occupation of the interim use changes ownership.

**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 parcel of land designated by plat, metes and bounds, registered land survey, auditors plot, or other accepted means, and separated from other parcels by its description.

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

**Lot line, front.** For a riparian lot, the front lot line is that line indicating the ordinary high water level abutting the waterbody. For a nonriparian lot, a front lot line is a line dividing a lot from any public or private road, except a limited or controlled access road to which the lot has no access.

**Lot lines,** The lines bounding a lot, as defined herein.

**Lot line, rear.** The lot line opposite and most distant from the front lot line.

**Lot line, side.** Any lot line which is not a front lot line or a rear lot line.

**Lot width, non-riparian.** The shortest distance between lot lines measured at the mid-point of the building line.

**Lot width, riparian.** The shortest distance between side lot lines measured at the building setback line. This shall also be the minimum width abutting the ordinary high water level of the adjacent lake or river

**Maintenance.** Normal upkeep of a structure to include the replacement of windows, siding, external roof surfaces, or exterior finish such as paint or stain.

**Manufactured housing.** Structures, transportable in one or more sections, which in the traveling mode, is eight 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 when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein; except that the term includes any structure which meets all the requirements and with respect to which the manufacturer voluntarily files a certification required by the secretary and complies with the standards established under M.S. 327.31. Manufactured housing includes mobile homes, modular homes, and/or prefabricated housing.

**Marker, driveway entrance.** Any non-dwelling unit structure erected adjacent to and/or over a property's driveway at the point where the driveway bisects the property line and/or road right-of-way boundary and whose sole purpose is to mark and identify the property line and/or road right-of-way boundary. A driveway entrance marker is considered a special structure and is exempt from the setback and permit requirements of this Ordinance.

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

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

**Motel.** A building or group of buildings used primarily for the temporary residence of motorists or travelers.

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

**Nonconformity.** "Nonconformity" means the same as that term is defined or described in Minnesota Statutes, chapter 394. (Note: To provide an idea of what this definition is, the "nonconformity" definition in MS 394.22 Subd. 8 on October 28, 2014 was: "Nonconformity" means 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.")

**Non-riparian lot.** A lot that does not abut public waters of the State.

**Open space.** A portion of a development site that is permanently set aside for private use, is held in common ownership by all individual owners within a development, and will not be

developed. Open space shall include wetlands, upland recreational areas, wildlife areas, historic sites, and areas unsuitable for development in their natural state. Open space is not the space between buildings of a cluster in a planned unit development and it does not include an area of 25 feet around each structure or any impervious surface.

**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 (OHW) 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.

**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.

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

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

**Planned unit development, commercial.** Are typically uses that provide transient, short-term lodging spaces, rooms or parcels and their operations are essentially service-oriented. Hotel/motel accommodations, resorts, recreational vehicle and camping parks, and other primarily service-oriented activities are examples of commercial planned unit developments.

**Planned unit development, residential.** A use where the nature of residency is non-transient and the major or primary focus of the development is not service-oriented. For example: residential apartments; manufactured home parks; time share condominiums; townhouses; cooperatives; and full fee ownership residences would be considered as residential planned unit developments. To qualify as a residential planned unit development, a development must contain at least five dwelling units or sites.

**Planning Commission.** The Hubbard County Planning Commission as duly appointed by the Hubbard County Board of Commissioners.

**Platform.** A horizontal, unenclosed platform 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 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.

**Private road.** A road providing access to one or more lots which is not dedicated to or maintained by the public.

**Public road.** Any vehicular way which is a federal, state, county, or township roadway; or is shown upon a certificate of survey, minor subdivision, or plat approved pursuant to law as dedicated to public use; or is dedicated for public use.

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

**Recreational camping vehicle.** Any of the following:

1. Travel trailer means a vehicular, portable structure built on a chassis, designed to be used as a temporary dwelling for travel, recreational, and vacation uses.
2. Pick-up coach means a structure designed to be mounted on a truck chassis for use as a temporary dwelling for travel, recreation, and vacation.
3. Motor home means a portable, temporary dwelling to be used for travel, recreation and vacation, constructed as an integral part of a self-propelled vehicle.
4. Camping trailer means a folding structure, mounted on wheels and designed for travel, recreation, and vacation use.

**Recreation use area.** The area allowed within the shore impact zone for residential lots, conservation subdivisions, planned unit developments, and new resorts.

**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.

**Replacement, reconstruction, or restoration** means construction that exactly matches pre-existing conditions.

**Residential lot suitable area.** The minimum area on a residential lot or parcel of land that is the combination of:

1. the minimum contiguous area remaining on a lot or parcel of land after all setback requirements, bluffs, all easements and rights-of-way, historic sites, wetlands, and land below the ordinary high water mark of public waters are subtracted for the purposes of placing structures; and
2. the area meeting or exceeding the site requirements of Minnesota Pollution Control Agency individual sewage treatment system rules, Chapter 7080, for the purpose of soil treatment or drainfield areas and future additional sites.

**Resort.** A private commercial recreational development which includes multiple units intended for habitation on a transitory basis for the purpose of providing relaxation or recreational opportunities to guests.

**Riparian lot.** Any lot which is bounded on one or more sides by public waters frontage.

**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.

**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 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 required by this ordinance.

**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 the Mississippi River in the Mississippi Headwaters Corridor; and 500 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.

**Sidewalk.** A hard surfaced pedestrian path.

**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 residential use.** The use of the land or buildings for a single family dwelling.

**Single household dwelling.** A structure, designated or used for residential occupancy by one household.

**Special structure.** A special structure not subject to one or more setback requirements which have been prescribed by this Ordinance.

**Stairway.** A series of steps or flights of steps for passing from one level to another.

**Steep slope.** Land where agricultural activity or development is either not recommended or described as poorly suited due to slope steepness and the soil characteristics of the site, as mapped and described in available County soil surveys or other technical reports, unless appropriate design and construction techniques and farming practices are used in accordance with the provisions of this Ordinance. Where specific information is not available, steep slopes

are lands having slopes over twelve percent, as measured over horizontal distances of fifty feet or more, that are not bluffs.

**Structure.** Any building or appurtenance, including decks, except aerial or underground utility lines such as: sewer, electric, telephone, telegraph, gas lines, towers, poles, and other supporting appurtenances.

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

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

**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 limited period of time not to exceed 120 consecutive days in a calendar year.

**Toe of the bluff.** The lower point of a 50-foot segment with an average slope exceeding 18 percent.

**Top of the bluff.** The higher point of a 50-foot segment with an average slope exceeding 18 percent.

**Tower.** Any pole, spire, structure or combination thereof, including support lines, cables, wires, braces and masts intended primarily for the purpose of mounting antenna or to serve as an antenna, or for the placement of a wind energy conversion system.

**Unincorporated area.** The area outside of the incorporated area of a city.

**Variance.** "Variance" means the same as that term is defined or described in Minnesota Statutes, chapter 394. (Note: To provide an idea of what this definition is, the "nonconformity" definition in MS 394.22 Subd. 10 on October 28, 2014 was: "Variance" means any modification or variation of official controls where it is deemed that, by reason of exceptional circumstances, the strict enforcement of the official controls would cause unnecessary hardship.)

**Water-oriented accessory structure or facility.** A small, above ground building or other improvement, except stairways, fences, docks and retaining walls, which, because of the relationship of its use to a surface water feature, reasonably needs to be located closer to public waters than the normal structure setback. Examples of such structures and facilities include boathouses, gazebos, screen houses, fish houses, pump houses, and detached decks. These structures or facilities are not allowed in Hubbard County unless they meet the structure setback provisions of this Ordinance or comply with all provisions of Section 601 Paragraph #3.

**Wetland.** Any lands as defined in Minnesota Statutes, section 103G.005, subdivision 19. These lands are 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. Wetlands must have the

following three attributes:

- (1) have a predominance of hydric 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; and
- (3) under normal circumstances support a prevalence of such vegetation.

## Article II Public Waters Classification System

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

The shoreland areas for the waterbodies listed in Sections 201 through 207 shall be as defined in Section 101 of this Ordinance for those waterbodies listed here and as shown on the Official Shoreland Management Map for Hubbard County. The public waters of Hubbard County have been classified as follows:

### Section 201. Natural Environment

<u>Lake I.D. Number</u>	<u>Lake Name</u>	<u>Township</u>	<u>Lake I.D. Number</u>	<u>Lake Name</u>	<u>Township</u>
29-6	No Name	Badoura	29-104	No Name	Mantrap
29-8	Mastny	White Oak	29-112	No Name	Mantrap
29-10	Gauldin	White Oak	29-120	No Name	Thorpe
29-11	No Name	White Oak	29-137	Dehart	Guthrie
29-13	Mary	White Oak	29-139	Kimball	Guthrie
29-21	No Name	White Oak	29-158	No Name	Hubbard
29-24	No Name	Akeley-White Oak	29-159	No Name	Hubbard
			29-160	No Name	Hubbard
29-26	No Name	Akeley	29-181	No Name	Lake
29-35	No Name	Akeley			Emma
29-49	Lester	Steamboat River	29-182	Sixteen	Lake Emma
29-54	Spring	Lakeport	29-183	Little Rice	Lake Emma
29-55	No Name	Lakeport			Emma
29-57	No Name	Lakeport	29-189	Beaver	Lake Emma
29-63	Hart	Hart Lake			Emma
29-64	No Name	Hart Lake	29-211	No Name	Clay
29-76	Knutson Guthrie	Farden-	29-213	No Name	Clay
			29-229	Rosie	Schoolcraft
29-79	No Name	Crow Wing Lake			craft
29-84	No Name	Crow Wing Lake	29-233	Hubbard	Schoolcraft
			29-257	Many Arms	Arago
29-94	Tamarack	Nevis	29-267	Lower Mud	Arago-
29-95	Holland-Lucy	Nevis			Clover
29-97	Clausens	Mantrap-Nevis	29-273	No Name	Clover
			29-280	Rose	Clover
29-102	No Name	Mantrap	29-284	Upper Mud	Clover
			29-304	Bond	Lake
					Hattie
			29-308	No Name	Fern
			29-311	No Name	Straight River

<u>Lake I.D. Number</u>	<u>Lake Name</u>	<u>Township</u>	<u>Lake I.D. Number</u>	<u>Lake Name</u>	<u>Township</u>
29-1	Kettle	Badoura	29-89	Shallow	Nevis
29-3	Nagel	Badoura	29-96	Shinker	Nevis
29-4	Mud	Badoura	29-98	Waboose	Mantrap
29-7	Island	White Oak	29-99	No Name	Mantrap
29-16	Hay	White Oak	29-101	Crooked	Mantrap
29-18	Little Ham	White Oak	29-105	No Name	Mantrap
29-20	Loon	White Oak	29-106	No Name	Mantrap
29-22	Steel	Akeley - White Oak	29-108	Coon	Mantrap
29-23	Robinson Oak	Akeley-White	29-116	Crow Wing	Mantrap
29-29	Schroeder	Akeley	29-119	Mud	Thorpe
29-33	Little Bass	Akeley	29-126	Gillette	Hendrickson
29-34	Upper Bass	Akeley	29-128	Island	Hendrickson
29-41	Cramer	Akeley	29-130	Twenty-One	Hendrickson
29-43	Shingobee	Akeley	29-131	Nelson	Hendrickson
29-44	Mud	Akeley	29-134	Upper Thatcher	Guthrie
29-58	Willow	Lakeport	29-135	Hatchers	Guthrie
29-59	Horseshoe	Lakeport	29-136	Horsehead	Guthrie
29-60	Oak	Lakeport	29-144	Sunday	Nevis- Henrietta
29-65	Mud	Farden	29-145	Round	Nevis- Henrietta
29-67	Little Midge	Farden	29-147	Petit	Lake Emma
29-68	Bowman	Farden	29-154	Tepee	Clay-Thorpe
29-73	Owl	Akeley- Mantrap	29-155	Sheridan	Lake George
29-74	Indian	Akeley- Mantrap	29-157	Upper Twin	Hubbard
29-78	4th Crow Wing	Crow Wing Lake	29-163	Deer	Henrietta- Lake Emma
29-80	Little Stony	Crow Wing Lake	29-164	Sweitzer	Henrietta
29-81	Wolf	Crow Wing Lake	29-165	Rockwell	Henrietta
29-82	No Name	Crow Wing Lake	29-168	Mud	Henrietta
29-83	Bladder	Crow Wing Lake	29-169	Peysenski	Henrietta
29-87	Palmer	Crow Wing Lake	29-170	Ida	Henrietta- Lake Emma
			29-171	Ingram	Henrietta- Lake Emma
			29-172	Stocking	Lake Emma
			29-175	Stony	Lake Emma
			29-177	Rice	Lake Emma
			29-187	Dead Horse	Lake Emma
			29-195	Deep	Clay
			29-197	Pine	Clay

<u>Lake I.D. Number</u>	<u>Lake Name</u>	<u>Township</u>
29-199	Birch	Clay
29-202	Sawyer	Clay
29-206	Buck	Clay
29-212	Skunk	Clay
29-215	Schoolcraft	Clay-Lake George
29-217	Paine	Lake George
29-218	Shanty	Lake George
29-227	Evergreen	Schoolcraft
29-230	Wolf	Schoolcraft
29-231	Twenty	Schoolcraft
29-234	Minnie	Schoolcraft
29-235	Arrow	Rockwood
29-237	Newman	Rockwood
29-239	Spearhead	Rockwood
29-240	Lilypad	Rockwood
29-241	Frontenac	Rockwood
29-245	Emma	Lake Hattie-Schoolcraft
29-246	Hennepin	Fern-Rockwood
29-247	Moran	Straight River
29-248	Lord	Straight River
29-251	Mud	Todd
29-255	Bunness	Arago
29-258	No Name	Arago
29-265	Beden	Arago
29-266	Sloan	Arago
29-269	No Name	Clover
29-272	Sibilant	Clover-Lake Alice
29-275	Blacksmith	Clover
29-276	Upper Camel	Clover
29-277	Coon	Clover
29-288	Brisbane	Lake Alice
29-289	Mary	Lake Alice
29-291	Spider	Lake Alice
29-292	Beauty	Lake Alice
29-297	Assawa	Lake Hattie
29-301	Beauty	Lake Hattie
29-303	Lost	Lake Hattie
29-307	Diamond	Fern
29-310	Brush	Straight River
29-312	Cedar	Clover

<u>Lake I.D. Number</u>	<u>Lake Name</u>	<u>Township</u>
<b><u>Boundary Lakes</u></b>		
11-503	Bess (with Cass County)	Akeley
80-19	Mud (with Wadena County)	Crow Wing Lake

