COMMISSIONER'S ORDER NO. 170-93
Natural Resources

A Commissioner's Order establishing regulation governing the Management of Shoreland Areas by the Mille Lacs Band of Ojibwe.

WHEREAS, the Mille Lacs Band of Ojibwe Indians is a signatory and successor to the Treaty of 1837, 7 Stat. 536, and the Treaty of 1842, 7 Stat. 591, and the treaty of 1855, 10 Stat. 1165, and

WHEREAS, Band Statute 1062-MLC-50, Section 3 directs the Commissioner of Natural Resources to protect all natural resources of the Mille Lacs Band of Ojibwe Indians, and

WHEREAS, the United States Environmental Protection Agency has funded the Mille Lacs Band of Ojibwe to develop a regulatory program within the Mille Lac Reservation or on lands under the jurisdiction of the Band, and

WHEREAS, the need exists to the protection of wetlands, waters, and the environment, and

WHEREAS, the management of shoreland areas is important in the protection of water quality and the environment, and

WHEREAS, the application of shoreland area management is significant factor in the overall protection of the environment, and

WHEREAS, these regulations are developed to protect against any serious impact on the health, environment, and economic security of the Mille Lacs Band of Ojibwe Indians.

NOW THEREFORE, by the authority vested in me by the Mille Lacs Band of Ojibwe Indians under Band law, I, Don Wedll, Commissioner of Natural Resources for the Mille Lacs Band of Ojibwe Indians, hereby establish regulations governing the management of shoreland areas within the jurisdiction of the Mille Lacs Band of Ojibwe Indians.

Management of Shoreland Areas

120.25 Definitions.

Subpart 1. **Scope of terms; mandatory; distances**. For the purposes of parts 120.25 to 120.39, certain terms or words used shall be interpreted as follows: the word "shall" is mandatory, not permissive. All distances, unless

otherwise specified shall be measured horizontally.

Subpart 1a. **Accessory structure or facility**. "Accessory structure" or "facility" means any building or improvement subordinate to a principal use which, because of the nature of its use, can reasonably be relocated at or greater than normal structure setbacks.

Subpart 1b. **Bluff**. "Bluff" means a topographical feature such as a hill, cliff, or embankment having all of the following characteristics:

A. part or all of the feature is located in a shoreland area;

B. the slope rises at least 25 feet above the ordinary high water level of the waterbody;

C. The grade of the slope from the toe of the bluff to a point 25 feet or more above the ordinary high water level averages 30 percent or greater; and

D. the slope must drain toward the waterbody.

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

Subp. 1c. **Bluff impact zone**. "Bluff impact zone" means a bluff and land located within 20 feet from the top of a bluff.

Subp. 2. **Boathouse**. "Boathouse" means a structure designed and used solely for the storage of boats or boating equipment.

Subp. 3. **Building line**. "Building line" means a line parallel to a lot line or the ordinary high water level at the required setback beyond which a structure may not extend.

Subp. 3a. **Commercial planned unit developments**. "Commercial planned unit developments" are typically uses that provide transient, short-term lodging spaces, rooms, or parcels and their operations are essentially service-oriented. For example, hotel/motel accommodations, resorts, recreational vehicle and camping parks, and other primarily service-oriented activities are commercial planned unit developments.

Subp. 3b. **Commercial use**. "Commercial use" means the principal use of land or buildings for the sale, lease, rental or trade of products, goods, and services.

Subp. 3c. **Commissioner**. "Commissioner" means the commissioner of the Department of Natural Resources.

Subp. 4. Open.

Subp. 5. **Conditional use**. "Conditional use" means a use or development that would not be appropriate generally but may be allowed with restrictions as provided 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 reservation and (3) is compatible with the existing neighborhood.

Subp. 6. Open.

Subp. 6a. **Deck**. "Deck" means a horizontal, unenclosed platform with or without attached railings, seats, trellises, or other features, attached or functionally related to a principal use or site and at any point extending more than three feet above ground.

Subp. 6b. **Duplex, triplex, and quad**. "Duplex," triplex," and "quad" means a dwelling structure on a single lot, having two, three, and four units respectively, being attached by common walls and each unit equipped with separate sleeping, cooking, eating, living, and sanitation facilities.

Subp. 6c. **Dwelling site**. "Dwelling site" means a designated location for residential use by one or more persons using temporary or movable shelter, including camping and recreational vehicle sites.

Subp. 6d. **Dwelling unit**. "Dwelling unit" means a structure or portion of a structure, or other shelter designed as short- and long-term living quarters for one or more persons, including rental or timeshare accommodations such as motel, hotel, and resort rooms and cabins.

Subp. 6e. **Extractive use**. "Extractive use" means the use of land for surface or subsurface removal of sand, gravel, rock, industrial minerals, other nonmetallic minerals, and peat.

Subp. 6f. **Forest land conversion**. "Forest land conversion" means the clear cutting of forested lands to prepare for a new land use other than reestablishment of a subsequent forest stand.

Subp. 6g. **Guest cottage**. "Guest cottage" means a structure used as a dwelling unit than may contain sleeping spaces and kitchen and bathroom facilities in addition to those provided in the primary dwelling unit on a lot.

Subp. 7. **Hardship**. "Hardship" means circumstances that make the application of an ordinance or restriction unduly oppressive, arbitrary, or confiscatory..

Subp. 7a. **Height of building**. "Height of building" means the vertical distance between the highest adjoining ground level at the building or ten feet above the lowest ground level, whichever is lower, and the highest point of a flat roof or average height of the highest gable of a pitched or hipped roof.

Subp. 7b. **Industrial use**. "Industrial use" means the use of land or buildings for the production, manufacture, warehousing, storage, or transfer of goods, products, commodities, or other wholesale items.

Subp. 7c. **Intensive vegetation clearing**. "Intensive vegetation clearing" means the complete removal of trees or shrubs in a contiguous patch, strip, row, or block.

Subp. 8. **Lot**. "Lot" means a parcel of land designated by plat, metes and bounds, registered land survey, auditors plot, or other accepted means and separated from other parcels or portions by said description for the purpose of sale, lease, or separation.

Subp. 9. **Lot width**. "Lot width" means the shortest distance between lot lines measured at the midpoint of the building line.

Subp. 10. **Nonconformity**. "Non-conformity" 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 had been in effect prior to the date it was established, recorded or authorized.

Subp. 11. **Ordinary high water level**. "Ordinary high water level" means the boundary of public waters and wetlands, and shall be an elevation delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape, commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial. For watercourses, the ordinary high water level is the elevation of the top of the bank of the channel. For reservoirs and flowages, the ordinary high water level is the operating elevation of the normal summer pool.

Subp. 12. **Planned unit development**. "Planned unit development" means a type of development characterized by a unified site design for a number of dwelling units or dwelling sites on a parcel, whether for sale, rent, or lease, and also usually involving clustering of these units or sites to provide areas of common open space, density increases, and a mix of structure types and land uses. These developments may be organized and operated as condominiums, time-share condominiums, cooperatives, full fee ownership, commercial enterprises, or any combination of these, or cluster subdivisions of dwelling units, residential condominiums, townhouses, apartment buildings, campgrounds, recreational vehicle parks, resorts, hotels, motels, ad conversions of structures and land uses to these uses.

Subp. 13. **Public waters**. "Public waters" means any waters as defined in Mille Lacs Band Statutes. However, no lake, pond or flowage of less than two acres in size in municipalities.

The official determination of the size and physical limits of drainage areas of rivers and streams shall be made by the commissioner.

Subp. 13a. **Residential planned unit development**. "Residential planned unit development" means a use where the nature of residency is nontransient 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.

Subp. 13b. **Semipublic use**. "Semipublic use" means the use of land by a private, nonprofit organization to provide a public service that is ordinary open to some persons outside the regular constituency of the organization.

Subp. 13c. **Sensitive resource management**. "Sensitive resource management" means 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.

Subp. 14. Setback. "Setback" means 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.

Subp. 14a. Sewage treatment system. "Sewage treatment system" means a septic tank or soil absorption system or other individual or cluster type sewage treatment system as described and regulated under Band Law.

Subp. 14b. Sewer system. "Sewer system" means pipelines or conduits, pumping stations, and force main, and all other constructions, devices, appliances, or appurtenances used for conducting sewage or industrial waste or other wastes to a point of ultimate disposal.

Subp. 14c. Shore impact zone. "Shore impact zone" means 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.

Subp. 15. Shoreland. "Shoreland" means land located within the following distances from public water: 1,000 feet from the ordinary high water level of a lake, pond, or flowage; and 300 feet from a river or stream, or the landward extent of a flood plain designated by ordinance on a river or stream, which ever is greater. The limits of shorelands may be reduced whenever the waters involved are bounded by topographic divides which extend landward from the waters for lesser distances and when approved by the commissioner.

