

WABANA TOWNSHIP ZONING ORDINANCE

WABANA TOWNSHIP
ITASCA COUNTY, MINNESOTA

Ordinance No. 2021-_____

Adopted on _____, 2021

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**WABANA TOWNSHIP
ZONING ORDINANCE**

The board of supervisors of the Town of Wabana ordains:

**ARTICLE I
GENERAL PROVISIONS**

- 1.1 **Authority and Purpose.** The Town Board of Wabana Township (the “Town”) hereby adopts this ordinance, which shall be known as the “Wabana Township Zoning Ordinance” (this “Ordinance”), pursuant to its authority under Minnesota Statutes, sections 462.351 to 462.364, and such other law as may apply. This Ordinance does not rely on the authority provided in Minnesota Statutes, sections 366.10 to 366.181 and the procedures and requirements of those sections do not apply to this Ordinance. The Town has not adopted and does not administer or enforce the Minnesota Building Code.

The purpose of this Ordinance is (1) to protect the public health, safety, and general welfare, (2) to protect property values and preserve the quiet enjoyment of property, (3) to place all of the land within the Town within a zoning district, (4) to allow and regulate certain uses of land and structures within the Town while prohibiting other uses and structures, (5) conserving natural resources, wetlands, soils, bodies of water and groundwater, (6) preserving the natural and scenic areas of the Town, particularly the Town’s lakes, (7) to allow and regulate residential, commercial and industrial development in the Town in an environmentally sustainable manner and in manner that protects the culture and history of the Town, (8) to make clear the provisions of this Ordinance are intended to be the minimum requirements applicable within the Town and that structures and land uses remain subject to such other laws, rules, regulations and ordinances as they may apply, and (9) to prescribe penalties for violating this Ordinance.

- 1.2 **Jurisdiction.** This Ordinance shall apply to all areas within Wabana Township, except areas within the incorporated limits of any city, however organized, or as may otherwise be provided by law.

- 1.3 **County Regulations.** Itasca County (the “County”) has adopted various ordinances impacting the development and use of property in the Town, including floodplain regulations, subdivision regulations, solid waste regulations, and regulations related to individual subsurface sewage treatment systems (“ISTS”) or subsurface sewage treatment systems (“SSTS”). This Ordinance does not adopt, nor shall it be construed as adopting, any portion of those regulations and the Town is not assuming any responsibility for the administration or enforcement of those regulations. The Itasca County Zoning Ordinance includes shoreland regulations, establishes zoning districts and imposes regulations on the uses allowed within each district. The Town shall only be responsible for administering and enforcing the provisions of this Ordinance, including those provisions incorporated by reference, and anyone proposing to engage in or establish a regulated use or activity shall be required to obtain the required permit from the Town. The issuance of a permit or variance by the Town does not constitute, or take the place of, a permit or

variance needed from the County, and the issuance of a permit or variance by the County does not constitute, or take the place of, a permit or variance needed from the Town. Anyone proposing to initiate, convert, or expand a use of land, or to construct or expand a building or structure, is strongly encouraged to contact both the County and the Town to identify the applicable regulations, restrictions, and permit requirements.

- 1.3.1 **Floodplains.** Those portions of the Town designated as floodplain areas according to the applicable FEMA maps shall be regulated by the County pursuant to its applicable ordinances and any permits required under the County's floodplain ordinance shall be obtained from the County. The designated floodplain areas within the Town shall be treated as an overlay district for the purposes of this Ordinance and the land within the overlay shall be subject to the underlying regulations applicable in the primary zoning district imposed by this Ordinance including, where applicable, the need to obtain one or more permits under this Ordinance.
- 1.3.2 **ISTS/SSTS.** The County administers and enforces the Minnesota Rules, Chapters 7080-7083 regulations on ISTS/SSTS in the Town.
- 1.3.3 **Subdivisions.** Those proposing to subdivide property within the Town shall be subject to the County's subdivision regulations and requirements of this ordinance. However, pursuant to Minnesota Statutes, section 505.09, subdivision 1a, the County may not approve the platting of any land within the Town unless the Town Board first approves the plat and the laying of streets and other public ways shown on it. The Town Board may require, as a condition of any such approval, that the owner or developer enter into a development agreement with the Town Board regarding the proposed plat to address such issues as the Town Board may determine are needed in order to adequately protect the public health, safety, and welfare including, but not limited to, reimbursement of actual costs, providing security in the form and amount acceptable to the Town, and ensuring the proper construction of public improvements.
- 1.4 **Minimum Standards.** In their interpretation and application, the provisions of this Ordinance shall be held to be the minimum requirements for the promotion of the public health, safety, and welfare. Where the standards, regulations or requirements imposed by any provision of this Ordinance are either more or less restrictive than comparable standards, regulations or requirements imposed by any other ordinance, rule, or regulation of the Town, County, State, or Federal government, the statute, ordinance, rule, or regulation which imposes the more restrictive condition, standard, regulation, or requirement shall prevail. In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements, shall be liberally construed in favor of the Town, and shall not be deemed a limitation or repeal of any other powers granted by State statute.
- 1.5 **Consistency.** Should any provision in this Ordinance conflict with, or be found inconsistent with Minnesota Statutes, Chapter 462, the provisions of the applicable

section of Minnesota Statutes, Chapter 462 shall apply, and supersede the inconsistent or conflicting terms of this Ordinance. It is not intended by this Ordinance to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Ordinance imposes greater restrictions, the provisions of this Ordinance shall prevail.

- 1.6 **Adoption by Reference.** This Ordinance adopts by reference various provisions of the County Ordinance in order to promote consistency between this Ordinance and the County Ordinance and to avoid having to restate the provisions in full in this Ordinance. The provisions adopted by reference shall be interpreted to give effect to the intent of this Ordinance and in accordance with the following rules:
- (A) The provisions adopted by reference shall include such other provisions of the County Ordinance either directly referenced in the adopted provisions or that are necessary to give effect to the provisions adopted by reference, even if those provisions are not specifically identified in this Ordinance;
 - (B) References to the Board of County Commissioners or to the County Board shall be to the Town Board unless the context clearly indicates otherwise;
 - (C) References to the Planning Commission shall be to the Wabana Township Planning Commission;
 - (D) References to the County Engineer shall be to the Town Board;
 - (E) References to a County highway right-of-way shall be to a Town road right-of-way unless the context clearly indicates otherwise; and
 - (F) All applications required by the provisions adopted by reference shall be submitted to the Town Zoning Administrator or, if one has not been appointed, to the Town Clerk.
- 1.7 **Land Use Plan.** It is the policy of the Town that the enforcement, amendment and administration of this Ordinance be accomplished with due consideration of those recommendations contained in the Town's Comprehensive Plan.
- 1.8 **Applications.** All applications must be on forms approved by the Town Board. Any requests not submitted on an approved Town form shall not be considered an application for the purposes of this Ordinance or Minnesota Statutes, section 15.99 and shall be rejected. An application shall be immediately rejected if it is not accompanied by the required application fee. If an escrow is required, the applicant shall submit the required amount for escrow with the Town within five days of the submission of the application or the application shall be deemed incomplete and will not be processed.
- 1.9 **Unpaid Taxes or Charges.** Any application for a zoning request related to property in which there are delinquent property taxes, special assessments, penalties, interest, or past

due public utility fees shall not be considered complete and shall not be processed until the owner certifies to the Town, with adequate supporting documentation, that all such delinquent or past due amounts, interest, and penalties have been paid in full. Furthermore, any person that submits an application for a zoning request that owes the Town for past zoning related fees or costs, or if the application relates to property on which there are zoning related fees or costs owed to the Town, the application shall be deemed incomplete and shall not be accepted or processed until all such delinquent or past due amounts have been paid in full to the Town. The Town will not process or issue a permit, variance, or any other zoning request to any of the above-described properties until all past due amounts, penalties, and interest have been paid in full. The Town may collect any zoning related fees, charges, or costs owed to it by certifying the amount to the County Auditor as a service charge pursuant to Minnesota Statutes, section 366.012 for collection together with the property taxes levied against any real property the person or entity owing the amount owns in the State. The Town will provide the property owner written notice of its intent to certify the amount on or before September 15. The amounts so certified to the County shall be subject to the same penalties, interest, and other conditions provided for the collection of property taxes.

- 1.10 **Severability**. If any section, clause, provision or portion of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby. If any court of competent jurisdiction shall adjudge invalid the application of any provision of this Ordinance to a particular property, building, or structure, such judgment shall not affect the application of said provisions to any other property, building, or structure not specifically included in said judgment.
- 1.11 **Compliance**. No structure shall be erected, placed, converted, enlarged, reconstructed, or altered, and no structure or land shall be used, for any purpose or in any manner, which is not in conformity with this Ordinance. Construction of all structures and the established and operation of all uses must be in accordance with the application, plans, permit, and any applicable variances. Land use permits and conditional use permits issued on the basis of approved plans and applications authorize only the use and construction set forth in such approved plans and applications and no other use or construction. Any use or construction not in conformance with that authorized shall be deemed a violation of this Ordinance unless a new or amended permit or variance is first obtained as provided in this Ordinance.
- 1.12 **Prior Zoning Regulations**. This Ordinance supersedes and replaces all previous land use, zoning, and subdivision ordinances adopted for the Town and all such previous land use and zoning ordinances are hereby repealed. The repeal of the Town's previous land use, zoning, and subdivision ordinances does not itself affect the status of any use, structure, or lot that was not in conformance with the earlier ordinances.
- 1.13 **Ordinance Review**. In order to ensure the continued consideration of, and compliance with, the Town's Comprehensive Plan and coordination with the County Ordinance, the Town's Planning Commission and Town Board shall conduct a review of this Ordinance

as necessitated by amendments of the County Ordinance or once every five (5) years, whichever is earliest.

