



REPORT

TO: Board of Commissioners
FROM: Timothy Nelson
DATE: April 13, 2021
SUBJECT: Proposed Zoning Ordinance Amendments

DESCRIPTION:

Proposed Zoning Ordinance Amendments

RECOMMENDATION:

To accept the unanimous recommendation of the Cook County Planning Commission to adopt the proposed amendments for the Cook County Zoning Ordinance as presented.

SUMMARY:

The proposed amendments to the Zoning Ordinance provisions have been worked on internally in response to requests for clarity over the years in administering land use permitting activities. The bulk of the proposed changes reflect simple minor housekeeping updates and/or in providing clarification. What appears to be a big change in the language is actually just a shift, or "cut & paste" of the grading & filling and erosion control standards from Article 7 of the Zoning Ordinance verbatim into Article 5, which reflect that the provisions are valid county-wide and not just within Shoreland areas. Other changes include the removal of some shallow soils provisions in the bluff management areas that we were advised to remove because they are lesser restrictive than the State minimum standards, and they are not supported with any specific criteria or protocols for making the determinations. The discussion of the Planning Commission focused on providing clarifications on the proposed amendments, and in the end, the vote to recommend in favor of adopting the proposed amendments was unanimous. I will be prepared to run through a brief outline of the changes during the meeting should the members of the Board wish to do that.

PURPOSE:

The purpose of these proposed amendments is primarily to provide some clarifications and housekeeping changes to the ordinance, and to remove some conflicting provisions.

ANALYSIS:

As mentioned in the summary, the bulk of the proposed amendments stem from an internal review of the ordinance in an attempt to update the terminology and provide some clarifications. The nature of the public comments presented by some property owners expressed opposition regarding the elimination of the shallow soils provisions in Article 7, which is understandable since it does remove an allowance of lesser standards that otherwise doesn't exist in the state required minimum standards for the bluff management areas. Their written comments are also included. The shallow soils provisions were discussed in detail, internally as well as with the County Attorney, County Engineer, and the MCIT retained specialized land use attorney, who ultimately advised us to eliminate those provisions since they do represent lesser standards than the state minimum requirements, and because there aren't sufficient criteria or protocols associated with them to serve as a base of justification in making determinations. There were no other public comments on any of the other proposed amendments.

FINANCIAL IMPLICATIONS:

These proposed amendments will not impact the county budget.

Cook County Proposed Zoning Ordinance Amendments
March 17, 2021

Article 5 General Provisions

- Sec. 5.01** The provisions of this ordinance shall be construed to be minimum requirements. This ordinance shall be read and applied in conjunction with all other applicable governmental statutes, ordinances, codes and regulations. More restrictive federal, state, county, or town regulations or standards shall take precedence over the provisions of this ordinance.
- Sec. 5.02** No structure or part thereof shall hereafter be erected, constructed, reconstructed, moved or structurally altered and no land shall change in use, unless in conformity with all of the regulations specified in this ordinance and all acts amendatory thereof.
- Sec. 5.03** Fences may be placed on a property up to the side yard line but must be limited to four feet in height if located in the shore or bluff impact zones.
- Sec. 5.04** In residential zone districts a principal building dwelling and one guest cabin are allowed. One residential bunkhouse may also be permitted.
- Sec. 5.035** In each zone district, each dwelling shall be on a lot of the area specified in this ordinance.
- Sec. 5.046** In each zone district, bunkhouses shall be limited to one per parcel and must meet all dimensional requirements for that zone district.
- Sec. 5.057** In all districts, forestry clear-cutting shall be prohibited within 100 feet of the centerline of any county road, except in areas where the United States Forest Service, the Minnesota Department of Natural Resources, a graduate professional forester or landscape architect have prepared a forestry plan applicable to cutting, which plan gives reasonable consideration to minimizing the effects of drifting snow on the public road and observes maximum efforts to preserve the aesthetics for members of the public driving along said road. All cutting in such areas shall adhere to said forestry plan. Provided that, such cutting may occur in any district without such forestry plan by obtaining a conditional use permit which addresses the problems of snow-drifting and preservation of aesthetics.
- Sec. 5.08** Building measurement shall be determined using the exterior walls of the building. All open leans supported by posts or diagonal bracing are included in the square footage of the building. Measurement of square footage for floors above the first floor utilize the Cook County Assessor's procedure.
- Sec. 5.09** Setbacks for structures shall be measured from the overhang (dripline) of the building or the nearest portion of the structure including decks and porches.

[Sec. 5.10 The three-dimensional envelope of a building shall be determined by the exterior walls and roof of the structure, including decks and porches. Changes to the three-dimensional envelope require a Land Use Permit to be issued by Land Services.](#)

Sec. 5.0611 Landscape Preservation Standards

A. Definition:

Landscape plant materials, topography and other physical elements combined in relation to one another and to man-made structures. Landscape elements include all forms of planting vegetation, ground forms, rock groupings, water patterns and all visible construction except buildings and utilitarian structures.

B. Purpose:

Design and construction standards will be required in order to preserve the natural landscape and to lessen physical and visual damage to the natural terrain, streams, vegetation and other natural characteristics and features of the landscape that may be caused by development.

C. Requirements:

1. Plant materials (trees, shrubs, grasses, etc.) shall be removed only from areas necessary to the day-to-day operations of the activity (buildings, parking areas, loading areas, storage areas).
2. The rear and side yard setback areas shall be maintained in a natural vegetative state or approved landscaping consistent with the natural surroundings.
3. Re-vegetation and re-forestation of materials removed during construction shall include utilization of native or similar horticultural material and shall be completed during the first planting season after construction.
4. Topsoil shall be removed prior to any grading or excavation.
5. Building site placement shall result in least damage possible to vegetation and the natural terrain.
6. Installation methods and location of utilities shall result in the least damage to the natural environment.
7. New landscaping shall incorporate the natural topography and vegetation of the surrounding area.
8. Protective measures (such as fencing) shall be implemented during construction.
9. Screening of service yards and other places that tend to be unsightly shall be accomplished by use of walls, fences, planting, or a combination of these. Planting shall be limited to species natural to the area and the use of walls and fences shall not detract from the natural aesthetics of the area.

Sec. 5.0712 ~~Runoff and~~ Erosion Control Standards and Grading and Filling Permit Requirements

A. Purpose:

Protection measures shall be undertaken in order to minimize the problems of runoff and erosion. The use of the Cook County Erosion and Sediment Control Plan Checklist is required for Small Site Stormwater Permits and Grade and Fill Permits. Specific requirements for Large and Small Site Stormwater Permits can be found in the Stormwater Management Ordinance Number 51.

B. Permit Requirements:

1. With the exception of part 2 below topographic alterations and grading and filling of property for the construction of roads, driveways, ponds, landscaping, etc. requires a permit as follows:

a. A Grade and Fill Permit for movement of more than ten (10) cubic yards of material on steep slopes or within shore or bluff impact zones;

b. A Grade and Fill Permit for movement of more than 50 cubic yards of materials outside of steep slopes and shore and bluff impact zones;

c. A Small Site Stormwater Permit for movement of more than 100 cubic yards of material;

d. A Large Site Stormwater Permit for movement of more than 1000 cubic yards of material.

2. 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. Movement of more than 100 cubic yards of material requires a Stormwater Permit as described in part 1 above.