Subp. 15a. Significant historic site. " Significant historic site" means any archaeological site, standing structure, or other property that meets the criteria for eligibility to the National Register of Historic Places or is listed in the Band Register of Historic Sites, or is determined to be an unplatted cemetery. 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 or Band Historical office. All unplatted cemeteries are automatically considered to be significant historic sites.

Subp. 15b. Steep slope. "Steep slope" means land where agricultural activity or development is either not recommended or described as poorly suited due to slope steepness and the site's soil characteristics, as mapped and described in available county soil surveys or other technical reports, unless practices are used in accordance with the provisions of these regulations. Where specific information is not available, steep slopes are lands having average slopes over 12 percent, as measured over horizontal distances of 50 feet or more, that are not bluffs.

Subp. 16. Structure. "Structure" means 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 facilities.

Subp. 17. Subdivision. "Subdivision" means land that is divided for the purpose of sale, rent, or lease, including planned unit development.

Subp. 18. Open.

Subp. 18a. Surface water-oriented commercial use. "Surface water-oriented commercial use" means 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.

Subp. 18b. Toe of the bluff. "Toe of the bluff" means the lower point of a 50-foot segment with an average slope exceeding 18 percent.

Subp. 18c. Top of the bluff. "Top of the bluff" means the higher point of a 50-foot segment with an average slope exceeding 18 percent.

Subp. 19. Variance. "Variance" is an authorization to a property owner to depart from the literal requirements of these regulations in utilization of the property in cases in which strict enforcement of these regulations cause undue hardship.

Subp. 20. Water-oriented accessory structure or facility. "Water-oriented accessory structure or facility" means 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.

Subp. 21. Wetland. "Wetland" means a surface water feature classified as a wetland by Commissioner's Order 162-92 and in the United States Fish and Wildlife Service Circular No. 39 (1971 edition),and Commissioner's Order 162-92, which is hereby incorporated by reference, is available through the Mille Lacs Department of Natural Resources, and is not subject to frequent change.

120.26 POLICY.

The uncontrolled use of shorelands adversely affects the public health, safety, and general welfare by contributing to pollution of public waters, and overall ecological relationship within the Reservation. The Commissioner provides the following minimum standards and criteria for the subdivision, use, and development of the shorelands of public waters. The standards and criteria are intended to preserve and enhance the quality of surface waters, conserve the economic and natural environmental values of shorelands, and provide for the wise use of water and related land resources of the Band.

120.27 OPEN.

120.28 SCOPE.

Subp. 1. Responsibilities and authorities. These minimum standards and criteria apply to those shorelands of public waters of the Band which are subject to land use controls. They are intended to be initial shoreland management controls. The Department is responsible for administration and enforcement of its shoreland management controls adopted in compliance with these standards and criteria.

Subp. 2.Adoption schedule. These standard shall be effective within five days of signing.

Subp. 3. Implementation flexibility. Under special circumstances the commissioner may authorize shoreland management controls that are not in strict conformity with these minimum standards and criteria.

A. Special circumstances may include the following situations:

(1) where shorelands have been developed with an assortment of uses for many years an much of the development does not meet the standards in parts 120.25 to 120.39;

(2) areas with central business districts located within shorelands;

(3) areas whose only shorelands are along rivers classified as tributary;

(4) areas that have not had, and do not anticipate, much development activity within shorelands;

(5) areas with topography or vegetation characteristics that would make use of particular minimum state standards impractical;

(6) shorelands that are managed under other water and related land resources management programs authorized by state or federal legislation.

(7) individual lakes or system of lakes that are being managed under standards developed specifically for these water resources after a comprehensive study and planning effort.

B. Alternative management standards may use the following concepts and approached, or others:

(1) expanded or different public waters classification systems;

(2) designation of areas where land use districts and associated standards are more restrictive than these standards and criteria as trade-off for other areas where they are less restrictive;

(3) standards and other management approaches that are developed for specific water resources after a comprehensive evaluation and planning effort;

(4) standards developed to take into account commonly occurring hydrologic, geologic, property ownership, topographic, and vegetation patterns and shoreland accessibility issues that would make use of these standards and criteria impractical; or

(5) other types of management or acquisition programs such as stormwater management and public land acquisition programs that reduce the need for use of specific standards in parts 120.25 to 120.39.

C. Areas must request consideration of an alternative approach

under this subpart and must provide written justification and supporting information, maps, and documents, as appropriate, to justify the request to the commissioner, including the following:

(1) existing land use plans and controls for shorelands of each public water;

(2) for the shorelands of each public water, the number, average size, and percent of shoreline occupied by undeveloped lots of record and land in public ownership;

(3) characteristics of existing development, including types, densities, heights, colors, and presence or absence of screening vegetation or topography;

(4) presence or absence of public sewer and stormwater management practices or facilities; and

(5) explanations of how deviations from Band standards are justified.

D. The commissioner shall respond to the areas request for consideration of an alternative approach under this subpart in accordance with subitems (1) to (5).

(1) The commissioner shall in writing acknowledge and approve or deny the request within 60 days of receipt of the request and all necessary supporting documents and technical data. For extraordinarily complex issues and requests involving multi-government coordination or multi-organization coordination, the commissioner and the affected local units of government may mutual agree to an extension of the 60-day response.

(2) The commissioner in the approval or denial pursuant to this subpart shall state the reasons for the approval or denial and, as appropriate, suggest alternative solutions or regulatory approaches that would be acceptable to the commissioner.

(3) The area proposing the alternative control and the commissioner shall solicit the input of the public and other governmental bodies that could be affected by the alternate control.

(4) Alternate shoreland controls must be approved by other units of government having adjacent land use authority impacted by the alternate controls.

(5) The local area either proposing an alternate local control or a area being impacted by an alternate local control may request a contested case hearing under the Court of Central Jurisdiction.

120.29 OPEN.

120.30 SHORELAND MANAGEMENT CLASSIFICATION SYSTEM.

Subpart 1. **Criteria**. The commissioner shall classify all public waters in accordance with the following criteria:

A. size and shape;

B. amount and type of existing development;

C. road and service center accessibility;

D. existing natural characteristics of the waters and shorelands;

E. state, regional, and local plans and management programs;

F. existing land use restrictions; and

G. presence of significant historic sites.

Subp. 1a. **Classes**. The classes of public waters are natural environment lakes, recreational development lakes, general development lakes, remote river segments, forested river segments, transition river segments, agricultural river segments, urban river segments, and tributary river segments. All of the river classes except tributary consist of watercourses that have been identified as being recreationally significant on a statewide basis. The tributary class consists of all other watercourses identified in the protected waters inventory. General descriptions of each class follows:

A. Natural environmental lakes are generally small, often shallow lakes with limited capacities for assimilating the impact of development and recreational use. They often have adjacent lands with substantial constraints for development such as high water tables, exposed bedrock, and unsuitable soils. These lakes, particularly in rural areas, usually do not have much existing development or recreational use.

B. Recreational development lakes are generally medium-size lakes of varying depths and shapes with a variety of landform, soil, and groundwater situations on the lands around them. They often are characterized by moderate levels of recreational use and existing development. Development

consists mainly of seasonal and year-round residences and recreationally-oriented commercial uses. Many of these lakes have capacities for accommodating additional development and use.

C. General development lakes are generally large, deep lakes or lakes of varying sizes and depths with high levels and mixes of existing development. These lakes often are extensively used for recreation and, except for the very large lakes, are heavily developed around the shore. Second and third tiers of development are fairly common. The larger example in this class can accommodate additional development and use.

D. Remote river segments are primarily located in roadless, forested, sparsely-populated areas of the northeastern part of the state. Common land uses include multiple-use forestry, some recreation facilities, and occasional seasonal or year-round residential. Low intensity recreational uses of these river segments and adjacent lands are common. this class has limited potential for additional development and recreational use due to land suitability and road access constraints.

E. Forested river segments are located in forested, sparsely to moderately populated areas with some roads in the north-central part of the state. Predominant land uses include multiple-use forestry, some recreation facilities, seasonal residential and some year-round residential. Low-intensity recreational uses of substantial potential for additional development and recreational use.

F. Transition river segments are generally either located within the St. Croix and Mississippi river valleys, or within the middle reaches of several rivers in all regions except the north-central and northeast. Common land uses include forested within riparian strips and mixtures of cultivated, pasture, and forested beyond. Some seasonal and year-round residential development exists, particularly within commuting distance of major cities. The types and intensities of recreational uses within this class vary widely.