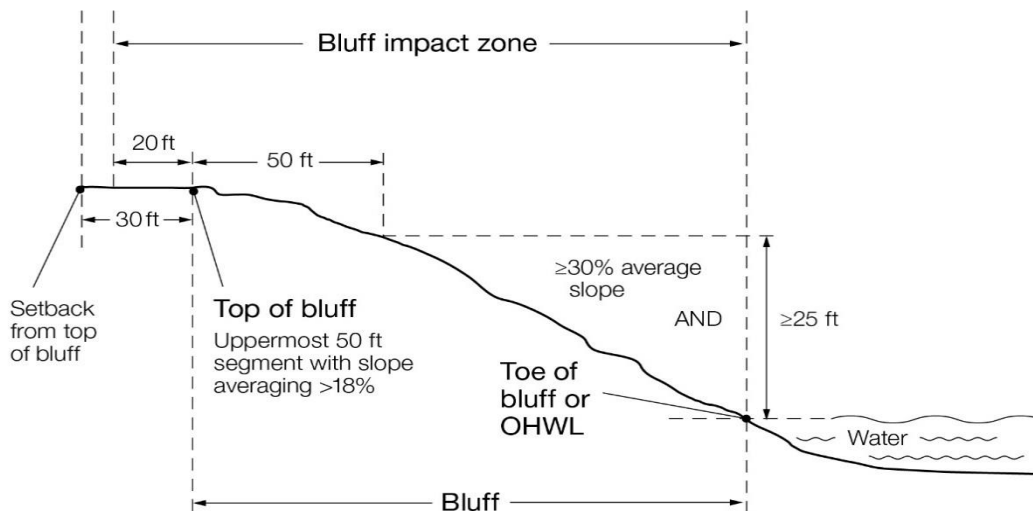
ARTICLE II DEFINITIONS

2.1 **Definitions.** For the purposes of this Ordinance, the following terms shall have the meaning given them in this section. Any term not specifically defined in this Ordinance shall have the meaning given it in the County Ordinance, if not defined therein, it shall have the meaning given it in the most applicable Minnesota Statute or Rule, and if not defined therein, it shall have the meaning given it in common usage in the context in which it is used herein.

- (1) **Accessory Structure.** “Accessory Structure” means any building or improvement on the same parcel or set of contiguous parcels incidental and subordinate to the principal use or structure.
- (2) **Accessory Use.** “Accessory Use” means any use on the same parcel or set of contiguous parcels incidental and subordinate to the principal use or structure.
- (3) **Agriculture.** “Agriculture” means the art or science of cultivating the soil and activities incident thereto; the growing of soil crops in the customary manner on open tracts of land; the accessory raising of livestock and poultry; farming. The term shall include incidental retail selling by the producer of products raised and processed on the premises, provided that space necessary for parking of vehicles or customers shall be furnished off the public right-of-way.
- (4) **Animal Unit.** “Animal Unit” means a unit of measure used to compare differences in the production of animal manure that employs as a standard the amount of manure produced on a regular basis by a slaughter steer or heifer.
- (5) **Bed and Breakfast Inn.** “Bed and Breakfast Inn” means an owner-occupied single family dwelling unit in which not more than five rooms are rented on a nightly basis for a period of seven or less consecutive days by the same person. Meals may or may not be provided to residents or overnight guests. All such establishments shall be duly licensed by all applicable city, county, and state regulations. Bed and Breakfast Inns shall comply with the single-family minimum parcel width/area requirements as specified by the zoning district in which the establishment is located. Adequate parking shall be supplied. Signs identifying these inns shall not exceed three square feet.
- (6) **Bluff.** “Bluff” means a topographic feature such as a hill, cliff, or embankment having the following characteristics:
 - (1) Part or all of the feature is located in a shoreland area;
 - (2) The slope rises at least 25 feet above the toe of bluff;

- (3) The grade of the slope from the toe of the bluff to a point 25 feet or more above the toe of the bluff averages 30 percent or greater, except that an area with an average slope of less than 18 percent over a distance of at least 50 feet shall not be considered part of the bluff; and
- (4) The slope must drain toward the waterbody.

Bluff, Bluff Impact Zone, Top and Toe of Bluff



- (7) **Bluff Impact Zone.** “Bluff Impact Zone” means a bluff and land located within 20 feet of the top of a bluff.
- (8) **Bluff, Toe of.** “Bluff, Toe of” means the lower point of a 50-foot segment with an average slope exceeding 18 percent or the OHWL, whichever is higher.
- (9) **Bluff, Top of.** “Bluff, Top of” means for the purposes of measuring setbacks, the higher point of a 50-foot segment with an average slope exceeding 18 percent.
- (10) **Boathouse.** “Boathouse” means a facility as defined by Minnesota Statutes, section 103G.245.
- (11) **Buffer.** “Buffer” means a vegetative feature as defined by Minnesota Statutes, section 103F.48.
- (12) **Building Line.** “Building Line” means a line parallel to a lot line or the OHWL at the required setback beyond which a structure may not extend.
- (13) **Campground.** “Campground” means an area accessible by vehicle and containing campsites or camping spurs of tent and trailer camping. A campground is considered a Resort, as defined in this Ordinance, that limits use to part-time

camping in a tent, trailer, tent-trailer, motor home, or other structure capable of providing shelter and mounted on or hitched to a self-propelled vehicle.

- (14) **Conservation Development.** “Conservation Development” means a method of subdivision characterized by common open space and compact dwelling unit that are clustered in groups.
- (1) Minor Conservation Development is one that contains 10 or less dwelling units that is in compliance with all provision of Article 15 of the County Ordinance.
 - (2) Major Conservation Development is one that contains 11 or more dwelling units and would require the processing of a conditional use permit and conservation development permit application as set forth in Article 15 of the County Ordinance.
 - (3) Non-compliant Minor Conservation Development is one that contains 10 or less dwelling units that is not in compliance with all provisions in Article 15 of the County Ordinance and would require the processing of a conditional use permit and conservation development permit application as set forth in Article 15 of the County Ordinance.
- (15) **Controlled Access Lot.** “Controlled Access Lot” means a riparian lot that meets or exceeds the lot dimensions of a conforming riparian lot for the classification of the abutting public waters, does not have a residential dwelling or other buildings and is owned and intended for controlled access to abutting public waters for launching and retrieving watercraft by owners of lots in contiguous non-riparian tiers.
- (16) **Commercial Solar System.** “Commercial Solar System” means a solar energy system that is designed to supply energy for off-site users or export to the wholesale market on the distribution grid.
- (17) **Commercial Use.** “Commercial Use” means the principal use of land or buildings for the sale, lease, rental, or trade of products, goods, or services. For the purposes of this Ordinance, Commercial Use shall not include Agricultural or Industrial, nor shall it include transmission or distribution facilities of any Utility.
- (18) **Commercial Wind Energy Conversion System (“Commercial WECS”).** “Commercial Wind Energy Conversion System” or “Commercial WECS” means any combination of WECS with a combined nameplate capacity of 100 kilowatts or more.
- (19) **Commissioner.** “Commissioner” means the commissioner of the Minnesota Department of Natural Resources.

- (20) **Community Solar Garden.** “Community Solar Garden means a solar-electric (photovoltaic) array that provides retail electric power (or a financial proxy for retail power) to multiple community members or businesses residing or located off-site from the location of the solar energy system, under the provisions of Minnesota Statutes, Section 216B.1641 or successor statute.
- (21) **Conditional Use.** “Conditional Use” means a land use as defined by this Ordinance that would not be appropriate generally but may be allowed with appropriate restrictions upon a finding that certain conditions as detailed in the Ordinance exist, the use conforms to the comprehensive plan, and the use is compatible with the existing neighborhood. Non-permitted conditional uses are listed in this ordinance.
- (22) **Controlled Access Lot.** “Controlled Access Lot” means a riparian lot that meets or exceeds the lot dimensions of a conforming riparian lot for the classification of the abutting public waters does not have a residential dwelling or other buildings and is owned and intended for controlled access to abutting public waters for launching and retrieving watercraft by owners of lots in contiguous non-riparian tiers.
- (23) **County.** “County” means Itasca County, Minnesota.
- (24) **County Ordinance.** “County Ordinance” means the most current version of the Itasca County Zoning Ordinance.
- (25) **Day Care Facility I.** “Day Care Facility I” means any facility, public or private, which for gain or otherwise regularly provides 12 or less persons with care, training, supervision, habilitation, rehabilitation, or developmental guidance on a regular basis, for periods of less than 24 hours per day, in a place other than the persons’ own home. Day care facilities include but are not limited to: family day care homes, group family day care homes, day care centers, day nursery, nursery schools, developmental achievement centers, day treatment programs, adult day care centers and day services. Day care facility shall not include Group Home I or Group Home II facilities as defined in this Ordinance. Person means an adult who is handicapped by reason of mental retardation, mental illness, chemical dependency, or physical handicapped; a child whether handicapped or not, and for the purposes of adult day care, adult foster care and supportive living residences would include any adult who is functionally impaired.
- (26) **Day Care Facility II.** “Day Care Facility II” means any facility, public or private, which for gain or otherwise regularly provides 13 to 16 persons with care, training, supervision, habilitation, rehabilitation or developmental guidance on a regular basis, for periods of less than 24 hours per day, in a place other than the persons’ own home. Day care facilities include, but are not limited to: family day care homes, group family day care home, day care centers, day nursery, nursery schools, developmental achievement centers, day treatment programs, adult day

care centers and day services. Day care facilities shall not include Group Home I and Group Home II as defined in this Ordinance. Person means an adult who is handicapped by reason of mental retardation, mental illness, chemical dependency or physical handicapped; a child whether handicapped or not; and for purposes of adult day care, adult foster care and supportive living residences would include any adult who is functionally impaired. See Minnesota Statutes, sections 245A.11 subds. 3-4 and 245A.14, subd. 2)

