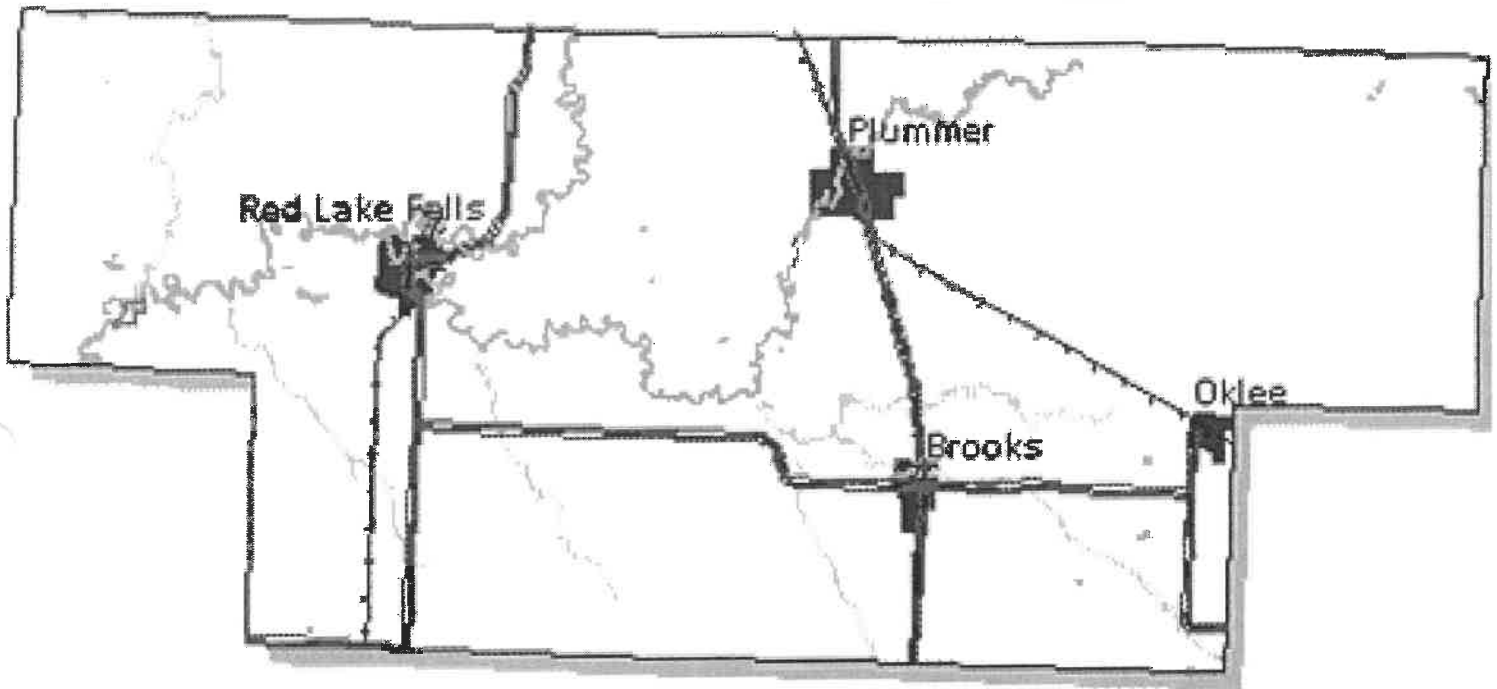


# RED LAKE COUNTY



## SHORELAND ORDINANCE Update 2010



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# SHORELAND MANAGEMENT ORDINANCE

## SECTION 1.0 – STATUTORY AUTHORIZATION AND POLICY

### 1.1 Statutory Authorization

This Shoreland ordinance is adopted pursuant to the authorization and policies contained in Minnesota Statutes, Chapter 103F, Minnesota Regulations, Parts 6120.2500 to 6120.3900, and the planning and zoning enabling legislation in Minnesota Statutes, Chapter 394.

### 1.2 Policy

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

## SECTION 2.0 – GENERAL PROVISIONS AND DEFINITIONS

### 2.1 Jurisdiction

The provisions of this ordinance shall apply to the shorelands of the public water bodies as classified in Section 4.0 of this ordinance. Pursuant to Minnesota Regulations, Parts 6120.2500 to 6120.3900, no lake, pond, or flowage less than 10 acres in size in municipalities or 25 acres in size in unincorporated areas need be regulated in a local government's shoreland regulations. A body of water created by a private user where there was no previous shoreland may at the discretion of the governing body, be exempt from this ordinance. The City of Red Lake Falls, Plummer, Oklee and Brooks shall have jurisdiction over shorelands within their incorporated areas unless given to the County by their governing Council's resolution. Shoreland within State and Federal owned lands shall be exempted from this ordinance.

### 2.2 Compliance

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

## **2.3 Enforcement**

The Shoreland Officer, of Red Lake County SWCD, has been delegated by the Red Lake County Board of Commissioners, as the lead agency for implementing the Red Lake County Shoreland Ordinance, and is responsible for the administration and enforcement of this ordinance. Any violation of the provisions of this ordinance or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances and conditional uses) shall constitute a misdemeanor and shall be punishable as defined by law. Violations of this ordinance can occur regardless of whether or not a permit is required for a regulated activity pursuant to Section 3.1, of this ordinance.

## **2.4 Interpretation**

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

## **2.5 Severability**

If any section, clause, provision, or piece of this ordinance is adjusted unconstitutional or invalid by a court of capable jurisdiction, the remainder of this ordinance shall not be affected thereby.

## **2.6 Abrogation and Greater Restrictions**

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

## **2.7 Definitions**

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to have the same meaning as in common usage and to give this ordinance its most reasonable application. For the purpose of this ordinance, the words “must” and “shall” are mandatory and not permissive. All distances, unless otherwise specified, shall be measured horizontally.

**2.711 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 located at or greater than normal structure setbacks.

**2.712 Animal Feedlot.** “Animal feedlot” means a lot or building, intended for the confined feeding, breeding, raising or holding of animals, specifically designed as a confinement area in which manure may accumulate, or a vegetative cover cannot be maintained within the enclosure. For the purpose of this ordinance, and the Minnesota Pollution Control Agency (MPCA) Feedlot Rules, open lots used for the feeding and rearing of poultry (poultry ranges) shall be considered to be animal feedlots. Pastures are not considered to be animal feedlots under the MPCA rules. For additional animal feedlot rules refer to the Red Lake County Animal Feedlot and Manure Management Ordinance.



- 2.713 Bluff.** “Bluff” means a topographical feature such as a hill, cliff, or embankment having the following characteristics (an area with an average slope of less than 18 percent over a distance for 50 feet or more shall not be considered part of the bluff):
- (1) Part or all of the feature is located in a shoreland area;
  - (2) The slope rises at least 25 feet above the ordinary high water level of the waterbody;
  - (3) The grade of the slope from the toe of the bluff to a point 25 feet or more above the ordinary high water level averages 30 percent or greater; and
  - (4) The slope must drain toward the waterbody.
- 2.714 Bluff Impact Zone.** “Bluff impact zone” means a bluff and land located within 100 feet from the top of a bluff.
- 2.715 Board of Adjustment.** “Board of Adjustment” means a committee of three (3) or more people consisting of the Shoreland Officer, a SWCD Board Member, and a County Commissioner Representative, who perform the duties set forth for them in this ordinance.
- 2.716 Boathouse.** “Boathouse” means a structure designed and used solely for the storage of boats or boating equipment.
- 2.717 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.
- 2.718 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.
- 2.719 Commercial Use.** “Commercial use” means the principal use of land or building for the sale, lease, rental, or trade of products, goods, and services.
- 2.720 Commissioner.** “Commissioner” means the commissioner of the Department of Natural Resources.
- 2.721 Conditional Use.** “Conditional use” means a land use or development as defined by ordinance that would not be appropriate generally but may be allowed with appropriate restrictions as provided by official controls upon a finding that certain conditions as detailed in the zoning ordinance exist, the use or development conforms to the comprehensive land use plan of the county, and the use is compatible with the existing neighborhood.
- 2.722 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 the ground.

- 2.723 Duplex, Triplex, and Quad.** “Duplex, triplex, and quad” means a dwelling structure on a single lot, having two, three, or four units, respectively, being attached by common walls and each unit equipped with separate sleeping, cooking, eating, living, and sanitation facilities.
- 2.724 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.
- 2.725 Dwelling Unit.** “Dwelling unit” means any structure or portion of a structure, or other shelter designed as short or long term quarters for one or more persons, including rental or timeshare accommodations such as motel, hotel, and resort rooms and cabins.
- 2.726 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 not regulated under Minnesota Statutes, Sections 93.44 to 93.51.
- 2.727 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.
- 2.728 Guest Cottage.** “Guest cottage” means a structure used as a dwelling unit that may contain sleeping spaces and kitchen and bathroom facilities in addition to those provided in the primary dwelling unit on a lot.
- 2.729 Hardship.** “Hardship” means the same as that term is defined in Minnesota Statutes, Chapter 394.
- 2.730 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 lowest, and the highest point of a flat roof or average height of the highest gable of a pitched or hipped roof.
- 2.731 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.
- 2.732 Intensive Vegetation Clearing.** “Intensive vegetation clearing” means the complete removal of trees or shrubs in a contiguous patch, strip, row, or block.
- 2.733 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.
- 2.734 Lot Width.** “Lot width” means the shortest distance between lot lines measured at the midpoint of the building line.

- 2.735 Nonconformity.** “Nonconformity” means any legal use, structure or parcel of land already in existence, recorded or authorized before the adoption of official controls or amendments thereto that would not have been permitted to become established under the terms of the official controls as now written, if the official controls had been in effect prior to the date it was established, recorded or authorize.
- 2.736 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.
- 2.737 Planned Unit Development.** “Planned Unit Development (PUD)” 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 spaces, 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 subdivision of dwelling units, residential condominiums, townhouses, apartment buildings, campgrounds, recreational vehicle parks, resorts, hotels, motels, and conversions of structures and land uses to these uses.
- 2.738 Public Waters.** “Public waters” means any waters as defined in Minnesota Statutes, Section 103G.005, *Subdivisions 15 and 15a*, and as shown on the Department of Natural Resources (DNR) Protected Waters and Wetlands Map for Red Lake County.
- 2.739 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. To qualify as a residential planned unit development, a development must contain at least five dwelling units or sites.
- 2.740 Semipublic Use.** “Semipublic use” means the use of land by a private, nonprofit organization to provide a public service that is ordinarily open to some persons outside the regular constituency of the organization.
- 2.741 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 and fauna in need of special protection.