**Section 202. Recreational Development Lakes**

<u>Lake I.D. Number</u>	<u>Lake Name</u>	<u>Township</u>
29-2	Mow	Badoura
29-5	Tripp	Badoura
29-15	Williams	White Oak
29-17	Ham	White Oak
29-25	9th Crow Wing	Akeley-White Oak
29-32	Big Bass	Akeley
29-36	11th Crow Wing	Akeley
29-45	10th Crow Wing	Akeley
29-48	Benedict	Steamboat River
29-61	Garfield	Hart Lake-Lakeport
29-66	Midge	Farden
29-71	Grace	Farden
29-72	8th Crow Wing	Nevis-White Oak
29-75	Kabekona	Hendrickson-Lakeport-River
29-77	3rd Crow Wing	Crow Wing Lake
29-85	2nd Crow Wing	Crow Wing Lake
29-86	1st Crow Wing	Crow Wing Lake
29-88	Island	Crow Wing Lake
29-90	Deer	Nevis
29-91	7th Crow Wing	Nevis
29-92	5th Crow Wing	Nevis

<u>Lake I.D. Number</u>	<u>Lake Name</u>	<u>Township</u>
29-93	6th Crow Wing	Nevis
29-110	Dead	Mantrap
29-117	Spider	Mantrap
29-142	Duck	Crow Wing Lake-Hubbard
29-143	Big Stony	Crow Wing Lake-Hubbard
29-146	Belle Taine	Henrietta-Nevis
29-148	Upper Bottle	Lake Emma
29-149	Ojibway	Lake Emma-Mantrap
29-150	Little Sand	Lake Emma-Henrietta
29-151	Big Mantrap	Mantrap-Clay-Thorpe-Lake Emma
29-156	Plantaganet	Helga-Rockwood
29-161	Long	Henrietta-Hubbard
29-162	Boulder	Henrietta
29-178	Pickereel	Lake Emma
29-180	Lower Bottle	Lake Emma
29-184	Blue	Lake Emma
29-185	Big Sand	Lake Emma
29-186	Emma	Lake Emma
29-188	Gilmore	Lake Emma
29-190	Loon	Lake Emma
29-208	Bad Axe	Clay
29-216	Lake George	Lake George
29-242	Fish Hook	Henrietta-Todd
29-243	Potato Emma	Arago-Lake

<u>Lake I.D. Number</u>	<u>Lake Name</u>	<u>Township</u>
29-249	Hinds	Straight River
29-250	Portage	Todd
29-254	Island	Arago
29-256	Eagle	Arago
29-286	Alice	Lake Alice
29-300	Hattie	Lake Hattie
29-309	LaSalle	Fern
29-313	Little Mantrap	Clover

<u>Lake I.D. Number</u>	<u>Lake Name</u>	<u>Township</u>
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#### Boundary Lakes

11-502	Crystal (with Cass County)	White Oak
11-504	Steamboat (with Cass County)	Hart Lake
11-505	Little Wolf (with Cass County)	Farden
4-79	Wolf (with Beltrami County, in Miss. Headwaters Board corridor and jurisdiction)	Farden
15-1	Big LaSalle (with Clearwater County)	Lake Hattie

#### **Section 203. General Development Lakes**

<u>Lake I.D. Number</u>	<u>Lake Name</u>	<u>Township</u>
11-203	Leech (on the boundary with Cass County)	Steamboat River

## Section 204. Special Protection River Segments

<u>River</u>	<u>From</u>	<u>To</u>
Mississippi	Border of Hubbard and Clearwater Counties, in Miss. Headwaters Board corridor and jurisdiction	North section line, Sec. 17, T145N, R35W
Mississippi	South section line, Sec. 8, T145N, R35W, in Miss. Headwaters Board corridor and jurisdiction	Border of Hubbard and Beltrami Counties

## Section 205. Remote River Segments

<u>River</u>	<u>From</u>	<u>To</u>
Schoolcraft	South section line, Sec. 28, T144N, R34W	Inlet of Plantagenet Lake in in Sec. 18, T145N, R33W
Crow Wing	Outlet of Second Crow Wing Lake in Sec. 21, T139N, R33W	Border of Hubbard and Wadena Counties

## Section 206. Forested River Segments

<u>River</u>	<u>From</u>	<u>To</u>
Schoolcraft	U.S. 71 bridge in Sec. 20, T143N, R34W	North section line, Sec. 33, T144N, R34W
Crow Wing	Outlet of Fifth Crow Wing Lake in Sec. 30, T140N, R33W	Inlet of Fourth Crow Wing in Sec. 4, T139N, R33W
Shell	Border of Becker and Hubbard Counties	Border of Hubbard and Wadena Counties
Shell	Border of Hubbard and Wadena Counties	Inlet of Upper Twin Lake in Sec. 31, T139N, R34W
Shell	Border of Hubbard and Wadena Counties	Confluence with Crow Wing River in Sec. 32, T139N, R33W
Fish Hook	Confluence with Straight River in Sec. 7, T139N, R34W	Confluence with Shell River in Sec. 30, T139N, R34W
Straight	Border of Becker and Hubbard Counties	Confluence with Fish Hook River in Sec. 7, T139N, R34W

## Section 207. Tributaries

<u>Name</u>	<u>From</u>	<u>To</u>
LaSalle	Sec. 7 (at Hwy. 200) T143N, R35W	Sec. 19, T145N, R35W (confluence w/Miss. River)

**Section 207. Tributaries** (Continued)

<u>Name</u>	<u>From</u>	<u>To</u>
Hennepin Creek	Sec. 28 (at Basin 29-564) T144N, R35W	Border of Hubbard and Beltrami Counties
Schoolcraft	Sec. 32 (at Basin 29-215) T143N, R34W	Sec. 20 (at U.S. 71) T143N, R34W
Schoolcraft Creek	Sec. 7 (at Basin 29-198) T142N, R34W	Sec. 5 (at Basin 29-215) T142N, R34W
Unnamed to Schoolcraft Creek	Sec. 17 (at Basin 29-527) T142N, R34W T142N, R34W	Sec. 8 (at confluence with Schoolcraft Creek)
Birch Creek	Sec. 2 (at Basin 29-286) T143N, R35W	Sec. 4 (at confluence with Schoolcraft River) T143N, R34W
Lake Alice Creek	Sec. 15, T143N, R35W	Sec. 11 (at Basin 29-286) T143N, R35W
Unnamed to Lake Alice	Sec. 9 (at Basin 29-535) T143N, R35W	Sec. 2 (at Basin 29-286) T143N, R35W
Unnamed to Birch Creek	Sec. 35 (at Basin 29-304) T144N, R35W	Sec. 36 (at confluence with Birch Creek) T144N, R35W
Alcohol Creek	Sec. 15 (at Basin 29-216) T143N, R34W	Sec. 21 (at confluence with Schoolcraft River) T144N, R34W
Frontenac Creek	Sec. 27 (at Basin 29-241) T145N, R34W	Sec. 3 (at confluence with Schoolcraft River) T144N, R34W
Rat Creek	Sec. 8 (at Basin 29-227) T144N, R34W	Sec. 28 (at Basin 29-241) T145N, R34W
Skunk Creek	Sec. 6, T144N, R34W	Sec. 8 (at Basin 29-227) T144N, R34W
Dead Creek	Sec. 21 (at Co. Rd. 9) T145N, R34W	Sec. 28 (at Basin 29-241) T145N, R34W
Brokaw Creek	Sec. 11 (at Basin 29-228) T144N, R34W	Sec. 2 (at confluence with Schoolcraft River) T144N, R34W
Cold Creek	Sec. 19, T145N, R33W	Sec. 19 (at Basin 29-156) T145N, R33W
Revoir Creek	Sec. 23 (at Basin 29-239) T145N, R34W	Sec. 13 (at Basin 29-156) T145N, R34W

**Section 207. Tributaries** (Continued)

<u>Name</u>	<u>From</u>	<u>To</u>
Necktie River	Sec. 1, T145N, R33W	Sec. 26 (at Basin 11-504) T144N, R32W
Bungashing Creek	Sec. 4, T144N, R33W	Sec. 28, T145N, R32W (at confluence with Necktie River)
Unnamed to Bungashing Creek	Sec. 26, T145N, R33W	Sec. 26, T145N, R33W (at confluence with Bungashing Creek)
Pokety Creek River)	Sec. 24, T144N, R33W	Sec. 29, T144N, R32W (at confluence with Necktie
Unnamed to Pokety Creek	Sec. 29, T144N, R32W	Sec. 29, T144N, R32W (at confluence with Pokety Creek)
Unnamed Tributary	Sec. 1 (at Basin 29-54) T143N, R32W	Sec. 1, T143N, R32W (Border of Hubbard and Cass Counties)
Kabekona River	Sec. 24, T144N, R34W	Sec. 1 (Basin 11-203), T142N, R32W
Unnamed to Kabekona River	Sec. 36, T144N, R34W	Sec. 25 (at confluence with Kabekona River) T144N, R34W
Stall Creek	Sec. 13, T143N, R33W	Sec. 12, T143N, R33W (at confluence with Kabekona River)
Gulch Creek	Sec. 28 (at Basin 29-125) T143N, R33W	Sec. 24 (at Basin 29-75) T143N, R33W
Sucker Brook	Sec. 6 (at Basin 29-49) T142N, R32W	Sec. 30 (at Basin 29-75) T143N, R32W
Unnamed to Oak Lake	Sec. 16 (at Basin 29-57) T143N, R32W	Sec. 27 (at Basin 29-60) T143N, R32W
Grassy Creek	Sec. 24, T143N, R32W	Sec. 26, T143N, R32W (at confluence with Kabekona River)
Unnamed to Leech Lake	Sec. 1 (at Basin 29-48) T142N, R32W	Sec. 1 (at Basin 11-203) T142N, R32W
Shingobee River	Sec. 35 (at Basin 29-22) T141N, R32W	Sec. 24, T141N, R32W (Border of Hubbard and Cass Counties)

**Section 207. Tributaries** (Continued)

<u>Name</u>	<u>From</u>	<u>To</u>
Unnamed to Steel Lake	Sec. 11 (at Basin 29-14) T140N, R32W	Sec. 2 (at Basin 29-22) T140N, R32W
Unnamed to Island Lake	Sec. 11 (at Basin 29-12) T140N, R32W	Sec. 2 (at Basin 29-7) T140N, R32W
Unnamed to Big Sand Lake	Sec 6 (at Basin 29-151) T141N, R33W	Sec. 23 (at Basin 29-185) T141N, R34W
Sand River	Sec. 35 (at Basin 29-185) T141N, R34W	Sec. 5 (at Basin 29-89) T140N, R33W
Hellcamp Creek	Sec. 24, T140N, R34W	Sec. 19 (at Basin 29-92) T140N, R33W
Wallingford Creek	Sec. 25 (at Basin 29-94) T140N, R33W	Sec. 10 (at Basin 29-77) T139N, R33W
Mucky Creek	Sec. 12 (at Basin 29-397) T139N, R33W	Sec. 11, T139N, R33W
Bender Creek	Sec. 18 (at Basin 29-5) T139N, R32W	Sec. 27 (at Basin 29-86) T139N, R33W
Unnamed to Tripp Lake	Sec. 8 (at Basin 29-2) T139N, R32W	Sec. 17 (at Basin 29-5) T139N, R32W
Unnamed to Bender Creek	Sec. 21 (at Basin 29-320) T139N, R32W	Sec. 19, T139N, R32W (at confluence with Bender Creek)
Blueberry River	Sec. 30, T139N, R35W (Border of Hubbard and Becker Counties)	Sec. 31, T139N, R35W (Border of Hubbard and Becker Counties)
Unnamed to Shell River	Sec. 26 (at Basin 29-249) T139N, R35W	Sec. 36, T139N, R35W (at confluence with Shell River)
Fish Hook River	Sec. 36 (at City limits of Park Rapids) T140N, 35W	Sec. 30, T139N, R34W at confluence with Shell River)
Unnamed to Island Lake	Sec. 8 (at Basin 29-255) T141N, R35W	Sec. 5 (at Basin 29-254) T141N, R35W
Unnamed to Island Lake	Sec. 33 (at Basin 29-280) T142N, R35W	Sec. 3 (at Basin 29-254) T141N, R35W
Unnamed to Upper Mud Lake	Sec. 36 (at 29-522) T142N, R35W	Sec. 34 (at Basin 29-284) T142N, R35W

**Section 207. Tributaries** (Continued)

<u>Name</u>	<u>From</u>	<u>To</u>
Hay Creek (Border of Hubbard & Becker Co.)	Sec. 18, T141N, R35W	Sec. 22 (at Basin 29-243) T141N, R35W
Unnamed to Potato Lake	Sec. 18 (at Basin 29-177) T141N, R34W	Sec. 19 (at Basin 29-243) T141N, R34W
Potato River	Sec. 31 (at Basin 29-243) T141N, R34W	Sec. 2 (at Basin 29-242) T140N, R35W
Portage River	Sec. 9 (at Basin 29-250) T140N, R35W	Sec. 10 (at Basin 29-242) T140N, R35W
Unnamed to Fish Hook River	Sec. 20 (at Basin 29-161) T139N, R34W	Sec. 19 (at confluence with Fish Hook River) T139N, R34W
Crow Wing River	Sec. 28 (at Basin 29-36) T141N, R32W	Sec. 20 (at Basin 29-92) T140N, R33W
Crow Wing River	Sec. 9 (at Basin 29-78) T139N, R33W	Sec. 20 (at Basin 29-85) T139N, R33W

All protected watercourses in Hubbard County shown on the Protected Water Inventory map for Hubbard County, which is hereby adopted by reference, not given a classification in Sections 204 through 207 of this Ordinance, shall be considered 'tributary'.

**Section 208. Established Ordinary High Water Level Elevations.**

The following public waters of Hubbard County have an ordinary high water level elevation established.