G. Agricultural river segments are located in well-roaded, intensively cultivated areas of the western and southern regions of the state. Cultivated crops are the predominant land use, with some pasture and occasional feedlots, small municipalities, and small forested areas. Residential development is not common, but some year-round residential use is occurring within commuting distances of major cities. Some intensive recreational use occurs on these river segments in particular areas, but overall recreational use of

these waters and adjacent lands is low. Although potential exists for additional development and recreation, water quality constraints and competing land uses, particularly agriculture, will inhibit expansions.

H. Urban river segments are located within or adjacent to major cities throughout the state. A variety of residential and other urban land uses exists within these segments. Recreational uses of these segments and adjacent lands are common, but vary widely in types and intensities. These segments have potential for additional development, for redevelopment, and for additional recreational use, although recreational use on some of these segments competes with commercial river traffic.

I. Tributary river segments consist of watercourses mapped in the Protected Waters Inventory that have not been assigned one of the river classes in items D to H. These segments have a wide variety of existing land and recreational use characteristics. The segments have considerable potential for additional development and recreational use, particularly those located near roads and cities.

Subp. 2. **Supporting data**. Supporting data for shoreland management classifications is supplied by the records and files of the Department of Natural Resources, including maps, lists, and other products of the Protected Waters Inventory; data and publications of the Shoreland Update Project; the Minnesota Department of Natural Resources Statewide Outstanding Rivers Inventory; Bulletin No. 25 (1968); and Supplementary Report No. 1 - Shoreland Management Classification System for Public Waters (1976) of the Division of Waters, Minnesota Lakeshore, part 2, Statistical Summary, Department of Geography, University of Minnesota; and additional supporting data may be supplied, as needed, by the commissioner. These publications are incorporated by reference, are available through the Minitex interlibrary loan system, and are not subject to frequent change.

Subp. 3. **Classification procedures**. Public waters shall be classified by the commissioner. The commissioner shall document each classification with appropriate supporting data. A preliminary list of classified public waters shall be submitted to each affected local government. Each affected change in the proposed classification. If a local government feels such a change is needed, a written request with supporting data may be submitted to the commissioner for consideration. If a local government requests a change in a proposed shoreland management classification and the public water is located partially within the jurisdiction of another governmental unit, the commissioner shall review the recommendations of the other governmental units before making a final decision on the proposed change.

Subp. 4. **Reclassification**. The commissioner may, as the need arises,

reclassify any public water. Also, any local government may at any time submit a resolution and supporting data requesting a change in any shoreland management classification of waters within its jurisdiction to the commissioner for consideration.

Subp. 5. **Modification and expansion of system**. The commissioner may, as the need arises, modify or expand the shoreland classification system to provide specialized shoreland management standards based upon unique characteristics and capabilities of any public water.

120.31 LAND USE.

Subpart 1. **Criteria**. The land use zoning districts established by local districts must be based on considerations of:

A. preservation of natural area;

B. present ownership and development of shoreland areas;

C. shoreland soil types and their engineering capabilities;

D. topographic characteristics;

E. vegetative cover;

F. in-water physical characteristics, values, and constraints;

G. recreational use of the surface water;

H. road and service center accessibility;

I. socioeconomic development needs and plans as they involve water and related land resources;

J. the land requirements of industry which, by its nature, requires location in shoreland areas; and

K. the necessity to preserve and restore certain areas having significant historical or ecological value.

Subp. 2. **Designation of zoning districts**. Local districts with adopted land use zoning districts in effect on the date of adoption of parts 120.25 to 120.39 may continue to use the districts until revisions are proposed. When amendments to zoning districts on lakes are considered, local governments, at least for all the shoreland within the community of the public water involved and preferably for all shoreland areas within the community, must revise existing zoning district and use provisions to make them substantially compatible with the framework in subpart 4. On a river, zoning districts and use provisions for all shoreland on both sides within the same class in the

community must be revised to make them substantially compatible with the framework in subpart 5. If the same river class is contiguous for more than a five-mile segment, only the shoreland for a distance of 2.5 miles up and down stream or to the class boundary, if closer, need be evaluated. When an interpretation question arises about whether a specific land use fits within a category in subpart 4 or 5, the question must be resolved through procedures in local government official controls and Band statutes.

Subp. 3. **Land use district descriptions**. Land use district descriptions are as follows:

A. A special protection district is intended to be used for two basic purposes. The first purpose is to limit and properly manage development or uses due to flooding, erosion, limiting soil conditions, steep slopes, or other major physical constraints. A second purpose is to manage and preserve areas with special historical, natural, or biological characteristics.

B. A residential district is primarily intended to allow low to medium density seasonal and year-long residential uses on lands suitable for such uses. It is also intended to prevent establishment of various commercial, industrial, and other uses in these areas that cause conflicts or problems for residential uses. Some nonresidential uses with minimal impact on residential uses are allowed if properly managed under conditional use procedures.

C. A high density residential district is intended for use on lands with heterogeneous mixes of soils, vegetation, and topography that are not well suited to residential development using standard, lot-block subdivisions. This approach enables such areas to be developed, often even with higher than lot-block densities, while also avoiding and preserving unsuitable terrain and soils. Other compatible uses such as residential planned unit development, surface water-oriented commercial, multiple unit single-family, parks, historic sites, and semipublic, are also allowed, primarily as conditional uses.

D. A water-oriented commercial district is intended to be used only to provide for existing or future commercial uses adjacent to water resources that are functionally dependent on such close proximity.

E. A general use district is intended to be used only for lands already developed or suitable for development with concentrated urban, particularly commercial, land uses. It should not generally be used on natural environment lakes or

remote river classes. Several other intensive urban uses such as industrial and commercial planned unit development are allowed in this district if handled as conditional uses.

Subp. 4. **Shoreland classifications and uses; lakes**. For the lake classes, districts, and uses in this subpart, P = permitted uses, C = conditional uses, and N = prohibited uses.

A. Lake classes in special protection districts.

Uses	General development	Recreational development	Natural environment
Forest management	P	P	P
Sensitive resource management	P	P	P
Agricultural: cropland and pasture	P	P	P
Agricultural feedlots	C	C	C
Parks and historic sites	C	C	C
Extractive use	C	C	C
Single residential	C	C	C
Mining of metallic minerals and peat	P	P	P

B. Lake classes in residential districts.

Uses	General development	Recreational development	Natural environment
Single residential	P	P	P
Semipublic	C	C	C
Parks and historic sites	C	C	C
Extractive use	C	C	C
Duplex, triplex, quad residential	P	P	C
Forest management	P	P	P
Mining of metallic mineral and peat	P	P	P

C. Lake classes in high density residential districts.

Uses	General development	Recreational development	Natural environment
Residential planned unit developments	C	C	C
Single residential	P	P	P
*Surface water oriented commercial	C	C	C
Semipublic	C	C	C
Parks and historic sites	C	C	C

and pasture	P	P	P	P	P	P
Agricultural feedlots	C	C	C	C	C	C
Parks and historic sites	C	C	C	C	C	C
Extractive use	C	C	C	C	C	C
Single residential	C	C	C	C	C	C
Mining of metallic minerals and peat	P	P	P	P	P	P

B. River classes in residential districts.

Uses	Remote	Forested	Transition	Agricultural	Urban	Tributary
Single residential	P	P	P	P	P	P
Semipublic	C	C	C	C	C	P
Parks and historic sites	C	C	C	C	C	P
Extractive use	C	C	C	C	C	C
Duplex, triplex, quad residential	C	C	C	C	P	C
Forest management	P	P	P	P	P	P
Mining of metallic minerals and peat	P	P	P	P	P	P

C. River classes in high density residential districts.

Uses	Remote	Forested	Transition	Agricultural	Urban	Tributary
Residential planned unit developments	C	C	C	C	C	C
Single residential	P	P	P	P	P	P
*Surface water oriented commercial	C	C	C	C	C	C
Semipublic	C	C	C	C	C	C
Parks and historic sites	C	C	C	C	C	C
Duplex, triplex, quad residential	P	P	P	P	P	P
Forest management	P	P	P	P	P	P

D. River classes in water-oriented commercial districts.

Uses	Remote	Forested	Transition	Agricultural	Urban	Tributary
Surface water-oriented commercial	C	C	C	C	C	C
**Commercial planned unit development	C	C	C	C	C	C
Public, semipublic	C	C	C	P	P	P
Parks and historic sites	C	C	C	C	C	C
Forest management	P	P	P	P	P	P

E. River classes in general use districts.

Duplex, triplex, quad residential	P	P	P
Forest management	P	P	P

D. Lake classes in water-oriented commercial districts.

Uses	General development	Recreational development	Natural environment
Surface water-oriented commercial	P	P	C
**Commercial planned unit development	C	C	C
Public, semipublic	C	C	C
Parks and historic sites	C	C	C
Forest management	P	P	P

E. Lake classes in general use districts.

Uses	General development	Recreational development	Natural environment
Commercial	P	P	C
**Commercial planned unit development	C	C	C
Industrial	C	C	N
Public, semipublic	P	P	C
Extractive use	P	P	C
Parks and historic sites	C	C	C
Forest management	P	P	P
Mining of metallic minerals and peat	P	P	P

* As accessory to a residential planned unit development

** Limited expansion of a commercial planned unit development involving up to six additional dwelling units or sites may be allowed as a permitted use provided the provisions or part 120.38, subpart 2, are satisfied

Subp. 5. **Shoreland classifications and uses; rivers**. For the river classes, districts and uses in this subpart, P = permitted uses, C = conditional uses, and N = prohibited uses.