- 2.742 Sequencing.** “Sequencing” means to first try to avoid, than to minimize the impact if unable to avoid and than to develop a replacement plan for impacted wetlands as defined in the Minnesota Wetland Conservation Act (WCA) Chapter 354, as amended.
- 2.743 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.
- 2.744 Sewage Treatment System.** “Sewage treatment system” means a septic tank and soil absorption system, a Subsurface Sewage Treatment System (SSTS) or cluster type sewage treatment system as described and regulated in Section 5.8, of this ordinance.
- 2.745 Sewer System.** “Sewer system” means pipeline or conduits, pumping stations, and force main, and all other construction, devices, appliances, or appurtenances used for conducting sewage or industrial waste or other wastes to a point of ultimate disposal.
- 2.746 Shore Impact Zone.** “Shore impact zone” means land located between the ordinary high water level of public waters and a line parallel to it at a setback of 50 percent of structure setback.
- 2.747 Shoreland.** “Shoreland” means land located within the following distances from public waters: 1,000 feet from the ordinary high water level of a lake, pond, or flowage; and 300 feet from the ordinary high water level (OHWL) of a river or stream, or the landward extent of a 100 year floodplain, designated by ordinance on a river or stream; whichever is greater. The limits of shorelands may be reduced whenever the waters involved are bounded by topographic divides which extend landward from the waters for lesser distances and when approved by the commissioner.
- 2.748 Significant Historic Site.** “Significant historic sites” 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 State Register of Historic Sites, or is determined to be an unplatted cemetery that falls under the provisions of Minnesota Statutes, Section 307.08. A historic site meets these criteria if it is presently listed on either register or if it is determined to meet the qualifications for listing after review by the Minnesota State Archaeologist or the Director of the Minnesota Historical Society. All unplatted cemeteries are automatically considered to be significant historical sites.
- 2.749 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 appropriate design and construction techniques and farming practices are used in accordance with the provisions of this ordinance. Where specific information is not available, steep slopes are lands having average slopes over 12 percent, as measured over horizontal distances of 50 feet or more, that are not bluffs. These are soils mapped as having “D” or greater slopes in the soil survey.

- 2.750 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.
- 2.751 Subdivision.** “Subdivision” means land that is divided for the purpose of sale, rent, or lease, including planned unit developments.
- 2.752 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.
- 2.753 Technical Evaluation Panel.** “Technical Evaluation Panel (TEP)” means the same as that term described in the Board of Water and Soil Resources (BWSR) Wetland Conservation Act (WCA) Minnesota Regulations, Chapter 8420, and include the Department of Natural Resources (DNR) Area Hydrologist as a member.
- 2.754 Toe of the Bluff.** “Toe of the bluff” means the lower point of a 50-foot segment with an average slope exceeding 18 percent.
- 2.755 Top of the Bluff.** “Top of the bluff” means the higher point of a 50-foot segment with an average slope exceeding 18 percent.
- 2.756 Variance.** “Variance” means the same as that term is defined or described in Minnesota Statutes, Section 394.
- 2.757 Water-Oriented Accessory Structure or Facility.** “Water-oriented accessory structure or facility” means a small, above ground building or other improvements, except stairways, fences, docks, and retaining walls, which because of the relationship of its use to a surface water feature, reasonably needs to be located closer to public waters than the normal structure setback. Examples of such structures and facilities include boathouses, gazebos, screen houses, fish houses, pump houses, and detached decks.
- 2.758 Wetland.** “Wetland” means a surface water feature classified as a wetland in the United States Fish and Wildlife Service Circular No. 39 (1971 Edition) and meets the requirement for delineation by the 1987 Army Corp of Engineers’ Manual.

## SECTION 3.0 – ADMINISTRATION

### 3.1 Permits Required

- 3.11 A permit is required for the construction of buildings or building additions (and including such related activities as construction of decks and signs), the installation and/or alteration of sewage treatment systems, and those grading and filing activities not exempted by Section 5.3, of this ordinance. Application for a permit shall be made to the Shoreland Officer on the forms provided. The application shall include the necessary information so that the Shoreland Officer can determine the site's suitability for the intended use and that a compliant sewage treatment system will be provided.
- 3.12 A permit authorizing an addition to an existing structure shall stipulate that any identified nonconforming sewage treatment system, as defined by Section 5.8, of this ordinance, shall be reconstructed or replaced in accordance with the provisions of this ordinance. A Red Lake County Subsurface Sewage Treatment System (SSTS) permit shall be obtained.
- 3.13 A copy of a Wetland Conservation Act (WCA) Certificate of No Loss or Exemption, or proof that an approved Replacement Plan is in place, will be required before a permit is issued.

### 3.2 Certificate of Zoning Compliance

The Shoreland Officer shall issue a certificate of zoning compliance for each activity requiring a permit as specified in Section 3.1, of this ordinance. This certificate will specify that the use of land conforms to the requirements of this ordinance. Any use, arrangement, or construction at variance with that authorized by permit shall be deemed a violation of this ordinance and shall be punishable as provided in Section 2.3, of this ordinance.

The Minnesota Pollution Control Agency (MPCA) has established criteria for animal feedlots that are determined to be in shoreland areas and mandates what is necessary to be permitted and granted a certificate of compliance in shoreland areas.

### 3.3 Variances

- 3.31 Variances may only be granted in accordance with Minnesota Statutes, Chapter 394. A variance may not circumvent the general purposes and intent of this ordinance. No variance may be granted that would allow any use that is prohibited in the Land Use District in which the subject property is located. Conditions may be imposed in the granting of a variance to ensure compliance and to protect adjacent properties and the public interest. In considering a variance request, the Board of Adjustment must also consider whether the property owner has reasonable use of the land without the variance, whether the property is used seasonally or year-round, whether the variance is being requested solely on the basis of economic considerations, and the characteristics of development on adjacent properties.

- 3.32 The Board of Adjustment shall hear and decide requests for variances in accordance with rules that it has adopted for the conduct of business. When a variance is approved after the Department of Natural Resources has formally recommended denial in the hearing record, the notification of the approved variance required in Section 3.42, of this ordinance, below shall also include the board of adjustment's summary of the public record/testimony and the findings of facts and conclusions which supported the issuance of the variance.
- 3.33 For existing developments, the application for variance must clearly demonstrate whether a conforming sewage treatment system is present for the intended use of the property. The variance, if issued, must require reconstruction of a nonconforming sewage treatment system.

#### 3.4 Notification to the Department of Natural Resources

- 3.41 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 the hearings to consider proposed subdivisions/plats must include copies of the subdivision/plat.
- 3.42 A copy of approved amendments and subdivisions/plats, and final decisions granting variances or conditional uses under local shoreland management controls must be sent to the commissioner or the commissioner's designated representative and postmarked within ten days of final action.

### SECTION 4.0 – SHORELAND CLASSIFICATION SYSTEM AND LAND USE DISTRICTS

#### 4.1 Shoreland Classification Systems (as Classified by the Department of Natural Resources)

The public waters of Red Lake County have been classified below consistent with the criteria found in Minnesota Regulations, Part 6120.3000, and the Protected Waters Inventory (PWI) Map for Red Lake County, Minnesota.

- 4.11 **Shoreland Area.** The shoreland area for the waterbodies listed in Sections 4.12 and 4.13, of this ordinance, shall be as defined in Section 2.747, of this ordinance, and as shown on the Land Use Districts Map (Appendix A).

#### 4.12 Lakes and Basins

<u>A. Natural Environmental Lakes:</u>	<u>Public Waters ID#</u>
<u>Huot Slough</u>	63 – 2w (Section 28; T151N, R45W)
<u>Moran Slough</u>	63 – 1P (Section 21; T151N, R45W)

#### 4.13 Rivers and Streams

##### A. Transition Rivers:

##### Legal Description

Red Lake River

From South Section Line in SW ¼  
Section 13; T151N, R44W  
To West Section Line in SW ¼  
Section 15; T151N, R44W

##### B. Agricultural Rivers:

Clearwater River

From East Section Line, (Pennington Co. Line)  
Section 36; T152N, R40W  
To Entering the Red Lake River in SW ¼  
Section 15; T151N, R44W

Hill River

From East Section Line, (Polk Co. Line)  
Section 36; T150N, R41W  
To Entering the Lost River in the SW ¼  
Section 4; T151N, R42W

Lost River

From East Section Line, (Polk Co. Line)  
Section 1; T150N, R41W  
To Entering the Clearwater River in NW ¼  
Section 6; T150N, R42W

Red Lake River

From North Section Line (Pennington Co. Line)  
Section 29; T152N, R43W  
To South Section Line, (Polk Co. Line)  
Section 33; T151W, R45W

##### C. Tributary Streams:

Badger Creek  
(County Ditch # 3)

From South Section Line, (Polk Co. Line)  
Section 34; T150N, R43W  
To Entering the Clearwater River in NW ¼  
Section 36; T151N, R44W

Beau Gerlot Creek  
(County Ditch # 2)

From South Section Line, (Polk Co. Line)  
Section 36; T150N, R43W  
To Entering the Clearwater River in NE ¼  
Section 31; T151, R43W

Black River

From North Section Line, (Pennington Co. Line)  
Section 26; T152N, R45W  
To Entering the Red Lake River in SE ¼  
Section 28; T151N, R45W



Brook's Creek	<u>From 900 Feet North of South Section Line</u> <u>Section 32; T150N, R41W</u> <u>To Entering the Hill River in SE ¼</u> <u>Section 10; T150N, R42W</u>
Brown's Creek	<u>From East Section Line, NE 1/4</u> <u>Section 33; T152N, R44W</u> <u>To Entering the Black River in SE ¼</u> <u>Section 35; T152N, R45W</u>
<u>County Ditch # 9</u>	<u>From East Half Mile Line, NW ¼,</u> <u>Section 13; T150N, R41W</u> <u>To Entering the Lost River in NW ¼</u> <u>Section 4; T150N, R41W</u>
Cyr Creek	<u>From South Section Line, (JD # 66, East Branch)</u> <u>Section 26; T150N, R44W</u> <u>To Entering the Red Lake River in NW ¼</u> <u>Section 25; T151, R45W</u>
<u>Judicial Ditch # 11</u>	<u>From North Section Line, (Pennington Co. Line)</u> <u>Section 27; T152N, R42W</u> <u>To Entering the Clearwater River in the Center</u> <u>Section 34; T152N, R42W</u>
<u>Kripple Creek</u> <u>(Judicial Ditch # 66 west branch)</u>	<u>From South Section Line, (Polk Co. Line)</u> <u>Section 32; T150N, R44W</u> <u>To West Section Line, (Polk Co. Line)</u> <u>Section 30; T150N, R44W</u>
<u>Little Black River</u> <u>(Diverted channel)</u>	<u>From Goose Lake Impoundment in NW ¼</u> <u>Section 29; T152N, R45W</u> <u>To Entering the Black River in NW ¼</u> <u>Section 10; T151N, R45W</u>
<u>Miller Creek</u> <u>(County Ditch # 10)</u>	<u>From North Section Line,</u> <u>Section 15; T151N, R43W</u> <u>To Entering the Clearwater River in SW ¼</u> <u>Section 27; T151N, R43W</u>
Poplar River	<u>From South Section Line, (Polk Co. Line)</u> <u>Section 34; T150N, R42W</u> <u>To Entering the Lost River in SE ¼</u> <u>Section 6; T150N, R42W</u>

Seeger Dam Creek

From West Section Line,  
Section 28; T151N, R44W  
To Entering the Red Lake River in SW ¼  
Section 19; T151N, R44W

Terrebonne Creek  
(County Ditch # 4)

From South Section Line, SW ¼  
Section 33; T150N, R42W  
To Entering the Clearwater River in NE ¼  
Section 3; T150N, R43W

Unnamed Creek

From North Section Line, (Pennington Co. Line)  
Section 26; T152N, R45W  
To Entering the Black River, 900 Feet South  
Section 26; T152N, R45W

## 4.2 Land Use District Descriptions

**4.21 Criteria for Designation.** The land use districts in Section 4.22, of this ordinance, and the delineation of a land use district's boundaries on the Land Use Districts Map must be consistent with the goals, policies, and objectives of the **comprehensive land use plan**, when available, and the following criteria, considerations, and objectives:

### A. General Considerations and Criteria for All Land Uses:

- (1) Preservation of natural areas;
- (2) Present ownership and development of shoreland areas;
- (3) Shoreland soil types and their engineering capabilities;
- (4) Topographic characteristics;
- (5) Vegetative cover;
- (6) In-water physical characteristics, values, and constraints;
- (7) Recreational use of the surface water;
- (8) Road and service center accessibility;
- (9) Socioeconomic development needs and plans as they involve water and related land resources;
- (10) The land requirements of industry which, by its nature, requires location in shoreland areas; and
- (11) The necessity to preserve and restore certain areas having significant historical or ecological value.