3. Public roads and parking areas in shoreland are regulated by Section 7.08(C) of this Ordinance.

4. The following considerations and conditions must be adhered to during the issuance of Land Use Permits, Grade and Fill Permits, Conditional/ Interim Use Permits, Variances and Subdivision approvals:

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

- (*) This evaluation must also include a determination of whether the wetland alteration being proposed requires permits, reviews, or approvals by other local, state, or federal agencies such as a watershed district, the Minnesota Department of Natural Resources, or the United States Army Corps of Engineers.
- b. Alterations must be designed and conducted in a manner that ensures only the smallest amount of bare ground is exposed for the shortest time possible;
- c. 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;
- d. Methods to minimize soil erosion and to trap sediments before they reach any surface water feature must be used;
- e. Altered areas must be stabilized to acceptable erosion control standards consistent with the field office technical guides of the local soil and water conservation districts and the United States Soil Conservation Service;
- f. Fill or excavated material must not be placed in a manner that creates an unstable slope;
- g. Plans to place fill or excavated material on steep slopes must be reviewed by qualified professionals for continued slope stability and must not create finished slopes of 30 percent or greater;
- h. Fill or excavated material must not be placed in bluff impact zones;
- i. Any alterations below the ordinary high water level of public waters must first be authorized by the commissioner under Minnesota Statutes, Section 103G.245;
- j. Alterations of topography must only be allowed if they are accessory to permitted or conditional uses and do not adversely affect adjacent or nearby properties; and
- k. Placement of natural rock riprap, including associated grading of the shoreline and placement of a filter blanket, is permitted for inland lakes if:
- The finished slope does not exceed 3 feet horizontal to 1 foot vertical;
 - The landward extent of the riprap is within 10 feet of the ordinary high water level; and
 - The height of the riprap above the ordinary high water level does not exceed 3 feet.
- l. The operator (usually the general contractor) is jointly responsible with the property owner for compliance with all portions of the permit and stormwater management plan prior to final completion of construction activities.
- M. Placement of natural rock riprap, including associated grading of the shoreline along Lake Superior is addressed in Article 8 of the Zoning Ordinance.

- ~~1. A site development plan shall be required and shall include the following:~~
 - ~~a. Surface runoff including roof drains.~~
 - ~~b. Subsurface runoff.~~
 - ~~c. Vegetation removal including proposed landscaping.~~
 - ~~d. Proposed sewage treatment systems if not connected to public system.~~
 - ~~e. Topography of site.~~
 - ~~f. Structure and driveway location.~~
 - ~~g. Slope alterations.~~
 - ~~h. Other pertinent information as requested.~~

Sec. 5.0813 In districts where the following structures are permitted, heights of the following structures may exceed limits set forth elsewhere in this ordinance.

Sec. 5.0914 All lots or parcels created by subdivision shall meet the requirements of this ordinance and the Cook County Subdivision Ordinance Number 50.

Sec. 5.105 For any use, whether permitted or conditional, where an Environmental Assessment, Environmental Assessment Worksheet or Environmental Impact Statement is required and where Cook County is designated as the lead agency, the proposer shall be required to supply all information requested by the county to complete said documents. Failure to comply with this requirement will invalidate any permit issues.

Sec. 5.116 **Off-Street Loading and Parking**

A. Loading

Space for off-street loading and unloading of vehicles shall be provided for every building used or designed for commercial or industrial purposes. One (1) such space shall be provided for every ten thousand square feet of floor area or fraction thereof, and such spaces shall be a minimum of ten (10) feet in width, thirty-five (35) feet in length and fourteen (14) feet in height.

B. Parking

Off-street automobile parking or storage space shall be provided on every lot on which any new structure or uses are hereafter established and shall be at least equal to the number of spaces provided for herein. Such space shall be provided with vehicular access to a street or alley and shall be deemed to be required open space associated with the permitted use and shall not thereafter be reduced or encroached upon in any manner. When a structure is enlarged, the required off-street parking space shall be provided for the enlarged portion. If a use is changed to a different use requiring more space, the additional amount of parking area shall be provided.

In addition, the following minimum standards shall apply:

1. Parking space, off-street:

An off-street parking space shall comprise not less than 180 square feet of parking area, 9 feet by 20 feet, plus necessary maneuvering space. Space for maneuvering, incidental to parking or un-parking, shall not encroach upon any public right-of-way. Every off-street parking space shall be accessible to a public roadway.

2. Traffic Circulation:

Off-street parking areas, maneuvering lanes, driveways, and street approaches to use shall be designed so as not to create traffic congestion or interfere with the safe and convenient movement of vehicular and pedestrian traffic on and adjacent to the use. Drives should allow continuous circulation within the parking lot. Traffic, particularly truck traffic, should be channeled away from residential streets. Truck service traffic shall be separated from customer traffic whenever possible. Off-street parking areas shall be planned so that vehicles are parked in an orderly pattern. Traffic safety islands, barriers, planting strips, signs, markings or other methods of traffic control may be required to promote vehicular and pedestrian safety.

C. Required Parking Spaces

1. Residential dwelling: One (1) parking space for each dwelling unit.
2. Tourist accommodations: One (1) parking space for each room or unit and 1 parking space for each non-resident employee.
3. Theater, stadium, auditorium, church, or other places of public assembly: One (1) parking space for each 5 seats, based on maximum seating capacity.
4. Commercial retail sales establishment: one (1) parking space for each 200 square feet of total floor area. (square footage is to be based on all but storage space)
5. Commercial service establishments: One (1) parking space for each two hundred and fifty (250) square feet of total floor area.
6. Offices: One (1) parking space for each four hundred (400) square feet of office floor area.
7. Industrial, manufacturing or wholesale establishments: One (1) parking space for each three workers, based on peak employment.
8. Restaurants, supper clubs, taverns and bars: One (1) parking space for each 5 seats, based on maximum seating capacity.
9. Campgrounds: Two (2) parking spaces for each unit (1 for vehicle and 1 for trailer).
10. Off-street parking areas whether public or private, for more than five (5) vehicles shall be effectively screened by fence, wall or evergreen plant material, if visible from a residential district.

Sec. 5.127 Recreational Vehicle Standards

A. General Requirements

1. Permits are required and shall be issued for a two (2) year period for all “permanent seasonal use” recreational vehicles.
2. Placement of recreational vehicles on the property shall meet all setback requirements for structures in the same zone district.
3. Only one (1) permit shall be issued per parcel.
4. Sanitary facilities shall be provided on site and must comply with the Cook County Septic Ordinance Number 58, Sec. 4.04 part B.
5. An application form and the required fee shall be submitted to the Zoning Office.
6. Permits shall expire two (2) years from the date of issue for the first permit and three (3) years from the date of issue for renewed permits. The permittee will be notified in writing of the date of expiration of permit.
7. The recreational vehicle permit must be renewed for additional three (3) year periods if further use is intended. The renewal application and fee must be received within 30 days of the letter notifying the permittee of the date of expiration of the permit.
8. Any recreation vehicle used as a residence prior to obtaining a permit from the County shall be subject to an after-the-fact fee, the amount to be established by the County Board.
9. Permittee’s use only. The recreational vehicle cannot be used as a vacation rental.
10. A recreational vehicle stored on the property with a **primary principal** structure does not require a permit.

Sec. 5.18 Ordinances Governing Development in All Zone Districts

A. Ordinance Requirements:

In all zone districts of Cook County, Minnesota the following ordinances, including but not limited to, as approved and amended, are referenced and apply to the development of properties.

1. Septic Ordinance Number 58
2. Stormwater Management Ordinance Number 51
3. Subdivision Ordinance Number 50
4. Sign Ordinance Number 53
5. Tower Ordinance Number 47
6. Buffer Ordinance Number 61
7. Vacation Rental Ordinance Number 62
8. Wind Energy Conversion Systems Ordinance Number 63

Sec. 5.19 Water Supply

Water Supply:

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

Sec. 5.20 Sewage treatment

All septic treatment systems shall be in conformance with the Cook County Septic Ordinance Number 58.

Sec. 5.21 Subdivision/Platting Provisions

A. For regulations concerning subdivisions, administrative subdivisions and plats see Cook County Subdivision Ordinance Number 50.