A. River classes in special protection districts.

Uses	Remote	Forested	Transition	Agricultural	Urban	Tributary
Forested management	P	P	P	P	P	P
Sensitive resource management	P	P	P	P	P	P
Agricultural; cropland						

Uses	Remote	Forested	Transition	Agricultural	Urban	Tributary
Commercial	C	C	C	C	P	C
**Commercial planned unit development	C	C	C	C	C	C
Industrial	N	C	N	N	C	C
Public, semipublic	C	C	C	C	P	C
Extractive use	C	C	C	C	C	C
Parks and historic sites	C	C	C	C	C	C
Forest management	P	P	P	P	P	P
Mining of metallic minerals and peat	P	P	P	P	P	P

* As accessory to a residential planned unit development

** Limited expansion of a commercial planned unit development involving up to six additional dwelling units or sites may be allowed as a permitted use provided the provisions of part 120.38, subpart 2, are satisfied

120.33 ZONING PROVISIONS.

Subpart 1. **Purpose**. To manage the effects of shoreland and water surface crowding, to prevent pollution of surface and ground waters of the Band, to provide ample space on lots for sewage treatment systems, to minimize flood damages, to maintain property values, to maintain historic values of significant historic sites, and to maintain natural characteristics of shorelands and adjacent water areas, shoreland controls must regulate lot sizes, placement of structures, and alterations of shoreland areas.

Subp. 2. **Residential lot size**. All single, duplex, triplex, and quad residential lots created after the date of enactment of the local shoreland controls must meet or exceed the dimensions presented in subparts 2a and 2b, and the following:

A. Lots must not be occupied by any more dwelling units than indicated in subparts 2a and 2b. Residential subdivisions with dwelling unit densities exceeding those in the tables in subparts 2a and 2b can only be allowed if designed and approved as residential planned unit developments under part 120.38. Only land above the ordinary high water level of public waters can be used to meet lot area standards, and lot width standards must be at both the ordinary high water level and at the building line. The sewer lot area dimensions in subpart 2a, items D to F can only be used if publicly owned sewer system service is available to the property.

B. On natural environment lakes, subdivisions of duplexes, triplexes, and quad must also meet the following standards:

(1) Each building must be set back at least 200 feet from the ordinary high water level.

(2) Each building must have common sewage treatment and water systems that serve all dwelling units in the building.

(3) Watercraft docking facilities for each lot must be centralized in one location and serve all dwelling units in the building.

(4) No more than 25 percent of a lake's shoreline can be in duplex, triplex, or quad developments.

C. One guest cottage may be allowed in local controls on lots meeting or exceeding the duplex dimensions presented in subpart 2a and 2b if the controls also require all of the following standards to be met:

(1) For lots exceeding the minimum lot dimensions of duplex lots, the guest cottage must be located within the smallest duplex-sized lot that could be created including the principal dwelling unit.

(2) A guest cottage must not cover more than 700 square feet of land surface and must not exceed 15 feet in height.

(3) A guest cottage must be located or designed to reduce its visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks, color, or other means acceptable to the local unit of government, assuming summer leaf-on conditions.

D. Lots of records in the office of the county recorder or the Bureau of Indian Affairs on the date of enactment of local shoreland controls that do not meet the requirements of items A to E and subparts 2a and 2b may be allowed as building sites without variances form lot size requirements provided the use is permitted in the zoning district, the lot has been in separate ownership from abutting lands at all times since it became substandard, was created compliant with official controls in effect at the time, and sewage treatment and setback requirements of the shoreland controls are met. Necessary variances from setback requirements must be obtained before any use, sewage treatment system, or building permits are issued for the lots. In evaluating all the variances, boards of adjustment shall consider sewage treatment and water supply capabilities or constraints of the lots and shall deny the variances if adequate

facilities cannot be provided. If, in a group of two or more contiguous lots under the same ownership, any individual lot does not meet the requirements of items A to E and subparts 2a and 2b, the lot must not be considered as a separate parcel of land for the purposes of sale or development. The lot must be combined with the one or more contiguous lots so they equal one or more parcels of land, each meeting the requirements of item A to E and subparts 2a and 2b as much as possible. Local shoreland controls may set a minimum size for nonconforming lots or impose their restrictions on their development.

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

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

Controlled Access Lot Frontage Requirements

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

(2) They must be jointly owned by all purchasers of lots in the subdivision or by all purchasers of nonriparian lots in the subdivision who are provided riparian access rights on the access lot.

(3) Covenants or other equally effective legal instruments must be developed that specify which lot owners have authority to use the access lot and what activities are allowed. The activities may include watercraft launching, loading, storage, beaching, mooring, or docking. They must also include other outdoor recreational activities that do not significantly conflict with general public use of the public water or the enjoyment of normal property rights by

adjacent property owners. Examples of the nonsignificant conflict activities include swimming, sunbathing, or picnicking. The covenants must limit the total number of vehicles allowed to be parked and the total number of watercraft allowed to be continuously moored, docked or stored over water, and must require centralization of all common facilities and activities in the most suitable locations on the lot to minimize topographic and vegetation altercations. They must also require all parking areas, storage buildings, and other facilities to be screened by vegetation or topography as much as practical from view from the public water, assuming summer, leaf-on conditions.

Subp. 2a. **Lot area and width standards for single, duplex, triplex, and quad residential development; lake classes**. The lot area and width standards for single, duplex, triplex, and quad residential developments for the lake classes are:

A. Natural Environment, no sewer:

Lot area (square feet)

	Riparian lots	Nonriparian lots
Single	80,000	80,000
Duplex	120,000	160,000
Triplex	160,000	240,000
Quad	200,000	320,000

B. Recreational Development, no sewer:

Lot area (square feet)

	Riparian lots	Nonriparian lots
Single	200	200
Duplex	300	400
Triplex	400	600
Quad	500	800

C. General Development, no sewer:

Lot area (square feet)

	Riparian	Nonriparian

	lots	lots
Single	20,000	40,000
Duplex	40,000	80,000
Triplex	60,000	120,000
Quad	80,000	160,000

Lot width (feet)

Single	100	150
Duplex	180	265
Triplex	260	375
Quad	340	490

D. Natural Environment, sewer:

Lot area (square feet)

	Riparian lots	Nonriparian lots
Single	40,000	20,000
Duplex	70,000	35,000
Triplex	100,000	52,000
Quad	130,000	65,000

Lot width (feet)

Single	125	125
Duplex	225	220
Triplex	325	315
Quad	425	410

E. Recreational Development, sewer:

Lot area (square feet)

	Riparian lots	Nonriparian lots
Single	20,000	15,000
Duplex	35,000	26,000
Triplex	50,000	38,000
Quad	65,000	49,000

Lot width (feet)

Single	75	75
Duplex	135	135

Triplex	195	190
Quad	255	245

F. General Development, sewer:

Lot area (square feet)

	Riparian lots	Nonriparian lots
Single	15,000	10,000
Duplex	26,000	17,500
Triplex	38,000	25,000
Quad	49,000	32,500

Lot width (feet)

Single	75	75
Duplex	135	135
Triplex	195	190
Quad	255	245

Subp. 2b. **Lot width standards for single, duplex, triplex, and quad residential development; river classes.** The lot width standards for single, duplex, triplex, and quad residential development for river classes are:

Lot width (feet)

	Remote	Forested	Transition	Agricultural	Urban & Tributary	
					No sewer	**Sewer**
Single	300	200	250	150	100	75
Duplex	450	300	375	225	150	115
Triplex	600	400	500	300	200	150
Quad	750	500	625	375	250	190

Subp. 3. **Placement and height of structures and facilities on lots.** When more than one setback requirement applies to a site, structures and facilities must be located to meet all setbacks. The placement of structures and other facilities on all lots must be managed by shoreland controls as follows:

A. Structure setbacks. The following minimum setbacks presented in the following table for each class of public waters apply to all structures, except water-oriented accessory structures and facilities that are managed according to item H:

(1) Structure setback standards:

Class	Ordinary high water level setback (feet) *Unsewered*	*Sewered*	Setback from top of bluff (feet)
Natural environment	350	350	30
Recreational development	100	75	30
General development	100	75	30
Remote river segments	350	250	30
Forested and transition river segments	150	150	30
Agricultural, urban, and tributary river segments	100	50	30

(2) Exceptions to structure setback standards in subitem (1). Where structures exist on the adjoining lots on both sides of a proposed building site, structure setbacks may be altered without a variance to conform to the adjoining setbacks provided the proposed building site is not located in a shore impact zone or in a bluff impact zone.