## B. Factors and Criteria for Planned Unit Developments:

- (1) Existing recreational use of surface waters and likely increases in use associated with planned unit developments;
- (2) Physical and aesthetic impacts of increased density;
- (3) Suitability of lands for the planned unit development approach;
- (4) Level of current development in the area; and
- (5) Amounts and types of ownership of undeveloped lands.

**4.22 Land Use District Descriptions.** The land use districts provided below and the allowable land uses therein for the given classifications of waterbodies, shall be properly delineated on the Land Use Districts Map for the shorelands of this county. These land use districts are in conformance with the criteria specified in Minnesota Regulation, Part 6120.3200 Subpart 3:

*P = Permitted Use                      C = Conditional Use                      N = Prohibited Use*

### A. Land Use Districts for Lakes and Basins:

<i>(1)      <u>General Use District-Uses:</u></i>	<i><u>Natural Environmental Lake</u></i>
<u>Agricultural: Cropland and Pasture</u>	<u>P</u>
<u>Animal Feedlots</u>	<u>P</u>
<u>Forest Management</u>	<u>P</u>
<u>Mining of Metallic Minerals and Peat</u>	<u>P</u>
<u>Parks and Historic Sites</u>	<u>P</u>
<u>Public, Semipublic</u>	<u>P</u>
<u>Sensitive Resource Management</u>	<u>P</u>
<u>Single Residential</u>	<u>P</u>
<u>Commercial</u>	<u>C</u>
<u>Commercial Planned Unit Development**</u>	<u>C</u>
<u>Duplex, Triplex, Quad Residential</u>	<u>C</u>
<u>Extractive Use</u>	<u>C</u>
<u>Residential Planned Unit Developments</u>	<u>C</u>
<u>Surface Water Oriented Commercial*</u>	<u>C</u>
<u>Industrial</u>	<u>N</u>

\*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 provision of Section 8.0, of this ordinance, are satisfied.

Note: When shoreland management areas for basins and streams overlap the most restrictive shall apply.

*P = Permitted Use*

*C = Conditional Use*

*N = Prohibited Use*

**B. Land Use Districts for Rivers and Streams:**

<b>(1) <u>Residential District – Uses:</u></b>	<b><u>Transition</u></b>	<b><u>Agricultural</u></b>	<b><u>Tributary</u></b>
Forest Management	P	P	P
Mining of Metallic Minerals and Peat	P	P	P
Single Residential	P	P	P
Duplex, Triplex, Quad Residential	C	C	CP
Extractive Use	C	C	CP
Parks and Historic Sites	C	C	P
Public, Semipublic	C	C	P
<u>Agricultural: Cropland and Pasture</u>	P	P	P
<u>Sensitive Resource Management</u>	P	P	P
<u>Animal Feedlots</u>	C	C	C
<u>Commercial</u>	C	C	C
<u>Commercial Planned Unit Development**</u>	C	C	C
<u>Residential Planned Unit Developments</u>	C	C	C
<u>Surface Water Oriented Commercial*</u>	C	C	C
<u>Industrial</u>	N	N	N

<b>(2) <u>General Use District-Uses:</u></b>	<b><u>Transition</u></b>	<b><u>Agricultural</u></b>	<b><u>Tributary</u></b>
Forest Management	P	P	P
Mining of Metallic Minerals and Peat	P	P	P
Commercial	C	C	C
Commercial Planned Unit Development**	C	C	C
Extractive Use	C	C	C
Parks and Historic Sites	C	C	C
Public, Semipublic	C	C	C
Industrial	N	N	C
<u>Agricultural: Cropland and Pasture</u>	P	P	P
<u>Sensitive Resource Management</u>	P	P	P
<u>Single Residential</u>	P	P	P
<u>Animal Feedlots</u>	C	C	C
<u>Duplex, Triplex, Quad Residential</u>	C	C	C
<u>Residential Planned Unit Developments</u>	C	C	C
<u>Surface Water Oriented Commercial*</u>	C	C	C

\*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 provision of Section 8.0, of this ordinance, are satisfied.

Note: When shoreland management areas for basins and streams overlap the most restrictive shall apply.

#### 4.23 Use and Upgrading of Inconsistent Land Use Districts

- A. Red Lake County has not adopted a Zoning Ordinance and therefore does not have an Official Zoning Map. For the purpose of this ordinance Red Lake County has assigned land use districts to its shoreland as defined in Section 2.747, of this ordinance, based on the criteria specified in Section 4.21, of this ordinance, herein and established there boundaries on the Land Use Districts Map (Appendix A). When and if a Zoning Ordinance is adopted these Land Use Districts will be incorporated into the land use district boundaries shown on the Official Zoning Map to prevent inconsistent Land Use Districts.
- B. When a revision is proposed to an inconsistent land use district provision, the following additional criteria and procedures shall apply:
- (1) For Lakes and Basins. When a revision to a land use district designation on a lake or basin is considered, the land use district boundaries and the use provisions therein for all the shoreland areas within the jurisdiction of this ordinance on said lake or basin must be revised to make them substantially compatible with the framework in Sections 4.21 and 4.22, of this ordinance; and
  - (2) For Rivers and Streams. When a revision to a land use district designation on a river or stream is proposed, the land use district boundaries and the use provisions therein for all shoreland on both sides of the river or stream within the same classification within the jurisdiction of this ordinance must be revised to make them substantially compatible with the framework in Sections 4.21 and 4.22, of this ordinance. If the same river classifications are contiguous for more than a five-mile segment, only the shoreland for a distance of 2.5 miles upstream and 2.5 miles downstream, or to the class boundary if closer, needs to be evaluated and revised.
- C. When an interpretation question arises about whether a specific land use fits within a given “use” category, the interpretation shall be made by the Board of Adjustment. When a question arises as to whether a land use district’s boundaries are properly delineated on the Land Use Districts Map or the Official Zoning Map if in place, the decision shall be made by the Red Lake County Board of Commissioners.
- D. When a revision is proposed to an inconsistent land use district provision by an individual party or landowner, this individual party or landowner will only be responsible to provide the supporting and/or substantiating information for the specific parcel in question. The Red Lake County Board of Commissioners will direct the Shoreland Officer to provide such additional information for this waterbody as is necessary to satisfy Items A and B.
- E. The Red Lake County Board of Commissioners must make a detailed finding of fact and conclusion when taking final action that this revision, and the upgrading of any inconsistent land use district designations on said waterbody, are consistent with the enumerated criteria and use provisions of Section 4.2, of this ordinance.

## SECTION 5.0 - ZONING AND WATER SUPPLY / SANITARY PROVISIONS

### 5.1 Lot Area and Width Standards

The lot area (in square feet) and lot width standards (in feet) for single, duplex, triplex, and quad residential lots created after the date of enactment of this ordinance for the lake/basin and river/stream classifications are the following:

#### 5.11 Unsewered Lakes and Basins

A. Natural Environment (duplex, triplex and quad are prohibited uses):

\*Lot Area in square feet

\*Lot Width in feet

	<u>Riparian Area</u>	<u>Lot Width</u>	<u>Non-riparian Area</u>	<u>Lot Width</u>
<u>Single</u>	80,000	200	80,000	200

#### 5.12 River/Stream Lot Width Standards

The minimum lot size requirements for rivers and streams are 43,560 square feet in un-incorporated areas. The lot width standard (in feet) for single, duplex, triplex, and quad residential developments for the river/stream classifications are:

	<u>Lot Width</u>		<u>Urban &amp; Tributary</u>	
	<u>Transitional</u>	<u>Agricultural</u>	<u>Sewerd</u>	<u>Nonsewerd</u>
Single	250	150	100	75
Duplex	375	225	150	115
Triplex	500	300	200	150
Quad	625	375	250	190

#### 5.13 Additional Special Provisions

- A. Residential subdivisions with dwelling unit densities exceeding those in the tables in Sections 5.11 and 5.12, of this ordinance, can only be allowed if designed and approved as residential planned unit developments under Section 8.0, of this ordinance. Only land above the ordinary high water level of public waters can be used to meet lot area standards, and lot width standards must be met at both the ordinary high water level and at the building line.

B. One guest cottage is allowed on lots meeting or exceeding the duplex lot area and width dimensions presented in Sections 5.11 and 5.12, of this ordinance, provided the following standards are met:

- (1) For lots exceeding the minimum lot dimensions of duplex lots, the guest cottage must be located within the smallest duplex-sized lot that could be created including the principal 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; and
- (3) A guest cottage must be located or designed to reduce its visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks or color, assuming summer leaf-on conditions.

C. Outdoor storage of one of the following items shall be allowed, per lot, in the shoreland overlay district: travel trailers, fifth wheels, motor homes, pop-up campers, or other similar item designed for short-term or temporary occupancy. The item shall be subject to the following conditions:

- (1) Item is currently licensed;
- (2) Item is not intended for routine occupancy (regular weekend occupancy, seasonal occupancy, or permanent occupancy);
- (3) Item has not been altered in manner which would suggest its use would be for on-site occupancy (i.e. attachment of decks or additions to item, placement of patios, decks, sidewalks, or stairs to serve item, hard-wired electrical, water or sewage treatment system connection, etc.);
- (4) Item maintains its character for its intended purpose of off-site use (i.e. wheels inflated, axels attached, tongue/coupling systems intact, unit is road worthy); and
- (5) Item shall comply with the setback requirements applied to accessory structures located in the shoreland overlay district.