Article 7 Shoreland Management Regulations

Sec. 7.01 Policy

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

Sec. 7.02 Statement of Purpose

- A. Designate suitable land use districts for each public water.
- B. Regulate the placement of sanitary and waste disposal facilities on lots.
- C. Regulate the area of a lot and the length of water frontage suitable for a building site, sewage treatment and water supply.
- D. Regulate alteration on the shorelands of public waters.
- E. Regulate alterations of the natural vegetation and the natural topography.
- F. Regulate subdivision of land in unincorporated areas.
- G. Provide variances from the minimum standards and criteria.

Sec. 7.03 Classification

The public waters of Cook County, Minnesota have been classified by the Minnesota Department of Natural Resources and the Cook County Board of Commissioners as follows:

- A. Lakes
 - 1. SNR Special Natural Environment
 - 2. NE Natural Environment
 - 3. SRD Special Recreational Development

4. RD Recreational Development
5. GD General Development

B. Rivers

1. RR Remote River Segments
2. FR Forested River Segments
3. TR Tributary River Segments

(For individual lake and river stream classifications in Cook County, refer to Appendix II)

The public waters of Cook County, Minnesota have been classified by the Minnesota Department of Natural Resources and the Cook County Board of Commissioners as follows:

A. Lakes

1. SNR Special Natural Environment
2. NE Natural Environment
3. SRD Special Recreational Development
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Sec. 7.05 Lot Sizes and Setbacks

	Lot Width	Lot Size	Building Setback From OHWL Elevation	Soil Absorption Setback From OHWL Elevation
Special Natural Environment (SNE)	200 Feet	2 ½ Acre	150 Feet	150 Feet
Natural Environment (NE)	200 Feet	2 Acres	150 Feet	150 Feet
Special Recreational Development (SRD)	200 Feet	1 ½ Acres	100 Feet	150 Feet
Recreational Development (RD)	150 Feet	1 Acre	100 Feet	100 Feet
Special General Development (SGD)	150 Feet	1 Acre	75 Feet	100 Feet
General Development	150 Feet	1 Acre	75 Feet	100 Feet
General Development Lake Superior	200 Feet	1 Acre	**	<u>** 100 Feet</u>
Remote River Segment (RR)	300 Feet	*	200 Feet	150 Feet
Forested River Segment (FR)	200 Feet	*	150 Feet	100 Feet
Tributary River Segment (TR)	100 Feet	*	100 Feet***	100 Feet

* Minimum lot size depends on specific zone district.

** 40 Feet from the Vegetation Line [for buildings and 100 feet from the vegetation line for soil absorption.](#)

*** 75 Feet in the North Shore Management Area.

Sec. 7.06 Placement of Structures on Lots

- A. All structures shall meet the required setbacks for their particular shoreland classification (except boathouses on Lake Superior).
- B. Boathouses shall be permitted to be located up to the normal high water mark only on Lake Superior and only under a conditional use permit, provided that they shall not be used for habitation and they shall not contain any sanitary facilities.
- C. Setback for placement of structures on Lake Superior shall be 40 feet from the vegetation line.
- D. Additional structure setbacks. The following additional structure setbacks apply, regardless of the classification of the water body.
 - 1. Top of bluff 30 Feet
 - 2. Un-platted Cemetery 50 Feet
- E. 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 reviewed and documented in a public repository.
- F. The Zoning Administrator must evaluate possible soil erosion impacts and development visibility from public waters before issuing a permit for grading, filling, construction of sewage treatment systems, roads, driveways, structures or other improvements on steep slopes. When determined, necessary conditions must be attached to issued permits to prevent erosion and to preserve existing vegetation screening of structures, vehicles and other facilities as viewed from the surface of public waters, assuming summer, leaf-on vegetation.

Sec. 7.07 High Water Elevation

- A. For lakes, ponds or flowages, structures shall be placed at an elevation such that the lowest floor, including basement floors, is at least three feet above the highest known water level. In those instances where sufficient data on known high water levels is not available, the elevation of the line of permanent shoreland vegetation shall be used as the estimate high water elevation. When fill is required to meet this elevation, the fill shall be allowed to stabilize.
- B. For rivers and streams, the elevation to which the lowest floor, including basement, is placed must be determined by placing the lowest floor at least three feet above the flood of record, if data is available. If data is not available, by placing the lowest floor at least three feet above the ordinary high water level, or by conducting a technical evaluation to determine effects of proposed construction upon flood stages and flood flows and to establish a flood protection elevation. Under all three approaches, technical evaluations

must be done by a qualified engineer or hydrologist, and be consistent with State Rules 6120.5000 to 6120.6200 which govern 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.

Sec. 7.08 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.

A. Vegetation Alterations

1. Vegetation alteration necessary for the construction of structures and sewage treatment systems and the construction of roads and parking areas regulated by Section 7.08(C) of this ordinance are exempt from the vegetation alteration standards that follow.
2. Removal or alteration of vegetation, except for agricultural and forest management uses as regulated in Section 7.10(B) [and Buffer Ordinance No. 61](#) is allowed subject to the following standards:
 - a. 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 allowed ~~as a conditional use~~ if an erosion [and sediment](#) control ~~and sedimentation~~ plan is developed and approved by [Land Services](#) ~~the Soil and Water Conservation District in which the property is located.~~
 - b. 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:
 - i. The screening of structures, vehicles, or other facilities as viewed from the water, assuming summer, leaf-on conditions, is not substantially reduced;
 - ii. Along rivers, existing shading of water surfaces is preserved; and
 - iii. The above provisions are not applicable to the removal of trees, limbs, or branches that are dead, diseased, or pose safety hazards.
 - iv. [Also see requirements of the Buffer Ordinance Number 61.](#)

B. Topographic Alterations/Grading and Filling

1. [See Sec. 5.12 B for information on types of permits and grading and filling requirements. A grading and filling permit is required for the movement of soil and gravel material as described below:](#)

- a. Movement of more than ten (10) cubic yards of material on steep slopes or within shore or bluff impact zones; and
 - b. Movement of more than 50 cubic yards of materials outside of steep slopes and shore and bluff impact zones.
- ~~1. 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.~~
 - 2. Public roads and parking areas [in shoreland](#) are regulated by Section 7.08(C) of this Ordinance.
 - ~~3. Notwithstanding Items 1 and 2 above, a grading and filling permit will be required for:~~
 - ~~4. The following considerations and conditions must be adhered to during the issuance of construction permits, grading and filling permits, conditional use permits, variances and subdivision approvals:~~
 - ~~a. Grading or filling in any type 2, 3, 4, 5, 6, 7, or 8 wetland must be evaluated to determine how extensively the proposed activity would affect the following functional qualities of the wetland^(*):~~
 - ~~i. Sediment and pollutant trapping and retention;~~
 - ~~ii. Storage of surface runoff to prevent or reduce flood damage;~~
 - ~~iii. Fish and wildlife habitat;~~
 - ~~iv. Recreational use;~~
 - ~~v. Shoreline or bank stabilization; and~~
 - ~~vi. Noteworthiness, including special qualities such as historic significance, critical habitat for endangered plants and animals, or others.~~
- ~~(*) This evaluation must also include a determination of whether the wetland alteration being proposed requires permits, reviews, or approvals by other local, state, or federal agencies such as a watershed district, the Minnesota Department of Natural Resources, or the United States Army Corps of Engineers. The applicant will be so advised.~~
- ~~b. Alterations must be designed and conducted in a manner that ensures only the smallest amount of bare ground is exposed for the shortest time possible;~~
 - ~~c. 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;~~
 - ~~d. Methods to minimize soil erosion and to trap sediments before they reach any surface water feature must be used;~~