B. High water elevations. In addition to the setback requirements of item A, local shoreland controls must regulate placement of structures in relation to high water elevation. Where state-approved, local flood plain management controls exist, structures must be placed at an elevation consistent with the controls. Where these controls do not exist, the elevation to which the lowest floor, including basement, is placed or flood-proofed must be determined as follows:

(1) For lakes, by placing the lowest floor at a level at least three feet above the highest known water level, or three feet above the ordinary high water level, whichever is higher. In instances where lakes have a history of extreme water level fluctuations or have no outlet capable of keeping the lake level at or below a level three feet above the ordinary high water level, greater controls may require structures to be placed 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 effects of proposed construction upon flood stages and flood flows and to establish the flood protection elevation. Under all three approaches, technical evaluations must be done consistent with part 120.50 to 120.62 governing the management of flood plains areas. If more than one approach is used, the highest flood protection elevation

determined must be used for placing structures and other facilities.

(3) Water-oriented accessory structures may have the lowest floor placed lower than the elevation determined in this subpart if the structure is constructed of flood-resistant materials to the elevation, electrical and mechanical equipment is placed above the elevation and, if long duration flooding is anticipated, the structure is built to withstand ice action and wind-driven waves and debris.

C. Bluff impact zones. Structures and accessory facilities, except stairways and landings, must not be placed within bluff impact zones.

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

E. Proximity to unplatted cemeteries an significant historic sites. No structure may be placed nearer than 50 feet from the boundary of an unplatted cemetery protected under Band statute or Federal law unless necessary approval is obtained from the Bands Archaeologist's Office. No structure may be placed on a significant historic site in a manner that affects the values of the site unless adequate information about the site has been removed and documented in a public repository.

F. Proximity to roads and highways. No structure may be placed nearer than 50 feet from the right-of-way line of any federal, state or county highway; or 20 feet from the right-of-way of any town road, public street, or others not classified.

G. Height. All structures in residential districts in cities, except churches and nonresidential agricultural structures, must no exceed 25 feet in height.

H. Accessory structures and facilities. All accessory structures and facilities, except those that are water-oriented, must meet or exceed structure setback standards. If each residential lot may have one water-oriented accessory structure or facility located closer to public waters than the structure setback if all of the following standards are met:

(1) The structure or facility must no exceed ten feet in height, exclusive of safety rails, and cannot occupy an area greater than 250 square feet. Detached decks must not exceed eight feet above grade at any point.

(2) The setback of the structure or facility from the ordinary high water level must be at least ten feet.

(3) The structure or facility 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.

(4) The roof may be used as a deck with safety rails, but must not be enclosed or used as a storage area.

(5) The structure or facility must not be designed or used for human habitation and must not contain water supply or sewage treatment facilities.

(6) As an alternative for general development and recreational development waterbodies, water-oriented accessory structures used solely for watercraft storage, and including storage of related boating and water-oriented sporting equipment, may occupy an area up to 400 square feet provided the maximum width of the structure is 20 feet as measured parallel to the configuration of the shoreline.

(7) Any accessory structures or facilities not meeting the above criteria, or any additional accessory structures or facilities must meet or exceed structure setback standards.

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

(1) Stairways and lifts must not exceed four feet in width on residential lots. Wider stairways may be used for commercial properties, public open-spaced recreational properties, and planned unit developments.

(2) Landings for stairways and lifts on residential lots must no exceed 32 square feet in area. Landings larger than 32 square feet may be used for commercial properties, public

open-space recreational properties, and planned unit developments.

(3) Canopies or roofs are not allowed on stairways, lifts, or landings.

(4) Stairways, lifts, and landings may be either constructed above the ground on posts or pilings, or placed into the ground, provided they are designed and built in a manner that ensures control of soil erosion.

(5) Stairways, lifts, and landings must be located in the most visually inconspicuous portions of lots, as viewed from the surface of the public water assuming summer, leaf-on conditions, whenever practical.

(6) Facilities such as ramps, lifts, or mobility paths for physically handicapped persons are also allowed for achieving access to shore areas, provided that the dimensional and performance standards of subitems (1) to (5) are compiled with.

Subp. 4. **Shoreland alterations**. Vegetative alterations and excavations or grading and filling necessary for the construction of structures and sewage treatment systems under validly issued permits for these facilities are exempt from the vegetative alterations standards in this subpart and separate permit requirements for grading and filling. However, the grading and filing conditions of this subpart must be met for issuance of permits for structures and sewage treatment systems. Alterations of vegetation and topography must be control to prevent erosion into public waters, fix nutrients, preserve shoreland aesthethics, preserve historic values, prevent bank slumping, and protect fish and wildlife habitat. Public roads and parking areas, as regulated by subpart 5, are exempt from the provisions of this part.

A. Removal or alterations of vegetation, except for forest management or agricultural uses as provided for in subparts 7 and 8, is allowed according to the following standards:

(1) Intensive vegetation clearing within the shore and bluff impact zones and on steep slopes is not allowed. Intensive vegetation clearing outside of these areas is allowed if the activity is consistent with the forest management standards in subpart 8.

(2) Limited clearing of trees and shrubs and cutting, pruning, and trimming of trees to accommodate the placement of stairways and landings, picnic areas, access paths, permitted water-oriented accessory structures or

facilities, as well as providing a view to the water from the principal dwelling site, in shore and bluff impact zones and on steep slopes is allowed, provided that:

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

(b) along rivers, existing shading of water surfaces is preserved; and

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

(3) Use of only organic fertilizer and bio-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.

B. Before grading or filling on steep slopes or within shore or bluff impact zones involving the movement of more than ten cubic yards of material or anywhere else in a shoreland area involving movement of more than 50 cubic yards of material, it must be established by permit issuance that all of the following conditions will be met. The following conditions must also be considered during subdivision, variance, building permit, and other conditional use permit reviews.

(1) Before authorizing any grading or filling activity in any type 2, 3, 4, 5, 6, 7, or 8 wetland, must consider how extensively the proposed activity would affect the following functional qualities of the wetland:

(a) sediment and pollutant trapping and retention;

(b) storage of surface runoff to prevent or reduce flood damage;

(c) fish and wildlife habitat

(d) recreational use;

(e) shoreline or bank stabilization; or

(f) noteworthiness, including special qualities such as historic significance, critical habitat for endangered plants and animals, or others.

This evaluation must also include a determination of whether the wetland alternation being proposed requires permits, reviews, or approvals by other local or federal agencies such as a watershed district, Environmental Protection Agency, or the United States Army Corps of Engineers.

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

(3) Mulches or similar materials must be used, where necessary, for temporary bare soil coverage, and a permanent vegetation cover must be established as soon as possible.

(4) Methods to minimize soil erosion and to trap sediments before they reach any surface water feature must be used.

(5) Altered areas must be stabilized to acceptable erosion control standards consistent with the field office technical guides of the local soil and water conservation districts and the United States Soil Conservation Service.

(6) Fill or excavated material must not be place in a manner that creates an unstable slope.

(7) Plans to place fill or excavated material on steep slopes must be reviewed by qualified professionals for continued slope stability and must not create finished slopes of 30 percent or greater.

(8) Fill or excavated material must not be placed in bluff impact zones.

(9) Any 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.

(10) Alterations of topography must only be allowed if they are accessory to permitted or conditional uses and do not adversely affect adjacent or nearby properties.

(11) Placement of natural rock riprap, including associated grading of the shoreline and placement of a filter blanket, is permitted if the finished slope does not exceed three feet horizontal to one foot vertical, the landward extent of the riprap is within ten feet of the ordinary high water

level, and the height of the riprap above the ordinary high water level does not exceed three feet.

C. Connection to public waters. Excavations where the intended purpose is connection to a public water, such as boat slips, canals, lagoons, and harbors, must be controlled. Permission for excavations may be given only after the commissioner has approved the proposed connection to public waters.