D. Any travel trailer, fifth wheel, motor home, pop-up camper or other similar item designed for short-term or temporary occupancy located on any lot within the shoreland overlay district which does not comply with Part C, above, shall be deemed a violation of this ordinance, except as follows:

- (1) Where a permit has been obtained for the permanent placement of the item upon a lot which meets the requirements of Part C, above;
- (2) Where the storage of this within any enclosed building located on the property; &
- (3) Where the storage occurs at a property which has been permitted for the commercial storage of said items.

- E. Lots intended as controlled accesses to public waters or as recreation areas for use by owners of nonriparian lots within subdivisions are permissible and must meet or exceed the following standards:
- (1) They must meet the width and size requirements for residential lots, and be suitable for the intended uses of controlled access lots;
  - (2) Docking, mooring, or over-water storage of more than six (6) watercraft will not be allowed at a controlled access lot;
  - (3) They must be jointly owned by all purchasers of lots in the subdivision or by all purchasers of nonriparian lots in the subdivision who are provided riparian access rights on the access lot; and
  - (4) Covenants or other equally effective legal instruments must be developed that specify which lot owners have authority to use the access lot and what activities are allowed. The activities may include watercraft launching, loading, storage, beaching, mooring, and docking. They must also include other outdoor recreational activities that do not significantly conflict with general public use of the public water or the enjoyment of normal property rights by adjacent property owners. Examples of the nonsignificant conflict activities include swimming, sunbathing, or picnicking. The covenants must limit the total number of vehicles allowed to be parked and the total number of watercraft allowed to be continuously moored, docked, or stored over water, and must require centralization of all common facilities and activities in the most suitable locations on the lot to minimize topographic and vegetation alterations. They must also require all parking areas, storage buildings, and other facilities to be screened by vegetation or topography as much as practical from view from the public water, assuming summer, leaf-on conditions.

## **5.2 Placement, Design, and Height of Structures**

### **5.21 Placement of Structures on Lots**

When more than one setback applies to a site, structures and facilities must be located to meet all setbacks. Where structures exist on the adjoining lots on both sides of a proposed building site, structure setbacks may be altered without a variance to conform to the adjoining setbacks from the ordinary high water level provided the proposed building site is not located in a shore impact zone or in a bluff impact zone. Structures shall be located as follows:

#### **A. Structure and On-Site Sewage System Setbacks from Ordinary High Water Level\*.**

##### Classes of Public Waters

<u>Lakes and Basins:</u>	<u>Setback (in feet)*</u>		
	<u>Nonsewered</u>	<u>Sewered</u>	<u>Sewage Treatment System</u>
<u>Natural Environmental</u>	150	150	150



<u>Rivers:</u>	<u>Setback (in feet)*</u>		
	<u>Nonsewered</u>	<u>Sewered</u>	<u>Sewage Treatment System</u>
Agricultural	100	50	75
Tributary	100	50	75
Transitional	150	150	100

\*One water-oriented accessory structure designed in accordance with Section 5.22, of this ordinance, may be set back a minimum distance of ten feet from the ordinary high water level.

- B. Additional or New Structure Setbacks (in feet). The following additional structure setbacks apply, regardless of the classification of the waterbody:

<u>Setback From:</u>	<u>Setback</u>
(1) Top of bluff;	100
(2) Unplatted cemetery;	50
(3) <u>Historical sites, structures, landmarks, and trails;</u>	50
(4) Right-of-way line of federal, state, or country highway; and	50
(5) Right-of-way line of town road, Public Street, or other roads or Streets not classified.	20

- C. **Bluff Impact Zones.** Structures and accessory facilities, except stairways and landings, must not be placed within bluff impact zones.
- D. **Uses Without Water-Oriented Needs.** Commercial, industrial, public, and semi-public uses without water-oriented needs must be located on lots or parcels without public water frontage, or, if located on lots or parcels with public waters frontage, must either be set back double the normal ordinary high water level setback or be substantially screened from view from the water by vegetation or topography, assuming summer, leaf-on conditions.

## 5.22 Design Criteria for Structures

- A. **High Water Elevations.** Structures must be placed in accordance with any floodplain regulations applicable to the site. Where these controls do not exist, the elevation to which the lowest floor, including basement, is placed or flood-proofed must be determined as follows:
- (1) For rivers and streams, by placing the lowest floor at least three feet above the flood of record, if data is available. If data is not available, by placing the lowest floor at least three feet above the ordinary high water level (OHWL), or by conducting a technical evaluation to determine the effects of proposed construction upon flood stages and flood flows and to establish a flood protection elevation. Under all three approaches, technical evaluations must be done by a qualified engineer or hydrologist consistent with Minnesota Regulations, Parts 6120.5000 to 6120.6200, governing the management of flood plain areas. If more than one approach is used, the highest flood protection elevation determined must be used for placing structures and other facilities; and

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

B. Water-Oriented Accessory Structures. Each lot may have one water-oriented accessory structure not meeting the normal structure setback in Section 5.21, of this ordinance, if this water oriented accessory structure complies with the following provisions:

- (1) The structure or facility must not 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 or color, 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; and
- (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.

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

- (1) Stairways and lifts must not exceed four feet in width on residential lots. Wider stairways may be used for commercial properties, public open-space recreational properties and planned unit developments;
- (2) Landing for stairways and lifts on residential lots must not exceed 32 square feet in area. Landings larger than 32 square feet may be used for commercial properties, public open-space recreational properties and planned unit developments;
- (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 the lot, as viewed from the surface of the public water assuming summer, leaf on conditions, whenever practical; and
  - (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 sub items 1-5 from above are compiled with, in addition to the requirements of Minnesota Regulations, Chapter 1340.
- D. Significant Historic Sites. No structure may be placed on a significant historic site in a manner that affects the values of the site unless adequate information about the site has been removed and documented in a public repository.
- E. Steep Slopes. The Shoreland Officer must evaluate possible soil erosion impacts and development visibility from public waters before issuing a permit for construction of sewage treatment systems, roads, driveways, structures, or other improvements on steep slopes. When determined necessary, conditions must be attached to issued permits to prevent erosion and preserve existing vegetation for screening of structures, and vehicles as viewed from the surface of public waters, assuming summer, leaf-on vegetation.
- F. Height of Structures. All structures in residential districts, except churches and nonresidential agricultural structures must not exceed 25 feet in height as measured from the original grade of property to the peak of the structure. The structure height does not include height of antennae, vents, chimneys, satellite receivers, or other similar items attached to the house, but are not structural in nature.
- G. For residential homes with walkout basements, the structure height measurement shall be taken from the natural grade of property at the main floor and measured to the peak of the structure, not the basement grade of property.
- H. The structure shall not incorporate more than two (2) stories above grade living space, as measured from the main floor grade.

### 5.3 Shoreland Alterations

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

#### 5.31 Vegetation Alterations

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

B. Removal or alteration of vegetation, except for agricultural and forest management uses as regulated in Sections 5.62 and 5.63, respectfully, is allowed subject 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 for forest land conversion to another use outside of these areas is allowable as a conditional use if an erosion control and sedimentation plan is developed and approved by the Red Lake County Soil and Water Conservation District.
- (2) In shore and bluff impact zones and on steep slopes, limited clearing of trees and shrubs and cutting, pruning, and trimming of trees is allowed to provide a view to the water from the principal dwelling site and to accommodate the placement of stairways and landings, picnic areas, access paths, livestock watering areas, beach and watercraft access areas, and permitted water-oriented accessory structures or facilities, 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.

C. Best Management Practices. The use of fertilizer, pesticides or animal wastes 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.

### **5.32 Topographic Alterations/Grading and Filling**

- A. Grading and filling and excavations necessary for the construction of structures, sewage treatment systems, and driveways under validly issued construction permits for these facilities do not require the issuance of a separate grading and filling permit. However, the grading and filling standards in this section must be incorporated into the issuance of permits for construction of structures, sewage treatment systems, and driveways.
- B. Public roads and parking areas are regulated by Section 5.4, of this ordinance.
- C. Notwithstanding Items A and B above, a grading and filling permit will be required for:
  - (1) The movement of more than 10 cubic yards of material on steep slopes or within shore or bluff impact zones; and
  - (2) The movement of more than 50 cubic yards of material outside of steep slopes and shore and bluff impact zones.

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

- (1) Grading or filling in any type 2, 3, 4, 5, 6, 7, or 8 wetland, if passing the Wetland Conservation Act (WCA) sequencing requirements, must be evaluated by the Technical Evaluation Panel of Red Lake County to determine 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; and
  - (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 alteration being proposed requires permits, reviews, or approvals by other local, state, or federal agencies such as the Red Lake Watershed District, the Minnesota Department of Natural Resources, or the United States Army Corps of Engineers. The applicant will be so advised.

- (2) Alterations must be designed and conducted in a manner that insures 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 Guide of the United States Department of Agriculture (USDA) – Natural Resources Conservation Service (NRCS);
- (6) Fill or excavated soil must not be placed in a way that creates an unstable slope;
- (7) Plans to place fill or excavated material on steep slopes must be reviewed, at applicants cost, 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 below the ordinary high water level of public waters must first be authorized by the commissioner under Minnesota Statutes, Part 103G.245 and Part 103G.405;
  - (10) Alterations of topography must only be allowed if they are accessory to permitted or conditional uses and do not adversely affect adjacent or nearby properties; and
  - (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, the height of the riprap above the ordinary high water level does not exceed three feet, or the placement meets the same requirements in Sub-Section 5.52 B, of this ordinance.
- E. Connections to public waters. Excavations where the intended purpose is connection to a public water, such as boat slips, canals, lagoons and harbors, must be controlled by local shoreland controls. Permission for excavations may be given only after the Commissioner has approved the proposed connection to public waters.

#### **5.4 Placement and Design of Roads, Driveways, and Parking Areas**

- 5.41** Public and private roads and parking areas must be designed to take advantage of natural vegetation and topography to achieve maximum screening from view from public waters. Documentation must be provided by a qualified individual that all roads and parking areas are designed and constructed to minimize and control erosion to public waters consistent with the Field Office Technical Guides (FOTG) of the United States Department of Agriculture – (NRCS), or other applicable technical materials.
- 5.42** 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.
- 5.43** Public and private watercraft access ramps, approach roads, and access-relating 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 Section 5.32, of this ordinance, must be met.

#### **5.5 Stormwater Management**

The following general and specific standards shall apply:

##### **5.51 General Standards:**

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

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

#### **5.52 Specific Standards:**

- A. Impervious surface coverage of lots must not exceed 25 percent of the lot area without a conditional use permit except as set fourth in Section 6.0, of this ordinance. Criteria for granting Impervious Surface Coverage Conditional Use Permits shall include consideration of the following:
  - (1) No other reasonable alternatives exist;
  - (2) Surface drainage can be reasonably filtered; and
  - (3) Rate of runoff resulting from normal rainfall can be controlled to prevent erosion.
- B. When constructed facilities are used for stormwater management, documentation must be provided by a qualified individual that they are designed and installed consistent with the Field Office Technical Guide (FOTG) of the United States Department of Agricultural (USDA) – Natural Resources Conservation Service (NRCS), or other applicable technical materials; and
- C. New constructed stormwater outfalls to public waters must provide for filtering or settling of suspended solids and skimming of surface debris before discharge.