- ~~e. — Altered areas must be stabilized to acceptable erosion control standards consistent with the field office technical guides of the local soil and water conservation districts and the United States Soil Conservation Service;~~
- ~~f. — Fill or excavated material must not be placed in a manner that creates an unstable slope;~~
- ~~g. — Plans to place fill or excavated material on steep slopes must be reviewed by qualified professionals for continued slope stability and must not create finished slopes of 30 percent or greater;~~
- ~~h. — Fill or excavated material must not be placed in bluff impact zones;~~
- ~~i. — Any alterations below the ordinary high water level of public waters must first be authorized by the commissioner under Minnesota Statutes, Section 103G.245;~~
- ~~j. — Alterations of topography must only be allowed if they are accessory to permitted or conditional uses and do not adversely affect adjacent or nearby properties; and~~
- ~~k. — Placement of natural rock riprap, including associated grading of the shoreline and placement of a filter blanket, is permitted if:
 - ~~i. — The finished slope does not exceed 3 feet horizontal to 1 foot vertical.~~
 - ~~ii. — The landward extent of the riprap is within 10 feet of the ordinary high water level; and~~
 - ~~iii. — The height of the riprap above the ordinary high water level does not exceed 3 feet.~~~~

C. Placement and Design of Roads, Driveways, and Parking Areas [in Shoreland](#).

1. Public and private roads and parking areas must be designed to take advantage of natural vegetation and topography to achieve maximum screening from view from public waters. Documentation must be provided by a qualified individual that all roads and parking areas are designed and constructed to minimize and control erosion to public waters, consistent with the field office technical guides of the local Soil and Water Conservation District, or other applicable technical materials.
2. Roads, driveways and parking areas must meet shore ~~line~~[land](#) ~~and bluff~~ structure setbacks.
3. Roads, driveways and parking areas 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.
4. Public and private watercraft access ramps, approach roads, and access-related parking areas may be placed within the shore impact zones provided the vegetative screening and erosion control conditions of this subpart are met. Access ramps shall

not exceed 12 feet in width. For private facilities, the grading and filling provisions of Section 7.08(B) of this Ordinance must be met.

Sec. 7.09 Stormwater Management

The following general and specific standards shall apply:

A. General Standards:

1. 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;
2. Development must be planned and conducted in a manner that will minimize the extent of disturbed areas, runoff velocities, erosion potential, and reduce and delay runoff volumes. Disturbed areas must be stabilized and protected as soon as possible and facilities or methods used to retain sediment on site;
3. When development density, topographic features, and soil and vegetation conditions are not sufficient to adequately handle stormwater runoff using natural features and vegetation, various types of constructed facilities such as diversions, settling basins, skimming devices, dikes, waterways, and ponds may be used. Preference must be given to designs using surface drainage, vegetation, and infiltration rather than buried pipes and man-made materials and facilities;

B. Specific Standards:

1. Impervious surface coverage of lots [in shoreland](#) must not exceed 25 percent of the lot area.
2. When constructed facilities are used for stormwater management, documentation must be provided by a qualified individual that they are designed and installed consistent with the field office technical guide of the local Soil and Water Conservation District.
3. Newly constructed stormwater outfalls must provide for filtering or settling of suspended solids and skimming of surface debris before discharge to public waters.

Sec. 7.10 Standards

A. General Commercial, Industrial, Public and Semi-Public Use Standards

Activities of this type are not to be encouraged in shorelands. However, if such activities are found to be in the public interest for location within a shoreland management area, they shall be strictly regulated through Zoning Districts and Conditional Use Permits in a manner consistent with Shoreland Best Management Practices and other regulations of this Ordinance.

B. Forest Management Standards

The harvesting of timber and associated reforestation must be conducted consistent with the provisions of the Minnesota Non-Point Source Pollution Assessment-Forestry and the

provisions of Water Quality in Forest Management “Best Management Practices in Minnesota”.

C. Extractive Use Standards

1. Site Development and Restoration Plan. An extractive use site development and restoration plan must be developed, approved, and followed over the course of operation of the site. The plan must address dust, noise, possible pollutant discharges, hours and duration of operation, and anticipated vegetation and topographic alterations. It must also identify actions to be taken during operation to mitigate adverse environmental impacts, particularly erosion, and must clearly explain how the site will be rehabilitated after extractive activities end.
2. Setbacks for Processing Machinery. Processing machinery must be located consistent with setback standards for structures from ordinary high water levels of public waters and from bluffs.

D. 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 a permitted use, provided the provisions of Minnesota Statutes, Sections 93.44 to 93.51, are satisfied.

Sec. 7.11 Alteration of Beds of Public Waters

Any work which will alter the bed of a public water by changing or diminishing the course, current or cross section must be approved by the Commissioner of the Minnesota Department of Natural Resources before the work may be initiated.

- A. Work requiring such approval includes construction of channel and ditches, lagooning, dredging of lake bottom for the removal of muck, silt or weeds, and filling in the lakebed including low-lying marsh areas.
- B. Work requiring such approval also includes excavations on shorelands where the intended purpose is connection to a public water, such as boat slips, canals, lagoons and harbors.

Sec. 7.12 Shoreline Setback Averaging

Variances to the shoreline setback requirements of Section 7.05 may be granted by the Board of Adjustment under the following circumstances, if not within a floodway:

- A. In areas where development exists on both sides of a proposed building site, water and road setbacks may be varied to conform to the existing established setbacks.
- B. In areas of unusual topography or substantial elevation above the lake level, the water setback may be varied to allow a riparian owner reasonable use and enjoyment of his property.
- C. Regardless of the minimum setbacks set forth in Section 7.05, a variance may be granted permitting a principal structure to be set back from the shoreline a distance equal to the average shoreline setback of certain nearby principal structures, plus the greater of 10 feet

or 20 percent of the average. To determine the allowable setback for a principal structure for a given zone district, the following method shall be used:

1. On each side of the given lot, determine a distance equal to twice the normally required minimum lot width for the given zone district;
2. Measure shoreline setback of each principal structure located within the distances determined in "1" above;
3. Should a lot be encountered within the distances determined in "1" above which does not have a principal structure thereon, the lot shall be considered to have one principal structure thereon and the measured setback shall be assumed to be equal to the normally required minimum setback for the given zone district;
4. Total the measured setbacks and divide by the number of the setbacks measured; and
5. To the average obtained in "4" above, add 20 percent of the average or 10 feet, whichever is greater.

Sec. 7.13 Timber Harvesting in Shoreland Areas

- A. Timber harvesting within the shoreland areas shall be restricted to generally accepted forest management practices designed to promote and manage a healthy forested area.
- B. Clear cutting, except as authorized for public services such as roads and utilities, shall not be permitted within 150 feet of the normal high water mark.
- C. Selective cutting of trees in excess of 4 inches in diameter, breast height, within 150 feet of the normal high water mark shall be permitted provided that the cutting is spaced in several cutting operations and a continuous tree cover is maintained and uninterrupted by large openings.

Sec. 7.14 Bluff Area Standards

- A. General Standards:

~~The top of the bluff shall be that area where there is a clear break in the slope and generally where the slope is less than 18% over a 50 foot run.~~ All structures must be set back a distance as specified for lakes and rivers from ~~where~~ the top of the bluff. ~~break in the slope begins. Unless other provisions have been established for specific soil conditions~~ The following standards shall apply in bluff areas:

1. No structures shall be allowed in the bluff impact zone;
2. The setback from the top of the bluff shall be 30 feet.
3. Compliance with Section 7.09 is required.
4. Erosion control measures and Best Management Practices for Shorelands shall be applied to all Variances and Conditional and Interim Uses Permits in bluff areas.