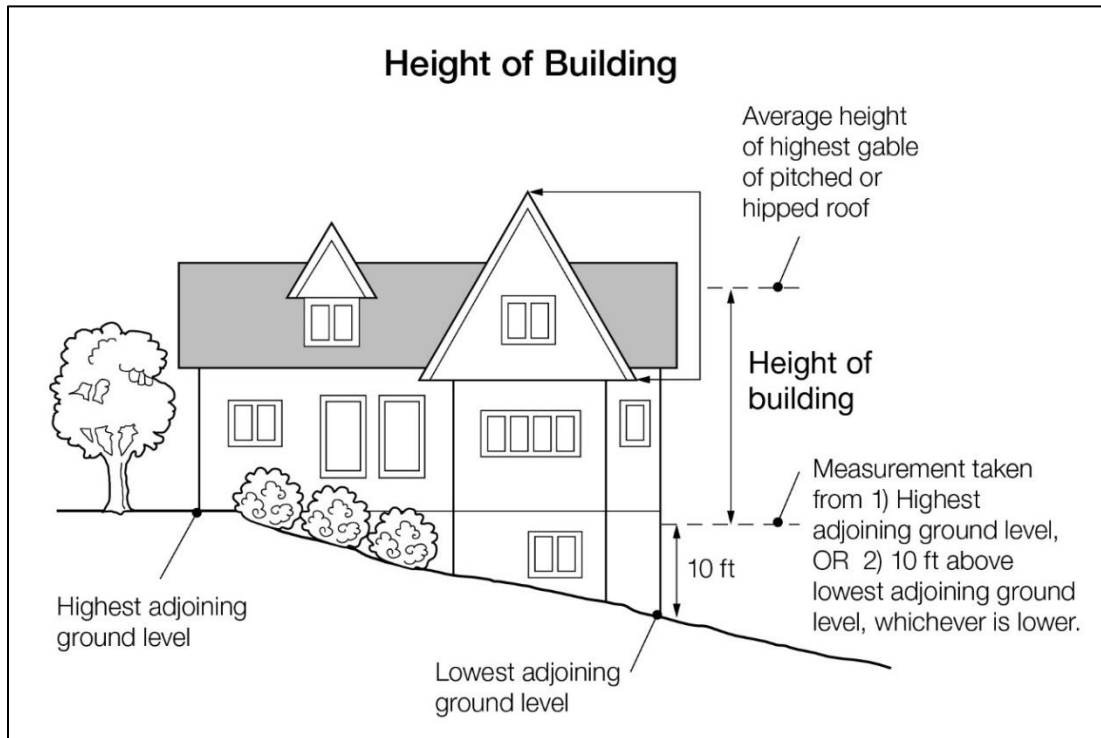
- (27) **Deck.** “Deck” means a horizontal, unenclosed platform with or without attached railings, seats, trellises, and attached or functionally related to a principal use or site and at any point extending more than one foot above ground.
- (28) **Duplex, Triplex, and Fourplex or Quad.** “Duplex, Triplex, and Fourplex or Quad” means a residential structure on a single lot, having two, three, or four dwelling units, respectively, attached by common walls and each unit equipped with separate living quarters, which are sleep or cooking facilities for each district.
- (29) **Dwelling.** “Dwelling” means a residential structure containing one or more dwelling units.
- (30) **Dwelling, Multi-Family.** “Dwelling, Multi-Family” means a residence designed for or occupied by two to four families with separate living quarters, which are sleep or cooking facilities for each, including condominiums or other types of cooperative owner dwelling units.
- (31) **Dwelling, Single-Family.** “Dwelling, Single-Family” means a detached residence designed for or occupied by one family only, including mobile home, manufactured home, or seasonal recreational cabin.
- (32) **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.
- (33) **Dwelling Unit.** “Dwelling Unit” means any structure or portion of a structure designed as short-term or long-term living quarters, which are cooking or sleeping facilities, for one or more persons, including rental or timeshare accommodations such as motel, hotel, and Resort rooms and cabins. Adequate sanitation facilities must be provided.
- (34) **Dwelling Unit, Temporary Second.** “Dwelling Unit, Temporary Second” is intended to allow an elderly family member that has a medical condition or a special need to live independently. It is further intended that the use is clearly temporary and not to exceed a period of five years. For the purposes of this section, the term “family member” would include a parent, stepparent, child,

stepchild, grandparent, grandchild, brother, sister, uncle, aunt, nephew, or niece. This relationship may be by blood or marriage.

- (35) **Earth Tones.** “Earth Tones” means colors that are muted, flat, browns, tans, grays, greens, and some reds.
- (36) **Essential Services or Essential Service Systems.** “Essential Services” or “Essential Service Systems” means above ground or underground electrical, gas, communication, steam, liquid or sewer systems for collection, distributing or transmission purposes, used by governmental departments or commissions or by public or private utilities (including cooperatives). Such systems shall include, but not be limited to, towers, poles, pole mounted appurtenances, wires cables, conduits, pipes, sewers, drains, manholes, fire alarm boxes, police call boxes, public telephone booths and accessories thereto, all of which shall be considered as Special Structures. Electrical substations, communication repeater stations, pipe line pumping or metering stations, sewer lift stations, water wells and accessories thereto, including buildings that are an integral and protective part thereof, shall be considered as structures, which are parts of such essential service systems.
- (37) **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, or successor statutes.
- (38) **Feedlot.** “Feedlot” means a lot or building or combination of lots and buildings intended for the confined feeding, breeding, raising, or holding of animals and specifically designed as a confinement area in which manure may accumulate. Or, where the concentration of animals is such that a vegetative cover cannot be maintained within the enclosure. Open lots used for the feeding and rearing of poultry (poultry ranges) shall be considered to be feedlots. Pastures shall not be considered feedlots.
- (39) **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.
- (40) **Forestry.** “Forestry” means the use and management of a forest, woodland, or plantation and related research and educational activities, including logging and the construction, alteration, or maintenance of wood roads, skid ways, landings, and fences.
- (41) **Foster Home.** “Foster Home” means a family home licensed to provide one or more of the following types of care for children (under the age of 18 years) who are unrelated to the family and who are cared for 24 hours a day:

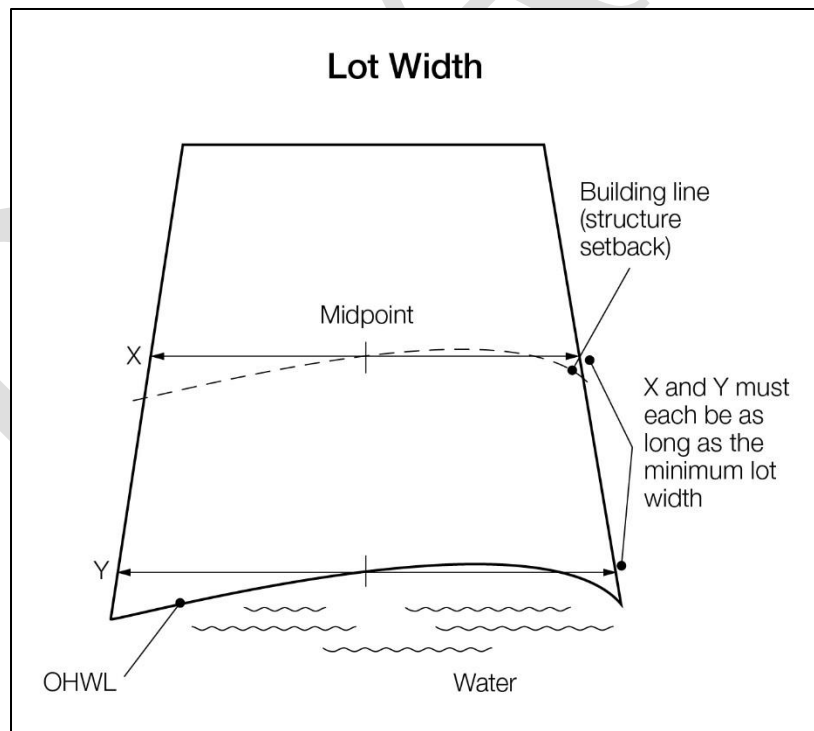
- (A) Emergency Home: A foster home designated primarily for time limited emergency placements, usually lasting no more than 30 days for any child;
 - (B) Interim Home: A foster home caring for children expected to return home within one year or to be placed for adoption within two years;
 - (C) Permanent Home: A foster home caring for children (whether State wards or not) under written agreement for planned care until the child reaches majority;
 - (D) Restricted Home: A foster home licensed for a specific child;
 - (E) Special Services Home: A foster home able to provide extraordinary care or services by virtue of training, experience or special skills; and
 - (F) Group Family Foster Home: A foster home providing care for no more than ten children, including the family's own children. See Minnesota Statutes, sections 245.782, subd. 6, 245.802, 245.812, subds. 2a, 3, 4, and 7 and Minnesota Rules, Part 1983 and 9545.0010, subpart 7.
- (42) **Group Home I.** “Group Home I” means a residential facility, which is either a public or private facility, which for gain or otherwise provides up to six persons who are handicapped by reason of mental retardation, mental illness, chemical dependency, physical handicapped or persons who are elderly, with a 24 hour per day substitute for care, food, lodging, training, education, supervision, habilitation, rehabilitation and treatment they need, but which for any reason cannot be furnished in the persons' own home. Group Homes include, but are not limited to: State institutions under the control of the Commissioner of Human Services, residential treatment centers, maternity shelters, residential programs, supportive living residences for functionally impaired adults or schools for handicapped children. Person means an adult dependency, physical handicapped or elderly adults and a child whether handicapped or not.
- (43) **Group Home II.** “Group Home II” means a residential facility, which is either a public or private facility, which for gain or otherwise provides from 7 to 16 persons who are handicapped by reason of mental retardation, mental illness, chemical dependency or physically handicapped or persons who are elderly, with a 24 hour per day substitute for care, food, lodging, training, education, supervision, habilitation, rehabilitation and treatment they need, but which for any reason cannot be furnished in the person's own home. Group homes include but are not limited to: State institutions under the control of the Commissioner of Human Services, residential treatment centers, maternity shelters, residential programs, supportive living residences for functionally impaired adults or schools for handicapped children. Person means an adult who is handicapped by reason of mental retardation, mental illness, chemical dependency or physical handicapped or elderly adults and a child whether handicapped or not. See Minnesota Statutes, section 245A.11, subd. 3.
- (44) **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

adjoining ground level, whichever is lower, and the highest point of a flat roof or average height of the highest gable of a pitched or hipped roof.