### **5.6 Special Provisions for Commercial, Industrial, Public/Semipublic Agricultural, Forestry and Extractive Uses and Mining of Metallic Minerals and Peat**

#### **5.61 Standards for Commercial, Industrial, Public and Semipublic Uses**

- A. Surface water-oriented commercial uses and industrial, public or semipublic uses with similar needs to have access to and use of public waters may be located on parcels or lots with frontage on public waters. Those used with water-oriented needs must meet the following standards:
  - (1) In addition to meeting impervious coverage limits, setbacks, and other zoning standards in this ordinance, the uses must be designed to incorporate topographic and vegetative screening of parking areas and structures;

- (2) Uses that require short-term watercraft mooring for patrons must centralize these facilities and design them to avoid obstructions of navigation and to be the minimum size necessary to meet the need; and
- (3) Uses that depend on patrons arriving by watercraft may use signs and lighting to convey needed information to the public, subject to the following general standards:
  - (a) No advertising signs or supporting facilities for signs may be placed in or upon public waters. Signs conveying information or safety messages may be placed in or on public waters by a public authority or under a permit issued by the county sheriff;
  - (b) Signs may be placed, when necessary, within the shore impact zone if they are designed and sized to be the minimum necessary to convey needed information. They must only convey the location and name of the establishment and the general types of goods or services available. The signs must not contain other detailed information such as product brands and prices, must not be located higher than 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; and
  - (c) Other outside lighting may be located within the shore impact zone or over public waters if it is used primarily to illuminate potential safety hazards and is shielded or otherwise directed to prevent direct illumination out across public waters. This does not preclude use of navigational lights.
- B. Uses without water-oriented needs must be located on lots or parcels without public waters frontage, or, if located on lots or parcels with public waters frontage, must either be set back double the normal ordinary high water level setback or be substantially screened from view from the water by vegetation or topography, assuming summer, leaf-on conditions.

## 5.62 Agriculture Use Standards

- A. 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 System) consistent with the Field Office Technical Guide (FOTG) of the United States Department of Agriculture (USDA) – Natural Resources Conservation Service (NRCS), as provided by a qualified individual or agency. The shore impact zone for parcels with permitted agricultural land uses is equal to a line parallel to and 50 feet from the ordinary high water level.
- B. Animal feedlots as defined by the Minnesota Pollution Control Agency (MPCA), where allowed by zoning district designations, must be reviewed as conditional used and must meet the following standards:



- (1) New feedlots must not be located in the shoreland of watercourses or in bluff impact zones and must meet a minimum setback of 300 feet from the ordinary high water level of all public water basins;
  - (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; and
  - (3) A certificate of compliance, interim permit or animal feedlot permit, when required by Minnesota Pollution Control Agency (MPCA), by the Minnesota Regulations, Parts 7020.0100 to 7020.1900, must be obtained by the owner or operator of an animal feedlot.
- C. The 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 with the proper application or use of earth, vegetation or both.

**5.63 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 Minnesota Nonpoint Source Pollution Assessment–Forestry and the provisions of Water Quality in Forest Management “Best Management Practices in Minnesota”; and
- B. If allowed by local governments, forest land conversion to another use requires 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 Red Lake County Soil and Water Conservation District before the issuance of a conditional use permit for the conservation.

**5.64 Extractive Use Standards**

- A. **Site Development and Restoration Plan.** 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 and topographic alterations. It must also identify actions to be taken during operation to mitigate adverse environmental impacts, particularly erosion, and must clearly explain how the site will be rehabilitated after extractive activities end.

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

**5.65 Mining of Metallic Minerals and Peat.** Mining of metallic minerals and peat, as defined in Minnesota Statutes Sections 93.44 to 93.51, shall be permitted use provided the provisions of Minnesota Statutes, Sections 93.44 to 93.51, are satisfied.

## **5.7 Conditional Uses**

Conditional uses allowable within shoreland areas shall be subject to the review and approval procedures and criteria and conditions for review of conditional uses established county wide. The following additional evaluation criteria and conditions apply within shoreland areas:

**5.71 Evaluation Criteria.** A thorough evaluation of the waterbody and the topographic, vegetation, and soils conditions on the site must be made to ensure:

- (1) The prevention of soil erosion or other possible pollution of public waters, both during and after construction;
- (2) The visibility of structures and other facilities as viewed from public waters is limited;
- (3) The site is adequate for water supply and on-site sewage treatment; and
- (4) The types, uses, and numbers of watercraft that the project will generate are compatible in relation to the suitability of public waters to safely accommodate these watercrafts.

**5.72 Conditions Attached to Conditional Use Permits.** The Shoreland Board of Adjustments and the Red Lake County Board of Commissioners, upon consideration of the criteria listed above and the purposes of this ordinance, shall attach such conditions to the issuance of the conditional use permits as it deems necessary to fulfill the purposes of this ordinance. Such conditions may include, but are not limited to, the following:

- (1) Increased setbacks from the ordinary high water level;
- (2) Limitations on the natural vegetation to be removed or the requirement that additional vegetation be planted;
- (3) A written statement to the suitability of the site by a certified engineer or soil scientist; and
- (4) Special provisions for the location, design and use of structures, sewage treatment systems, watercraft launching and docking areas, and vehicle parking areas.

## 5.8 Water Supply and Sewage Treatment

- 5.81 Water Supply.** Any public or private supply of water for domestic purposes must meet or exceed standards for water quality of the Minnesota Department of Health (MDH) and the Minnesota Pollution Control Agency (MPCA).

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

- 5.82 Sewage Treatment.** Any premises used for human occupancy must be provided with an adequate method of sewage treatment, as follows:

- A. Publicly-owned sewage treatment systems must be used where available;
- B. All private sewage treatment systems must meet or exceed applicable rules of the Minnesota Department of Health, and the Minnesota Pollution Control Agency's (MPCA) standards for subsurface sewage treatment systems. These standards are contained in the Minnesota Regulations, Chapter 7080. As well as any other applicable local government standards.
- C. On-site sewage treatment systems must be set back from the ordinary high water level in accordance with the setbacks contained in Section 5.21, of this ordinance;
- D. All proposed sites for subsurface sewage treatment systems shall be evaluated in accordance with the criteria in sub items 1-4 below. If the determination of a site's suitability cannot be made publicly available, from existing information, it shall then be the responsibility of the applicant to provide sufficient soil borings and percolation tests from on-site field investigations;

Evaluation Criteria:

- (1) Depth to the highest known or calculated ground water table or bedrock;
  - (2) Soil conditions, properties, and permeability;
  - (3) Slope; and
  - (4) The existence of lowlands, local surface depression and rock outcrops.
- E. Nonconforming sewage treatment systems shall be regulated and upgraded in accordance with Section 6.3, of this ordinance; and
  - F. A notification or education program that is oriented toward convincing substantial numbers of property owners to evaluate their sewage systems and voluntarily upgrade the sewage treatment system, if found to be nonconforming.

## SECTION 6.0 – NONCONFORMITIES

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

### 6.1 Construction on Nonconforming Lots of Record

- A. Lots of record in the office of the county recorder on the date of enactment of local shoreland controls that do not meet the requirements of Section 5.1, of this ordinance, may be allowed as building sites without variances from lot size requirements provided the use is permitted in the zoning district, the lot has been in separate ownership from abutting lands at all times since it became substandard, was created compliant with official controls in effect at the time, and sewage treatment and setback requirements of this ordinance are met;
- B. A variance from setback requirements must be obtained before any use, sewage treatment system, or building permit is issued for a lot. In evaluating the variance, the Board of Adjustment shall consider sewage treatment and water supply capabilities or constraints of the lot and shall deny the variance if adequate facilities cannot be provided; and
- C. If, in a group of two or more contiguous lots under the same ownership, any individual lot that does not meet the requirements of Section 5.1, of this ordinance, must not be considered as a separate parcel of land for the purposes of sale or development. The lot must be combined with the one or more contiguous lots so they equal one or more parcels of land, each meeting the requirements of Section 5.1, of this ordinance, as much as possible.

### 6.2 Additions/Expansions to Nonconforming Structures

- A. All additions or expansions to the outside dimensions of an existing nonconforming structure must meet the setback, height, and other requirements of Section 5.0, of this ordinance. Any deviation from these requirements must be authorized by a variance pursuant to Section 3.3, of this ordinance, or meet one of the following criteria:
  - (1) Repair or rebuilding after damage or destruction of any existing nonconforming structure is allowed with the following conditions:
    - (a) The structure may be repaired or rebuilt to the original outside dimensions. Additions or expansions to the original outside dimensions of the structure shall meet the requirements of Sections 5.0 and 6.2, of this ordinance;
    - (b) A rebuilt structure shall be repositioned on the lot to minimize as many violations of the setback requirements as determined by the Board of Adjustment; and
    - (c) If the nonconforming structure is not in the process of being rebuilt or repaired within 12 months of the damage or destruction, any further construction or repairs will be considered a new structure or addition, and must meet all requirements of this ordinance.

B. Deck additions may be allowed without a variance to a structure not meeting the required setback from the ordinary high water level if all of the following criteria and standards are met:

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

### **6.3 Nonconforming Sewage Treatment System**

- A. A sewage treatment system not meeting the requirements of Section 5.8, of this ordinance, must be upgraded, at a minimum, at any time a permit or variance of any type is required for any improvement on, or use of, the property. For the purposes of this provision, a sewage treatment system shall not be considered nonconforming if the only deficiency is the sewage treatment system's improper setback from the ordinary high water level.
- B. The County of Red Lake must require upgrading or replacement of any existing, subsurface sewage treatment system identified as nonconforming under Section 5.8, of this ordinance, which includes any system identified by this program within a reasonable period of time, which will not exceed 2 years. Sewage treatment systems installed according to all applicable local shoreland management standards adopted under Minnesota Statutes, Chapter 103E, in effect at the time of installation may be considered as conforming, unless they are determined to be failing, excluding those systems using cesspools, leaching pits, seepage pits, or other deep disposal methods or systems, with less soil treatment area separation above groundwater than required by the Minnesota Pollution Control Agency (MPCA) in Minnesota Regulations, Chapter 7080, for design of on-site sewage treatment systems, shall be considered strictly nonconforming.