<u>DNR ID #</u>	<u>LAKE NAME</u>	<u>OHW ELEVATION</u>	<u>HIGHEST KNOWN LAKE ELEVATION</u>	<u>DATUM</u>
4-0079	Big Wolf	1303.1		1929 w/Beltrami County
11-0203	Leech	1294.9		1929
11-0502	Crystal	1397.4		1929 w/Cass County
11-0505	Little Wolf Lake	1306.7		1929
29-0002	Mow	145.70		ASSUM
29-0005	Tripp	1391.8		
29-0025	Ninth Crow Wing	1386.10	1386.58	1929
29-0036	Eleventh Crow Wing	1391.50	1391.7	1929
29-0045	Tenth Crow Wing	1386.10	1386.58	1929
29-0061	Garfield	1312.10		1929
29-0066	Midge Lake	1319.3	1318.31	1929
29-0071	Grace	1329.00		1929
29-0072	Eighth Crow Wing Lake	1386.10	1386.58	1929

29-0075	Kabekona	1297.60		1929
29-0077	Third Crow Wing	1364.5		1929
29-0078	Fourth Crow Wing	1364.5		1929
29-0085	Second Crow Wing	1364.5		1929
29-0086	First Crow Wing	1364.10		1929
29-0087	Palmer	1366.8	1367.13	1929
29-0088	Island	1370.50	1371.21	1929
29-0089	Shallow	1428.3		
29-0090	Deer	1428.3		
29-0091	Seventh Crow Wing	1383.0		
29-0092	Fifth Crow Wing	1381.6		1929
29-0093	Sixth Crow Wing	1381.6		1929
29-0097	Clausens	1428.3		
29-0101	Crooked, East, Middle, & West	1441.50		1929
29-0110	Dead Lake	1440.3	1440.6	1929
29-0117	Spider (Mantrap Twp.)	1433.60		1929
29-0143	Big Stoney	1389.80	1391.11	1929
29-0145	Round	1428.3		
29-0146	Belletaine	1428.30		1929
29-0148	Upper Bottle	1429.50	1429.83	1929
29-0149	Ojibway Lake	1440.3	1440.6	1929
29-0150	Little Sand	1428.30		1929
29-0151	Big Mantrap	1434.70		1929
29-0156	Plantaganet	1343.10		1929
29-0161	Long	1379.70		1929
29-0162	Boulder	1428.60	1429.3	1929
29-0169-01	Peysenski, west bay	1407.5		
29-0169-02	Peysenski, east bay	1408.9		
29-0170	Ida	1428.30		1929
29-0172	Stocking	1430.4		
29-0178	Pickerel	1456.90		1929
29-0180	Lower Bottle	1429.50	1429.83	1929
29-0184	Blue	1443.70	1444.04	1929
29-0185	Big Sand	1428.30		1929
29-0186	Emma	1428.80	1429.7	1929
29-0189	Beaver Lake	1429.30	1428.9	1929

29-190	Loon Lake	1429.20	1429.7	1929
29-0208	Bad Axe	1439.50		1929
29-211	Unnamed	1483.0		1988
29-0212	Skunk	1483.0	1485.2	1988
29-213	Unnamed	1483.0		1988
29-216	Lake George	1416.3	1417.3	1929
29-0227	Evergreen	1381.60		1929
29-0241	Frontenac	1375.7	1375.53	1929
29-0242	Fish Hook	1426.30		1929
29-0243	Potato	1440.50		1929
29-0246	Hennepin	1430.1		
29-247	Moran	1405.0	1405.30	1929
29-248	Lord	1405.0	1405.30	1929
29-249	Hinds	1370.2	1371.12	1929
29-250	Portage	1434.4	1435.10	1929
29-0251	Mud	1426.00		1929
29-0254	Island	1442.10		1929
29-0256	Eagle	1440.80		1929
29-0286	Alice	1419.8	1421.04	1929
29-0292	Beauty	97.7		ASSUM
29-0300	Hattie	148.50		ASSUM
29-0310	Brush	1445.8	1446.8	1929
29-0313	Little Mantrap	1519.80		1929
11-0203	Kabekona Bay of Leech Lake	1294.90		1929

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## **Article III**

### **Establishment of Shoreland Management Districts**

#### **Section 301. Establishment of Shoreland Management Districts**

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

- |                             |                   |
|-----------------------------|-------------------|
| 1. Natural Environment      | 5. Remote River   |
| 2. Recreational Development | 6. Forested River |
| 3. General Development      | 7. Tributary      |
| 4. Special Protection       |                   |

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

1. The Natural Environment (NE) management district is established to preserve and enhance high quality waters by protecting them from pollution and to protect shorelands of waters which are unsuitable for development; to maintain a low density of development; and to maintain high standards of quality for permitted development.
2. The Recreational Development (RD) management district is established to manage proposed development reasonably consistent with existing development and use; to provide for the beneficial use of public waters by the general public, as well as the riparian owners; to provide for a multiplicity of lake uses; and to protect areas unsuitable for residential and commercial uses from development.
3. The General Development (GD) management district is established to provide minimum regulations in areas presently developed as high density, multiple use areas; and to provide guidance for future growth of commercial and industrial establishments which require locations on protected waters.
4. The Special Protection (SP) management district is established to limit development along unique protected watercourses.
5. The Remote River (RR) management district is established to preserve wilderness and near wilderness settings along protected watercourses.
6. The Forested River (FR) management district is established to maintain existing levels of development densities while preserving the natural setting along protected watercourses.
7. The Tributary (Tr) management district is established to maintain or establish vegetated buffer strips to improve water quality along protected watercourses.

#### **Section 303. Shoreland Management Map**

An official shoreland management map, on file at the Land Records-Environmental Services Department, Hubbard County Courthouse, is hereby adopted by reference.

## Article IV Shoreland Management District Requirements

### Section 401. Permitted, Conditional, Special and Non-Permitted Uses

The following table shows the permitted, conditional and non-permitted uses for each of the shoreland management districts. Uses identified with a (P) are permitted provided that all of the requirements of this Ordinance are complied with. Uses identified with a (C) are allowed provided that the applicant meets the specified conditions for that use as prescribed in this Ordinance, and secures a conditional use permit. Uses identified with an (I) are allowed provided that the applicant meets the specified conditions for that use as prescribed in this Ordinance and secures an interim use permit. 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 (N) non-permitted, or those uses which are not identified in a particular management district, are not allowed.

**Table 1-Use by Public Waters Classification**

<u>Use</u>	<u>Public Waters Classification</u>				<u>All Other River Segments</u>
	<u>NE</u>	<u>RD</u>	<u>GD</u>	<u>SP</u>	
Single Family Residential	P	P	P	P	P
Accessory Uses	P	P	P	P	P
Boathouses	N	N	N	N	N
Duplex, Triplex, Quads*	C*	P	P	N	C*
Agricultural Uses*	S	S	S	S	S
Forest Management*	S	S	S	S	S
Forest Land Conversion	C	C	C	C	C
Event Center*	N	C	N	N	N
Extractive Uses*	N	I	I	N	I
Parks & Historic Sites	C	C	C	C	C
Nature Areas	P	P	P	P	P
Mining	P	P	P	P	P
Residential Planned Unit Development	C	C	C	N	C
Mobile Home Parks *	C	C	C	N	C
Commercial Planned Unit Development	C	C	C	N	C
Rec. Vehicle Camping Areas*	C	C	C	N	C
Hotels, Motels, Resorts	C	C	C	N	C
Bed & Breakfasts	C	C	C	N	C
Restaurants, Drive-Ins, Dinner Clubs, Taverns & Private Clubs	C	C	C	N	C
Stables, Horsebarns & Barns for Livestock*	C	C	C	C	C
New Public Roads	C	C	C	C	C
Campgrounds	C	C	C	C	C
Controlled Access Lot	N	N	N	N	N
Public Access with Boat Launch	C	C	C	C	C
Semi-Public Use	C	C	C	C	C
Fish & Wildlife Habitat Improvements*	S	S	S	C	S
Feedlot	N	N	N	N	N
Home Occupation*	S	S	S	S	S
Group Home	N	C	C	N	C
Retail Shops	N	C	C	N	C
Professional Services Business	N	C	C	N	C
Church*	N	C	C	N	N

\*These uses must meet the performance standards identified in Section 402.

## **Section 402. Special Provisions**

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

1. Accessory buildings must be consistent with Article VI of this Ordinance.
2. Agricultural uses must be consistent with the provisions of Section 906 of this Ordinance.
3. Stables, horsebarns and barns for livestock must be consistent with Section 906 of this Ordinance.
4. Forest management uses must be consistent with Section 907 of this Ordinance.
5. Extractive uses must be consistent with Section 908 of this Ordinance.
6. Fish and Wildlife Habitat Improvements must be consistent with Section 909 of this Ordinance.
7. Mobile Home Parks must be consistent with the following provisions:
  - A. Mobile home parks must be licensed by the Minnesota Department of Health (MDH), and must meet all MDH requirements in addition to the requirements of this Ordinance.
  - B. Each mobile home must meet minimum setback from both roads and the ordinary high water mark.
  - C. There shall be a minimum of fifteen (15) feet between the sides of adjacent mobile homes, including their attachments, and a minimum of ten (10) feet between mobile homes when parked end to end.
  - D. Each mobile home site shall be a minimum of 6,000 square feet in area.
  - E. A centralized sewage treatment system which meets all standards, criteria, rules and regulations of the Minnesota Department of Health and Pollution Control Agency must be installed. The system must meet the minimum setback provisions of this Ordinance.
  - F. Vegetative screening shall be maintained for the mobile home park in a manner consistent with the general intent of this Ordinance.
8. Recreational Vehicle Camping Areas must be consistent with the following provisions:
  - A. Recreational vehicle camping areas shall be licensed by and meet the minimum requirements of the Minnesota Department of Health in addition to the requirements of this Ordinance.
  - B. All recreational vehicles must meet the setback from the ordinary high water mark for the applicable class of public waters.
  - C. Each recreational vehicle camping site must be a minimum of 3,000 square feet in area.
  - D. A centralized sewage treatment system which meets the standards, criteria, rules and regulations of the Minnesota Department of Health and Pollution Control Agency must be installed. The system must meet the minimum setback provisions of this Ordinance.

- E. Vegetative screening of the recreational vehicle camping area shall be maintained consistent with the intent of this Ordinance.
9. Home occupations must be consistent with the following provisions:
- A. The home occupation shall be clearly incidental and subordinate to the residential use of the property.
  - B. The use of any accessory structures for storage or business activity is prohibited.
  - C. Signage shall consist of no more than 1 single or double-faced sign with a maximum area of two square feet per side.
  - D. The outdoor display or storage of goods, equipment or other materials use for the home occupation is prohibited.
  - E. Except for goods or articles produced on the premises, no stock in-trade shall be sold on the premises.
  - F. The home occupation shall not generate excessive customer or client traffic that is detrimental to the character of the surrounding properties.
  - G. Additional need for parking generated by the home occupation shall be limited to three spaces and shall meet all required setbacks.
  - 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. The home occupation shall not generate sewage of a nature or type that cannot be treated by a permitted on-site sewage treatment system.
10. Church buildings and any accessory structure or facility, which for purposes of this paragraph shall include all parking areas, must be consistent with the following provisions:
- A. The Church building and any accessory structure or facility must be located within tier three (3) or four (4) from the ordinary high water mark of a lake, pond or flowage or the landward extent of a flood plain designated by ordinance, whichever is greater.
  - B. The lot or parcel on which a Church building and any accessory structure or facility is located must be a non-riparian lot or parcel that does not have access to a lake, pond, flowage, river or stream by a controlled access lot, easement or by any other means.
11. Event centers and related outdoor items must be consistent with the following provisions:
- A. An event center use requires a conditional use permit.
  - B. An event center conditional use is only allowed on a non-riparian lot located in a Recreational Development (RD) classified management district.
  - C. The event center property shall be served by a minor collector or higher functional classification

of roadway (per the classifications shown on the official map of Hubbard County Ordinance No. 34), except that the proposed use may be served by a lesser functional class of roadway if the responsible road authority grants written permission for such use at the proposed location. Written permission from the responsible road authority is required to be submitted as part of a conditional use permit application.

- D. On-street vehicle parking is not allowed.
  - E. Off-street parking areas shall be improved with a durable and dustless surface. Such areas shall be so graded and drained as to dispose of all surface water accumulation within the parking area in accordance with an approved stormwater management plan. Durable and dustless surface may include crushed rock and similar treatment. Parking areas for six (6) or fewer vehicles shall be exempt from this provision.
  - F. Off-street parking areas shall be of sufficient size to provide parking for patrons, customers, suppliers, visitors and employees and shall provide one parking space for each three seats.
  - G. A parking space shall be at least nine (9) feet wide by twenty (20) feet long. In considering parking lots, a standard of three hundred (300) square feet per parking space shall be used to compute total requirements including maneuvering areas.
  - H. Where any commercial use is adjacent to property zoned or developed for residential use, that commercial use shall provide screening along the boundary of the residential property. Screening shall also be provided where a commercial use is across the street from a residential zone or use, but not on that side of a commercial use considered to be the front as determined by the Environmental Services Officer. The screening required herein shall consist of fence, earth mounds/berms, trees, or shrubs. Plans for such screening shall be approved as part of the conditional use permit before the screening is erected.
12. On natural environment lakes, subdivisions of duplexes, triplexes, and quads must meet the following standards:
- A. Each structure must be set back at least 200 feet from the ordinary high water level.
  - B. Each structure must have common sewage treatment and water systems that serve all dwelling units in the structure.
  - C. Watercraft docking facilities for each lot must be centralized in one location and serve all dwelling units in the structure.
  - D. No more than 25 percent of a lake's shoreline can be in duplex, triplex, or quad developments.

**Article V**  
**Height and Placement Regulations; Zoning Provisions**

Except as otherwise specifically provided for in this Ordinance, no new lot shall be created, 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. Lots must not be occupied by any more dwelling units than indicated in Sections 501.1-501.6. Residential subdivisions with dwelling unit densities exceeding those in the tables in Sections 501.1-501.6 can only be allowed if designed and approved as residential planned unit developments per Article X of this Ordinance. The area of any lot shall not be reduced below the minimum standards specified herein with the following exception: units within a residential planned unit development can be smaller than the minimum lot size standards shown in the Article.

**Section 501. Lot Area and Width Requirements**

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

**Section 501.1. Natural Environment Lakes**

Riparian Lot Area (sq. ft.) – RLSA (sq. ft.) – Width		Non-Riparian Lot Area (sq. ft.) – RLSA (sq. ft.) – Width	
Single	80,000-40,000-200	Single	120,000-60,000-200
Duplex	120,000-60,000-300	Duplex	160,000-80,000-400
Triplex	160,000-80,000-400	Triplex	240,000-120,000-600
Quad	200,000-100,000-500	Quad	320,000-180,000-800

**Section 501.2. Recreational Development Lakes - Unsewered Lots**

Riparian Lot Area (sq. ft.) – RLSA (sq. ft.) – Width		Non-Riparian Lot Area (sq. ft.) – RLSA (sq. ft.) – Width	
Single	40,000-20,000-150	Single	80,000-40,000-150
Duplex	80,000-40,000-225	Duplex	120,000-60,000-265
Triplex	120,000-60,000-300	Triplex	160,000-80,000-375
Quad	160,000-80,000-375	Quad	200,000-100,000-490

**Section 501.3 Recreational Development Lakes - Sewered Lots**

Sewered lot area dimensions can only be used if a publicly owned sewer system service is available on the property.