~~B. Shallow Soils Standards~~

~~In bluff areas, where the soil depth over ledge rock averages 24 inches or less, the following standards shall apply if the bluff impact zone, using the above general formula (in A), results~~

~~in a structure setback from the ordinary high water line of more than 150% of the required structure setback if no bluff existed:~~

- ~~1. All parcels shall have suitable area set aside for sewage treatment including a sewage system expansion area. No structure will be permitted in those areas;~~
- ~~2. The structure setback shall be 150% of minimum building setback if a bluff exists according to the general formula, but the structure may be placed in the bluff at that location regardless of the continuation of bluff conditions;~~
- ~~3. The shore impact zone shall be one half of the new structure setback as established in number 2 above; and~~
- ~~4. Erosion control guidelines shall be attached to the permit and adhered to by the owner. These guidelines will be considered performance standards and will be reviewed and approved by the Planning Commission in general form but the individual permits will not be reviewed by the Commission.~~

~~C. Exposed Bedrock Standards:~~

~~In areas where there is exposed bedrock, the setback from the top of the bluff shall not apply. The following Criteria shall apply:~~

- ~~1. All setbacks, including the shoreline setback shall be met.~~
- ~~2. Natural vegetation shall be maintained on the site. Natural vegetation may be removed only in areas necessary for the principal structures, accessory buildings, driveway, and a parking area. No vegetation between the principal structure and the shoreline shall be removed.~~
- ~~3. Structures shall be finished in earth tone colors.~~

~~D.B. Additions to Existing Structures Wwithin the Bluff.~~

- ~~1. Additions to principal and accessory structures within the bluff or shore impact zones require a Variance. Deck additions to non-conforming structures are addressed in Sec. 9.02 C.~~
 - ~~2. Principal structures within the bluff but not the shore impact zone may expand when permitted, and without limits to the size of expansion, if:
 - ~~a. The original structure has at least a 600 square foot footprint;~~
 - ~~b. Erosion control guidelines are followed;~~
 - ~~c. The building contractor demonstrates to the county that effective erosion control measures will be taken; and~~
 - ~~d. The addition does not encroach within the shore impact zone or closer than twice the minimum side yard setback standard.~~~~
- ~~. If the structure foundation footprint area is less than 600 square feet in size, an addition of 50% of floor area is permitted without variance provided the side yard setback standards, set above, are followed and erosion control measures are taken.~~

- ~~Accessory structures in the bluff but not in the shore impact zone may have additions, but no structure shall exceed 500 square feet. Decks on principal and accessory structures will be permitted provided they do not encroach upon the shore impact zone.~~
- ~~5. The same deck standards that apply for shore impact zones shall apply in these situations.~~

Sec. 7.16 Boardwalks in Wetlands

Boardwalks are the preferred method of accessing water bodies through wetland areas. In order for a boardwalk to qualify for a Minnesota Wetland Conservation Act (WCA) no-loss determination, vegetation should not be significantly hindered from growing, ground and surface water flow should not be impeded, and soil should not be significantly disturbed. Boardwalk plans must be submitted to the Office of Planning and Zoning for review prior to construction. The following minimum standards apply:

- A. Maximum boardwalk width is 4 feet;
- B. No roofs are allowed;
- C. Vertical support pilings cannot be greater than 12 inches in diameter;
- D. Woody vegetation criteria:
 - 1. May be hand cleared to ground level to accommodate boardwalk construction;
 - 2. No soil or root mat disturbance is allowed except to dig vertical pilings;
 - 3. Soil from the pilings' holes not used for backfill must be redistributed in an upland location.
- E. No permit is required for the construction of boardwalks, providing they meet the above standards and adhere to the Minnesota Wetland Conservation Act.

Sec. 7.167 Conditional and Interim Uses

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

- B. Conditions Attached to Conditional and Interim Use Permits.
The Planning Commission, upon consideration of the criteria listed above and the purposes of this ordinance, shall attach such conditions to the issuance of the Conditional and Interim Use Permits as it deems necessary to fulfill the purposes of this ordinance. Such conditions may include, but are not limited to, the following:

~~**Sec. 7.17 Water Supply and Sewage Treatment**~~

~~Water Supply~~

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

~~Sewage treatment.~~

~~Minnesota Rules, Chapter 7080, Individual Sewage Treatment Systems Standards is adopted within this Ordinance by reference. Any premises used for human occupancy must be provided with an adequate method of sewage treatment, as follows:~~

- ~~A. Publicly owned sewer systems must be used where available;~~
- ~~B. All private sewage treatment systems must meet or exceed the Minnesota Pollution Control Agency's standards for individual sewage treatment systems contained in the document titled, "Individual Sewage Treatment Systems Standards, Chapter 7080", a copy of which is hereby adopted by reference and declared to be a part of this ordinance;~~
- ~~C. On-site sewage treatment systems must be set back from the ordinary high water level in accordance with the setbacks contained in Section 7.05 of this ordinance.~~
- ~~D. All proposed sites for individual sewage treatment systems shall be evaluated in accordance with the criteria in sub-items 1—4. If the determination of a site's suitability cannot be made with publicly available, existing information, it shall then be the responsibility of the applicant to provide sufficient soil borings from on-site field investigations. Evaluation criteria are:
 - ~~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 depressions, and rock outcrops.~~~~
- ~~E. Nonconforming sewage treatment systems shall be regulated and upgraded in accordance with Section 9.04 of this ordinance.~~

Sec. 7.18—Subdivision/Platting Provisions

- ~~A. Land suitability—Each lot created through subdivision, including planned unit developments authorized within the Cook County Subdivision Ordinance, must be suitable in its natural state for the proposed use with minimal alteration. Suitability analysis by the local unit of government shall consider susceptibility to:
 - ~~1. Flooding;~~
 - ~~2. Existence of wetlands;~~
 - ~~3. Soil and rock formations with severe limitations for development;~~
 - ~~4. Severe erosion potential;~~
 - ~~5. Steep topography;~~
 - ~~6. Inadequate water supply or sewage treatment capabilities;~~
 - ~~7. Near shore aquatic conditions unsuitable for water based recreation;~~~~

- ~~8. Important fish and wildlife habitat;~~
- ~~9. Presence of significant historic sites; or~~
- ~~10. 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 community.~~

~~B. 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 setback 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 for every lot and every lot has a minimum of 2 acres which can support a standard soil treatment system. Each lot shall meet the minimum lot size and dimensional requirements of Section 7.05, including at least a minimum continuous area that is free of limiting factors and is sufficient for the construction of two standard soil treatment systems. Lots that would require use of holding tanks must not be approved.~~

~~C. 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 10-foot intervals or less from United States Geological Survey (USGS) 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 quadrangle topographic maps or more accurate sources;~~
- ~~3. Adequate soils information to determine suitability for building and on-site sewage treatment capabilities for every lot from the most current existing sources or from field investigations such as soil borings, percolation tests, or other methods;~~
- ~~4. Information regarding adequacy of domestic water supply; extent of anticipated vegetation and topographic alterations; near shore aquatic conditions, including depths, types of bottom erosion, both during and after construction activities;~~
- ~~5. Location of 100-year flood plain areas and floodway districts from existing adopted maps or data; 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.~~

~~D. 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.~~

~~E. Platting — All subdivisions that create 5 or more lots 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 a formal subdivision.~~

~~F. — Controlled Access or Recreational Lots — Lots intended as controlled access to public waters or for recreation use for use by non-riparian lots within a subdivision must meet or exceed the sizing criteria in Section 7.05 of this ordinance.~~

Article 8 North Shore Management Plan Regulations (for Lake Superior)

Sec. 8.01 North Shore Management Planning Areas

All lands between Lake Superior and a line formed by the 40-acre subdivision lines of the rectangular coordinate system established in the U.S. Public Land Survey nearest to the landward side of a line 1,000 feet from the shoreline of Lake Superior or 300 feet landward from the centerline of U.S. Highway 61, whichever is greater.