## **SECTION 7.0 – SUBDIVISION/PLATTING PROVISIONS**

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

- 7.2 Consistency with Other Controls.** Subdivisions must conform to all official controls of this county. A subdivision will not be approved where a later variance from one or more standards in official controls would be needed to use the lots for their intended purpose. In areas not served by publicly owned sewer and water systems, a subdivision will not be approved unless domestic water supply is available and a sewage treatment system consistent with Sections 5.2 and 5.8, of this ordinance, can be provided for every lot. Each lot shall meet the minimum lot size and dimensional requirements of Section 5.1, of this ordinance, including at least a minimum contiguous lawn area, which is free of limiting factors and sufficient for the construction of two standard soil treatment systems. Lots that would require use of holding tanks won't be approved.
- 7.3 Information Requirements.** Sufficient information must be submitted by the applicant for the county to make a determination of land suitability. The information shall include at least the following:
- (1) Topographic contours at ten-foot intervals or less from United States Geological Survey maps or more accurate sources, showing limiting site characteristics;
  - (2) The surface water features required in Minnesota Statutes, Section 505.02, Subdivision 1, to be shown on plats, obtained from United States Geological Survey (USGS) quadrangle topographic maps or more accurate sources;
  - (3) Adequate soils information to determine suitability for building and subsurface 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;
  - (4) Information regarding adequacy of domestic water supply; extent of anticipated vegetation and topographic alterations; near-shore aquatic conditions, including depths, types of bottom sediments, and aquatic vegetation; and proposed methods for controlling stormwater runoff and erosion, both during and after construction activities;
  - (5) Location of 100-year floodplain areas and floodway districts from exiting adopted maps or data, which can be viewed on the Floodplain Map in Appendix F; and
  - (6) A line or contour representing the ordinary high water level, the “toe” and the “top” of bluffs, and the minimum building setback distances from the top of the bluff and the lake or stream.
- 7.4 Dedications.** When a land or easement dedication is a condition of subdivision approval, the approval must provide easements over natural drainage or ponding areas for management of stormwater and significant wetlands.
- 7.5 Platting.** All subdivisions that create five or more lots or parcels that are 2 ½ acres or less in size shall be processed as a plat in accordance with Minnesota Statutes, Chapter 505. No permit for construction of buildings or sewage treatment systems shall be issued for lots created after these official controls were enacted unless the lot was approved as part of a formal subdivision.

- 7.6 Controlled Access or Recreational Lots.** Lots intended as controlled accesses to public waters or for recreational use areas for use by nonriparian lots within a subdivision must meet or exceed the sizing criteria in Sections 5.11 and 5.12, of this ordinance.

## **SECTION 8.0 - PLANNED UNIT DEVELOPMENTS (PUD's)**

### **8.1 Types of PUD's Permissible**

Planned units developments (PUD's) are allowed for new projects on undeveloped land, redevelopment of previously built sites or conversions of existing buildings and land. The land use districts in which they are an allowable use are identified in the land use district descriptions in Section 4.2, of this ordinance.

### **8.2 Processing of PUD's**

Planned unit developments must be processed as a conditional use, except that an expansion to an existing commercial PUD involving 6 or less new dwelling units or sites since the date this ordinance was adopted is permissible as a permitted use provided the total project density does not exceed the allowable densities calculated in the project density evaluation procedures in Section 8.5, of this ordinance. Approval cannot occur until the environmental review process, Environmental Assessment Worksheet / Environmental Impact Statement, is complete.

### **8.3 Application for a Planned Unit Development (PUD)**

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

**8.31 Site Plan and/or Plat.** A site plan and/or plat for the project showing locations of property boundaries, surface water features, existing and proposed structures and other facilities, land alterations, sewage treatment and water supply systems (where public systems will not be provided), and topographic contours at ten-foot intervals or less. When a PUD is a combined commercial and residential development, the site plan and/or plat must indicate and distinguish which buildings and portions of the project are residential, commercial, or a combination of the two;

**8.32 Property Owners Association Agreement.** A property owners association agreement (for residential PUD's) with mandatory membership, and all in accordance with the requirements of Section 8.6, of this ordinance;

**8.33 Legal Restrictions.** Deed restrictions, covenants, permanent easements or other instruments that:

- (1) Properly address future vegetative and topographic alterations, construction of additional buildings, beaching of watercraft, and construction of commercial buildings in residential PUD's; and
- (2) Ensure the long-term preservation and maintenance of open space in accordance with the criteria and analysis specified in Section 8.6, of this ordinance.

- 8.34 **Master Plan/Drawing.** When necessary, a master plan/drawing describing the project and the floor plan for all commercial structures to be occupied; and
- 8.35 **Additional Documents.** Any additional documents that are requested by the Red Lake County Shoreland Officer may be necessary to explain how the PUD will be designed and will function.

#### 8.4 Site “Suitable Area” Evaluation

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

- 8.41 **Shoreland Tier Dimensions.** 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 (in feet):

	<u>Unsewered</u>	<u>Sewered</u>
<u>Natural environmental lakes</u>	<u>400</u>	<u>320</u>
All river classes	300	300

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

#### 8.5 Residential and Commercial Planned Unit Development (PUD) Density Evaluation

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

##### 8.51 Residential PUD “Base” Density Evaluation:

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



## 8.52 Commercial PUD “Base” Density Evaluation:

- A. 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;
- B. Select the appropriate floor area ration from the following table:

### Commercial Planned Unit Development Floor Area Ratios\*

<u>*Average Unit Floor Area (Sq. Ft.)</u>	<u>Public Water Classes</u>	
	<u>Agricultural, Tributary River Segments</u>	<u>Transition and Forested River Segments</u>
200	0.040	0.020
300	0.048	0.024
400	0.056	0.028
500	0.065	0.032
600	0.072	0.038
700	0.082	0.042
800	0.091	0.046
900	0.099	0.050
1,000	0.108	0.054
1,100	0.116	0.058
1,200	0.125	0.064
1,300	0.133	0.068
1,400	0.142	0.072
1,500	0.150	0.075

\*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 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 ration equal to the size of the manufactured home, or if unknown, the ratio listed for 1,000 square feet.

- C. Multiply the suitable area within each tier by the floor area ratio to yield total floor area for each tier allowed to be used for dwelling units or sites;
- D. Divide the total floor area by tier computed in Item C above by the average inside living area size determined in Item A above. This yields a base number of dwelling units and sites for each tier; and
- E. Proposed locations and numbers of dwelling units or sites for the commercial planned unit development are then compared with the tier, density and suitability analysis herein and the design criteria in Section 8.6, of this ordinance.

### 8.53 Density Increase Multipliers:

- A. Increases to the dwelling unit or dwelling site base densities previously determined area allowable if the dimensional standards in Section 5.0, of this ordinance, are met or exceeded and the design criteria in Section 8.6, of this ordinance, are satisfied. The allowable density increases in Item B below will only be allowed if structure setbacks from the ordinary high water level are increased to at least 50 percent greater than the minimum setback, or the impact on the waterbody is reduced an equivalent amount through vegetative management, topography, or additional means acceptable to the local unit of government and the setback is at least 25 percent greater than the minimum setback; and
- B. Allowable Dwelling Unit or Dwelling Site Density Increases for Residential or Commercial Planned Unit Developments:

<u>Density Evaluation Tiers</u>	<u>Maximum Density Increase Within Each Tier (percent)</u>
First	50
Second	100
Third	200
Fourth	200
Fifth	200

## 8.6 Maintenance and Design Criteria

### 8.61 Maintenance and Administration Requirements

- A. Before final approval of a planned unit development, adequate provisions must be developed for preservation and maintenance in perpetuity of open spaces and for the continued existence and functioning of the development.
- B. 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:
  - (1) Commercial uses prohibited (for residential PUD's);
  - (2) Vegetation and topographic alterations other than routine maintenance prohibited;
  - (3) Construction of additional buildings or storage of vehicles and other materials prohibited; and
  - (4) Uncontrolled beaching of watercraft prohibited.
- C. Development organization and functioning. Unless an equally effective alternative county framework is established, when applicable, all residential planned unit developments must use an owners association with the following features:

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

**8.62 Open Space Requirements.** Planned unit developments must contain open space meeting all of the following criteria:

- (1) At least 50 percent of the total project area must be preserved as open space;
- (2) Dwelling units or sites, road right-of-way, or land covered by road surfaces, parking areas, or structures, except water-oriented accessory structures or facilities, are developed areas and shall not be included in the computation of minimum open space;
- (3) Open space must include areas with physical characteristics unsuitable for development in their natural state, and areas containing significant historic sites or unplatted cemeteries;
- (4) Open space may include outdoor recreational facilities for use by owners of dwelling units or sites, by guests staying in commercial dwelling units or sites, and by the general public;
- (5) Open space may include subsurface sewage treatment systems if the use of the space is restricted to avoid adverse impacts on the systems;
- (6) Open space must not include commercial facilities or uses, but may contain water-oriented accessory structures or facilities;
- (7) The appearance of open space areas, including topography, vegetation, and allowable uses, must be preserved by use of restrictive deed covenants, permanent easements, public dedication and acceptance, or other equally effective and permanent means; and
- (8) The shore impact zone, based on normal structure setbacks, must be included as open space. For residential PUD's, at least 50 percent of the shore impact zone area of existing developments or at least 70 percent of the shore impact zone area of new developments must be preserved in its natural or existing state. For commercial PUD's, at least 50 percent of the shore impact zone must be preserved in its natural state.

**8.63 Erosion Control and Stormwater Management.** Erosion Control and stormwater management plans must be developed and the Planned Unit Development (PUD) must:

- (1) Be designed, and the construction managed, to minimize the likelihood of serious erosion occurring either during or after construction. This must be accomplished by limiting the amount and length of time of exposed bare ground. Temporary ground covers, sediment entrapment facilities, vegetated buffer strips, or other appropriate techniques must be used to minimize erosion impacts on surface water features. Erosion control plans approved by the Red Lake County Soil and Water Conservation District may be required if project size and site physical characteristics warrant; and
- (2) Be designed and constructed to effectively manage reasonably expected quantities and qualities of stormwater runoff. Impervious surface coverage within any tier must not exceed 25 percent of the tier area, except that for commercial PUD's 35 percent impervious surface coverage may be allowed in the first tier of general development lakes with an approved stormwater management plan and consistency with Section 5.3, of this ordinance.

**8.64 Centralization and Design of Facilities.** Centralization and design of facilities and structures must be done according to the following standards:

- (1) Planned unit developments must be connected to publicly owned water supply and sewer systems, if available. On-site water supply and sewage treatment systems must be centralized, designed and installed to meet or exceed applicable standards or rules of the Minnesota Department of Health and Sections 5.2 & 5.8, of this ordinance. On-site sewage treatment systems must be located on the most suitable areas of the development, and sufficient lawn area free of limiting factors must be provided for a replacement soil treatment system for each sewage system;
- (2) Dwelling units or sites must be clustered into one or more groups and located on suitable areas of the development. They must be designed and located to meet or exceed the following dimensional standards for the relevant shoreland classification: setback from ordinary high water level, elevation above the surface water features and maximum height. Setbacks from the ordinary high water level must be increased in accordance with Section 8.53, of this ordinance, for developments with density increases;
- (3) Shore recreation facilities, including but not limited to swimming areas, docks, and watercraft mooring areas and launching ramps, must be centralized and located in areas suitable for them. Evaluation of suitability must include consideration of land slope, water depth, vegetation, soils, depth to groundwater and bedrock or other relevant factors. The number of spaces provided for continuous beaching, mooring, or docking of watercraft must not exceed one for each allowable dwelling unit or site in the first tier (notwithstanding existing mooring sites in an existing commercially used harbor). Launching ramp facilities, including a small dock for loading and unloading equipment, may be provided for use by occupants of dwelling units or sites located in other tiers;

- (4) Structures, parking areas, and other facilities must be treated to reduce visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks, color, or other means, 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;
- (5) Accessory structures and facilities, except water-oriented accessory structures, must meet the required principal structure setback and must be centralized; and
- (6) Water-oriented accessory structures and facilities are allowed if they meet or pass design standards within in Section 5.2, of this ordinance, and are centralized.