Subp 5. **Placement and design of roads, driveways, and parking areas**. Public and private roads, driveways, and parking areas must be designed to take advantage of natural vegetation and topography to achieve maximum screening from view from public waters. They must be designed and constructed to minimize and control erosion to public water consistent with the field office technical guides of the local soil and water conservation district, or other applicable technical materials.

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

B. Public and private watercraft access ramps, approach roads, and access-related parking areas may be placed within shore impact zones provided the vegetative screening and erosion control conditions of this subpart are met. For private facilities, the grading and filling provisions of subpart 4, item B, must also be met.

Subp. 6. **Open**.

Subp. 7. **Agricultural use standards**. The agricultural use standards for shoreland areas are contained in items A, B, C, and D.

A. 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.

B General cultivation farming, grazing, nurseries, horticulture, truck farming, sod farming, and wild crop harvesting are permitted uses if steep slopes and shore and bluff impact zones are maintained in permanent vegetation or operated under an approved conservation plan (Resource Management Systems) consistent with the field office technical guides of the United States Soil Conservation Service.

C. Animal feedlots as defined by Mille Lacs Band Statutes are not

allowed. Variances would use the following standards:

(1) New feedlots must not be located in the shoreland of watercourses or in bluff impact zones and must meet a minimum setback of 300 feet from the ordinary high water level of all public waters basins.

(2) Modifications or expansions to existing feedlots that are located within 300 feet of the ordinary high water level or within a bluff impact zone are allowed if they do not further encroach into the existing ordinary high water level setback or encroach on bluff impact zones.

(3) A certification of compliance, interim permit, or animal feedlot permit, when required by Band Law, must be obtained by the owner or operator of an animal feedlot.

D. 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.

Subp. 8. **Forest management standards**. The harvesting of timber and associated reforestation or conversion of forested use to a nonforested use must be conducted consistent with the following standards:

A. Timber harvesting and associated reforestation must be conducted consistent with the provisions of the Mille Lacs Forest Management Plan.

B. Forest land conversion to another use require issuance of a conditional use permit and adherence to the following standards:

(1) shore and bluff impact zones must not be intensively cleared of vegetation; and

(2) 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.

C. 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.

Subp. 9. **Extractive use standards**. Processing machinery must be located consistent with setback standards for structures from ordinary high

water levels of public waters and from bluffs.

An extractive use site development and restoration plan must be developed, approved by the local government, 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 an topographic alterations. It must also identify actions to be taken during operation to mitigate adverse environmental impacts, particularly erosion, and must clearly explain how the site will be rehabilitated after extractive activities end.

Subp. 10. **Standards for commercial, industrial, public, and semipublic uses**. 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. Uses without public waters frontage, or, if located on lots or parcels with public waters frontage, must either be set back double the normal ordinary high water level setback or be substantially screened from view from the water by vegetation or topography, assuming summer, leaf-on conditions. Those with water-oriented needs must meet the following standards:

A. In addition to meeting impervious coverage limits, setbacks, and other zoning standards presented elsewhere in parts 120.25 to 120.39, the uses must be designed to incorporate topographic and vegetative screening of parking areas and structures.

B. Uses the 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.

C. Uses the 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 Chief Law Enforcement offices.

(2) Signs may be placed, when necessary, within the shore impact zone if they are designed and sized to be the minimum necessary to convey needed information. They must only convey the location and mane of the establishment and the general types of goods or services available. The signs must not contain other detailed information such as product bands 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 lights, the lights must be shielded or directed to prevent illumination out across public waters.

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

Subp. 11. **Stormwater management**. The Department must consider proper stormwater management in all reviews, approvals, and permit issuance under shoreland management controls adopted under parts 120.25 to 120.39. The following general and specific standards must be incorporated into local government shoreland management controls and their administration.

A. The following are general 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 maybe used. Preference must be five to designs using surface drainage, vegetation, and infiltration rather than buried pipes and man-made materials and facilities.

B. The following are specific standards:

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

(2) When constructed facilities are used for stormwater

management, they must be designed and installed consistent with the field office technical guide of the U.S. Soil Conservation Service.

(3) New constructed stormwater outflows to public waters must provide for filtering or settling of suspended solids and skimming of surface debris before discharge.

Subp. 12. **Mining of metallic minerals and peat, as defined by Mille Lacs Band Statutes**. Mining of metallic minerals and peat shall be a permitted use provided the provisions special authorization as granted.

120.34 SANITARY PROVISIONS.

Subpart 1. **Open** (see Underground Injection Wells standards)

Subp. 2. **Water supply**. Any public or private supply of water for domestic purposes must meet or exceed standards for water quality of the U.S. Environmental Pollution Program.

Private wells must be located, constructed, maintained, and sealed in accordance with or in a more thorough manner than the Indian Health Service Water Well Construction Code.

Subp. 3. **Sewage treatment**. Any premises used for human occupancy must be provided with an adequate method of sewage treatment.

A. Publicly-owned sewer systems must be used where available.

B. All private sewage treatment systems must meet or exceed applicable rules of the Indian Health Service, specifically chapter 7080 for individual sewage treatment systems, and any applicable local government standards.

C. On-site sewage treatment systems must be set back from the ordinary high water level in accordance with the following table:

Sewage Treatment System Setback Standards

Class	Setback from ordinary high water level (feet)
Natural environment	250
Recreational development	100
General development	100
Remote river segments	250
Forested river segments	150
Transition river segments	150

Agricultural river segments	100
Urban and tributary river segments	100

D. Public Works must develop and implement programs to identify and upgrade sewage treatment systems that are inconsistent with the sewage treatment system design criteria identified in item B, exclusive of the appropriate setback from the ordinary high water level in item C. These programs must require reconstruction of existing nonconforming sewage systems whenever a permit or variance of any type is required for any improvement on, or use of, the property, and must include at least one of the following approaches:

(1) a systematic review of existing records to determine which system in the jurisdiction are nonconforming and requiring reconstruction when practicable;

(2) a systematic on-site inspection program including all properties where adequate record of conformances does not exist, identifying nonconforming or illegal systems and requiring reconstruction when appropriate;

(3) a notification or education program that is oriented toward convincing substantial numbers or property owners to evaluate their sewage systems and voluntarily upgrade the sewage treatment system, in nonconforming; or

(4) other programs found to be acceptable to the commissioner.

120.35 SUBDIVISION PROVISIONS.

Subpart 1. **Land suitability**. Each lot created through subdivision must be suitable in its natural state for the proposed use with minimal alteration. Suitability analysis by the local unit of government shall consider susceptibility to flooding, existence of wetlands, soil and rock formations with severe limitations for development, severe erosion potential, steep topography, inadequate water supply or sewage treatment capabilities, near-shore aquatic conditions unsuitable for water-based recreation, important fish and wildlife habitat, presence of significant historic sites, or nay 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 the community.

Subp. 2. **Platting**. All subdivisions that create five or more lots or parcels that are 2-1/2 acres or less in size must be processed as plats in accordance with Mille Lacs Band Statutes. The Realty office must not record parcels or issue building or sewage permits for lots created after enactment of official controls under parts 120.25 to 120.39 that are not part of officially

approved subdivisions.

Subp. 3. **Consistency with other controls**. Subdivisions must conform to all other official controls adopted under parts 120.25 to 120.39. Realty Office must not approve subdivisions that are designed so variances from one or more standards in official controls would be needed to use the lots for their intended purpose. In areas not served by publicly owned sewer and water systems, subdivisions must not be approved unless domestic water supply is available and soil absorption sewage treatment can be provided for every lot. A lot shall meet the minimum lot size in part 120.33, subparts 2a and 2b, including at least a minimum contiguous lawn area, that is free of limiting factors (location and type of water supply, soil type, depth to groundwater or impervious layer, slope, flooding potential, and other limiting factors), sufficient for the construction of two standard soil treatment systems. Lots that would require use of holding tanks must not be approved.

Subp. 4. **Information requirements**. Subdivision controls must require submission of adequate information to make a determination of land suitability under subpart 1. The information shall include at least the following:

A. topographic contours at five-foot intervals or less from United States Geological Survey maps or more accurate sources, showing limiting site characteristics;

B. the surface water features required in Minnesota Statutes, section 505.02, subdivision 1, to be shown on plats, obtained from United States Geological Survey quadrangle topographic maps or more accurate sources;

C. adequate soils information to determine suitability for building and on-site sewage treatment capabilities for every lot from the most current existing sources or from field investigations such as soil borings, percolation tests, or other methods;

D. information regarding adequacy of domestic water supply; extent of anticipated vegetation and topographic alterations; near-shore aquatic conditions, including depths, types of bottom sediments, and aquatic vegetation; and proposed methods for controlling stormwater runoff and erosion, both during and after construction activities; and

E. location of 100-year flood plain areas from existing maps or data.

Subp. 5. **Dedications**. If areas require land or easement dedications, they must provide easements over natural drainage or ponding areas for management of stormwater and significant wetlands.