- (45) **Home Occupation I and II.** “Home Occupation I” and “Home Occupation II” mean a nonresidential use that will not change the character of the immediate neighborhood and will be conducted entirely within a residential dwelling or accessory building, carried on by the inhabitants of the residence, and which use is clearly incidental and secondary to the use of the premises for residential purposes. Home Occupations I and II should be distinguished from home hobbies or crafts which do not entail any industrial or commercial aspect.
- (46) **House of Worship.** “House of Worship” means a structure, together with its accessory structures and uses, where persons assemble for religious worship and which structure, together with its accessory structures or uses, is maintained and controlled by a religious body organized to sustain public worship.
- (47) **Impervious Surface.** “Impervious Surface” means a constructed hard surface that either prevents or retards the entry of water into the soil and causes water to run off the surface in greater quantities and at an increased rate of flow than prior to development. Examples include rooftops, sidewalks, patios, storage areas, and concrete, asphalt, or gravel driveways.
- (48) **Industrial Use.** “Industrial Use” means activity or use of land or buildings for the production, mining or manufacturing of goods, products, commodities, or other wholesale items.

- (49) **Intensive Vegetation Clearing.** “Intensive Vegetation Clearing” means the removal of more than one-third of the trees, brush, or shrubs in a contiguous patch, strip, row, block, or removal that would greatly reduce the natural screening and decrease aesthetics and ecological values of the property.
- (50) **Land Use Plan.** “Land Use Plan” means the Wabana Township Comprehensive Plan, as amended.
- (51) **Lot.** “Lot” means one parcel within a block of an official lot and designated according to Minnesota Statutes, Chapters 505 and 515 or one parcel within an Auditor's Subdivision and designated according to Minnesota Statutes, Chapter 272.19 for the sale, lease, transfer, or separation thereof. For the purpose of this Ordinance, a lot, parcel, or tract shall be considered to be an individual building site that shall be occupied by no more than one Single-Family Dwelling Unit. Such lot shall have frontage or access on a public or private street or road or body of water.
- (52) **Lot width.** “Lot Width” means the minimum distance between:
- (1) Side lot lines measured at the midpoint of the building line; and
 - (2) Side lot lines at the OHWL, if applicable.



- (53) **Manufactured Home.** “Manufactured Home” means a structure, transportable in one or more sections, that in the traveling mode is eight body feet or more in

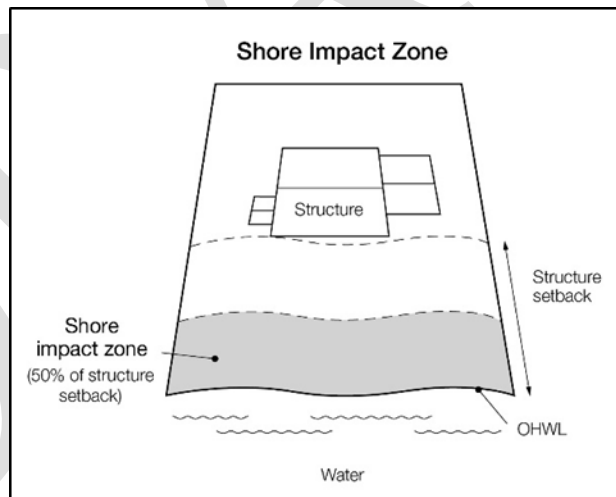
width or 40 body feet or more in length or when erected on site is 320 or more square feet and is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and including plumbing, heating, air conditioning and electrical systems contained therein; except that the term includes any structure which meets all the requirements and with respect to the manufacturer voluntarily files a certification required by the Secretary of the U.S. Department of Housing and Urban Development and complies with the standards established under Minnesota Statutes, Chapter 327. These structures shall be constructed after June 15, 1976 and shall bear all of the required U.S. Department of Housing and Urban Development Seals and Labels. No manufactured home shall be moved into the Town that does not meet the Manufactured Home Building Code as defined in Minnesota Statutes, section 327.31, subd. 3, or successor statutes.

- (54) **Mobile Home.** “Mobile Home” means a factory built dwelling not defined as a Manufactured Home and used generally for year-round occupancy as a single-family dwelling unit constructed for movement from place to place occasionally; generally less than 17 feet wide; generally requiring a special tow vehicle together with a special towing permit for travel on public highways; also used a temporary office space.
- (55) **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 to those controls that would not have been permitted to become established under the terms of the official controls as now written.
- (56) **Non-Riparian.** “Non-Riparian” means land that is not traversed or bounded by a lake, stream, river, or other natural watercourse.
- (57) **Ordinary High-Water Level or OHWL.** “Ordinary High-Water Level” or “OHWL” 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 OHWL is the elevation of the top of the bank of the channel. For reservoirs and flowages, the OHWL is the operating elevation of the normal summer pool.
- (58) **Parcel.** “Parcel” means an area of land designated by metes and bounds or other accepted means and separated from other parcels or portions by said description for the purpose of sale, lease, transfer or separation thereof. For the purpose of this Ordinance, a lot, parcel or tract shall be considered to be an individual building site that shall be occupied by no more than one Single-Family Dwelling Unit. Such lot shall have frontage or access on a public or private street or road or body of water.

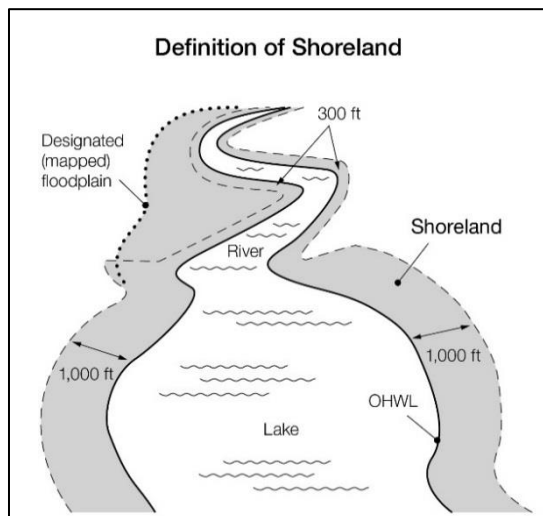
- (59) **Parcel Area.** “Parcel Area” means:
- (A) For platted property, including tracts within a registered land survey and lots within an Auditor's Subdivision, the actual area of the lot or tract with no consideration for adjoining road right-of-ways, public or private.
 - (B) For unplatted property, the actual area of the parcel as described in the deed of record (warranty, quit claim, contract for deed).
- (60) **Parcel Lines.** “Parcel Lines” means the lines bounding a parcel as defined herein. When a parcel abuts a road, street, highway, avenue, park or other public property except an alley, such lines shall be known as right-of-way line, and when a parcel line abuts on an alley, it shall be known as an alley line.
- (61) **Parcel Water Frontage.** The measurement from side parcel line to side parcel line of a parcel measured along the OHWL. A surveyor's survey line will be construed to give this distance unless other evidence is shown.
- (62) **Parcel Width.** “Parcel Width” means:
- (A) Riparian: Parcel width requirements shall be met at both the OHWL and at the minimum structure setback line as described below:
 - 1. At the OHWL, the parcel width shall be measured along the OHWL from the point of intersection of one side line to the point of intersection with the other sideline.
 - 2. At the minimum structure setback line, the lot parcel width shall be measured as follows:
 - a. First, determine the minimum structure setback distance from the OHWL as set forth in Section 5.6.5.
 - b. Second, draw a line along the minimum structure setback paralleling the OHWL between the point of intersection of one sideline to the point of intersection with the other sideline.
 - c. Third, determine the midpoint of the minimum structure setback line.
 - d. Fourth, determine the shortest possible distance from the midpoint of the minimum structure setback line to each of the sidelines intersected by the water body at the structure setback line.
 - e. Finally, add the two distances. The sum of the two segments shall meet or exceed the minimum parcel width at the minimum structure setback line.
 - (B) Nonriparian: The parcel width required shall be met at the shortest or nearest distance between the sidelines measured at the building setback line.

- (63) **Patio Platform, Ground-Level.** “Patio Platform, Ground-Level” means an unenclosed platform or deck that is constructed primarily of wood, a size not to exceed 160 square feet in area, and five feet in height above ground level.
- (64) **Person.** “Person” means a natural person, partnership, corporation, association, or other legal entity.
- (65) **Planned Unit Development.** “Planned Unit Development (PUD)” means a method of land use or Conservation 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 that incorporates clustering of these units or sites to provide areas of common open space, and a mix of structure types and land uses. These developments may be organized and operated as residential or commercial enterprises such as individual dwelling units, townhouses, condominiums, time-share condominiums, cooperatives, common interest communities, shared-interest communities, apartment buildings, non-resort campgrounds and youth camps, recreational vehicle parks, manufactured home parks, or any combination of these with other forms of development. Planned unit developments shall also include any conversion of pre-existing structures and land uses in order to utilize this method of development.
- (66) **Public Waters.** “Public Waters” means a body of water capable of substantial beneficial public use. This shall be construed to mean, for the purpose of this Ordinance, any body of water, which has the potential to support any type of recreational pursuit or water supply purpose. A body of water created by a private user where there was no previous shoreland, as defined herein, for a designated private use authorized by the Planning Commission shall be exempt from the provisions of the statewide standards and criteria, as defined in Minnesota Statutes, section 103G.005, subd. 15. Mine tailings basins, mine, or other industrial water reservoirs and water in mine pits are specifically excluded.
- (67) **Resort.** “Resort” means a commercial establishment that includes buildings, lodges, structures, dwelling units, camping or recreational vehicle sites, or enclosures, or any part thereof kept, used, maintained, or advertised as or held out to the public to be a place where sleeping accommodations are furnished to the public, primarily to persons seeking recreation, for periods of one day or longer, and having for rent three or more cabins, rooms, campsites, or enclosures. The establishment must be primarily service-oriented for transient lodging of guests. All cabins, rooms, dwelling units, camping or recreational vehicle sites, or enclosures must be included in the Resort rental business. Resorts must not allow residential use of a dwelling unit or site, except dwellings used as residences for the service providers. To qualify as a Resort, a Resort must be licensed under appropriate state regulations as per Minnesota Statutes, section 157.16, subd. 1.