Sec. 8.02 North Shore Management Areas

1. Protected Resource District
2. Residential District
3. Commercial District
4. Resort Commercial District
5. Industrial District

Sec. 8.03 North Shore Management Areas, Definitions Permitted and Conditional Uses

A. Protected Resources District

Protected Resources Districts are intended to protect, preserve and enhance valuable natural resource, scenic, historic, and archeological areas and to allow for limited development which is sensitive to the natural scenic or historic resource values and development limitations of the district.

Protected Resources Districts are to include: Outstanding or unique natural or scenic areas both public and private that exist relatively free from human influence; significant archeological or historic areas and state parks and other public lands managed for resource conservation or recreation purposes.

1. Permitted Uses
 - a. Forestry uses, except clear cutting
 - b. Wildlife refuges and game management habitat areas
 - c. Agricultural, cropland, pasture
 - d. State parks and other public lands managed for resources conservation or recreation purposes
 - e. Essential services and utilities intended to serve the principal permitted use.
2. Conditional Uses
 - a. Private parks, recreation areas

- b. Interpretive centers
- c. Public Accesses and boat launches
- B. Residential District
See Section 4.09 R-1 Single Family Residential Zone District
- C. Commercial District
See Section 4.17 GC General Commercial Zone District
- D. Resort Commercial District
See Section 4.16 RC/R Resort Commercial/Residential Zone District
- E. Industrial District
See Section 4.19 LI Light Industrial, Section 4.20 Heavy Industrial, and Section 4.21 BDA Business Development Area.

Sec. 8.04 Lot Area, Width, and Placement and Height of Structures

- A. Minimum standards – The following lot area and width dimensional standards apply to lots created after the effective date of this ordinance.
- B. Lot Size: The minimum lot size shall be 1 acre. Refer to Section 4.15 for specific zone district requirements.
- C. Structure setback from ordinary high water mark of rivers and streams: The structure setback from the ordinary high water mark shall be 75 feet.
- D. Structure setback from the vegetation line: The structure setback from the vegetation line on Lake Superior shall be 40 feet, except in erosion hazard areas where the setback shall be 125 feet from the top edge of the eroding bluff or a distance equal to the annual erosion rate times 50 plus 25 feet from the top edge of the eroding bluff.
- E. Structure setback from public road right-of-way line: The structure setback from a public road right of way line is 35 feet.
- F. Lot Width: The minimum lot width for lots created after the effective date of this ordinance is 200 feet at the vegetation line and 200 feet at the structure setback line.
- G. Building Height: The maximum building height is 35 feet.
- H. Floor elevation above water level: The lowest floor elevation for new structures shall be three feet above the highest known water level or one foot above the one hundred year storm wave run-up elevation on Lake Superior as determined by a licensed engineer.
- I. Lot coverage by impervious surfaces: In all areas, lot coverage by impervious surfaces shall not exceed 30% unless a surface water runoff plan certified by a registered professional engineer is submitted and approved by the Zoning Administrator. The surface water runoff plan shall contain, at a minimum, provisions for sediment entrapment and erosion control in order to minimize impacts on receiving waters.

Sec. 8.05 Subdivision/Platting Provisions

- A. Land suitability: Each lot created through subdivision, including Planned Unit Developments authorized under this ordinance must be suitable in its natural state for the proposed use with minimal alteration. Suitability analysis by the local unit of government shall consider susceptibility to flooding, existence of wetlands, soil and rock formations with severe limitations for development, severe erosion potential, steep topography, inadequate water supply or sewage treatment capabilities, 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 community.
- B. Consistency with other controls: Subdivisions must conform to all official controls of this community. 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 serviced 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 this ordinance can be provided for every lot. Each lot shall meet the minimum lot size and dimensional requirements of this ordinance.
- C. Information requirements: Sufficient information must be submitted by the applicant for the community to make a determination of land suitability. The information shall include at least the following:
 - 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 quadrangle topographic maps or more accurate sources;
 - 3. Adequate soils information to determine suitability for building and on-site sewage treatment capabilities for every lot from the most current existing sources or from field investigations such as soil borings, percolation tests, or other methods;
 - 4. Information regarding adequacy of domestic water supply; extent of anticipated vegetation and topographic alterations; and proposed methods for controlling stormwater runoff and erosion, both during and after construction activities;
 - 5. Location of 100-year flood plain areas and floodway districts from existing adopted maps or data; and
 - 6. A line or contour representing the ordinary high water level, or vegetation line in the case of frontage on Lake Superior.

Sec. 8.06 Sanitary Provisions

- A. [All septic treatment systems shall be in conformance with the Cook County Septic Ordinance Number 58.](#)

~~Sec. 8.06 Sanitary Provisions~~

- ~~A. The sanitary provisions of the Minnesota Pollution Control Agency's (MPCA) standards for individual sewage treatment systems, Chapter 7080, apply to all areas within the jurisdiction of this ordinance, except areas served by a sewer system approved by the MPCA in which instance such sewer shall be the preferred method of disposal. Where public sewers are not utilized, the sewage disposal system must comply with Chapter 7080 or other applicable state standards. Chapter 7080 is hereby adopted by reference.~~
- ~~B. Individual on-site sewage disposal systems must be set back at least 100 feet from the vegetation line.~~
- ~~C. In erosion hazard areas, sewage treatment systems shall not be located between the dwelling unit and the shoreline.~~

Sec. 8.07 Shoreland Alterations *(See also requirements of the Buffer Ordinance Number 61)*

- A. Vegetation Management
 1. A vegetation management plan will be required for total vegetation removal of over 10,000 square feet or 25% of the lot area, whichever is greater.
 2. Removal of woody vegetation shall be restricted on bluffs, steep slopes and within the structure setback area to maintain stable soil conditions.
 3. Removal of woody vegetation shall be limited to screen structures, clear cuts, parked vehicles or other facilities from public roads and Lake Superior. Selective removal of woody vegetation shall be allowed to provide a reasonable view of the lake from individual residences.
 4. Clear cutting shall not be permitted unless part of an approved site development plan with the exception of an authorized public service such as public roads and utilities.
 5. Removal of woody vegetation shall be restricted as much as possible along DNR designated trout streams to provide for shade coverage to help keep stream temperatures at proper levels.
 6. Cutting, pruning and trimming of trees shall be based on sound forest management practices for each individual tree species.
 7. Private driveways shall blend in to the existing terrain as much as possible and public utility lines to private landowners shall be buried if at all possible.
- B. Wetlands
 1. Alterations to wetlands shall not be permitted unless part of an approved site development plan. Any alterations shall be first permitted by the DNR and U.S. Army Corps of Engineers as required.
 2. Alterations to wetlands, if permitted, shall require suitable mitigation.
 3. Wetlands shall be identified on site development plans.
- C. Grading and Filling, Erosion Control
 1. An erosion and sediment control plan shall be required for excavations exceeding 1,000 square feet or 100 cubic yards, or fill exceeding 1,000 cubic yards, or 50 cubic

yards within the structure setback area. Shoreland alterations done in connection with work authorized by a building or sewage disposal permit shall be exempt from the erosion control plan requirement. [For additional information on grading and filling permit requirements see Sec. 5.12.](#)

2. Erosion and sediment control plans shall be reviewed by the local Soil and Water Conservation District and approved by the local zoning office prior to the start of the land alteration work.
3. Alterations must be designed and conducted in a manner which insures only the smallest amount of bare ground is exposed for the shortest time possible.
4. Mulches or similar materials must be used, where necessary, for temporary bare soil coverage and a permanent vegetative cover must be established as soon as possible.
5. Methods to minimize soil erosion and to trap sediment before they reach any surface water feature must be used. Such methods shall be in place before development occurs.
6. Altered areas must be stabilized to acceptable erosion control standards consistent with the Field Office Technical Guides of the local Soil and Water Conservation Districts and the U. S. Soil Conservation Service.
7. Fill or excavated material must be stabilized to prevent erosion and slope failure.
8. Fill or excavated material must not be placed on steep slopes, except as designated by qualified professionals.
9. Approved permanent erosion control practices should be maintained.
10. Alterations below the Ordinary High Water Level of lakes and streams shall follow accepted practices. Any alterations shall be first permitted by the DNR and U.S. Army Corps of Engineers, as required.