## **8.7 Conversions**

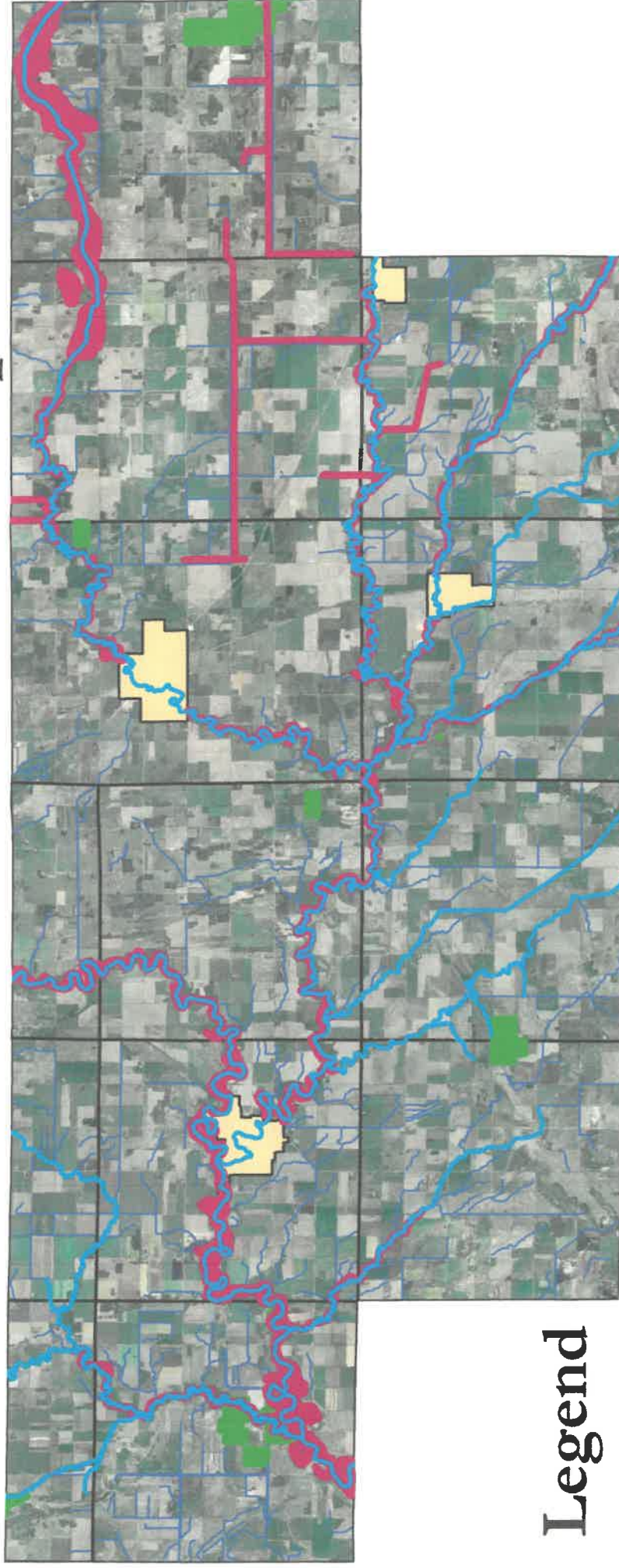
Local governments may allow existing resorts or other land uses and facilities to be converted to residential planned unit developments if all of the following standards are met:

- 8.71 Evaluation of Conversions.** Proposed conversions must be initially evaluated using the same procedures for residential planned unit developments involving all new construction. Inconsistencies between existing features of the developments and these standards must be identified;
- 8.72 Deficiency Corrections.** Deficiencies involving water supply and sewage treatment, structure color, impervious coverage, open space, and shore recreation facilities must be corrected as part of the conversion or as specified in the conditional use permit;
- 8.73 Shore and Bluff Impact Zones.** Shore and bluff impact zone deficiencies must be evaluated and reasonable improvements made as part of the conversion. These improvements must include, where applicable, the following:
  - (1) Removal of extraneous buildings, docks or other facilities that no longer need to be located in shore or bluff impact zones;
  - (2) Remedial measures to correct erosion sites and improve vegetative cover and screening of buildings and other facilities as viewed from the water; and
  - (3) If existing dwelling units are located in shore or bluff impact zones, conditions are attached to approvals of conversions that preclude exterior expansions in any dimension or substantial alterations. The conditions must also provide for future relocation of dwelling units, where feasible, to other locations, meeting all setback and elevation requirements when they are rebuilt or replaced.
- 8.74 Existing Dwelling Units or Site Densities.** Existing dwelling units or dwelling site densities that exceed standards in Section 8.5, of this ordinance, 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.



# Appendix A

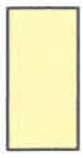
## Land Use Districts Map




### Legend

 100 Year Flood Elevation

 State Owned Lands

 City Boundary

 Township Lines

 Rivers & Streams

### Red Lake County, MN

0 1.5 3 6 9 12 Miles







# APPENDIX B

## ORDINANCE CERTIFICATION CHECKLIST RED LAKE COUNTY

Once all the below listed tasks are completed, please sign and return the checklist and all required documents to the appropriate DNR area hydrologist.

1. \_\_\_\_\_ Date of published hearing notice.
2. \_\_\_\_\_ Date of postmark of hearing notice to commissioner of the Department of Natural Resources / Area Hydrologist.
3. \_\_\_\_\_ Date of hearing (s).  
\_\_\_\_\_  
\_\_\_\_\_
4. \_\_\_\_\_ Date of ordinance adoption.
5. \_\_\_\_\_ If ordinance is published entirely, date and affidavit of newspaper publication of adopted ordinance (Include three copies of ordinance).
6. \_\_\_\_\_ If only ordinance summary published, date and affidavit of newspaper publication of ordinance title and summary along with certified copy of adopted ordinance in its entirety from clerk / auditor. (Include three copies of ordinance).
7. \_\_\_\_\_ Date of official filing of adopted ordinance with county recorder.  
(\_\_\_\_\_ record book number \_\_\_\_\_ page number).
8. Yes \_\_\_ No \_\_\_ Board of adjustment and appeals has been established?

\*Note: Cities under charter must also submit a list of any additional requirements for hearings, notices, etc. stated in their charter. Please specify:

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\_\_\_\_\_  
Signature of Clerk / Auditor



# APPENDIX C

## **Soil Map Units Used to Extend Shoreland in Red Lake County**

(Soils information taken from Red Lake County Soil Survey)

### **B109A – Bowstring and Fluvaquent Soils, MLRA88, 0 to 2 % Slope, Frequently Flooded**

Location: Upstream reach of Clearwater River starting in section 26, T152N, R40W, to the county line.

#### Component Description:

##### 45% Bowstring and Similar Soils

Geomorphic Component: swales on flood plains

Slope Range: 0 to 1 %

Surface Texture: muck

Drainage Class: very poorly drained

Parent Material: organic material over alluvium

##### 40% Fluvaquent and Similar Soils

Geomorphic Component: flats and swales on flood plains

Slope Range: 0 to 2 %

Surface Texture: fine sandy loam

Drainage Class: very poorly drained

Parent Material: alluvium

##### 5% Hapludalfs

Geomorphic Component: hillsides in drainage ways, escarpments in drainage ways

Slope Range: 3 to 60 %

Surface Texture: fine sandy loam

Drainage Class: moderately well drained

Parent Material: glaciolacustrine deposits and till

##### 5% Seelyeville

Geomorphic Component: depressions in lake plains

Slope Range: 0 to 1 %

Surface Texture: muck

Drainage Class: very poorly drained

Parent Material: organic material

##### 5% Water

## APPENDIX C (Continued)

### **I7A – Bowstring and Fluvaquent Complex, 0 to 2 % Slope, Frequently Flooded**

Location: Found in the better defined, less entrenched, upper reaches of the Clearwater River and its Tributaries downstream from the B109A soils. These soils make up the stream bed and the surrounding area. Public Water Streams with these soils are the Clearwater River, Lost River, Hill River, Poplar River, Terrebonne Creek, Badger Creek, and the lower portion of J.D. # 11.

#### Component Description:

##### 45% Bowstring and Similar Soils

Geomorphic Component: swales on flood plains

Slope Range: 0 to 1 %

Surface Texture: muck

Drainage Class: very poorly drained

Parent Material: organic material over alluvium

##### 45% Fluvaquent and Similar Soils

Geomorphic Component: flats and swales on flood plains

Slope Range: 0 to 2 %

Surface Texture: fine sandy loam

Drainage Class: very poorly drained

Parent Material: alluvium

##### 5% Hapludolls

Geomorphic Component: hillsides in drainage ways, escarpments in drainage ways

Slope Range: 2 to 30 %

Surface Texture: loam

Drainage Class: well drained

Parent Material: glaciolacustrine deposits and till

##### 5% Water

APPENDIX C (Continued)

**I14B – Fairdale Silt Loam, 1 to 6 % Slope, Occasionally Flooded**

Location: Found mainly along the lower reaches of the Red Lake River, Clearwater River and Lost River between the stream's channel banks and the outer escarpment.

Component Description:

85% Fairdale and Similar Soils

Geomorphic Component: rises on flood plains, stream terraces

Slope Range: 1 to 6 %

Surface Texture: silt loam

Drainage Class: moderately well drained

Parent Material: alluvium

6% Fluvaquent and Similar Soils

Geomorphic Component: flats and swales on flood plains

Slope Range: 0 to 2 %

Surface Texture: fine sandy loam

Drainage Class: very poorly drained

Parent Material: alluvium

5% Hapludolls

Geomorphic Component: hillsides in drainage ways, escarpments in drainage ways

Slope Range: 2 to 30 %

Surface Texture: loam

Drainage Class: well drained

Parent Material: glaciolacustrine deposits and till

2% Hapludalfs

Geomorphic Component: hillsides in drainage ways, escarpments in drainage ways

Slope Range: 3 to 60 %

Surface Texture: fine sandy loam

Drainage Class: moderately well drained

Parent Material: glaciolacustrine deposits and till

2% Zell

Geomorphic Component: escarpments on lake plains

Slope Range: 6 to 20 %

Surface Texture: silt loam

Drainage Class: well drained

Parent Material: glaciolacustrine deposits

APPENDIX C (Continued)

**I14D – Fairdale Silt Loam, 6 to 15 % Slope, Occasionally Flooded**

Location: Found mainly along the lower reaches of the Red Lake River between the stream's channel banks and the outer escarpment, from Red Lake Falls to the county line.