- (68) **Riparian.** “Riparian” means Land that is traversed or bounded by a lake, stream, river, or other natural watercourse.
- (69) **Setback.** “Setback” means the minimum horizontal distance between a structure, sewage treatment system, or other facility and an OHWL, sewage treatment system, top of a bluff, road, highway, property line, or other facility. Distances are to be measured horizontally from the property line to the most outwardly extended portion of the structure.
- (70) **Sewage Treatment System.** “Sewage Treatment System” had the meaning given under Minnesota Rules, part 7080.1100, subp. 82.
- (71) **Sewer System.** “Sewer System” means common or publicly owned pipelines, conduits, pumping stations, force main and all other construction, devices, appliances, or appurtenances used for conducting sewage or industrial waste or other wastes to a point of common, approved, off-site disposal. See the Itasca County Sanitation Ordinance.
- (72) **Shore Impact Zone.** “Shore Impact Zone” means the land located between the OHWL of public water and a line parallel to it at a setback of 50 percent of the required structure setback for the applicable lake or river classification. The shore impact zone for permitted agricultural land uses is 100 feet from the OHWL.



- (73) **Shoreland.** “Shoreland” means land located within the following distances from public waters:
- (1) 1,000 feet from the OHWL of a lake, pond, or flowage; and
 - (2) 300 feet from a river or stream, or the landward extent of a floodplain designated by ordinance on a river or stream, whichever is greater.



Whenever the shorelands of two or more public waters shall overlay, then the Shoreland area for each such public water may be reduced to coincide with the topographic divide between those waters. If there is not a topographic divide clearly delineated, then the midpoint between the two water bodies would regulate the appropriate classification.

- (74) **Significant Historic Site.** “Significant Historic Site” means any archaeological site, standing structure, or other property that meets the criteria for eligibility to the National Register of Historic Places or is listed in the State Register of Historic Sites, or is determined to be an unplatted cemetery that falls under the provisions of Minnesota Statutes, section 307.08. A historic site meets these criteria if it is presently listed on either register or if it is determined to meet the qualifications for listing after review by the Minnesota state archaeologist or the director of the Minnesota Historical Society. All unplatted cemeteries are automatically considered to be significant historic sites.
- (75) **Site Suitability Analysis.** “Site Suitability Analysis” means an evaluation of land to determine if it is appropriate for the proposed use. The analysis considers factors relevant to the proposed use and may include the following features: susceptibility to flooding; existence of wetlands; soils, erosion potential; slope steepness; water supply, sewage treatment capabilities; water depth, depth to groundwater and bedrock, vegetation, near-shore aquatic conditions unsuitable for water-based recreation; fish and wildlife habitat; presence of significant historic sites; or any other relevant feature of the natural land.
- (76) **Solar Farm.** “Solar Farm” means a commercial facility that converts sunlight into electricity, whether by photovoltaics (PV), concentrating solar thermal devices (CST), or other conversion technology, for the principal purpose of wholesale sales of generated electricity.

- (77) **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 18 percent, as measured over horizontal distances of 50 feet or more, which are not bluffs.
- (78) **Structure.** “Structure” means any building or edifice, or any constructed addition to a building or edifice that changes its external dimensions or anything not collapsible, which is placed or built in or on the ground, shall be considered a structure. Every structure, excepting for a special structure, shall be subject to setback requirements prescribed by this Ordinance. Zoning permits as required by this Ordinance shall be obtained for structures before they are placed.
- (1) An outdoor privy shall be considered, not only a structure, but also a sanitary facility, and as such shall meet all sewage treatment system requirements, which are prescribed by the County.
 - (2) Any currently licensed fish house, usable on ice for angling or spearing in winter, shall not be considered a structure or requiring a zoning permit, provided that, when placed on land during other seasons, it shall be subject to all setback requirements and shall not be used for living or sleeping quarters.
- (79) **SWCD.** “SWCD” means the Itasca County Soil and Water Conservation District.
- (80) **Temporary Borrow Area.** “Temporary Borrow Area” means land use involving the excavation or digging of material for use as fill exclusively at a road construction or road maintenance project. The borrow area designation would terminate once the particular road construction or maintenance project is completed, but shall in no case exceed two years.
- (81) **Tower.** “Tower” means any pole, telescoping mast, tower, tripods, or any other structure that supports a secondary device.
- (82) **Town.** “Town” means Wabana Township, Itasca County, a public corporation under the laws of Minnesota.
- (83) **Town Board.** “Town Board” means the board of supervisors of Wabana Township, Itasca County, Minnesota.
- (84) **Variance.** “Variance” means the same as that defined in Minnesota Statutes, section 462.357, subd. 6(2)., and as limited by this Ordinance.

- (85) **Water-Oriented Accessory Structure or Facility.** “Water-Oriented Accessory Structure or Facility” means a small, aboveground building or other improvements allowed by permit only (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 for water-related storage.
- (86) **Wetland.** “Wetland” has the meaning given under Minnesota Rules, part 8420.0111.
- (87) **Wind Energy Conversion Systems (“WECS”).** “Wind Energy Conversion Systems,” or “WECS,” means an electrical generating facility comprised of one or more wind turbines and accessory facilities, including but not limited to: power lines, transformers and substations that operate by converting the kinetic energy of wind into electrical energy. The energy maybe used on-site or distributed into the electrical grid.
- (88) **Zoning Administrator.** “Zoning Administrator” means the person appointed by the Town Board to serve as the zoning administrator for the Town or the Town Board if it does not specifically identify one person to serve as the zoning administrator for the Town.

**ARTICLE III
RULES OF INTERPRETATION**

3.1 **Rules of Interpretation.** The language set forth in the text of this Ordinance shall be interpreted in accordance with the rules of construction:

- (A) The word “person” includes firm, association, organization, company, partnership, cooperative, or corporation as well as an individual;
- (B) The present tense includes the future tense, the singular number includes the plural, and the plural includes the singular;
- (C) The word “shall” is mandatory and the word “may” is permissive;
- (D) The word “lot” shall include the words “plot,” “piece,” “parcel,” and “property” and shall be interpreted broadly to give full effect of the provisions of this Ordinance;
- (E) All distances, unless otherwise specified, shall be measured horizontally, and all distances expressed in feet shall be to the nearest 1/10 of a foot;
- (F) General words are construed to be restricted in their meaning by preceding particular words;

- (G) Specific language shall be controlling over general language;
- (H) References in this Ordinance to any statutes, rules, regulations, or ordinances shall include any amendments to, or successors of, those statutes, rules, regulations, or ordinances. Furthermore, such references shall serve to incorporate those statutes, rules, regulations, or ordinances by reference to the extent necessary to achieve the intent and purposes of this Ordinance. However, such incorporations are intended only to give effect to this Ordinance and are not intended to make the Town responsible for the administration or enforcement of the referenced statutes, rules, regulations, or ordinances; and
- (I) The listing of examples to further explain a term, concept, requirement, or process is not intended to be, and shall not be interpreted as, an exclusive listing. Unless the context clearly indicates otherwise, such listings are intended to be explanative without being exclusive or limited. The exception to this general rule of interpretation is the listing of uses allowed in a district, which is intended to be limited to only those uses and the uses the Town Board finds to be substantially similar as provided in this Ordinance.

**ARTICLE IV
ZONING DISTRICTS AND ZONING MAP**

- 4.1 **Zoning Districts.** All of the land within the Town located outside the jurisdictional boundaries of a city shall be placed within a zoning district and may also be located wholly or partially within one (1) or more overlay districts. The following zoning districts are hereby established for the Town:
 - (A) Farm Residential District (FR);
 - (B) Rural Residential District (RR);
 - (C) Recreational Commercial District (RC);
 - (D) Public Land District (PL); and
 - (E) Shoreland Overlay District (SO).
- 4.2 **Zoning Map.** The zoning map adopted by the County showing the location and boundaries of the zoning districts is hereby adopted by reference and incorporated herein as the Wabana Township Zoning Map. See Appendix 1 for Wabana Township Zoning Map.
- 4.3 **District Regulations.**
 - 4.3.1 **Generally.** Land within a particular zoning district shall be subject to: the general standards, regulations, and restrictions contained within this Ordinance; any specific standards, regulations, and restrictions established in this Ordinance for the particular district; any performance standards established for the particular use; the standards, regulations, and restrictions of any applicable overlay district;

and any applicable standards, regulations, and restrictions imposed by any other applicable federal, state, and local laws, rules, regulations, and ordinances.

4.3.2 **Overlay District Regulations.** Land located within an overlay district is subject to both the regulations established herein for the primary zoning district in which it is located as well as the regulations applicable within the overlay district.

4.4 **Recording this Ordinance.** The Town Clerk shall record this Ordinance, and any subsequent amendments made hereto, in the office of the Itasca County Recorder after adoption.

4.5 **Prohibited Uses.** Only those uses expressly allowed within a zoning district under the County Ordinance may occur within that district, subject to the additional restrictions and prohibitions contained in this Ordinance and subject to regulations established in this Ordinance for the Shoreland Overlay District. Without limiting the foregoing, the following uses are expressly prohibited within the identified zoning districts:

(A) Farm Residential District (FR)

1. Campgrounds, including RV Parks;
2. Community Solar Gardens;
3. Commercial Solar Systems;
4. Solar Farms;
5. Commercial WECS;
6. Conservation Developments, Major;
7. Conservation Developments, Non-compliant Minor; and
8. Conservation Developments, Minor.

(B) Rural Residential District (RR)

1. Campgrounds, including RV Parks;
2. Community Solar Gardens;
3. Commercial Solar Systems;
4. Solar Farms;
5. Commercial WECS;
6. Conservation Developments, Major;
7. Conservation Developments, Non-compliant Minor; and
8. Conservation Developments, Minor.