Sec. 8.08 Erosion Hazard Areas

“Erosion Hazard Area” means those areas of Lake Superior’s North Shore where the long-term average annual rate of recession is one foot or greater per year as mapped in the December 1988 version of the North Shore Management Plan.

- A. The burden of proof concerning the suitability of land in designated erosion hazard areas is the responsibility of the project proponent.
- B. Site development plans shall be required and approved by the zoning office for all new construction in erosion hazard areas as shown on the official controls map for Cook County.
- C. The required site development plan shall include a description of:
 1. Surface runoff including proposed landscaping.
 2. Subsurface runoff.
 3. Vegetation removal including proposed landscaping.
 4. Proposed sewage treatment systems.
 5. Topography of site.

6. Structure and driveway location.
 7. Potential bluff toe protection.
 8. Slope alterations.
 9. Other pertinent information as requested.
- D. The site development plan shall include setback and shoreline erosion control recommendations and shall comply with the shoreland alteration provisions of this ordinance.
- E. Structure setbacks in Erosion Hazard Areas.
1. Structures and soil absorption areas shall be setback the annual erosion rate times 50 plus 25 feet (to allow for structure relocation) from the top edge of the eroding bluff. Where slumping is evident, the setback shall be measured from the uppermost shear zone (point at which the soil separates and slumping begins). In the absence of an established long term erosion rate, the setback shall be 125 feet.
 2. The structure setback and the location of the soil absorption areas can be modified by variance if the landowner provides technical data proving a different recession rate or that the erosion hazard although correctly estimated, can be mitigated by structure protection.

Article 9 Non-Conforming Uses & Substandard Structures

Sec. 9.01 Commercial, Resort Commercial, and Industrial Non-Conforming Uses and Substandard Structures

- A. Continuance
A non-conforming use existing at the time of adoption of this ordinance may be continued.
- B. Discontinuance
If such use is discontinued for more than twelve consecutive months, any future use of the building or premises shall conform to this ordinance.
- C. Change in Use
If no structural alterations are made, a non-conforming use of a building may be changed to another non-conforming use of the same or more restrictive classification. The foregoing provision shall also apply to non-conforming uses in districts hereafter changed. Whenever a non-conforming use of a building has been changed to a more restrictive use or to a conforming use, such use shall not thereafter be changed to a less restrictive use.
- D. Restoration
No building or structure, containing or supporting a non-conforming use, which has been damaged by fire or other peril to the extent of more than fifty percent of its market value, shall be restored, except in conformity with the regulations of this ordinance. Nothing in this ordinance shall prevent the placing of a structure in safe condition when said structure is declared unsafe by the Planning & Zoning Administrator.

- E. Formal Maintenance
Maintenance of a building or other structure containing or used by a non-conforming use will be permitted when it includes necessary, non-structural repairs and incidental alterations which do not extend the non-conforming building or use. Nothing in this ordinance shall prevent the placing of a structure in safe condition when said structure is declared unsafe by the Planning & Zoning Administrator.

Sec. 9.02 Residential Non-Conforming Uses and Substandard Structures

- A. Continuance
Except as otherwise provided by law, a nonconformity, including the lawful use or occupation of land or premises existing at the time of the adoption of county official controls, may be continued, including through repair, replacement, restoration, maintenance, or improvement, but not including expansion. Expansion of a nonconformity includes any increase in the height of the structure.
- B. Discontinuance
If a nonconformity or occupancy is discontinued for a period of more than one year, or any nonconforming building or structure is destroyed by fire or other peril to the extent of greater than 50 percent of its estimated market value, as indicated in the records of the County Assessor at the time of the damage, and no land use permit has been applied for within 180-days of when the property is damaged, any subsequent use or occupancy of the land or premises must be a conforming use or occupancy.
- C. Deck Additions to structures at nonconforming setbacks may be allowed as a permitted use only for structures that have been constructed prior to August 31, 2003, subject to the following performance standards:
 - 1. The deck shall not have any side walls or roof;
 - 2. The deck shall not exceed 8 feet in depth; and
 - 3. The closest point of the deck addition from the nearest normal high-water mark shall be no closer than 50% of the required setback of the zone district.

Sec. 9.03 Substandard Lots

- A. A nonconforming single lot of record may be allowed as a building site without variances from lot size requirements, provided that:
 - 1. All structure and septic system setback distance requirements can be met;
 - 2. A sewage treatment system consistent with [Cook County Septic Ordinance Number 58 Minnesota Rules, Chapter 7080](#), can be installed or the lot is connected to a public sewer;
- B. In a group of two or more contiguous lots of record under a common ownership, an individual lot shall be considered as a separate parcel of land for the purpose of sale or development, if it meets the following requirements:

1. The lot must be at least 66 percent of the dimensional standard for lot width and lot size for the zone classification;
 2. The lot must be connected to a public sewer, if available, or must be suitable for the installation of a sewage treatment system consistent with [Cook County Septic Ordinance Number 58](#); ~~Minnesota Rules, Chapter 7080, and county ordinances~~;
 3. Impervious Surface coverage must not exceed 25 percent of each lot; and
 4. Development of the lot must be consistent with the Cook County Land Use Guide Plan.
- D. Notwithstanding paragraph B, contiguous nonconforming lots of record under a common ownership shall be able to be sold or purchased individually if each lot was approved through court order or through the Cook County Boundary Commission process, or if each lot contained a habitable residential dwelling at the time the lots came under common ownership and the lots are suitable for, or served by, a sewage treatment system consistent with the requirements of [Cook County Septic Ordinance Number 58](#) ~~MN Statute 115.55 and Minnesota Rules, Chapter 7080~~, or is connected to a public sewer.

Sec. 9.04 Non-Conforming Sewage Treatment Systems

- A. [All non-conforming septic treatment systems shall be managed in accordance with the Cook County Septic Ordinance No. 58](#) ~~Within all shoreland areas and the North Shore Management Planning area. Upon application for any land use permit, the applicant shall have a sewer system evaluation conducted by the Cook County Health Department at the applicant's expense.~~
- ~~B. Within all other areas, upon application for a land use permit for the addition of a bedroom, the applicant shall have a sewer system evaluation conducted by the Cook County Health Department at the applicant's expense.~~
- ~~C. Cook County will require upgrading or replacement of any non-conforming system identified by this program within a reasonable period of time which will not exceed two years. Sewage systems installed according to all applicable local shoreland management standards adopted under Minnesota Statutes, Section 105.485, in effect at the time of installation may be considered as conforming unless they are determined to be failing except that systems using cesspools, leaching pits, seepage pits, or other deep disposal methods, or systems with less soil treatment area above groundwater than required by the Minnesota Pollution Control Agency's Chapter 7080 for design of on-site sewage treatment systems, shall be considered non-conforming.~~
- ~~For the purposes of this provision, a sewage treatment system shall not be considered non-conforming if the only deficiency is the sewage treatment system's improper setback from the ordinary high water level.~~

Article 16 Administration, Enforcement & Penalties

Sec. 16.01 Administrator

The County Board shall appoint a Planning and Zoning Administrator, whose duty it shall be to administer and enforce the provisions of this Ordinance. His administrative functions shall include, but not be limited to, the duty to:

- A. Provide necessary forms and applications.
- B. Issue Land Use Permits upon demonstration of the applicant's compliance with the provisions of this Ordinance.
- C. Identify and record information relative to non-conformities.
- D. Provide assistance in preparing zone changes and amendments to the ordinance text or map.
- E. Maintain files of applications, permits and other relevant documents.
- F. Maintain the Zone District Map.
- G. Make an annual report of his activities to the County Board.