Riparian Lot Area (sq. ft.) – RLSA (sq. ft.) – Width		Non-Riparian Lot Area (sq. ft.) – RLSA (sq. ft.)– Width	
Single	30,000-15,000-100	Single	30,000-15,000-100
Duplex	60,000-30,000-150	Duplex	60,000-30,000-150
Triplex	90,000-45,000-200	Triplex	90,000-45,000-200
Quad	120,000-60,000-255	Quad	120,000-60,000-255

**Section 501.4. General Development Lakes**

Riparian Lot Area (sq. ft.) – RLSA (sq. ft.) – Width		Non-Riparian Lot Area (sq. ft.) – RLSA (sq. ft.) – Width	
Single	20,000-10,000-100	Single	40,000-20,000-150
Duplex	40,000-20,000-180	Duplex	80,000-40,000-265
Triplex	60,000-30,000-260	Triplex	120,000-60,000-375
Quad	80,000-40,000-340	Quad	160,000-80,000-490

**Section 501.5. Special Protection River Segments**

The minimum lot size for both riparian and non-riparian lots in the special protection management district is ten (10) acres.

**Section 501.6. Minimum Width of River Segments and Tributaries**

	<u>Special Protection</u>	<u>Remote</u>	<u>Forested</u>	<u>Tributaries</u>
Single	330	300	200	150
Duplex	450	450	300	225
Triplex	600	600	400	300
Quad	750	750	500	375

These minimum width requirements (in feet) apply to both riparian and non-riparian lots.

**Section 501.7. Minimum Width at Rear Lot Line**

The minimum lot width at the rear lot line shall be no less than 50% of the minimum lot width standard, prescribed in Sections 501.1 through 501.6, at the building line, and the ordinary high water level on riparian lots and the front lot line on non-riparian lots.

**Section 501.8 Minimum Depth of River Lots**

The minimum depth on all special protection, remote, forested, and tributary river riparian and non-riparian lots created after the date of enactment of this Ordinance shall be 267 feet.

**Section 501.9 Minimum Residential Lot Suitable Area of River Lots**

The minimum residential lot suitable area (RLSA) on all river lots shall be as shown below:

	<u>Special Protection</u>	<u>Remote</u>	<u>Forested</u>	<u>Tributaries</u>
Single	44,000 sq. ft.	40,000 sq. ft.	26,700 sq. ft.	20,000 sq. ft.
Duplex	60,000 sq. ft.	60,000 sq. ft.	40,000 sq. ft.	30,000 sq. ft.
Triplex	80,100 sq. ft.	80,100 sq. ft.	53,400 sq. ft.	40,000 sq. ft.
Quad	100,125 sq. ft.	100,125 sq. ft.	66,750 sq. ft.	50,000 sq. ft.

**Section 502. Setback Provisions**

Structures 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.

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

Structure setback from ordinary high water level	150 Ft.
Structure, sewage treatment system and driveway setback from side lot line	10 Ft.
Structure and sewage treatment system setback from rear lot line	10 Ft.
Structure setback from unplatted cemetery	50 Ft.
Structure setback from Federal, State, or County Highway Right of Way	50 Ft.
Structure setback from Right of Way of other public roads	20 Ft.
Structure and ISTS setback from top of bluff	30 Ft.
Sewage soil treatment system setback from ordinary high water level	150 Ft.
<i>Impervious surface coverage shall not exceed 25 percent of the lot area.</i>	

### **Section 502.2. Recreational Development Lakes**

Structure setback from ordinary high water level	100 Ft.
Structure, sewage treatment system and driveway setback from side lot line	10 Ft.
Structure and sewage treatment system setback from rear lot line	10 Ft.
Structure setback from unplatted cemetery	50 Ft.
Structure setback from Federal, State or County Highway Right of Way	50 Ft.
Structure setback from Right of Way of other public roads	20 Ft.
Structure and ISTS setback from top of bluff	30 Ft.
Sewage soil treatment system setback from ordinary high water level*	150 Ft.
<i>Impervious surface coverage shall not exceed 25 percent of the lot area.</i>	

### **Section 502.3. General Development Lakes**

Structure setback from ordinary high water level	75 Ft.
Structure, sewage treatment system and driveway setback from side lot line	10 Ft.
Structure and sewage treatment system setback from rear lot line	10 Ft.
Structure setback from unplatted cemetery	50 Ft.
Structure setback from Federal, State or County Highway Right of Way	50 Ft.
Structure setback from Right of Way of other public roads	20 Ft.
Structure and ISTS setback from top of bluff	30 Ft.
Sewage soil treatment system setback from ordinary high water level*	150 Ft.
<i>Impervious surface coverage shall not exceed 25 percent of the lot area.</i>	

### **Section 502.4. Special Protection River Segments**

Structure setback from ordinary high water level	200 Ft.
Structure, sewage treatment system and driveway setback from side lot line	10 Ft.
Structure and sewage treatment system setback from rear lot line	10 Ft.
Structure setback from unplatted cemetery	50 Ft.
Structure setback from Federal, State or County Highway Right of Way	50 Ft.
Structure setback from Right of Way of other public roads	20 Ft.
Structure and ISTS setback from top of bluff	30 Ft.
Sewage soil treatment system setback from ordinary high water level	150 Ft.
<i>Impervious surface coverage shall not exceed 25 percent of the lot area.</i>	

### **Section 502.5. Remote River Segments**

Structure setback from ordinary high water level	200 Ft.
Structure, sewage treatment system and driveway setback from side lot line	10 Ft.
Structure and sewage treatment system setback from rear lot line	10 Ft.
Structure setback from unplatted cemetery	50 Ft.
Structure setback from Federal, State or County Highway Right of Way	50 Ft.
Structure setback from Right of Way of other public roads	20 Ft.
Structure and ISTS setback from top of bluff	30 Ft.
Sewage soil treatment system setback from ordinary high water level	150 Ft.
<i>Impervious surface coverage shall not exceed 25 percent of the lot area.</i>	

### **Section 502.6. Forested River Segments**

Structure setback from ordinary high water level	150 Ft.
Structure, sewage treatment system and driveway setback from side lot line	10 Ft.
Structure and sewage treatment system setback from rear lot line	10 Ft.
Structure setback from unplatted cemetery	50 Ft.
Structure setback from Federal, State or County Highway Right of Way	50 Ft.
Structure setback from Right of Way of other public roads	20 Ft.
Structure and ISTS setback from top of bluff	30 Ft.
Sewage soil treatment system setback from ordinary high water level*	150 Ft.
<i>Impervious surface coverage shall not exceed 25 percent of the lot area.</i>	

### **Section 502.7. Tributaries**

Structure setback from ordinary high water level	150 Ft.
Structure, sewage treatment system and driveway setback from side lot line	10 Ft.
Structure and sewage treatment system setback from rear lot line	10 Ft.
Structure setback from unplatted cemetery	50 Ft.
Structure setback from Federal, State or County Highway Right of Way	50 Ft.
Structure setback from Right of Way of other public roads	20 Ft.
Structure and ISTS setback from top of bluff	30 Ft.
Sewage soil treatment system setback from ordinary high water level*	150 Ft.
<i>Impervious surface coverage shall not exceed 25 percent of the lot area.</i>	

\* See Section 801 Paragraph #3 for special circumstances

### **Section 503. Bluff Impact Zones**

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

### **Section 504. Height of Structures**

No structures, except churches and non-residential agricultural structures, shall exceed thirty-five (35) feet in height. No structure in a Special Protection River Segment classification shall exceed eighteen (18) feet in height except for structures used for agricultural purposes that may be up to thirty-five (35) feet in height.

## **Section 505. Uses Without Water-Oriented Needs**

Uses without water-oriented needs will be encouraged to locate on lots or parcels without public water frontage. If located on lots or parcels with public water frontage, such uses 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 506. Guest Cottages**

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

1. A guest cottage land use permit application must include color photos of the property's entire shore impact zone. Any violations of this ordinance identified as being present in the SIZ at the time of application by the Environmental Services Officer shall be corrected as a condition of any guest cottage land use permit application that is approved.
2. A guest cottage must not cover more than 700 square feet of land surface and must not exceed 15 feet in height unless such structure is constructed above a garage. In such cases the maximum height shall be 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 summer, 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 would result in practical difficulties during installation as determined by the Environmental Services Officer.
5. No nonconforming structure is allowed to be converted to a guest cottage.

## **Section 507. Design Criteria for Structures**

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

### **Section 507.1. High Water Elevations**

Structures must be placed in accordance with any floodplain regulations applicable to the site. Where such controls do not exist, the elevation to which the lowest floor, including any basement and/or any crawlspace floors (whether finished or unfinished, dirt, or other materials), is placed must be determined as follows:

1. for lakes, by placing the lowest floor at a level at least three feet above the highest known water level, or three feet above the ordinary high water level, whichever is higher;
2. for rivers and streams, by placing the lowest floor at least three feet above the flood of record, if data are available. If data are not available, by placing the lowest floor at least three feet above the ordinary high water level, or by conducting a technical evaluation to determine the effects of proposed construction upon flood stages and flood flows and to establish a flood protection elevation. Under all three approaches, technical evaluations must be done by a qualified

engineer or hydrologist consistent with Statewide Floodplain Management Rules parts 6120.5000 to 6120.6200. If more than one approach is used, the highest flood protection elevation determined must be used for placing structures and other facilities.

## **Section 507.2. Stairways, Sidewalks, Lifts and Landings**

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

1. Stairways, sidewalks and lifts must not exceed four feet in width on residential lots. Wider stairways and sidewalks 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, sidewalks, lifts, or landings;
4. Stairways, sidewalks, 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. All construction of stairways, sidewalks, lifts or landings must be done with environmentally friendly materials;
6. Lifts require a land use permit and pre-permit site inspection by the Land Records-Environmental Services Department. If erosion is occurring on an existing access path, then the erosion problem on the path must be restored as a condition of the permit. An existing access path whose use will be discontinued upon installation of the lift must be fully revegetated and restored as a condition of the lift permit.
7. Stairways, sidewalks, lifts or landings must be located in the most visually inconspicuous portions of lots, as viewed from the surface of the public waters assuming summer, leaf-on conditions, whenever practical; and
8. Facilities such as ramps, lifts, or mobility paths for physically handicapped persons are also allowed for achieving access to shore areas, provided that they fully comply with the dimensional and performance standards of this section, and the requirements of the State Building Code, Minnesota Regulations 1341.
9. Only one stairway, sidewalk, or lift to provide access between a waterbody and the location of a dwelling unit or units per the applicable minimum lot width standard found in Article V of this Ordinance is allowed to be located on a lot. Lots with nonconforming widths are allowed one such stairway, sidewalk, or lift.

### **Section 507.3 Boardwalks**

Boardwalks are the required method for achieving access to shore areas across delineated wetlands. Earthen fill strips must be authorized by a variance application to the Board of Adjustment and must comply with the Minnesota Wetland Conservation Act. Boardwalks must meet the following design requirements:

1. Boardwalks must not exceed four feet in width on residential lots. Wider boardwalks 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 boardwalks 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 boardwalks or landings;
4. Boardwalks must be constructed above the ground on posts or pilings so that sunlight is able to reach all of the area beneath the boardwalk such that existing vegetation below the boardwalk is not harmed by the boardwalk's installation;;
5. Boardwalks should be located in the most visually inconspicuous portions of lots, as viewed from the surface of the public waters assuming summer, leaf-on conditions, whenever practical; and
6. Environmentally friendly and federal/state-approved building materials must be used in construction of boardwalks across wetlands.

### **Section 507.4. Fences**

Fences must meet the following design criteria:

1. All fences shall be entirely located upon the property of the party constructing or causing the construction of such a fence.
2. Fences eight feet in height and lower do not require a permit and do not have to meet structure setback requirements. They may be placed up to the more restrictive of either a property line or road right-of-way boundary.
3. Fences in the area between the ordinary high water mark and structure setback must be constructed in a manner that maintains at least a 50% unobstructed view through the fence.
4. No fence shall be constructed so as to create a hazard for traffic on adjacent roads or obstruct the view for drivers exiting a driveway.
5. Construction of fences shall conform to all other applicable local, state, and federal laws.
6. **Exemption.** Fences normally associated with agricultural operations such as barbed wire fencing and snow fencing, fences surrounding home gardens, and driveway entrance markers shall be exempt from the requirements of this Ordinance.

### **Section 508. Significant Historic Sites**

No structure may be placed on an identified 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. Steep Slopes**

The Land Records - Environmental Services Department will evaluate to the extent possible soil erosion impacts and development visibility from public waters before issuing a permit for the construction of sewage treatment systems, shoreland alterations for roads and 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 510. Temporary Structures**

1. Temporary structures must meet all structure setback requirements of this Ordinance.
2. A temporary structure located on a lot for more than 120 consecutive days shall be considered a permanent structure and must have a land use permit pursuant to Section 1104 of this Ordinance.

### **Section 511. Recreational Vehicles.**

1. Recreational vehicles must meet all structure setback requirements of this Ordinance.
2. A recreational vehicle when used as a dwelling unit and located on a lot for more than 30 days in any year and occupied at the location at any time shall be considered a dwelling unit and must have a land use permit pursuant to Section 1104 of this Ordinance.
3. Recreational vehicles must have self-contained sanitary facilities or comply with the sanitation standards of this Ordinance.
4. Only one recreational vehicle site shall be allowed on any lot. This shall not prohibit occasional and intermittent visitors.
5. The parking of uninhabited recreational vehicles for strictly storage purposes is allowed and in cases where a property owner can demonstrate through legal description, or plat, or a certified survey that there is insufficient depth on a lot to accommodate placement of a recreational vehicle per Section 502 of this ordinance, the Environmental Services Officer may vary the setback administratively.
6. All tires necessary for safe highway transport must remain mounted on the recreational vehicle and inflated at all times.
7. Items 2, 4, and 5 of this Section do not apply to licensed recreational vehicle campgrounds.

## Section 512. Geothermal Energy Systems

1. Installation of geothermal energy systems shall be allowed per the following requirements. No additional permitting shall be required if a current dwelling permit is in place and the following standards are met:
  - A. All parts of the system (except for a water discharge pipe on an open loop geothermal energy system) must be located behind the required structure setback from the ordinary high water mark.
  - B. and if a current dwelling permit is in place no additional permit shall be required. Parts of the system can be located in the area between the ordinary high water mark and structure setback if the following conditions are met:
    1. The installation of the system parts complies with Section 902 of this Ordinance.
    2. The structure serviced by the system is a legal nonconformity in terms of its ordinary high water mark structure setback.
  - C. Any geothermal system discharging into the shoreland area governed by this ordinance must only use water supplied from sources approved by the Minnesota Department of Health for drinking water purposes.
  - D. No water or liquid from a geothermal energy system can be discharged in a manner that causes the water or liquid to run over the ground surface toward public waters.