120.36 Open

120.37 Open

120.38 PLANNED UNIT DEVELOPMENT.

Subpart 1. **Scope of planned unit development provisions**. Housing must consider incorporating, with approval of the commissioner, provisions into shoreland management controls to allow planned unit developments. The provisions may allow planned unit developments for new projects on undeveloped land, redevelopment of previously built sites, or conversions of existing buildings and land. The provisions must be consistent with standards in this part. During this period between adoption of parts 120.25 to 120.39 and adoption of Housing Authority official meeting the planned unit development standards in part 120.38, preliminary plans for each planned unit development must be reviewed for consistency with part 120.38 and approved by the commissioner before final housing approval.

Subp. 2. **Land use district designation**. If Housing Authority allow planned unit developments, the land use districts in which they are in, an allowable conditional use must be identified in their official controls and on a zoning map. Designation of the districts must be based on consideration of the criteria in part 120.32 and the following criteria:

A. existing recreational use of the surface waters and likely increases in use associated with planned unit developments;

B. physical and aesthetic impacts of increased density;

C. suitability of lands for the planned unit development approach;

D. level of current development in the area; and

E. amounts and types of ownership of undeveloped lands.

Expansions to existing commercial planned unit developments involving up to six dwelling units or sites, unless the density determined under subpart 6, item A is exceeded, may be allowed as permitted used under standards developed. The date of effect of official controls adopted under this part must be the base date for determination of expansions. Expansions exceeding these limits must be processed as conditional uses and meet the standards in this part.

Subp. 3. **Information requirements**. Provisions for submission of adequate information by project proponents must be included in official controls. The provisions must include at least the following:

A. a site plan for the project showing property boundaries, surface water features, existing and proposed structures, sewage treatment systems, topographic contours at ten-foot intervals or less, and other facilities; and

B. documents that explain how the project is designed and will function. These ordinarily include covenants that require membership in a property owners association, various easements, a concept statement describing the project, floor plans for structures, and various other drawings or plans.

Subp. 4. **Dwelling unit or site density evaluation**. Proposed new or expansions to existing planned unit developments must be evaluated using the following procedures and standards:

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

Shoreland Tier Dimensions

	Unsewered (feet)	Sewered (feet)
General development lakes - first tier	250	200
General development lakes - second and additional tiers	300	200
Recreational developments lakes	300	
	267	
Natural environment lakes	400	320
All river classes	300	300

B. The area within each tier is next calculated, excluding all wetlands, bluffs, or land below the ordinary high water level of public waters. This area is then subjected to either the residential (subpart 5) or commercial (subpart 6) planned unit development density evaluation steps to arrive at an allowable number of dwelling units or sites.

Subp. 5. **Residential planned unit development density evaluation steps and design criteria for residential plan and unit developments are contained in items A to D.**

A. The area within each tier is divided by the single residential lot size standard for lakes or, for rivers, the single residential lot width standard times the tier depth unless the local area has specified an alternative minimum lot size for rivers which shall then be used to yield a base density of dwelling units or

sites for each tier. Proposed locations and numbers of dwelling units or sites for the residential planned unit development are then compared with these data and map of the evaluation. Housing may allow some dwelling unit or site density increases for residential planned unit developments above the densities determined in the evaluation if all dimensional standards in part 120.33 are met or exceeded. Maximum density increases may only be allowed if all design criteria in subpart 5, item B, are also met or exceeded. Increases in dwelling unit or site densities must not exceed the maximums in the following table. Allowable densities may be transferred from any tier to any other tier further from the shoreland water body or watercourse, but must not be transferred to any other tier closer.

Maximum Allowable Dwelling Unit or Site Density Increases For Residential Planned Unit Developments

Density evaluation tiers	Maximum density increase within each tier (percent)
First	50
Second	100
Third	200
Fourth	200
Fifth	200

B. The design criteria are:

(1) All residential planned unit developments must contain at least five dwelling units or sites.

(2) Residential planned units developments must contain open space meeting all of the following criteria:

(a) At least 50 percent of the total project must be preserved as open space.

(b) Dwelling unit or sites, roads right-of-way, or land covered by road surfaces, parking areas, or structures, except water-oriented accessory structures or facilities, are developed areas and should not be included in the computation of minimum open space.

(c) Open space must not include 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 the dwelling units or sites, or the public.

(e) The shoreland impact zone, based on normal structure setbacks, must be included as open space. At least 50 percent of the shore impact zone area of existing developments or at least 70 percent of the shore impact zone area of new developments must be preserved in their natural or existing state.

(f) Open space must not include commercial facilities or uses, but may contain water-oriented accessory structures or facilities.

(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.

(h) Open space may include subsurface sewage treatment systems if the use of the space is restricted to avoid adverse impacts on the systems.

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

(a) Residential 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 IHS and EPA. 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

(4) Erosion control and stormwater management for residential planned unit developments must:

(a) Be designed, and their construction managed, to minimized the likelihood of serious erosion occurring either during or after construction. This must be accomplished by limiting the amount and length of time of bare ground exposure. Temporary ground covers, sediment entrapment facilities, vegetated buffer strips or other appropriate techniques must be used to minimize erosion impacts on surface water features. Erosion control plans approved by a soil and water conservation district may be required if project size and site physical characteristics warrant.

(b) Be designed and constructed to effectively manage reasonably expected quantities and qualities of stormwater runoff.

C. Administration and maintenance requirements. Before final approval of all residential planned unit developments, the plan must ensure adequate provisions have been developed for preservation and maintenance in perpetuity of open spaces and for the continued existence and functioning of the development as a community.

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

(a) commercial uses prohibited;

(b) vegetation and topographic alterations other than routine maintenance prohibited;

(c) construction of additional buildings or storage of vehicles and other materials prohibited; and

(d) uncontrolled beaching prohibited.

(2) Development organization and functioning. Unless an equally effective alternative community framework is established, when applicable, all residential planned unit developments must use an owners association with the

dimensional standards for the relevant shoreland classification: setback from the ordinary high water level, elevation above the surface water features, and maximum height. Setbacks from the ordinary high water level must be increased for developments with density increases. Maximum density increases may only be allowed if structure setbacks from the ordinary high water level are increased to at least 50 percent greater than the minimum setback, or the impact on the waterbody is reduced an equivalent amount through vegetative management, topography, or additional means acceptable to the local unit of government and the setback is at least 25 percent greater than the minimum setback.

(c) Shore recreation facilities, including but not limited to swimming areas, docks, and watercraft mooring areas and launching ramps must be centralized and located in areas suitable for them. Evaluation of suitability must include consideration of land slope, water depth, vegetation, soils, depth to ground water 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. Launching ramp facilities, including a small dock for loading and unloading equipment, may be provided for use by occupants of dwelling units or sites located in other tiers.

(d) Structures, parking areas, and other facilities must be treated to reduce visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks, color, or other means acceptable to the local unit of government, assuming summer, leaf-on conditions.

(e) Water-oriented accessory structures and facilities may be allowed if they meet or exceed design standards contained in part 120.33, subpart 3, item H, and are centralized

(f) Accessory structures and facilities may be allowed if they meet or exceed standards in part 120.33, subpart 3, item H, and are centralized.

following features:

(a) Membership must be mandatory for each dwelling unit or site purchaser and any successive purchasers.

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

(c) Assessments must be adjusted to accommodate changing conditions.

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

D. Conversions. The department may allow existing resorts or other land uses and facilities to converted to residential planned unit developments if all of the following standards are met:

(1) Proposed conversions must be initially evaluated using the same procedures and standards presented in this part for developments involving all new construction. Inconsistencies between existing features of the development and these standards must be identified.

(2) Deficiencies involving water supply and sewage treatment, structure color, impervious coverage, open space, and shore recreation facilities must be corrected as part of the conversion or as specified in the conditional use permit.

(3) Shore and bluff impact zone deficiencies must be evaluated and reasonable 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 vegetation 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 are attached to

the IHS. 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 located on suitable areas of the development. They must be designed and located to meet or exceed the following dimensional standards for the relevant shoreland classification: setback from the ordinary high water level, elevation above surface water features, and maximum height. Maximum density increases may only be allowed if structure setbacks from the ordinary high water level are increased to at least 50 percent greater than the minimum setback, or the impact on the waterbody is reduced an equivalent amount through vegetative management, topography or other means acceptable to the local unit of government and the setback is at least 25 percent greater than the minimum setback.