(C) Recreational Commercial District (RC)

1. Agriculture Implements, Distribution Display Repairs and Sales;
2. Contractor, Equipment and Material Storage;
3. Electric, Light and Power Company Yards;
4. Gasoline. Gasoline Bulk Storage, Tank Oil, and/or Service Stations;
5. Machine and Welding Shops;

6. Mining. Mineral extraction, mineral processing, metals production, mineral or metal storage, storage and stockpiling of mining and mineral processing waste materials and byproducts, storage of mining and processing equipment, and other activities associated therewith that meet the provisions of Section 3.13 and Article 13 of the County Ordinance and includes industries, facilities, and activities regulated by Minnesota Statutes, section 93.44 to 93.51. Also, structures necessary for mining, mineral processing, metals production operations, ancillary facilities, and activities that meet the provisions of Section 3.13 and Article 13 of the County Ordinance;
7. Recycling Centers – Auto, Appliance and Junkyards that meet the provisions of Section 3.11 of the County Ordinance;
8. Sanitary Landfills;
9. Sawmill / Lumber Yards;
10. Target Shooting Facilities;
11. Community Solar Gardens;
12. Commercial Solar Systems;
13. Solar Farms;
14. Commercial WECS;
15. Campgrounds, including RV Parks;
16. Commercial Use; and
17. Feedlots.

(D) Public Land District (PL)

1. Campgrounds, including RV Parks;
2. Community Solar Gardens;
3. Commercial Solar Systems;
4. Solar Farms;
5. Commercial WECS;
6. Conservation Developments, Major;
7. Conservation Developments, Non-compliant Minor; and
8. Conservation Developments, Minor.

**ARTICLE V
SHORELAND OVERLAY DISTRICT (SO)**

5.1 **Shoreland Overlay District.** The State of Minnesota in Minnesota Statutes, Chapter 103F has defined shoreland areas and described limitations on uses and locations of structures in those areas. This Article implements the requirements of Minnesota Statutes, Chapter 103F by establishing special land use provisions for the Shoreland Overlay District.

The purpose of the Shoreland Overlay District (SO) is to preserve and enhance shoreland areas and to provide management policies reasonably consistent with the classification of

the lakes within the Town along with maintaining the natural beauty and attractiveness of shoreland and to provide environmental protection for the water resource.

5.1.1 **Authority and Policy.** The shoreland regulations set forth in this article are adopted pursuant to the authorization and policies contained in Minnesota Statutes, Chapter 103F, Minnesota Rules, Parts 6120.2500 to 6120.3900, and the planning and zoning enabling legislation in Minnesota Statutes, Chapter 462 and Minnesota Statutes, section 394.33, subd. 1. The Minnesota State Legislature has delegated responsibility to local governments of the State to regulate the subdivision, use and development of the shorelands of public waters 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 Town.

5.1.2 **Jurisdiction.** The provisions of this Article apply to the shorelands of the public water bodies as classified in Section 5.5 of this Ordinance. Pursuant to Minnesota Rules, 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.

5.2 **Relationship to Other Zoning Districts.** The Shoreland Overlay District is an overlay zoning districts. It incorporates underlying zoning districts and imposes additional or varying requirements from the requirements of the underlying zoning district. When there is a conflict between the provisions of the Shoreland Overlay District and the underlying zoning district, the provisions of the Shoreland Overlay District prevail.

5.3 **Shoreland Overlay District Boundaries.** The Shoreland Overlay District boundaries are defined on the Wabana Township Zoning Map and are generally described as follows:

(A) Lakes. The zoning district boundary for lakes is 1,000 feet from the ordinary high-water level (OHWL) of a lake, pond, or flowage.

(B) Rivers. The zoning district boundary for rivers is 300 feet from the OHWL of a river or stream or creek or the landward extent of a flood plain designated by this Ordinance on a river or stream, whichever is greater.

5.4 **Parcels Which Cross Zoning District Boundaries.** Parcels may contain a portion that lies within two Shoreland Overlay Districts or a portion that lies within a Shoreland Overlay District and a non-shoreland area.

(A) Within two Shoreland Overlay Districts.

1. Riparian. In the event that a parcel lies within two overlapping Shoreland Overlay Districts, the classification of the lake or river on which the development is proposed to front shall control.
 2. Non-riparian. Whenever the Shoreland Overlay Zoning District of two or more public waters shall overlay, then the shoreland area for each such public water shall separate at the topographic divide to determine the appropriate classification. If there is not a topographic divide clearly delineated, then the midpoint between the two water bodies shall determine the appropriate classification.
- (B) Within a Shoreland Overlay District and non-shoreland area. Structures and uses on the portion of a parcel that lies within a Shoreland Overlay District must conform to the provisions of this Article. Structures and uses on the portion that lies within another zoning district must conform to the provisions of that zoning district. When a structure or use crosses the boundary between the Shoreland Overlay District and another zoning district, the most restrictive provisions shall be applied to the entire parcel.

5.5 **Description of Public Water Classes and Zoning Districts.** Public waters within the Town are classified according to policies contained in Minnesota Statutes, Chapter 103F and Minnesota Rules, Parts 6120.2500 to 6120.3900. The Itasca County Public Waters Classification List on file with the County Zoning Official and recorded in the Office of the County Recorder is incorporated in this Ordinance by reference. The purpose of the shoreland classification system is to ensure that shoreland management on the public waters of the Town is regulated consistent with the classifications assigned by the commissioner under Minnesota Rules, Part 6120.3300. This Ordinance contains regulations that apply to the use of shoreland areas for each class of public waters. It is the responsibility of an applicant to obtain a copy of the Itasca County Public Waters Classification List to determine the classification of adjacent public waters and to comply with the regulations for that class of waters as contained in this Ordinance and other applicable state and federal regulations.

Shoreland Overlay Districts have been established for the following classes of public waters: General Development lakes, two categories of Recreational Development lakes, three categories of Natural Environment lakes, Phosphorus Sensitive lakes, Trout Streams, Remote river segments, Forested river segments and Tributary river segments. The following are descriptions of each general classification within the Town:

- (A) **General Development (GD) lakes.** GD lakes are large, deep lakes or lakes of varying sizes and depths with high levels and mixes of existing development. These lakes are extensively used for recreation and except for the very large lakes are heavily developed around the shore. Second and third tiers of development are common.

- (B) **Recreational Development (RD) lakes.** RD lakes are medium-sized lakes of varying depths and shapes with a variety of landform, soil, and groundwater situations on the lands around them. Moderate levels of recreational use and existing development often characterize them.
- (C) **Natural Environment (NE) lakes.** NE lakes are small, often shallow lakes with limited capacities for assimilating the impacts of development and recreational use. They often have adjacent lands with substantial constraints for development such as high-water tables, exposed bedrock, and soils unsuitable for septic systems. These lakes usually do not have much existing development or recreational use.
- (D) **Phosphorus Sensitive (PS) lakes.** PS lakes are lakes exhibiting the greatest potential for water quality impairment as determined by the Minnesota Lake Eutrophication Analysis Procedure (MNLEAP Itasca, W. Walker, 2005). MNLEAP uses readily available information (*i.e.*, watershed area, lake area, mean depth, and lakeshore land use inputs) to provide a simple screening tool for predicting natural and developed lake water quality conditions. The sanitation setbacks and impervious surface coverage requirements on PS lakes are the same as Natural Environment lakes.
- (E) **Trout Streams.** All Trout Streams officially designated by the Minnesota Department of Natural Resources (“MNDNR”) shall be assigned to the Natural Environment-I lake class. Designated Trout Streams are specifically listed in Minnesota Rules, Part 6264.0050, subpart 4 and are subject to periodic change. If the Trout Stream identified in the Itasca County Public Waters Classification List should deviate in any way from those listed in Minnesota Rules cited above, then the designation listed in Minnesota Rules shall take precedence.
- (F) **Remote river segments.** Remote river segments are located in roadless, forested, and sparsely populated areas.
- (G) **Forested river segments.** Forested river segments are located in forested and sparsely to moderately populated areas.
- (H) **Tributary river segments.** Tributary river segments include river segments that are not classified as Remote or Forested.

All rivers and streams within the Town that are officially designated Trout Streams are assigned to Public Water Classification of Natural Environment-1. The other rivers and streams shall be assigned the Remote or Forested. The remaining protected unclassified watercourses as shown on the Itasca County’s Protected Waters Inventory Map shall be assigned the Tributary class.

5.6 **Uses, Parcel Area, Parcel Width, Setback, and Other Standards.**

5.6.1 **Rules for Measurement.** The following rules shall apply to measuring:

- (A) Parcel width shall be measured and met at both the OHWL and at the building line.
- (B) Structure setback and sanitation setback for riparian parcels shall be measured at right angles from the OHWL to the building line. Structures include roads, driveways, and parking areas.

5.6.2 **Permitted Uses.** The following uses are allowed in the Shoreland Overlay Districts as a matter of right:

- (A) Accessory Structures;
- (B) Agriculture. All forms of agriculture, horticulture, and animal husbandry, including necessary farm structures and processing of agricultural products but excluding fur farms and commercial kennels, provided that the provisions of Section 5.7.1 of the Ordinance are met;
- (C) Bed and Breakfast Inns;
- (D) Day Care Facilities I;
- (E) Dwellings, Single-Family. Such dwellings are permitted provided that the dwelling unit parcel has frontage on a publicly owned and maintained road.
- (F) Dwellings, Temporary Second. Temporary second dwellings are permitted provided all of the following conditions are met:
 - (1) For the Shoreland Overlay District, the parcel size must comply with the minimum parcel dimensions of duplex parcels as set forth in the State Shore land Standards and in Table 1.