## **Article VI**

### **Accessory Uses and Structures**

#### **Section 601. 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 structures, including carports and breezeways, attached to the principal structure 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 structure.
2. All detached accessory structures shall be located in compliance with all setback requirements applicable to the principal structure within the management district with the exception of storage structures as described in Paragraph #3.
3. Each residential lot may have one accessory storage structure located closer to public waters than the structure setback if all of the following standards are met:
  - A. The property owner of record in the Office of the Hubbard County Recorder can demonstrate a permanent disability as evidenced by medical certification such as is currently required for disability parking certificates.
  - B. The storage structure must not exceed ten feet in height, as measured from the foundation to the peak of the roof, and cannot occupy an area greater than 48 square feet.
  - C. The setback of the structure from the ordinary high water level must be at least ten feet.
  - D. The storage structure must be earthtone in color and screened with vegetation to reduce visibility as viewed from public waters and adjacent shorelands.
  - E. The roof cannot be used as a deck or storage area.
  - F. The structure must not be designed or used for human habitation and must not contain water supply or sewage treatment facilities.
  - G. Where grading or filling or excavation is necessary for construction, a shoreland alteration permit shall be required and there shall be no excavation waterward of the building line.
  - H. Upon sale or transfer of the lot, the structure must be removed from the lot or moved to meet or exceed all structure setback standards unless the new owner can demonstrate a medical disability.
  - I. Any structure or facility not meeting the above criteria, or any additional accessory structures or facilities must meet or exceed structure setback standards.
4. Piers and docks are allowed, but shall be controlled by applicable State and local regulations.

## **Article VII**

### **Nonconformities and Nonconforming Lots of Record**

All legally established nonconformities existing as of the date of enactment of this Ordinance may continue provided that they are managed in accordance with applicable state statutes and the following standards. No nonconformity can be expanded, extended, or enlarged except as set forth in this Article.

#### **Section 701. Nonconforming Uses**

Any use legally established as of the effective date of this Ordinance which is not in conformity with the regulations contained in this Ordinance shall be considered a nonconforming use. A nonconforming use may be allowed to continue subject to the following conditions:

- A. No nonconforming use shall be expanded, enlarged, or altered, including any increase in volume, intensity, or frequency of use of the property where a nonconforming use exists. Structural alterations, expansions, and additions to a structure devoted in whole or part to a nonconforming use are prohibited.
- B. A change from one nonconforming use to another nonconforming use is prohibited.
- C. A nonconforming use of a parcel of land may not be extended to cover more land than was occupied by that use when it became nonconforming.
- D. A nonconforming use shall not be moved to any other part of the property on which it is located or to another property where it would still constitute a nonconforming use.
- E. A lawful, nonconforming use of a structure or parcel of land may be changed to lessen the nonconformity of use. Once a nonconforming use has been so changed, it shall not thereafter be so altered to increase the nonconformity.
- F. If a nonconforming use is replaced by a permitted use, the nonconforming status and any rights that arise under the provisions of this section of the Ordinance are terminated.
- G. A nonconforming use that has been discontinued for a period of twelve consecutive months shall not be re-established, and any further use shall be in conformity with this Ordinance. Time will be calculated as beginning on the day following the last day in which the use was in normal operation and will run continuously thereafter.
- H. If a structure used for a nonconforming use is damaged to the extent that the cost of replacement, reconstruction, or restoration would exceed 50 percent of its estimated market value, as indicated in the records of the County Assessor at the time of damage, then the damaged structure shall not be replaced, reconstructed, or restored except in conformity with this Ordinance.

#### **Section 702. Nonconforming Structures**

Any structure legally established as of the effective date of this Ordinance which is not in conformity with the regulation contained in this Ordinance is a nonconforming structure and may be allowed to continue including through repair, replacement, restoration, maintenance, or improvement, but not including expansion, except in conformity with the following conditions:

- A. No nonconforming structure shall be expanded, enlarged, or intensified without first obtaining a variance unless each of the following conditions can be met:
  1. The expansion, enlargement or intensification does not violate any other standards of this Ordinance other than regulation(s) that made the structure nonconforming in the first place.
  2. An onsite sewage treatment system can be installed in accordance with Hubbard County Subsurface Sewage Treatment System Ordinance No. 41 or the nonconforming structure is connected to a public sewer.
  3. The expansion, enlargement, or intensification does not occur within a bluff or shore impact zone.
  4. Should such structure be moved for any reason for any distance whatsoever other than in a manner that brings the structure more into compliance with this Ordinance, it shall thereafter conform to this Ordinance in its entirety after the structure is moved.
- B. A nonconforming structure that has been damaged by fire, explosion, natural disaster, or other peril to the extent of greater than 50 percent of its estimated market value, as indicated in the records of the County Assessor at the time of damage, shall not be replaced, reconstructed, restored, expanded, enlarged, or intensified except in conformity with this Ordinance with the exception that homestead and nonhomestead residential real estate and seasonal residential real estate occupied for recreational purposes may be continued including through repair, replacement, restoration, maintenance, or improvement, but not including expansion, if a land use permit has been applied for within 180 days of when the property was damaged. The Department may impose reasonable conditions on the land use permit in order to mitigate any newly created impact on an adjacent property or water body.
- C. If a nonconforming structure, which is located less than 50 percent of the required setback from the ordinary high water mark, has been damaged by fire, explosion, natural disaster, or other peril to the extent of greater than 50 percent of its estimated market value, as indicated in the records of the County Assessor at the time of damage, the Department may require an increased setback from the ordinary high water mark, if practicable and reasonable conditions are placed on the land use permit, to mitigate created impacts on the adjacent property or water body.
- D. Normal maintenance of a nonconforming structure including nonstructural maintenance and repair is permitted.
- E. Any construction project for which a valid land use permit was granted before the effective date of this Ordinance may be completed although the structure would not meet newly established standards of this Ordinance.

### **Section 703. Deck and Platform Additions**

1. A deck or platform that does not meet setback requirements from public waters may be allowed without a variance to be added to dwelling unit structures existing on the date the shoreland structure setbacks were established by ordinance on July 12, 1971, if all of the following criteria and standards are met:
  - A. a thorough evaluation of the property and structure by the Land Records-Environmental Services Department reveals no reasonable location for a deck or platform meeting or exceeding the existing ordinary high water level setback of the structure;

- B. the deck or platform encroachment toward the ordinary high water level does not exceed fifteen (15) percent of the existing setback of the principal residential dwelling from the ordinary high water level, or does not encroach closer than thirty (30) feet, whichever is more restrictive.
- C. the deck or platform *is constructed of environmentally friendly materials, and the deck or platform is not roofed or screened*;
- D. Only one deck or platform per this Section is allowed for a dwelling unit on a lot.

**Section 704. Nonconforming Lots of Record**

1. All lots or tracts, the plat or deed to which has been recorded in the Office of the County Recorder on or before the effective date of this Ordinance shall be considered a lot of record. Any such unimproved lot or tract may be used for the legal use for which it is zoned subject to the following conditions:
  - A. the use is permitted in the shoreland district;
  - B. the lot has been in separate ownership from abutting lands at all times since it became substandard;
  - C. the lot was created compliant with official controls in effect at that time;
  - D. the applicable setback requirements of this Ordinance are met;
  - E. the lot contains a minimum contiguous lawn area, that is free of limiting factors, sufficient for the construction of two standard onsite sewage treatment systems;
  - F. The lot contains an adequate supply of water for domestic purposes that meets or exceeds standards of the Minnesota Department of Health.
  - G. maximum impervious surface coverage shall be less than 25%; and
  - H. the following lot width standards are met:
    1. For Natural Environment Lakes a minimum of 150 feet in width.
    2. For Recreational Development Lakes a minimum of 100 feet in width.
    3. For General Development Lakes, River Segments and Tributaries a minimum of 75 feet in width.
2. 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:
  - A. The lot must be at least 66 percent of the dimensional standard for lot width and lot size for the shoreland classification consistent with Minnesota Rules, Chapter 6120.
  - B. The lot must be connected to a public sewer, if available, or must be suitable for the installation of a Type I subsurface sewage treatment system in accordance with Hubbard

## County Subsurface Sewage Treatment System Ordinance No. 41.

- C. Impervious surface coverage must not exceed 25 percent of each lot.
  - D. Development of the lot must be consistent with the intent, purpose, and objectives of this Ordinance and the Hubbard County Comprehensive Land Use Plan.
3. If, in a group of two or more contiguous lots under the same ownership, any individual lot does not meet the requirements of Section 704, Item 2 of this Ordinance, the lot shall not be considered as a separate parcel of land for the purposes of sale or development. The lot must be combined with one or more contiguous lots so that they equal one or more parcels of land, each meeting the lot area and lot width requirements of Section 501 of this Ordinance as much as possible.
  4. Contiguous nonconforming lots of record under a common ownership must be able to be sold or purchased individually if each lot met the "improved lot" definition in Section 111 of this Ordinance at the time the lots came under common ownership and the lots are suitable for, or served by, a subsurface sewage treatment system consistent with Hubbard County Subsurface Sewage Treatment System Ordinance No. 41 or connected to a public sewer.
  5. Development on lots which do not meet the development standards detailed in this Section, must be authorized by a variance pursuant to Article XI 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.
  6. In evaluating all variances, zoning and land use permit applications, or conditional use permit applications, the County 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.
  7. 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 705. 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 permit or variance of any type is required for any improvement on, or use of, the property. For the purposes of this provision, a sewage treatment system shall not be considered failing if the only deficiency is the setback of the sewage treatment system from the ordinary high water level.

The Hubbard County Board of Commissioners has, by formal resolution, notified the Commissioner of its program to identify failing sewage treatment systems. Hubbard County will require upgrading or replacement of any failing system identified through this program within one year of identification by the Land Records-Environmental Services Department. In addition, a system will be required to be upgraded to conform in entirety with all technical standards and criteria of Chapters 7080-7083 when additional bedrooms or water using appliances are added to a dwelling.

## **Article VIII Sanitation Standards**

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

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

1. Publicly-owned sewer systems must be used where available.
2. All private subsurface sewage treatment systems must meet or exceed all provisions of the Hubbard County Subsurface Sewage Treatment System Ordinance (SSTSO) and the current edition of the Minnesota Rules, Chapters 7080-7083 in all respects. In all instances where the provisions of this Ordinance are stricter than the SSTSO or Chapters 7080-7083, this Ordinance shall prevail.
3. Subsurface sewage treatment system's soil absorption area must be set back from the ordinary high water level in accordance with the minimum standards specified in Section 502 of this Ordinance. In cases where a property owner can demonstrate through one or more of the following: legal description, plat, certified survey, or a wetland delineation report that there is insufficient depth or area on a lot to accommodate placement of a drainfield per Section 502 of this ordinance, the Environmental Services Officer may vary the setback administratively on recreational development and general development lakes, and forested and tributary rivers, but in no case shall the setback be less than 75 feet on Recreational Development lakes, 50 feet on General Development lakes, 100 feet on Forested Rivers, and 75 feet on Tributary Rivers.
4. Subsurface sewage treatment systems must be setback from the side lot line and rear lot line in accordance with the minimum standards specified in Section 502 of this 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 Environmental Services Officer may allow a lesser setback administratively.
- 5.. Privies shall be set back from the surface waters, property lines and water supply wells, the same distance as required for soil treatment areas. Where the structure setback exceeds the soil treatment system setback, the structure setback shall prevail.
6. Accessory structures are allowed to be connected to a septic system provided that: 1. the septic connection will comply with all pertinent regulations in this Ordinance, and 2. the system will comply with current sizing requirements, the Subsurface Sewage Treatment System Ordinance, and Minnesota Rules, Chapters 7080-7083.

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

1. No person, (except as described in Section 802.2) firm or corporation shall install, alter, repair or extend any subsurface sewage treatment system without first obtaining a license from the MPCA, and until a permit has been issued from the Hubbard County Land Records-Environmental Services Department for the specific installation, alteration, repair or extension to be performed.
2. An individual may install, alter, repair or extend a subsurface sewage treatment system on land that is solely owned or leased by the individual and functions solely as a dwelling or seasonal

dwelling for that individual. The individual must first consult with a licensed septic system designer to submit the required site evaluation and design forms, and then obtain a sanitary permit.

### **Section 803. Water Supply Standards**

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

### **Section 804. Agricultural Waste Disposal**

Any agricultural waste disposal operation in shoreland areas must conform to the standards, criteria, rules and regulations of the Minnesota Pollution Control Agency.

## **Article IX**

### **General Shoreland Requirements**

#### **Section 901. Vegetative Alterations**

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

1. Intensive vegetative clearing within the shore and bluff impact zones and on steep slopes is not allowed except for access paths, stairways, sidewalks, lifts, landings, and shoreline recreation use areas as stated in this Section. Intensive vegetative clearing for forest land conversion to another use outside of these areas is a conditional use provided an erosion control and sedimentation plan is developed and approved by the Hubbard Soil and Water Conservation District in cooperation with the Natural Resources Conservation Service.
2. In shore and bluff impact zones and on steep slopes, only limited pruning and trimming of trees and shrubs is allowed to provide a view to the water from the principal dwelling site and intensive vegetative clearing is allowed to accommodate the placement of stairways, sidewalks, lifts and landings, access paths, and shoreline recreation use 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 so that the structures are at most 50 percent visible from public waters during summer, leaf-on conditions;
  - B. along rivers, existing shading of water surfaces is preserved;
  - C. A ground layer of predominantly perennial vegetation, such as grass, flowers, forbs, or native plants is preserved, maintained, or established in this area. Allowed exceptions from this requirement are stairways, sidewalks, lifts, and landings as specified in Section 507.2 of this Ordinance;
  - D. The removal of exotic species such as European Buckthorn or Purple Loosestrife or noxious species such as Poison Ivy or Prickly Ash is permitted.
  - E. Access paths shall be no wider than six (6) feet and must be oriented generally perpendicular to the shoreline except in cases where steep slopes or bluff impact zones require generally non-perpendicular to the shoreline designs per consultation with the Land Records-Environmental Services Department. No more than one access path per up to 200 feet of lot width as measured at the ordinary high water mark is allowed.; and
  - F. Stairways, sidewalks, lifts, and landings must be located within the six (6) feet width allowed in Item E above for access paths; and
  - G. The above provisions are not applicable to the removal of trees, limbs, or branches that are dead, diseased, or pose safety hazards.