Component Description:

85% Fairdale and Similar Soils

Geomorphic Component: rises on flood plains, stream terraces

Slope Range: 6 to 15 %

Surface Texture: silt loam

Drainage Class: moderately well drained

Parent Material: alluvium

6% Fluvaquent and Similar Soils

Geomorphic Component: flats and swales on flood plains

Slope Range: 0 to 2 %

Surface Texture: fine sandy loam

Drainage Class: very poorly drained

Parent Material: alluvium

4% Hapludolls

Geomorphic Component: hillsides in drainage ways, escarpments in drainage ways

Slope Range: 2 to 30 %

Surface Texture: loam

Drainage Class: well drained

Parent Material: glaciolacustrine deposits and till

3% Zell

Geomorphic Component: escarpments on lake plains (back slopes and shoulders)

Slope Range: 6 to 20 %

Surface Texture: silt loam

Drainage Class: well drained

Parent Material: glaciolacustrine deposits

2% Hapludalfs

Geomorphic Component: hillsides in drainage ways, escarpments in drainage ways

Slope Range: 3 to 60 %

Surface Texture: fine sandy loam

Drainage Class: moderately well drained

Parent Material: glaciolacustrine deposits and till

APPENDIX C (Continued)

**I16F – Fluvaquents, Frequently Flooded – Hapludolls Complex, 0 to 30 % Slopes**

Location: Found in the well defined, greatly entrenched, lower reaches of the natural rivers and streams in Red Lake County. They make up the natural stream bed and the surrounding area downstream from the Bowstring and Fluvaquent soils.

Component Description:

55% Fluvaquents and Similar Soils

Geomorphic Component: flats and swales on flood plains

Slope Range: 0 to 2 %

Surface Texture: fine sandy loam

Drainage Class: very poorly drained

Parent Material: alluvium

25% Hapludolls

Geomorphic Component: hillsides in drainage ways, escarpments in drainage ways

Slope Range: 2 to 30 %

Surface Texture: loam

Drainage Class: well drained

Parent Material: glaciolacustrine deposits and till

7% Hapludalfs

Geomorphic Component: hillsides in drainage ways, escarpments in drainage ways

Slope Range: 3 to 60 %

Surface Texture: fine sandy loam

Drainage Class: moderately well drained

Parent Material: glaciolacustrine deposits and till

5% Fairdale

Geomorphic Component: rises on flood plains, stream terraces

Slope Range: 6 to 15 %

Surface Texture: silt loam

Drainage Class: moderately well drained

Parent Material: alluvium

5% Water

2% Bowstring

Geomorphic Component: swales on flood plains

Slope Range: 0 to 1 %

Surface Texture: muck

Drainage Class: very poorly drained

Parent Material: organic material over alluvium

## APPENDIX C (Continued)

### 1% Rauville

Geomorphic Component: oxbows on flood plains  
Slope Range: 0 to 1 %  
Surface Texture: silty clay loam  
Drainage Class: very poorly drained  
Parent Material: alluvium

## **I29D – Hattie Clay, 6 to 18 % Slopes**

Location: This soil forms the outer escarpment of the Red Lake River from the middle of section 8, T151N, R43W to the county line and also the lower reaches of the Clearwater River from section 36, T151N, R44W to its outlet. Most of Cyr Creek is bordered by this soil as well as portions of the Black River and Browns Creek.

### Component Description:

#### 85% Hattie and Similar Soils

Geomorphic Component: escarpments on flood plains (shoulders and back slopes)  
Slope Range: 6 to 18 %  
Surface Texture: clay  
Drainage Class: moderately well drained  
Parent Material: till

#### 6% Clearwater

Geomorphic Component: flats and swales on flood plains  
Slope Range: 0 to 1 %  
Surface Texture: clay  
Drainage Class: poorly drained  
Parent Material: till

#### 5% Hattie, Level

Geomorphic Component: escarpments on lake plains (summits)  
Slope Range: 1 to 3 %  
Surface Texture: clay  
Drainage Class: moderately well drained  
Parent Material: till

#### 4% Boyerlake

Geomorphic Component: escarpments on flood plains (shoulders and back slopes)  
Slope Range: 3 to 6 %  
Surface Texture: silty clay  
Drainage Class: moderately well drained  
Parent Material: till



APPENDIX C (Continued)

**I40F – Maddock Loamy Fine Sand, 12 to 30 % Slopes**

Location: Makes up parts of the west escarpment from Huot Park to the county line.

Component Description:

90% Maddock and Similar Soils

Geomorphic Component: ridges on lake plains

Slope Range: 12 to 30 %

Surface Texture: loamy fine sand

Drainage Class: well drained

Parent Material: glaciolacustrine deposits

5% Flaming

Geomorphic Component: ridges on lake plains

Slope Range: 0 to 3 %

Surface Texture: loamy fine sand

Drainage Class: moderately well drained

Parent Material: glaciolacustrine deposits

5% Sandberg

Geomorphic Component: beach ridges (shoulders, summits, slopes)

Slope Range: 1 to 6 %

Surface Texture: loamy sand

Drainage Class: excessively drained

Parent Material: beach deposits

## APPENDIX C (Continued)

### **I49A – Rauville Silty Clay Loam, 0 – 2 % Slopes**

Location: Found mostly in oxbows and other abandoned channels along the Red Lake and Clearwater Rivers. A large area of it is found in section 34, T152N, R42W, northeast of Plummer.

#### Component Description:

##### 80% Rauville and Similar Soils

Geomorphic Component: oxbows and flood plains

Slope Range: 0 to 2 %

Surface Texture: silty clay loam

Drainage Class: very poorly drained

Parent Material: alluvium

##### 12% Fluvaquents

Geomorphic Component: flats and swales on flood plains

Slope Range: 0 to 2 %

Surface Texture: fine sandy loam

Drainage Class: very poorly drained

Parent Material: alluvium

##### 5% Water

##### 3% Lamoure

Geomorphic Component: flats on flood plains

Slope Range: 0 to 1 %

Surface Texture: silty clay loam

Drainage Class: poorly drained

Parent Material: alluvium

## **Soil Map Units Used to Delineate Public Water Basins and Wetlands**

### **I42A – Markey Muck, Ponded, 0 to 1 % Slopes**

This soil was used to define the basin area of all the Public Water Basins showed on the DNR Protected Waters and Wetlands Map for Red Lake County. The basins are labeled 1P, 5P, 7P, 8P, 9P, 10P and 57P. All but 5P was estimated to be greater than 25 acres.

### **I49A – Rauville Silty Clay Loam, 0 to 2 % Slopes**

This soil was used to define the two oxbow wetlands labeled 2W and 3W on the Protected Waters and Wetlands Map.

**Note:** Wetlands 12W and 15W were defined using mostly the muck and depressional or ponded soils along with existing surface drainage to make them conform more to how they look on the DNR Map.

# APPENDIX D

## FEE SCHEDULE & PERMIT FORMS

Basic Shoreland Permit _____	\$25.00
Conditional Use Permit _____	\$50.00
Variance Permit _____	\$100.00
Building Permit (additional) _____	\$10.00
Sewage System Permit (fee paid to Environmental Officer for SSTS Permit) _____	\$20.00
Well Permit (additional) _____	\$5.00
Land Alteration Permit (additional) _____	\$5.00

## AFTER THE FACT ISSUANCE

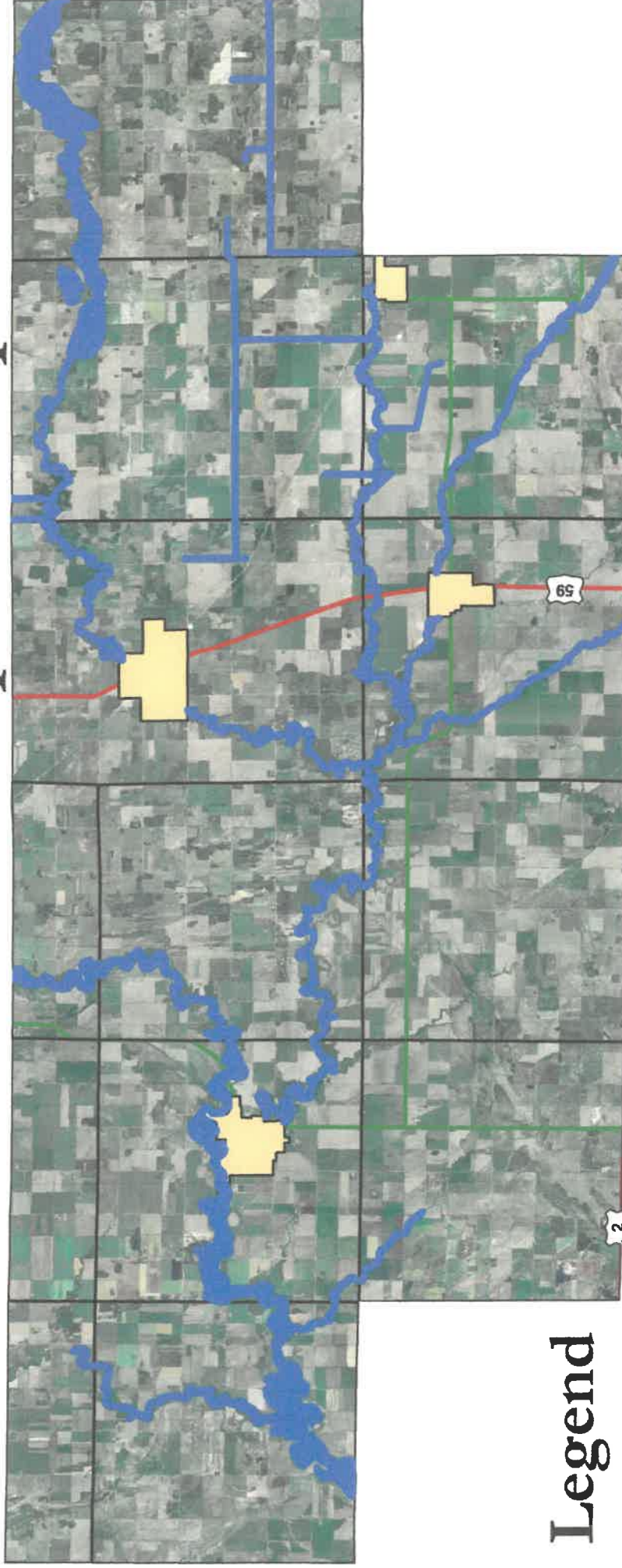
Basic Shoreland Permit _____	\$50.00
Conditional Use Permit _____	\$100.00
Variance Permit _____	\$200.00
Building Permit (additional) _____	\$20.00
Sewage System Permit (fee paid to Environmental Officer for SSTS Permit) _____	\$40.00
Well Permit (additional) _____	\$10.00
Land Alteration Permit (additional) _____	\$10.00

\*Waver of fees for Public Works, Erosion Control, Flood Control and Pollution Control Projects.




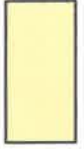
# Appendix F

## 100 Year Floodplain Map



### Legend

 100 Year Flood Elevation

 City Boundary

 Township Lines

 US Highway

 MN Highway

### Red Lake County, MN

0 1.5 3 6 9 12 Miles