(c) Structures, parking areas, and other facilities must be designed and located in a manner that minimizes their visibility from surface water features, assuming summer, leaf-on conditions. The structure, dwelling unit, accessory structure, or parking area must be treated to reduce visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks, color, or other means acceptable to the local unit of government assuming summer, leaf-on conditions. Vegetative and topographic screening must be preserved, if existing, or may be required to be provided.

(d) Water-oriented accessory structures and facilities may be located within shore impact zones if they meet or exceed design standards contained in part 120.33, subpart 3, item H.

(e) Shore recreation facilities, including but not limited to swimming areas, docks, and watercraft mooring areas and launching ramps, must be centralized and located in areas suitable for them. Evaluation of suitability must include consideration of land slope, water depth,

ft.)	segments	segments	segments
200	.040	.020	.010
300	.048	.024	.012
400	.056	.028	.014
500	.065	.032	.016
600	.072	.038	.019
700	.082	.042	.021
800	.091	.046	.023
900	.099	.050	.025
1,000	.108	.054	.027
1,100	.116	.058	.029
1,200	.125	.064	.032
1,300	.133	.068	.034
1,400	.142	.072	.036
1,500	.150	.075	.038

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

(3) Multiply the usable area within each tier by the floor area ratio to yield total floor area for each tier allowed to be used for dwelling units or sites.

(4) Divide the area computed in subitem (3) by the average determined in subitem (1). This yields a base number of dwelling units and sites for each tier.

(5) Determine whether the project is eligible for any additional density increases. To be eligible, projects must meet all of the design standards in item B, and exceed one or more of them. The local unit of government may decide how much, if any, increase in density to allow for each tier, but must not exceed the maximum allowable density increases listed in the following table:

Maximum Allowable Dwelling Unit Or Site Density Increases For Commercial Planned Unit Developments

Tier	Maximum density increase within each tier (percent)
First	50
Second	100

approvals of conversions that preclude exterior expansion in any dimension or substantial alterations. The conditions must also provide for future relocation of dwelling units, where feasible, to other locations, meeting all setback and elevation requirements when they are rebuilt or replaced.

(4) Existing dwelling unit or dwelling site densities that exceed standards in this part may be allowed to continue but must not be allowed to be increased, either at the time of conversion or in the future. Efforts must be made during the conversion to limit impacts of high densities by requiring seasonal use, improving vegetative screening, centralizing shore recreation facilities, installing new sewage treatment systems, or other means.

Subp. 6. **Commercial planned unit development density evaluation steps and design criteria.** The density evaluation steps and design criteria for commercial planned unit developments are contained in items A and B.

A. Density evaluation steps:

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

(2) Select the appropriate floor area ratio from the following table:

Commercial Planned Unit Development
Floor Area Ratios*
Public waters classes

Average unit floor area (sq.	Sewered general development lakes; first tier on unsewered general development lakes; urban, agricultural, tributary river	Second and additional tiers on unsewered general development lakes; recreational development lakes; transition and forested river	Natural environment lakes; remote river

vegetation, soils, depth to groundwater and bedrock, or other relevant factors. The number of watercraft allowed to be continuously beached, moored, or docked must not exceed one for each allowable dwelling unit or site in the first tier, notwithstanding existing mooring sites in an existing harbor. Launching ramp facilities, including a small dock for loading and unloading equipment, may be provided for use by occupants of dwelling units or sites located in other tiers.

(3) Erosion control and stormwater management for commercial planned unit developments must:

(a) Be designed, and their construction managed, to minimize the likelihood of serious erosion occurring either during or after construction. This must be accomplished by limiting the amount and length of time of bare ground exposure. Temporary ground covers, sediment entrapment facilities, vegetated buffer strips, or other appropriate techniques must be used to minimize erosion impacts on surface water features. Erosion control plans approved by a soil and water conservation district may be required if project size and site physical characteristics warrant.

(b) Be designed and constructed to effectively manage reasonably expected quantities and qualities of stormwater runoff. Impervious surface coverage within any tier must not exceed 25 percent of the tier area, except 35 percent impervious surface coverage may be allowed in the first tier of general development lake with an approved stormwater management plan and consistency with part 120.33, subpart 4.

120.39 ADMINISTRATION.

Subpart 1. **Administration and enforcement**. The department will provide for the administration and enforcement of their shoreland management controls by establishing permit procedures for building construction, installation of sewage treatment systems, and grading and filling.

Subp. 2. **Open**.

Subp. 3. **Variances**. Variances may only be granted in accordance with

Third	200
Fourth	200
Fifth	200

(6) Allowable densities may be transferred from any tier to any other tier further from the shoreland lake or river, but must not be transferred to any other tier closer.

B. The design criteria are:

(1) Open space. Commercial 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 unit or sites, road rights-of-way, or land covered by road surfaces, or parking areas, except water-oriented accessory structures or facilities, are developed areas and should not be included in the computation of open space.

(c) Open space must include area with physical characteristics unsuitable for development in their natural state, and areas containing significant historic sites or unplatted cemeteries.

(d) All shore impact zones within commercial planned unit developments must be included as open space, and at least 50 percent of these areas must be preserved in their natural or existing state.

(e) Open space may include outdoor recreation facilities for use by guests staying in dwelling units or sites, or the public.

(f) Open space may include subsurface sewage treatment systems if use of the space is restricted to avoid adverse impacts on the systems.

(2) Design of structures and facilities must be done according to the following standards:

(a) Commercial 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 designed and installed to meet or exceed applicable rules of

Mille Lacs Band Statutes, as applicable. They may not circumvent the general purposes and intent of the official controls. No variance may be granted that would allow any use that is prohibited in the zoning district in which the subject property is located. Conditions may be imposed in the granting of variances to ensure compliance and to protect adjacent properties and the public interest. In considering variance requests, boards of adjustment must also consider whether property owners have reasonable use of the lands without the variances, whether existing sewage treatment systems on the properties need upgrading before additional development is approved, whether the properties are used seasonally or year-round, whether variances are being requested solely on the basis of economic considerations, and the characteristics of development on adjacent properties.

Subp. 3a. **Conditional uses**. In addition to any existing standards the department may have for reviewing conditional uses, the following standards must be incorporated into local controls and used for reviewing conditional uses located in shoreland areas:

A. a thorough evaluation of the topographic, vegetation, and soils conditions on the site to ensure:

(1) prevention of soil erosion or other possible pollution of public waters, both during and after construction;

(2) limiting visibility of structures and other facilities as viewed from public waters; and

(3) adequacy of the site for water supply and on-site sewage treatment; and

B. an 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.

The department may impose conditions when granting conditional use permits that specify: increased setbacks from public waters; vegetation allowed to be removed or required to be established; sewage treatment system location, design, or use; location, design, and use requirements for watercraft launching or docking, and for vehicular parking; structure or other facility design, use, and location; phasing of construction; and other conditions considered necessary by the local unit of government.

Subp. 4. **Nonconformities**.

A. Public Works must require upgrading or replacement of any existing, on-site sewage treatment system identified as a nonconformity under a program established under part 120.34. Systems installed according to all applicable local

shoreland management standards adopted under Minnesota Statutes, section 105.485, in effect at the time of installation may be considered as conforming unless they are determined to be failing, except that systems using cesspools, leaching pits, seepage pits, or deep disposal methods, or systems with less soil treatment area separation above groundwater than required by Band Law, shall be considered nonconforming.

B. All nonconformities other than on-site sewage treatment systems must be managed according to applicable Mille Lacs Band Statutes and Commissioners Order.

Subp. 5. **Joint exercise of powers.** To facilitate more logical, consistent, and efficient administration of shoreland management controls, local governments are encouraged to enter into joint powers agreements.

Subp. 6. **Notification procedures.**

A. Copies of all notices of any public hearings to consider variances, amendments, or conditional uses under local shoreland management controls must be sent to the commissioner or the commissioner's designated representative and postmarked at least ten days before the hearings. Notices of hearings to consider proposed plats must include copies of the plats.

B. A copy of approved amendments and plats, and final decisions granting variances or conditional uses under local shoreland management controls must be sent to the commissioner or the commissioner's designated representative and postmarked within ten days of final action.

DATED at Vineland, Minnesota, this 30th day of March in the year one thousand nine hundred and ninety-three.

Don Wedll
Commissioner of Natural Resources

APPROVED AND NUMBER AS TO
FORM AND EXECUTION

James F. Pence
Solicitor General

OFFICIAL SEAL OF THE BAND