H. Only one shoreline recreation use area shall be allowed on each residential lot and it shall not exceed the following dimensions:

Class or District (the maximum distance in feet parallel to shore)	Width	Depth (the maximum distance in feet perpendicular to shore)
Special Protection	10	15
Sensitive Area	10	15
Natural Environment	10	15
Recreational Development	20	15
General Development	30	15
Remote River segments	10	15
Forested and transition river segments	20	15
Agricultural, urban, and tributary river segments	30	15

3. Removal of trees and shrubs within the remaining portion of the structure setback area is allowed, provided that a well-distributed stand of trees and shrubs are maintained. A well-distributed stand of trees and shrubs means that a tree and shrub canopy covers at least 50% of the area. A ground layer of predominantly perennial vegetation, such as grass, flowers, forbs, or preferably native plants, shall be preserved, established or maintained in this area.
4. 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.
5. Use of fertilizer and pesticides in the shoreland management district must be done in such a way as to minimize runoff into the shore impact zone or public water by the use of earth, vegetation, or both and shall be consistent with best management practices for shorelands.

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

1. With some specified exceptions, the following requirements govern when a grading and filling permit will be required:

**On steep slopes or within shore impact zones:**

- A. up to five cubic yards of material may be moved per year without need of a permit;
- B. five to ten cubic yards of material per 150' of shoreline may be moved per project by permit;
- C. movement of material exceeding these amounts must be authorized by a variance pursuant to Article XI of this Ordinance.

**In the area between the shore impact zone and the structure setback line and outside of steep slopes or shore or bluff impact zones:**

- A. up to ten cubic yards of material may be moved per year without need of a permit;
- B. ten to 50 cubic yards of material per 150' of lot width may be moved per project by permit;

- C. movement of material exceeding these amounts must be authorized by a variance pursuant to Article XI of this Ordinance.

**Landward of the structure setback line and outside of steep slopes and bluff impact zones:**

- A. any amount of material may be moved per project without need of a permit or variance so long as the Ordinance's erosion control measures stated in Sections 901 and 902 are implemented and followed.
2. Grading and filling and excavations necessary for the construction of structures, sewage treatment systems, and driveways under validly issued land use permits for these facilities do not require the issuance of a separate grading and filling permit providing that no excavation is to take place in front of the required setback distance save standard construction practices and providing fill is not required to bring the lowest floor three feet above the seasonal high water table. This Item also includes up to four (4) inches in depth of earthen material needed to reestablish vegetation within a twenty (20) foot perimeter of the permitted structure(s) and also over solely the immediate top of a permitted sewage treatment system. However, the grading and filling standards prescribed in paragraph 5 of this section must be incorporated into the issuance of permits for the construction of structures, sewage treatment systems, and driveways. Any further grading, filling, and excavations deemed necessary beyond that outlined in this Item must follow the regulations stated in Item 1 above.
  3. Public roads and parking areas must meet the requirements prescribed in Section 903 of this Ordinance.
  4. Property owners may repair damage to a shoreline from a single season of ice damage that occurred within the last twelve months when the ice ridge had been legally altered in prior years providing such work is reported to the Land Records-Environmental Services Department. Alteration of an ice ridge in all other circumstances must be authorized by a variance pursuant to Article XI of this Ordinance.
  5. The following considerations and conditions must be adhered to for the issuance of land use 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 Corp of Engineers. The applicant is responsible for contacting the local government official administering the Minnesota Wetland Conservation Act.
    - 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, and shall in no case exceed one year from the date the permit is issued.
    - 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 Natural Resources 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, may be allowed by permit 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, the height of the riprap above the ordinary high water level does not exceed three feet, and the Environmental Services Office determines the shoreline has a legitimate erosion problem.
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 Environmental Services. Such conditional use permit shall only be granted after the Commissioner of Natural Resources has approved the proposed connection to public waters.
  7. Whether federal, state or local regulation, the strictest provisions shall prevail.

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

1. Public and private roads and parking areas must be designed to take advantage of natural vegetation and topography to achieve maximum screening from view from public waters. Documentation must be provided by a qualified individual that all roads and parking areas are designed and constructed to minimize and control erosion to public waters consistent with the technical guides of the Natural Resources Conservation Service, or other technical materials.
2. Public watercraft access ramps, approach roads, and access-related parking areas may be placed within shore impact zones provided that the vegetative screening and erosion control conditions of this Section are met and a conditional use permit is obtained per Section 401 of this Ordinance. Private watercraft approach roads and access ramps must be approved by a variance from the Board of Adjustment and must meet the vegetative screening and erosion control conditions of this section.
3. Roads, driveways, and parking areas must meet structure setbacks except for the 10 foot rear lot line structure setback. In cases where preliminary plats are being processed and the local road authority, Planning Commission, or County Board recommends shared approaches and

driveways or a recorded ingress and egress easement specifically describes the easement location and boundaries, the 10 foot side lot line setback may be waived.

#### **Section 904. Stormwater Management Standards**

1. When possible, existing natural drainageways, wetlands and vegetated soil surfaces must be used to convey, store, filter, and retain stormwater runoff before discharge to public waters.
2. Development must be planned and conducted in a manner that will minimize the extent of disturbed areas, runoff velocities, erosion potential, and reduce and delay runoff volumes. Disturbed areas must be stabilized and protected as soon as possible and facilities or methods used to retain sediment on the site.
3. When development density, topographic features, and soil and vegetation conditions are not sufficient to adequately handle 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.
4. When constructed facilities are used for stormwater management, documentation must be provided by a qualified individual that they are designed and installed consistent with the field office technical guide of the Natural Resources Conservation Service.
5. Newly constructed stormwater outfalls to public waters must provide for filtering or settling of suspended solids and skimming of surface debris before discharge.
6. Impervious surface coverage of lots must not exceed 25 percent of the lot area.

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

1. Surface water-oriented commercial uses and industrial, public, or semipublic uses with similar needs to have access to and use of public waters may be located on parcels or lots with frontage on public waters. Those uses with water-oriented needs must meet the following standards:
  - A. in addition to meeting impervious coverage limits, setbacks and other dimensional provisions of this ordinance, the uses must be designed to incorporate topographic and vegetative screening of parking areas and structures;
  - B. uses that require short-term watercraft mooring for patrons must centralize these facilities and design them to avoid obstructions of navigation and to be the minimum size necessary to meet the need; and,
  - C. uses that depend on patrons arriving by watercraft may use signs and lighting to convey needed information to the public, subject to the following general standards:
    - (1) no advertising signs or supporting facilities for signs may be placed in or upon public waters. Signs conveying information or safety messages may be placed in or on public waters by a public authority or under a permit issued by the Hubbard County Sheriff;
    - (2) signs may be placed, when necessary, within the shore impact zone if they are

designed and sized to be the minimum necessary to convey the location and name of the establishment and the general type of goods or services available. The signs must not contain other detailed information such as product brands and prices, must not be located higher than ten feet above the ground, and must not exceed 32 square feet in size. If illuminated by artificial lighting, such lights shall be shielded or directed to prevent illumination out across public waters; and

- (3) other outside lighting may be located within the shore impact zone or over public waters if it is used primarily to illuminate potential safety hazards and is shielded or otherwise directed to prevent direct illumination out across public waters. This section does not preclude the use of navigational lighting.
2. Uses without water-oriented needs must be located on lots or parcels without public water frontage. If located on lots with public water frontage, such uses 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**

1. General cultivation farming, grazing, nurseries, horticulture, truck farming, sod farming, and wild crop harvesting are permitted uses if steep slopes and shore and bluff impact zones are maintained in permanent vegetation or operated under a conservation plan approved by the Hubbard County Soil and Water Conservation District and consistent with the field office technical guides of the Natural Resources Conservation Service, as provided by a qualified agency individual. The shore impact zone for parcels with permitted agricultural land uses is equal to a line parallel to and 50 feet from the ordinary high water level, or half of the structure setback from the ordinary high water level within the particular management district, whichever is greater.
2. Conversion of land from a non-agricultural use to use as pasture or cropland is permitted in all shoreland management districts surrounding lakes, provided that such conversions shall maintain a buffer of five hundred (500) feet from public waters. Land shall be considered to be used for agricultural purposes if at any time during the ten years immediately preceding January 1, 1994, the land was primarily used for agricultural purposes as defined by this Ordinance.
3. Horsebarns, stables and barns for livestock must be setback a minimum of five hundred (500) feet from the ordinary high water mark of public waters.
4. New animal feedlots shall not be allowed within shoreland areas.
5. Agricultural practices and associated uses must be conducted consistent with the provisions of Agriculture and Water Quality "Best Management Practices for Minnesota".
6. Land used as pasture must be a minimum size of five acres within the boundaries of the pasture fence.
7. Incidental agricultural uses such as raising chickens or a milking cow that comply with the Ordinance's accessory use definition involving up to three animal units (as defined by the Minnesota Pollution Control Agency feedlot rules) are allowed. Accompanying structures used to shelter/house items or animals related to such incidental use are allowed provided they maintain the incidental agricultural use's remaining in compliance with the accessory use definition, are permitted, and comply with all applicable ordinance regulations.

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

The harvesting of timber and associated reforestation must be conducted consistent with the provisions of the Minnesota Nonpoint Source Pollution Assessment – Forestry, the provisions of Water Quality in Forest Management "Best Management Practices for Minnesota" and with the following standards:

1. Forest land conversion to another use requires issuance of a conditional use permit and adherence to the following standards:
  - A. shore and bluff impact zones must not be intensively cleared of vegetation; and
  - B. an erosion and sediment control plan is developed and approved by the local soil and water conservation district before issuance of a conditional use permit for the conversion.
2. Use of fertilizer, pesticides, or animal wastes within shorelands must be done in such a way as to minimize impact on the shore impact zone or public water by proper application or use of earth or vegetation.

## **Section 908. Special Provisions for Extractive Uses**

1. An extractive use site development and restoration plan must be developed, approved, and followed over the course of operation of the site. The plan must address dust, noise, possible pollutant 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.
2. Processing machinery must be located consistent with setback standards for structures from the ordinary high water level of public waters and from bluffs.
3. Mining of metallic minerals and peat, as defined in Minnesota Statutes, Section 93.44 to 93.51, shall be a permitted use provided the provisions of the specified Sections of Minnesota Statute are satisfied.

## **Section 909. Special Provisions for Fish and Wildlife Habitat Improvements**

Fish and wildlife habitat improvements shall be allowed provided that:

1. Such improvements shall be set back a minimum distance of 500 feet from the ordinary high water level.
2. Wildlife ponds must be constructed in compliance with the standards established by the NRCS, the DNR, and all other applicable laws, statutes, rules, ordinances, and regulations.

## **Article X**

### **Subdivisions and Planned Unit Developments**

#### **Section 1001. Applicability**

No subdivision of a lot, tract or parcel into two or more lots, and no planned unit development may be established, except in compliance with this Ordinance and the Hubbard County Subdivision Ordinance.

#### **Section 1002. Land Suitability**

1. 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 by Hubbard County will consider susceptibility to flooding, existence of wetlands, unique hydrological conditions 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 Hubbard County.
2. Sufficient information must be submitted by the applicant to enable Hubbard County 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. adequate soils information to determine suitability for building and on-site sewage capabilities for every lot from the most current existing sources or from field investigations such as soil borings, percolation tests, or other methods;
  - D. information regarding location of domestic water supply;
  - E. extent of vegetation and topographic alterations;
  - F. proposed methods for controlling stormwater runoff and erosion both during, and after, construction activities;
  - G. location of 100 year floodplain areas and floodway districts from existing adopted maps or data;
  - H. a line or contour representing the ordinary high water level, the extent of the bluff impact zone, the minimum building setback distances from the top of bluff, and from the public waters, and the minimum drainfield setbacks; and
  - I. near-shore aquatic conditions, including depths, types of bottom sediments, and aquatic vegetation.

3. The Hubbard County Board of Commissioners or its designee (Environmental Services Officer) shall make its decision, in writing, specifying the facts upon which the suitability determination is made. If a determination is made that the land is not suitable for development the applicant will be notified, in writing, regarding the particular facts leading to such determination. The applicant will be afforded the opportunity to appeal such determination in accordance with the procedure for appeal specified in Article XI of this Ordinance.

### **Section 1003. Consistency with other Controls**

Subdivisions, and any newly created lots must conform to all of the official controls prescribed in this Ordinance and the Hubbard County Subdivision Ordinance. A subdivision will not be approved where a variance from the official controls will later be needed in order to use a lot as a single family residential dwelling unit lot. A subdivision will not be approved unless domestic water supply is available and a sewage treatment system in full compliance with Section 801 of this Ordinance can be provided for every lot. Each lot in a subdivision shall meet the minimum lot size and dimensional requirements prescribed in Article V of this Ordinance. Each lot shall also include a minimum contiguous lawn area that is free of limiting factors, sufficient for the construction of two standard sewage treatment systems. Subdivisions which include lots that would require septic system holding tanks shall not be approved.

### **Section 1004. Dedications**

On newly created lots or within the boundaries of a subdivision, the County Board of Commissioners may require any or all of the following:

1. 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.
2. That easements for drainage ways of widths sufficient to accommodate anticipated storm water runoff be provided.
3. That easements for public utilities be provided.

### **Section 1005. Lot Size**

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

### **Section 1006. 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 1007. Water Supply Facilities**

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

### **Section 1008. Sanitary Sewerage**

1. 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.
2. In areas not served by a public sewer system, on-site sewage treatment systems will be allowed provided that all requirements of the Minnesota Pollution Control Agency "Subsurface Sewage Treatment System Standards", Chapters 7080-7083, and appendices, are met.
3. Sewage treatment systems shall be constructed to meet the requirements of the Minnesota Pollution Control Agency, and shall meet the standards prescribed in Article V and Article VIII of this Ordinance as well as the Hubbard County Subsurface Sewage Treatment System Ordinance.

### **Section 1009. Platting Requirement**

No land platted under the jurisdiction of this Ordinance may be recorded or sold until the subdivision process described in this Article and the Hubbard County Subdivision Ordinance is completed.

### **Section 1010. Planned Unit Development Review**

Planned unit developments (PUDs) 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. The Hubbard County Board of Commissioners may require special studies or environmental review reports (Environmental Assessment Worksheet [EAW]/Environmental Impact Statement [EIS]) and the developer shall be responsible for the costs of preparing such with the County Board of Commissioners having the authority to charge back costs to the developer. Approval shall not occur until the environmental review process (EAW/EIS) has been completed, as required by Minnesota Environmental Quality Board rules.

An applicant for a PUD shall submit the following documents as part of the required conditional use permit application:

1. A site plan and/or plat for the project showing: the boundary of the proposed development; surface water features and other natural and man made features; existing and proposed structures and other facilities, proposed land alterations; the location of existing and proposed sewage treatment and water supply systems; and topographic contours at a minimum of ten-foot intervals.
2. For residential planned unit developments, a property owners association agreement with

mandatory membership, all in accordance with the maintenance and administrative requirements prescribed in Section 1014 of this Ordinance.