Table 1. Size Requirements for Temporary-Second Dwellings

| Parcel Size Requirements for Temporary Second Dwelling | | | | |
|--|----------------|-------------|----------------|-------------|
| | Riparian | | Non-Riparian | |
| | Area (Sq. Ft.) | Width (Ft.) | Area (Sq. Ft.) | Width (Ft.) |
| General Development | 40,000 | 180 | 80,000 | 265 |
| Recreational Development | 80,000 | 225 | 80,000 | 265 |
| Natural Environment | 120,000 | 300 | 160,000 | 400 |
| Tributary | | 150 | | |
| Forested | | 300 | | |
| Remote | | 450 | | |

- (2) The dwelling unit is a mobile home or manufactured home that is clearly temporary and does not cover more than 1,000 square feet of land surface and shall not exceed 15 feet in height;
 - (3) The dwelling unit shall comply with applicable structure setbacks;
 - (4) The dwelling unit shall have adequate sanitation facilities that comply with applicable design requirements and setbacks; and
 - (5) The dwelling unit is removed within 90 days of when the family member(s) no longer occupies the dwelling, which in this case means to reside, live, or dwell in said home. This time frame may be extended by the Town Board because of winter or spring weather conditions.
- (G) Essential Services;
 - (H) Forestry. All forms of forestry uses including processing, necessary structures, and construction of access roads to remove timber;
 - (I) Foster Homes;
 - (J) Group Homes I;
 - (K) Home Occupations I that meet the provisions of Section 3.14 of the County Ordinance, incorporated herein by reference;
 - (L) Public Parks and Recreational Areas; and
 - (M) Wildlife Areas.

5.6.3 **Conditional Uses.** The following uses may be allowed in the Shoreland Overlay Districts as conditional uses, subject to the provisions regarding the issuance of a conditional use permit:

- (A) Educational Classroom Facility for safety training, classroom safety training in conjunction with youth firearms training, 4-H activities, adult firearm safety training, various governmental agencies firearms safety training and similar types of training activities. The property for these training facilities shall not abut the shoreline of any lake, river or stream and shall be located a distance of over 200 feet away from the OHWL of any lake, river or stream;
- (B) Group Homes II;

- (C) Home Occupations II that meet the provisions of Section 3.14 of the County Ordinance, incorporated herein by reference; and
- (D) Houses of Worship; not to be located any closer than 350 feet away from the ordinary high-water level (OWHL) of any lake, river or stream and for parcels that do not touch public waters.

5.6.4 **Prohibited Uses.** The following uses are expressly prohibited in the Shoreland Overlay Districts:

- (A) Conservation Developments, Major;
- (B) Conservation Developments, Minor;
- (C) Conservation Developments, Non-compliant Minor;
- (D) Controlled Access Lots;
- (E) Planned Unit Developments;
- (F) Multi-Family Dwellings;
- (G) Duplex, Triplex, and Fourplex or Quad;
- (H) New Resorts;
- (I) Existing Resort Expansion beyond what is allowed by the County that would require a Conditional Use Permit from the County;
- (J) Extractive Uses;
- (K) Temporary Borrow Areas;
- (L) Campgrounds, including RV Parks;
- (M) Community Solar Gardens;
- (N) Solar Farms;
- (O) Wind Energy Conversion Systems;
- (P) Storage of petroleum and hazardous materials that are non-resort licensed;
- (Q) Towers;
- (R) Fish Farms;

- (S) Fish Hatcheries;
- (T) Game Refuges;
- (U) Commercial Use;
- (V) Feedlots;
- (W) Industrial Use; and
- (X) Day Care Facilities II.

5.6.5 **Minimum Parcel Area, Width, and Setbacks.** Table 2 contains the minimum parcel area, parcel width, setback standards, maximum impervious surface coverage, and maximum heights. The minimum suitable area per parcel shall be 10,000 square feet. Suitable area is calculated by excluding all wetlands, bluff, major utility easements greater than 30 feet in width, or land below the OHWL of public waters. The minimum setbacks for dwellings from the side yards shall be 15 feet and 30 feet from the rear yards. The minimum side and rear yard setbacks for structures housing livestock shall be 100 feet from the nearest parcel lines. Accessory buildings, including detached garages, must be setback at least 10 feet from the side and rear parcel lines. Setbacks are measured from the closest part of the structure, including decks, eaves, or overhangs. See Table 2.

Table 2. Residential Dwelling Unit Requirements

| RESIDENTIAL DWELLING UNIT REQUIREMENTS | | | | | | | | |
|---|----------------------------|--------------------|------------------------|---------------|--------------------------|---|---|--|
| Lake Class | Minimum Parcel Size | | | | Riparian Setbacks | | Maximum | |
| | Riparian | | Non-riparian | | Structure (Ft.) | Sanitation Septic Tank Sewage Treatment (Ft.) | Impervious Surface (% of Parcel) | Building Stories / Height (Ft.) |
| | Width (Ft.) | Area (Ac.) | Width (Ft.) | Area (Ac.) | | | | |
| | Approx. Depth (Ft.) | | Approx. Depth (Ft.) | | | | | |
| Area in Sq. Ft. | | Area in Sq. Ft. | | | | | | |
| General Development | 150 218 32,670 | .75 | 150 290 43,560 | 1 | 75 | 50 Tank 100 Treatment | 20 ¹ | 2.5 / 35 |
| Recreational Development-2 | 200 327 65,340 | 1.5 | 200 436 87,120 | 2 | 100 | 75 Tank 100 Treatment | 15 ¹ | 2.5 / 35 |
| Recreational Development-1 | 200 436 87,120 | 2 | 200 545 108,900 | 2.5 | 100 | 75 Tank 100 Treatment | 15 ¹ | 2.5 / 35 |
| Natural Environment- 1 | 200 436 87,120 | 2 | 200 545 108,900 | 2.5 | 200 | 100 Tank 150 Treatment | 12 | 2.5 / 35 |

| | | | | | | | | |
|---|---|------|-----------------------|-----|-----|--|----|----------|
| Natural Environment-2 | 300 363 108,900 | 2.5 | 300 436 130,680 | 3 | 100 | 100 Tank 150 Treatment | 12 | 2.5 / 35 |
| Natural Environment-3 | 300 436 130,680 | 3 | 300 515 152,460 | 3.5 | 100 | 100 Tank 150 Treatment | 12 | 2.5 / 35 |
| Phosphorous Sensitive ² | <i>See Underlying Lake Classification</i> | | | | | 100 Tank ³ 150 Treatment ³ | 12 | 2.5 / 35 |
| River Class | | | | | | | | |
| Tributary | 150 | Zone | | | 100 | 75 | 12 | 2.5 / 35 |
| Forested | 200 | Zone | | | 150 | 100 | 12 | 2.5 / 35 |
| Remote | 300 | Zone | | | 200 | 150 | 12 | 2.5 / 35 |
| ¹ Incentive: Property owner can increase the coverage allowed by 5% if erosion control and stormwater management conform to the shoreline vegetative buffer standards. ² See County Subsurface Sewage Treatment System (SSTS) Ordinance. ³ Performance system required if setbacks not maintained. | | | | | | | | |

5.7 **Additional Use Restrictions for All Shoreland Overlay Districts.** The following additional restrictions shall be placed on land uses in all Shoreland Overlay Districts:

5.7.1 **Agricultural Use Standards.** General cultivation farming, grazing, nurseries, horticulture, truck farming, sod farming, wild crop harvesting, and activities related thereto are permitted uses in Shoreland Overlay Districts provided they are allowed in the underlying zoning district and provided the following provisions are met:

- (A) Steep slopes, shore impact zone, and bluff impact zones are maintained in permanent vegetation or if under agricultural or home gardening use, that use is operated under a conservation plan approved by the Itasca County Soil and Water Conservation District (“SWCD”);
- (B) Manure spreading within the Shoreland Overlay District is done only under a manure management plan approved by the SWCD and is done in such a manner as to minimize the impact on soils and public water. In any case, manure spreading is prohibited in the shore impact zone. The shore impact zone for parcels with permitted agricultural land uses is equal to a line parallel to and 150 feet from the OHWL;
- (C) The use of fertilizer or pesticides within Shoreland Overlay Districts must be done in such a way as to minimize impact on the shore impact zone or public water by proper application or use of earth or vegetation. Only phosphorous-free fertilizers may be used. The shore impact zone for parcels with permitted agricultural land uses is equal to a line parallel to and 150 feet from the OHWL;
- (D) Feedlots are a prohibited use within Shoreland Overlay Districts; and

(E) Keeping of livestock is regulated as follows:

1. Buildings housing livestock shall be a minimum of 50 feet from any parcel line and dwelling unit on the same parcel and a minimum of 250 feet from a residential dwelling unit on another parcel.
2. No animals may be penned within 200 feet of a neighboring residential dwelling unit or 150 feet from any wells other than the landowner, except up to five domesticated dogs or cats shall be permitted. "Penned" is the confined feeding, breeding, raising, or holding of animals. This provision does not apply if the animals are pastured in an area of 10 acres or more.
3. Recognizing that residential uses and the keeping of livestock may be incompatible, the following limits apply to the Shoreland Overlay District. Domesticated pets, such as dogs and cats but specifically excluding horses, may be kept without a permit.
 - (a) On parcels of less than five acres, keeping of livestock is not permitted.
 - (b) On parcels of five to nine acres, three animal units are allowed.
 - (c) On parcels or contiguous parcels larger than nine acres, three animal units plus one animal unit for every two acres beyond nine acres are allowed.
 - (d) Keeping of animals in amounts in excess of the limits in Section 5.7.1 (E) 3. b., c. and f shall require a conditional use permit.
 - (e) On all lakes, livestock uses shall be setback 150 feet from the OHWL.
 - (f) Animal units shall be determined as follows:

| Animal | Animal Units (A.U.) |
|----------------------------------|----------------------------|
| 1 dairy cow | 1.4 |
| 1 slaughter steer, heifer, horse | 1.0 (each) |
| 1 swine | 0.4 |
| 1 sheep, goat, dog | 0.2 |
| 1 duck, turkey | 0.02 |
| 1 chicken | 0.01 |

5.7.2 Storage of Petroleum and Hazardous Materials. Commercial storage of petroleum products and hazardous materials require a conditional use permit in Shoreland Overlay Districts except when associated with a licensed Resort and the following conditions are met:

- (A) The aggregate volume of storage tanks does not exceed 500 gallons unless a permit is acquired from the Itasca County Environmental Services Department;
- (B) The storage tank and operation thereof comply with Minnesota Rules, Part 7151;
- (C) The storage site is setback at a distance equal to the required sanitation setback listed in Section 5.6.5;
- (D) An impervious containment structure is in place in a size large enough to capture and contain all of the stored material in the case of a leak or spill; and
- (E) Customer self-service of gas dispensation shall not be allowed.