Sec. 16.02 Powers

The Land Services Director, ~~County~~ Planning and Zoning Administrator, or designated staff of the Land Services Department shall have the powers and authority including, but not limited to the following:

- A. Inspection of a property upon the submission of a permit application or the issuance of a permit, for the purpose of processing the application or verifying the work is being or has been performed in accordance with the plans, specifications, and conditions of the permit.
- B. Access to any ~~structure or premise~~ property for the purpose of performing their duties between 8:00 a.m. and 6:00 p.m. or by the permission of the property owner or ~~upon issuance of a special inspection warrant~~ judicial court order.
- C. Upon reasonable cause or question as to ~~proper~~ permit compliance, to revoke or suspend any permit or authorization issued under this ordinance ~~Land Use Permit~~ and issue cease and desist orders requiring the cessation of any building, moving, alteration or use which is in violation of the provisions of this Ordinance.
- D. To administratively waive certain "after the fact" fees as may be deemed appropriate in order to gain compliance ~~only~~ either in enforcement cases where multiple "after the fact" fees apply or in cases where construction had been performed by a previous property owner without the new owner's knowledge.

Sec. 16.03 Permits

- A. No land or structure shall be changed in use and no structure, including decks, shall be erected, placed, removed and replaced, altered in its exterior dimensions or moved until the Planning and Zoning Administrator has approved and issued a Land Use Permit, certifying that the plans and intended use of the land and structures are in conformity with this Ordinance.
- D. No Land Use Permit shall be required for placement of the following:

1. Local public utility distribution lines;
 2. Accessory structures less than 161 square feet provided they meet required setbacks;
~~and~~
 3. Unsided woodsheds, provided they meet all required setbacks;
 4. Portable fabric or plastic covered hoop storage building or greenhouse less than 300 square feet in size provided it is not installed on a cement slab or permanent foundation and provided it meets all required setbacks. Limit of one storage building or greenhouse;
 5. Boardwalks up to 4 feet wide, provided they meet the general provisions of Sec. 7.16;
 6. Stairways, ramps and landings used for ingress and egress from principal and accessory structures provided the stairways and ramps do not exceed four feet in width and the landings do not exceed 32 square feet in area.
- ~~E. No Land Use Permit shall be required for placement of recreational trails.~~
- ~~FE.~~ Construction of a building or commencement of a use shall be substantially begun ~~within 12 months of the date of issue of a permit~~ by December 31st of the year following approval of the permit or said permit shall become void. The County may grant an administrative extension for up to an additional 12 months upon a request in writing prior to the expiration of the permit. ~~if it is determined that local conditions delayed the execution of a land use permit.~~
- ~~GF.~~ Any permit issued on the basis of an application which is in error, whether the error is intentional or not, shall be null and void. No such permit may be construed a permission to build or begin a land use. It shall be the responsibility of the Planning and Zoning Administrator to notify the property owner upon the discovery of an erroneous application.
- ~~HG.~~ Where any portion of the County subject to the provisions of this Ordinance is also subject to provisions of any proper airport zoning ordinance, no permit shall be issued pursuant to this Ordinance unless, the plans for intended use of the property in question are certified by the airport zoning ordinance administrator to be in conformity with said airport zoning ordinance.
- ~~H.~~ The contractor performing the work covered under the Land Use Permit is jointly responsible with the owner for compliance with all provisions of the permit.
- ~~J.~~ Hoop greenhouses and high tunnels over 300 square feet in size require a Land Use Permit but if these structures are used for gardening or agricultural purposes in the FAR 1-2-3 zone districts no additional permit will be required to relocate these structures provided the new location meets all required setbacks.
- ~~KJ.~~ Detached decks larger than 64 square feet in size require a Land Use Permit. All decks requiring a permit must meet the setbacks for the zone district they are located in.
- ~~LK.~~ Freight semi-trailers stored on a property and not licensed for use as over-the-road trailers require a Land Use Permit if they are over 160 square feet in size. Semi-trailers requiring a

[Land Use Permit are required to meet the structure setbacks for the zone district they are located in.](#)

Sec. 16.04 Enforcement

- A. The Planning and Zoning Administrator shall investigate all violations of this Ordinance, notify the owners of violations and direct the property owner to correct violations within a reasonable period of time, and, compliance is not obtained within a reasonable period of time, he shall report such violation to the County Attorney, who shall take appropriate and immediate action on the matter.
- B. Taxpayers within the County may institute mandamus proceedings to compel specific performance by property officials in reference to administration or enforcement of the Zoning Ordinance.
- C. Cook County may enforce all provisions of this Ordinance through such proceedings for injunctive relief as may be proper under the laws of Minnesota. The County Board, or any member thereof, upon notification from the Planning and Zoning Administrator, may initiate action to prevent, restrain, correct or abate violations or threatened violations. The County Board may at a later date vote to discontinue proceedings.

Sec. 16.05 Penalties

Any person, firm or corporation, or agent, employees or contractors of such, who violate, disobey, omit, neglect, refuse to comply with, or who resist enforcement of any of the provisions of this Ordinance shall be guilty of a misdemeanor. Each day that a violation continues to exist shall constitute a separate offence. All fines for violations shall be paid to the County and shall be credited to the General Revenue fund.

Tim Nelson

From: Sillman, Bradley J. <bradley.j.sillman@accenture.com>
Sent: Monday, March 15, 2021 10:37 PM
To: Tim Nelson
Cc: 'judysillman@aol.com'; woodburysullivan@gmail.com
Subject: Proposed changes to the Land Use Ordinance

[NOTICE: This message originated from a non-Cook County email address. Use Caution when clicking links or opening attachments.]

Hi Tim,

Judy and I would like the following to be provided to the Planning Commission in preparation for the upcoming meeting, 17 March 21. In discussion with Commissioners Sullivan and Storlie it was recommended we provide the below feedback prior to the meeting. We plan to speak during the public comment portion of the meeting to further clarify our request and provide perspective from our recent experience. Would you please send us the Zoom meeting link?

I'm writing to recommend against the proposed edits we reviewed in the agenda for the Planning Commission meeting. In the proposed change it strikes 7.14 in its entirety, which includes the long standing Shallow Soils exception to building within what would otherwise be referred to as the bluff impact zone. The law as it stands recognizes that if one has 24 inches or less of soil on top of bedrock that one can build in the bluff without regard to the continuation of the bluff. Basically the law recognizes that as the site is prepared for building, one would potentially remove top soil and vegetative matter to expose the bedrock for placing of the building's footings. Bedrock being the most stable medium one can build on. Additionally, given its bedrock and the shoreline setbacks, the risk of erosion into a nearby water source is largely non-existent.

If the ordinance is removed how will land owners know to request a variance based on the logic a shallow soils exception provided. We recognize the committee is well aware of the vast amount of bedrock to be found in the county. I would ask that the board ask the Land Use office develop suitable criteria for successful exercise of this provision. I expect the thought process is that these cases would be brought before the Board of Adjustment for review and approval. In our experience the Board of Adjustment also wanted more data if they were to be required to approve a variance. However, upon review and in consideration of the engineering report we procured and additional legal reviews it was determined we did not need a variance. If the law is struck in its entirety as is currently proposed, we have concerns our neighbors throughout the county will not understand the well founded advantages of building on bedrock when building in the vicinity of a bluff structure.

If you have any questions for Judy or I prior to the meeting, please do not hesitate to call or email us. Thank you in advance for presenting our comments to the Board for further discussion.

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Upcoming Holiday/PTO: March 8 & 9, 2021