3. Deed restrictions, covenants, permanent easements or other instruments that:
  - A. properly address future vegetative and topographic alterations; construction of additional buildings; and beaching of watercraft; and,
  - B. ensures the long-term preservation and maintenance of open space in accordance with the criteria and analysis specified in the maintenance and administrative requirements of this Section.
4. For commercial planned unit developments, a master plan/drawing describing the proposed project and the floor plan for all commercial structures to be occupied.
5. Any additional documents as requested by Hubbard County that are necessary to explain how the PUD will be designed and function.

### **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 1014.

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 ft.
B.	General Development lakes - other tiers	267 ft.
C.	Recreational Development lakes	267 ft.
D.	Natural Environment lakes	400 ft.
E.	Rivers and Tributaries	300 ft.
2. The suitable area within each tier is next calculated by excluding from the tier area all wetlands, bluff impact zones, easements, road right-of-ways, 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.

1. To determine the allowable density for Residential Planned Unit Developments:
  - A. the suitable area within each tier is divided by the single residential lot size standard for the applicable management district.
  - B. 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 1014.

2. To determine the allowable density for Commercial Planned Unit Developments:
  - A. the average inside living area size of dwelling units or sites is computed. Computation of inside living area need not include decks, patios, stoops, steps, garages, porches or basements unless such areas are habitable space;
  - B. 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;
  - C. 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;
  - D. 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;
  - E. 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 1014.

<b>Commercial Planned Unit Development*</b> <b>Floor Area Ratio by Public Waters Classification</b>			
Average Unit Floor Area (sq. ft.)	GD Lakes (1st Tier) <u>Tributaries</u>	GD Lakes (except 1st Tier), RD Lakes, Forested <u>River</u> <u>Segments</u>	NE Lakes, Special Protection River Segments, Remote River <u>Segments</u>
200 or less	.040	.020	.010
300	.048	.024	.012
400	.056	.028	.014
500	.065	.032	.016
600	.072	.038	.019
700	.082	.042	.021
800	.091	.046	.023
900	.099	.050	.025
1,000	.108	.054	.027
1,100	.116	.058	.029
1,200	.125	.064	.032
1,300	.133	.068	.034
1,400	.142	.072	.036
1,500 or more	.150	.075	.038

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

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

1. 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.
2. 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:
  - A. commercial uses shall be prohibited in residential planned unit developments;
  - B. vegetative and topographic alterations, except for routine maintenance, shall be prohibited;
  - C. construction of additional buildings or the storage of vehicles and/or other materials is prohibited;
  - D. uncontrolled beaching of watercraft shall be prohibited.
3. All residential planned unit developments must have a property owners association with the following features:
  - A. membership shall be mandatory for each dwelling unit or site owner;
  - B. each member must pay a pro-rata share of the expenses of the association, and unpaid assessments may become liens on units or sites;
  - C. assessments must be adjustable to accommodate changing conditions; and
  - D. the association shall be responsible for insurance, taxes, and maintenance of all commonly owned property and facilities.
4. All planned unit developments must contain open space meeting all of the following criteria:
  - A. at least 50 percent of the total project area must be preserved as open space;
  - B. 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;
  - C. 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;
  - D. open space may include outdoor recreational facilities for use by owners of dwelling units or sites, by guests staying in commercial dwelling units or sites, and by the general public;
  - E. open space may include subsurface sewage treatment systems provided the use of the space is restricted to avoid adverse impacts on such systems;
  - F. open space must not include commercial facilities or uses,
  - G. 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

- H. 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.
5. Erosion control and stormwater management plans must be developed and the PUD must:
- A. be designed, and the construction managed, to minimize the likelihood of serious erosion occurring either during or after construction. This must be accomplished by limiting the amount and length of time of bare ground exposure. Temporary ground covers, sediment entrapment facilities, vegetative buffer strips, or other appropriate techniques must be used to minimize erosion impacts on surface water features. Erosion control plans approved by the Hubbard Soil and Water Conservation District (assisted by the Natural Resources Conservation Service) may be required if warranted by project size and/or the physical characteristics of the site;
  - B. 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 Section 904 of this Ordinance.
6. Centralization and design of facilities and structures must be done according to the following standards:
- A. planned unit developments must be connected to publicly owned water supply and sewer systems, if available. On-site water supply and sewage treatment systems must be centralized and designed and installed to meet or exceed applicable standards or rules of the Minnesota Department of Health and Articles V and VIII of this Ordinance. On-site sewage treatment systems must be located on the most suitable areas of the development, and sufficient lawn area free of limiting factors must be provided for a replacement soil treatment system for each sewage system;
  - B. dwelling units or sites must be clustered into one or more groups and located on suitable areas of the development. They must be designed and located to meet or exceed the following dimensional standards for the applicable shoreland classification: setback from the ordinary high water level; elevation above the surface water features; and maximum height;
  - C. shore recreation facilities, including but not limited to swimming areas, docks and watercraft mooring areas and launching ramps must be centralized and located in 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 *for commercial PUDs only*). Launching ramp facilities, including a small dock for loading and unloading equipment, may be provided for use by occupants of dwelling units or sites located in other tiers;
  - D. structures, parking areas, and other facilities must be treated to reduce visibility as viewed from

public waters and adjacent shorelands by vegetation, topography, increased setbacks, color, or other means, assuming summer, leaf-on conditions. Vegetative and topographic screening must be preserved, if existing, or may be required to be provided;

- E. accessory structures and facilities must meet the required principal structure setback, and must be centralized.

#### **Section 1014. Conversions to PUDs**

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

1. Proposed conversions must 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, structure color, impervious surface coverage, open space and shore recreation facilities must be corrected as part of the conversion, or as specified in the Conditional Use Permit.
3. Shore and bluff impact zone deficiencies must be evaluated and reasonable improvements made as part of the conversion. These improvements must include, where applicable, the following:
  - 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 must also provide for future relocation of dwelling units, where feasible, to other locations meeting all setback and elevation requirements when they are rebuilt or replaced.
4. Existing dwelling unit or dwelling site densities that exceed standards prescribed in Section 1013 of this Ordinance may be allowed to continue but shall not be increased, either at the time of conversion or in the future. Efforts must be made during any such conversion to limit impacts of high densities by requiring seasonal use, improving vegetative screening, centralizing shore recreation facilities, installing new sewage treatment systems, or other means.

## **Article XI Administration**

### **Section 1101. Environmental Services Officer**

The position of Environmental Services Officer is hereby established within the Land Records-Environmental Services Department. The Environmental Services Officer shall be appointed by the County Board of Commissioners. The Environmental Services Officer shall receive such compensation as the County Board may, from time to time, determine. The Environmental Services Officer 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. All persons involved in land development activity shall allow free access to authorized representatives of the County at any reasonable time for the purposes of making such inspections as may be necessary to determine compliance with the Ordinance. Failure of such persons to allow an inspection shall be considered a violation of this Ordinance and the Environmental Services Officer shall have the authority and responsibility to take appropriate legal actions, or to suspend review of a permit, or to revoke a permit;
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. Any permit issued on the basis of an application which is in error, whether the error is intentional or not, shall be null and void. No such permit may be construed as permission to build or begin a land use. It shall be the responsibility of the Environmental Services Officer to notify the property owner upon discovery of an erroneous application;
5. Receive applications for conditional use permits and forward, along with staff reports, to the Planning Commission;
6. Receive applications for variance requests and forward, along with staff reports, to the Board of Adjustment;
7. Receive applications for zoning amendments and forward, along with staff reports, 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;
10. Maintain the County Shoreland Management Map as described in Article II.

### **Section 1102. Planning Commission/Board of Adjustment** (effective Jan. 1, 2014)

1. Authority

The County Board of Commissioners hereby creates the Planning Commission/Board of Adjustment (PC/BOA) pursuant to Minnesota Statutes 394.21-394.37 and all acts amendatory thereof.

## 2. Duties

- a. Acting in its capacity as the Planning Commission, the PC/BOA is hereby designated by the County Board to:
  1. assist the County Board in the formulation of goals, policies and programs for the future development of Hubbard 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, conduct public hearings on in accordance with the provisions of this Ordinance, and make recommendations on conditional use permits and Ordinance amendments to the County Board;
  4. review subdivision proposals for compliance with the provisions of this Ordinance, conduct public hearings on them, and make recommendations on such proposals (including preliminary and final plats) to the County Board of Commissioners;
  5. perform 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 and other County ordinances.
- b. Acting in its capacity as the Board of Adjustment, the PC/BOA is hereby designated by the County Board to:
  1. grant variances from the strict enforcement of the standards and provisions prescribed by this Ordinance and other County ordinances.
  2. hear and decide any appeal from an order, requirement, decision, or determination made by the Environmental Services Officer;
  3. interpret any management district boundary on the Official Shoreland Management Map;
- c. The PC/BOA shall have other such duties and authorities as are prescribed by proper ordinances of this County.

## 3. Membership

- a. The PC/BOA shall consist of five voting members and one non-voting ex-officio member (who will only serve on the Planning Commission.) Said ex-officio member shall be a member of the County Board of Commissioners.
- b. At least two voting members shall be residents of the portion of the County outside the corporate limits of municipalities.
- c. No elected officer of the county or employee of the Hubbard County Board of Commissioners shall serve as a voting member of the PC/BOA.
- d. No member of the PC/BOA 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.

#### 4. Appointment/Terms

- a. The members of the PC/BOA shall be appointed by the County Board of Commissioners consistent with Minnesota Statute, Chapter 394.
- b. One (1) voting member shall reside in and be appointed from each county commissioner district. The county commissioner representing the district shall have the authority to recommend the member from said district to the County Board for consideration. A member appointment requires a majority vote of the County Board. The Hubbard County Board Chairperson shall appoint PC/BOA members on behalf of the County Board per the County Board's vote on said members.
- c. Each voting member of the PC/BOA shall be appointed for a term of four years except for the initial appointment terms as specified below. Appointments shall become effective at the first PC/BOA meeting in a calendar year.

Commissioner District 1 - one (1) member with term ending December 31, 2015.

Commissioner District 2 - one (1) member with term ending December 31, 2017.

Commissioner District 3 - one (1) member with term ending December 31, 2015.

Commissioner District 4 - one (1) member with term ending December 31, 2017.

Commissioner District 5 - one (1) member with term ending December 31, 2015.

- d. The one non-voting ex-officio Planning Commission member shall be annually appointed for a one year term.
- e. 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.

#### 5. Removal

The following shall be deemed sufficient cause for the County Board of Commissioners to remove any PC/BOA member. The County Board of Commissioners can remove any member upon the occurrence of any of the following conditions and can fill vacancies for any unexpired term.

- a. A member who fails to attend one-third (1/3) of the regularly scheduled PC/BOA meetings in any 12 month period.
- b. A member who fails to attend four consecutive regular PC/BOA meetings.
- c. Attendance at several regular PC/BOA meetings for such a short length of time as to render the member's services of little value to the County.

- d. Violation by the member of any land use control ordinance adopted by the County pursuant to Minnesota Statutes 394.27 to 394.37, and all acts amendatory thereof.
- e. Any change in member residency status from unincorporated to incorporated, if the change causes the make-up of the PC/BOA to be inconsistent with this Section. Also any change in residency from the commissioner district the member was appointed to represent.
- f. Inability to carry out the duties of the PC/BOA due to a conflict of interest.
- g. A member who at a PC/BOA meeting engages in offensive, obscene, or abusive language or in boisterous and noisy conduct tending reasonably to arouse alarm, anger, or resentment in others.
- h. Any other reason cited by the County Board of Commissioners.

## 6. Organization and Procedures

### a. Officers

- 1. Officers of the PC/BOA shall be a Chairperson, Vice-Chairperson, Secretary, and other officers as needed.
- 2. Officers shall be elected by the PC/BOA at the first meeting held in a calendar year.
- 3. In the event of a resignation of an officer, the PC/BOA shall fill the vacancy.
- 4. The Chairperson shall preside at all meetings.
- 5. The Vice-Chairperson shall assume the responsibilities of the Chairperson when the latter is not able to serve.
- 6. The Secretary shall assume the responsibilities of the Chairperson when the latter and the Vice-Chairperson are not able to serve.
- 7. The PC/BOA authorizes the Environmental Services Officer to appoint a County employee to perform the PC/BOA secretarial duties such as producing written meeting minutes.

### b. Bylaws and Rules of Procedure

The PC/BOA shall develop bylaws for the transaction of its business, which shall not be inconsistent with or contrary to the statutes of the State of Minnesota or the ordinances of this County. The County Board of Commissioners must approve said bylaws.

### c. Meetings

Meetings shall be scheduled and conducted according to the PC/BOA bylaws and at other such times as the Chairperson or Environmental Services Officer shall deem necessary and appropriate.

### d. Voting

Each of the five voting members, including the chair, shall be entitled to vote on all questions,

unless a particular issue involves a conflict of interest. A decision to abstain from voting shall also extend to discussion. Any question of whether a particular issue involves a conflict of interest sufficient to disqualify a member from voting thereon shall be decided by a majority vote of the attending members except the member who is being challenged.

e. Records

The PC/BOA shall keep a written public record filed in the Office of Land Records - Environmental Services of all its proceedings, findings, and determinations on all matters referred to it and shall cause a copy of any order issued by the BOA acting upon an appeal from an order, requirement, decision or determination by an administrative official, or a request for a variance to be recorded with the County Recorder by the Environmental Services Officer as necessary pursuant to Minnesota Statutes.

7. Compensation

The PC/BOA members may be compensated in an amount determined by the County Board and may be paid their necessary expenses in attending meetings and in the conduct of business of the PC/BOA.

**Section 1103. Variances and Appeals**

1. An application may be made, and a variance may be granted by the Hubbard County Board of Adjustment pursuant to the provisions of Minnesota Statute Section 394.27, when the applicant/owner establishes the existence of all of the following criteria:
  - A. the condition causing the plight of the landowner is unique to the property and was not caused by the actions of the landowner/applicant;
  - B. the variance, if granted, will not alter the essential character of the locality;
  - C. the granting of the variance will not be contrary to the public interest or damaging to the rights of other persons or to the property values in the vicinity;
  - D. the granting of the variance will be in harmony with the general purposes and intent of the ordinance and consistent with the comprehensive plan;
  - E. the property owner or owners proposes to use the property in a reasonable manner in light of the essential character of the area and;
  - F. the granting of the variance is not based solely on economic considerations.;
2. No variance shall be granted simply because there are no objections; or because those who do not object outnumber those who do, nor for any reason other than a proven practical difficulty.
3. No variance may be granted that would allow any use that is not allowed in the zoning district in which the subject property is located.
4. A current compliance inspection report must be submitted to the Environmental Services Officer for each existing sewage treatment system(s) on the subject property for which a variance application is submitted. If an existing sewage treatment system on the subject property is found to be

noncompliant, it must be upgraded to current standards before any permits on the subject property will be issued. The variance, if issued, must require reconstruction of a nonconforming sewage treatment system.

5. In granting any variance, the Board of Adjustment may impose conditions that it finds necessary or desirable to effect the purposes of this ordinance and to protect the public interest.
6. A variance shall expire five (5) years from the date of issuance if the variance is not utilized.
7. No application for a variance or administrative decision appeal shall be resubmitted for a period of one year from the date that the request is denied, except the Environmental Services Officer may allow a new application if, in the opinion of the Environmental Services Officer, new evidence or a change in circumstances warrant it.
8. If necessary, an extension of a variance shall be requested in writing and filed with the Environmental Services Officer at least thirty (30) days before the expiration date of the original variance. The request for extension shall state facts showing a good faith attempt to utilize the variance in the allowed five (5) years. Upon receipt of a request for a variance extension, the Environmental Services Officer shall review the request and make a decision to grant or deny the extension based on the information submitted. At staff's discretion, the request may be referred to the Board of Adjustment. No extension shall be for more than one (1) year, after which if the variance is not utilized, the variance becomes void. In no case shall more than one (1) variance extension be approved for an individual variance request.
9. An applicant desiring a variance shall fill out and submit to the Hubbard County Environmental Services Officer an Application for Variance along with the accompanying fee.
10. The Environmental Services Officer shall make a staff report, 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.
11. Applicable permits are required for any item approved by variance.
12. 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 Environmental Services Officer an Administrative Decision Appeal Application form, which is available from the Environmental Services Officer. Such appeal shall be heard by the Board of Adjustment within sixty (60) days of the date that such application is submitted to and deemed complete by the Environmental Services Officer.

#### **Section 1104. Permits**

All property owners or designee having charge of the erection, alteration, moving, or change of the exterior of any structure shall apply for a land use permit from the Hubbard County Environmental Services Officer before beginning or undertaking such work. Permits are also required for grading and filling, vegetative alteration in the shore impact zone, SSTS, signs, variances and conditional uses. Repairs and maintenance as defined herein shall not require a permit. After the appropriate fee has been paid, and if the proposed work does not conflict with any portion of the Hubbard County Shoreland Management Ordinance or any other County ordinance and there are no outstanding violations on the parcel per Section 1109, the permit shall be granted. If the permit is not granted, the reasons for such denial will be provided, in writing, to the applicant.

1. Application for a land use permit shall be made to the Environmental Services Officer on blank 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 structures. Applications for land use permits shall contain other such information as may be deemed necessary for the proper enforcement of this Ordinance.
2. Permits for the installation of sewage disposal systems, for grading and filling projects, and for the erection of signs in shoreland areas must also be obtained from the Environmental Services Officer before such installation or erection has begun.
3. The following structures do not require a permit per this section provided that all setback requirements are met: satellite dishes, propane tanks, outdoor woodstoves, sidewalks, underground sprinkler and/or irrigation systems, hot tubs, tents no larger than 15' wide x 15' long x 15' high, swing sets no larger than 6' deep x 8' wide x 6' high, playground equipment no larger than 10' wide x 15' long x 8' high, currently licensed fish houses/dark houses, and pump houses no larger than 4' x 4' x 4'.
4. All land use, grading and filling, and shoreland alteration and sanitary permits shall expire one year from the date of approval unless a written extension is granted by the Environmental Services Officer prior to the date of expiration.
5. No contractor or individual shall perform work upon a project requiring a permit under this Ordinance unless such permit has been issued and posted on the premises and until such contractor or individual has first verified any and all conditions of the permit.

#### **Section 1105. Conditional Use Permits**

Any use listed as a Conditional Use in this Ordinance shall be permitted only upon application to the Environmental Services Officer, review and recommendation of the Planning Commission, and approval and issuance of a Conditional Use Permit by the Hubbard County Board of Commissioners. The applicant for a conditional use permit shall fill out and submit to the Environmental Services Officer 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.

1. 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:
  - A. the maintenance of the public health, safety and welfare;
  - B. the prevention and control of water pollution, including sedimentation and nutrient loading;
  - C. existing topography and drainage features and vegetative cover on the site;
  - D. the location of the site with respect to floodplains and floodways of rivers or tributaries;
  - E. the erosion potential of the site based upon the degree and direction of slope, soil type and existing vegetative cover;
  - F. the location of the site with respect to existing and proposed access roads;
  - G. its compatibility with adjacent land uses;

- H. the need for the proposed use for a shoreland location;
- I. the amount of liquid waste to be generated and the adequacy of the proposed sewage disposal system;
- J. the visibility of structures and other facilities as viewed from public waters;
- K. adequacy of the site for water supply and on-site sewage treatment systems;
- L. assessment of 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.

An applicant for a conditional use permit bears the burden of proving the proposed use will not have a negative effect on the above-listed items A-L.

2. Upon consideration of the factors listed above, the Planning Commission or Hubbard County Board of Commissioners may attach such conditions, in addition to those required elsewhere in this Ordinance, that it deems necessary for the furtherance of the purposes set forth in this Ordinance. Such conditions attached to conditional use permits may include, but shall not be limited to:
  - A. type and extent of shore cover;
  - B. increased yards and setbacks;
  - C. specified sewage treatment and water supply facilities;
  - D. landscaping and vegetative screening;
  - E. periods and/or hours of operation;
  - F. operational control sureties;
  - G. deed restrictions;
  - H. location of piers, docks, parking, and signs;
  - I. type of construction;
  - J. the Board of County Commissioners may require letters of credit to ensure all conditions are adhered to;
  - K. any other reasonable requirements necessary to fulfill the purposes and intent of this Ordinance.
3. In order to secure information upon which to base the Planning Commission recommendation, and County Board approval, the applicant may be required to furnish, in addition to the information required for the building or other permit, the following:
  - A. a plan of the proposed project area showing contours, soil types, ordinary high water level, groundwater conditions, bedrock, slope, and vegetative cover;

- B. location of existing and proposed buildings, parking areas, traffic access, driveways, walkways, piers, open spaces and vegetative cover;
  - C. plans of buildings, sewage treatment facilities, water supply systems, and arrangements of operations;
  - D. specifications for areas of proposed grading, filling, lagooning, dredging, or other topographic alterations;
  - E. other pertinent information necessary to determine if the proposal meets the requirements and intent of this Ordinance.
4. A conditional use permit operating permit must first be obtained in order to legally initiate any conditional use approved by the County Board.
  5. The use allowed under a conditional use permit issued under this section must commence within two years of the date the conditional use was approved or the conditional use permit shall automatically be deemed null and void.

### **Section 1106. Interim Use Permits**

Interim use permits (IUP) may be issued for any and only the uses or purposes for which such permits are required or permitted by provisions of this Ordinance.

Any IUP issued under this Ordinance is granted solely to the applicant and/or the business entity named in the application, and for the premises named in the IUP application. No IUP of any sort granted pursuant to this Ordinance is transferable to any other person or premises. If a change of ownership, control, or location of any licensed premises occurs, whether pursuant to move, sale, transfer, assignment, or otherwise, the owner or proposed new owner must complete a new application subject to approval pursuant to this Ordinance.

Interim use permits shall be valid for a period of time specified by the conditions of the IUP. Interim use permits shall expire after the specified period of time in the conditions, unless renewed before the expiration date. Once an IUP is renewed, it will have to be renewed annually to prevent expiration of the IUP.

#### **Application**

Applications for interim use permits along with the accompanying fee shall be submitted to the Environmental Services Officer on forms supplied by the Environmental Services Officer for that purpose.

The application must include sufficient information to allow the Environmental Services Officer to find that the standards and criteria stated in this ordinance for the granting of such permit can or cannot be satisfied, including but not limited to a description of the proposed use, site plans, and surrounding land use.

#### **Administrative Procedure**

Upon receipt of an application, the Environmental Services Officer shall review the application as to form, completeness, and compliance with the provisions of this ordinance. If found to be proper, the Environmental Services Officer shall process the application.

An application deemed complete by the Environmental Services Officer will be considered at the next appropriate Planning Commission meeting as an application for an Interim Use Permit. The Planning Commission shall conduct a public hearing on the application and make a recommendation on the application to the County Board.

The County Board will consider the Planning Commission's recommendation and make a final decision on the application and place any appropriate conditions on approved applications.

### **Review Procedure**

In all cases the County shall consider whether:

- a. The proposed use is a interim use expressly designated in the ordinance; and,
- b. The proposed interim use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish or impair property values within the immediate vicinity; and,
- c. The establishment of the interim use will not impede the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area; and,
- d. Adequate utilities, access roads, drainage and other necessary facilities have been or are being provided; and,
- e. Adequate measures have been or will be taken to provide sufficient off-street parking and loading space to serve the proposed use; and,
- f. Adequate measures have been or will be taken to prevent or control offensive odor, fumes, dust, noise and vibration, so that none of these will constitute a nuisance, and to control lighted signs and other lights in such a manner that no disturbance to neighboring properties will result.
- g. A thorough evaluation of the water body and the topographic, vegetation, and soils conditions on the site must be made to ensure:
  1. The prevention of soil erosion or other possible pollution of public waters, both during and after construction; and,
  2. The visibility of structures and other facilities as viewed from public waters is limited; and,
  3. The site is adequate for water supply and on-site sewage treatment; and,
  4. The types, uses, and numbers of watercraft that the project will generate are compatible in relation to the suitability of public waters to safely accommodate these watercraft.

### **Conditions Attached to Interim Use Permits**

The County, upon consideration of the criteria listed above and the purposes of this ordinance, shall consider the attachment of such conditions to the interim use permit as it deems necessary to fulfill the purposes of this ordinance. Such conditions may include, but are not limited to, the following:

- A. Increased setbacks from the ordinary high water level;

- B. Limitations on the natural vegetation to be removed or the requirement that additional vegetation be planted; and
- C. Special provisions for the location, design, and use of structures, sewage treatment systems, watercraft launching and docking areas, and vehicle parking areas.
- D. Modification of waste treatment and water supply facilities.
- E. Limitations on period of use, occupancy, and operation.
- F. Imposition of operational controls, sureties, and deed restrictions.

## **Decisions**

In granting a Interim Use Permit, the Board of County Commissioners shall prescribe appropriate conditions and safeguards, which are in conformity with the intent of this Ordinance.

Violation of any conditions, limitations, restrictions, or other safeguards, written into the terms of approval under which an Interim Use Permit has been granted, shall be deemed a violation of this Ordinance punishable as specified in Section 1109.

## **Effectiveness of Permit**

The IUP shall expire with a change of ownership, or unless otherwise required by the IUP's conditions as determined by the County Board. The IUP shall expire if the approved use is inactive for one (1) year or longer as determined by the Environmental Services Officer. Interim use permits shall expire after the period of time specified by the conditions of the IUP.

## **Section 1107. 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 Environmental Services Officer. Such application shall be filled out and submitted to the Environmental Services Officer together with the appropriate fee;
2. The applicant shall appear before the Planning Commission at a public hearing that will be held to consider the amendment request to answer any questions that Commission members may have concerning the amendment request;
3. The Public hearing shall be conducted in accordance with M.S. 394.26;
4. The Planning Commission shall make a recommendation to the County Board of Commissioners after the proceedings of this public hearing.
5. The County Board shall consider the Planning Commission recommendation after the public hearing is conducted.

## **Section 1108. Public Notice and Hearing Requirements**

1. In addition to the procedures described in preceding sections of this Ordinance, all conditional use permit requests, variance requests, requests for amendments, and final plat approval shall be reviewed at a public hearing conducted at least ten (10) days following official public notification including publication in the official newspaper of Hubbard County and written notification by U.S. mail 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 or ten nearest properties, whichever provides notice to the most property owners; In the case of amendments to official controls which affect specific properties and preliminary plat review, one half mile.
2. 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. Notice of hearings to consider subdivisions must include copies of the proposed final plat.
3. The Commissioner must also receive a copy of approved conditional use permits, variances, zoning amendments and final plats postmarked within ten (10) days of final action.

## **Section 1109. Enforcement and Penalties**

1. **Administrative.** Whenever any construction or installation is being done contrary to the provisions of this Ordinance, the work shall be stopped when written notice is served on any persons engaged in the doing or causing such work to be done or when notice is posted at the construction/installation site. The Environmental Services Officer may, in writing, suspend or revoke a permit issued in error or on the basis of incorrect information supplied, or for any violation of any other provisions of this Ordinance.
2. **Investigations.** The Environmental Services Officer shall investigate all violations of this Ordinance, notify the owners of violations and direct the property owner to correct violations within a reasonable period of time, and if compliance is not obtained within a reasonable period of time, shall report such violations to the County Attorney, who shall take appropriate action on the matter.
3. **Civil.** In the event of violation or threatened violation of this Ordinance, the County Board of Commissioners, in addition to other remedies, may institute appropriate actions or proceedings to prevent, restrain, correct or abate such violations or threatened violations, and it shall be the duty of the Hubbard County Attorney to institute such action.
4. **Criminal.** 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.
5. **Interference with County Access or Administration/Enforcement Prohibited.** All employees of the Hubbard County Land Records-Environmental Service Department, members of the County Board of Commissioners, Planning Commission and Board of Adjustment, in the performance of their duties shall have free access to all land included within the jurisdiction of this Ordinance. Access to the land shall be during normal business hours unless an emergency exists.

No person shall hinder or otherwise interfere with the Department's employees in the performance of their duties and responsibilities pursuant to this Ordinance. Refusal to allow reasonable access to the property by the Department shall be deemed a separate and distinct offense.

### **Section 1110. 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 approval, a schedule of fees has been adopted by the Hubbard County Board of Commissioners. The schedule of fees shall be posted in the Land Records-Environmental Services Department, and may be altered or amended only by resolution of the County Board of Commissioners.

**Payment.** No application for a permit, conditional use permit, variance, operating permit, subdivision/plat, nor any other required permit, petition to amend this ordinance, nor any appeal shall be recognized, acted upon, issued or granted unless and until all required fees have been submitted in full to the Environmental Services Officer. Receipt of all fees shall be subject to their collection by the County. If a fee is submitted by credit card, check or money order, no permit granted or action taken shall be of any force or effect until the credit card, check or money order so submitted shall prove collectable.

**Refunds.** Should a permit, application, or appeal be denied, the fee shall not be refunded.

Amended July 7, 1993  
Amended January 1, 1994  
Amended April 5, 1995  
Amended January 1, 1996  
Amended January 1, 1999  
Amended March 15, 1999  
Amended November 15, 2004  
Amended July 20, 2006  
Amended May 1, 2008  
Amended March 26, 2009  
Amended February 4, 2010  
Amended July 27, 2011  
Amended September 28, 2011  
Amended November 9, 2011  
Amended November 5, 2013  
Amended June 25, 2014  
Amended February 25, 2015