5.8 **Additional Standards for All Shoreland Overlay Districts.** The following standards apply to all structures and uses in Shoreland Overlay Districts. When there is a conflict between the provisions of the Shoreland Overlay District and the underlying zoning district, the provisions of the Shoreland Overlay District prevail.

5.8.1 **Alteration of Vegetation and Topography.** Alteration of vegetation and topography in shoreland areas is regulated under this Ordinance to prevent erosion into public waters, fix nutrients, preserve shoreland aesthetics, preserve historic values, preserve historic and archeological sites, prevent bank slumping, and protect fish and wildlife habitat.

- (A) **General Standard.** The general standard for alteration of vegetation and topography is that the minimum amount of alteration that is necessary for the permitted use is allowed.
- (B) **Site Preparation Allowed.** Within the general standard stated above, alterations to vegetation and topography, including grading, filling, and excavation, necessary for the construction of structures and sewage treatment systems are allowed under an approved zoning permit that meets all the provisions of Section 5.8.1.
- (C) **Roads, Driveways and Parking Areas.** Alterations to vegetation and topography for roads, driveways, and parking areas are regulated by Section 5.9.3.
- (D) **Steep Slopes.** Removal of vegetation on steep slopes is not allowed, except to allow one access path from a residence to the shore that is 12 feet or less in width.

- (E) Shore Impact Zone. Such zone is land located between the OHWL of public water and a line parallel to it at a setback of 50 percent of the structure setback. A shoreline buffer shall exist in the shore impact zone consisting of trees, shrubs and low ground cover of native plants and understory in a natural state as regulated by Section 5.9.
- (F) Bluff Impact Zone. Such zone is a bluff and land located within 20 feet from top of bluff.
- (G) Burning. Burning of vegetative, debris, and yard waste is prohibited within the shore impact zone.

5.8.2 **Fertilizers.** Fertilizers used for lawn maintenance must have a zero percent phosphorus content level.

5.8.3 **Pesticides.** The use of pesticides is prohibited within 50 feet of the OHWL or the shore impact zone, whichever is greater, except programs supported by county, state, or federal agencies.

5.8.4 **Riparian Access Rights.** Property owners of riparian lots shall not be allowed to establish, grant or record an easement or deed of conveyance granting riparian access rights to property owners of non-riparian lots, including but not limited to use as a boat landing.

5.9 **Shoreland Alterations Regulated.** Shoreland alterations of vegetation and topography shall be regulated and minimized to prevent erosion into public waters, fix nutrients, preserve shoreland aesthetics, preserve historic values including historic sites and archaeological sites, prevent bank slumping, and protect fish and wildlife habitat. Shoreland alteration permits required by this Ordinance shall be obtained from the County in accordance with the regulations set forth in the County Ordinance.

5.9.1 **Vegetation Alterations.**

- (A) Exemption. Vegetation alteration necessary for the construction of permitted structures and sewage treatment systems and the construction of roads and parking areas regulated by Section 5.9.3 are exempt from the vegetation alteration standards that follow.
- (B) Standards. Removal or alteration of vegetation shall be subject to the following standards:
 1. A shoreline buffer shall exist in the shore impact zone, consisting of trees, shrubs, and low ground cover of native plants and understory consistent with natural cover of shorelines in the area. Buffer depth from the OHWL shall be as in Table 3;

Table 3. *Shoreland Alteration Buffer Depths Required*

| Buffer Depth by Public Waters Classification | Feet |
|---|-------------|
| General Development | 10 |
| Recreational Development | 15 |
| Natural Environment | 50 |
| Phosphorus Sensitive | 50 |
| Agricultural, Urban and Tributary River Segments | 50 |
| Forested and Transition River Segments | 50 |
| Remote River Segments | 50 |

2. Intensive vegetation clearing within the shore and bluff impact zones and on steep slopes is not allowed. Intensive vegetation clearing for forestland conversion to another use outside of the shore and bluff impact zones is allowable as a conditional use if an erosion control and sedimentation plan is developed and approved by the Itasca County SWCD; and
3. Vegetation clearing and removal of native ground cover, plants, and leaf matter within the shore and bluff impact zones and on steep slopes shall not be allowed, except the following:
 - a. Limited clearing of trees and brush 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, landings, picnic areas, access paths, beach and watercraft access areas, and permitted water-oriented accessory structures or facilities shall be allowed. An access path shall not exceed a cleared width of 12 feet. Only one shoreline recreation use area shall be allowed on each residential parcel and it shall not exceed 15 feet in depth by the width in Table 4.

Table 4. *Maximum Width of Shoreland Recreation Use on Residential Parcels*

| Public Water Classification | Maximum Width in Feet Parallel to Shore |
|------------------------------------|--|
| General Development | 30 |
| Recreational Development | 30 |
| Natural Environment | 20 |
| Phosphorus Sensitive | 20 |
| Agricultural, Urban, and Tributary | 30 |
| Forested and Transition | 20 |
| Remote | 10 |

- b. Vegetation within the shore impact zone shall be maintained to screen structures with trees and shrubs so that the structures are at most 50 percent visible from public waters during summer, leaf-on conditions. The maximum view corridor shall be less than 50 feet or one-third of the parcel width, whichever is less;
- c. Along rivers, existing shading of water surfaces is preserved; and
- d. The above provisions are not applicable to the removal of trees, limbs, or branches that pose safety hazards.

5.9.2 Shoreland Alterations and Permits.

- (A) Separate Permit Not Required. Alterations and excavations necessary for the construction of structures, sewage treatment systems, and driveways under validly issued permits for these facilities do not require the issuance of a separate shoreland alteration permit. However, the shoreland alteration standards in Section 5.9.2 must be incorporated into the issuance of permits for construction of structures, sewage treatment system, and driveways.
- (B) View Corridor. In shore impact zones and bluff impact zones, limited clearing is permitted for a view corridor with up to a maximum width opening of 50 feet. Beyond the shore and bluff impact zones only limited clearing is allowed. Within the structure setbacks, bluff impact zones, and on steep slopes, alterations of vegetation and soil movement shall be kept to a minimum and shall be consistent with the Field Office Technical Guide of the Natural Resource Conservation Service.
- (C) Activities Requiring a County Permit. A shoreland alteration permit issued by the County shall be required for the following activities:
 - 1. The movement of more than 10 cubic yards of material on steep slopes or within shore or bluff impact zones;
 - 2. The movement of more than 50 cubic yards of material outside of steep slopes and shore and bluff impact zones; and
 - 3. Within the shore and bluff impact zones, a shoreland alteration permit shall also be required for all of the following and shall be done in accordance with listed restrictions:
 - a. Lake access roads - constructed to avoid a straight sight line and a maximum width of 12 feet.
 - b. Ice ridge removal - maximum width at the bottom of the opening shall be 12 feet and the maximum width at the top of the opening shall be 25 feet.

- c. Beach sand blankets - maximum size of 30 feet along the shoreline by 15 feet back from the OHWL and shall be located within the view corridor. The sand must be clean with no organic materials. The natural slope must be less than five percent and the sand blanket application must be constructed in a way that will prevent erosion.
- d. Landscaping retaining walls - maximum height of two feet except as determined by the Zoning Administrator but not to exceed four feet. To the extent possible, a landscaping retaining wall should be designed to display natural aesthetics. Retaining walls for the purpose of shore protection are allowed only if a permit is obtained from the MNDNR.
- e. Riprap - allowed for erosion control. Additional permit(s) may also be required from the MNDNR. To the extent possible, riprap should be designed to display natural aesthetics.

(D) Standards. The following considerations and conditions must be adhered to during the issuance of shoreland alteration permits by the County, conditional use permits, variances, and subdivision approvals by the County:

- 1. Grading or filling in any Type 2, 3, 4, 5, 6, 7, or 8 wetland as defined in MNDNR rules must be evaluated 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;
 - f. Noteworthiness, including special qualities such as historic significance, critical habitat for endangered plants and animals or others; and
 - g. 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 MNDNR, or the U.S. Army Corps of Engineers.
- 2. Alterations must be designed and conducted in a manner that ensures only the smallest amount of bare ground is exposed for the shortest time possible.

3. Mulches or similar materials must be used, where necessary, for temporary bare soil coverage and a permanent vegetation cover must be established as soon as possible.
4. Methods to minimize soil erosion and to trap sediments before they reach any surface water feature must be used.
5. Altered areas must be stabilized to acceptable erosion control standards consistent with the Field Office Technical Guide of the Natural Resource Conservation Service.
6. Fill or excavated material must not be placed in a manner that creates an unstable slope.
7. Plans to place fill or excavated material on steep slopes must be reviewed by qualified professionals for continued slope stability and must not create finished slopes of 30 percent or greater.
8. Fill or excavated material must not be placed in bluff impact zones.
9. Any alterations below the OHWL of public waters must first be authorized by the Commissioner under Minnesota Statutes, section 1030.245.
10. Alterations of topography may only be allowed if they are necessary to permitted or conditional uses and do not adversely affect adjacent or nearby properties.

- (E) Shoreland Alteration Permit Process and Order for Restoration Process. Applications for shoreland alteration permits shall be processed and regulated by the County as set forth in Section 5.9.2 E. of the County Ordinance. The issuance of Orders for Restoration by the County for violations of shoreland alternation permits shall be processed and regulated by the County as set forth in Section 5.9.2 F. of the County Ordinance.

5.9.3 Placement and Design of Roads, Driveways, and Parking Areas.

- (A) 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.
- (B) A qualified individual must provide documentation that all roads and parking areas are designed and constructed to minimize and control erosion to public waters consistent with the Field Office Technical Guide of the Natural Resource Conservation Service.
- (C) Roads, driveways, and parking areas must meet structure setbacks and 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.

- (D) Public and private watercraft access ramps, approach roads and access-related parking areas may be placed within shore impact zones provided the vegetative screening and erosion control conditions of Section 5.9.1 are met. For private facilities, the grading and filling provisions of Section 5.9.2 must be met.

5.9.4 **Soil Erosion Plan and Stormwater Management Required.** When applying for a subdivision with the County within a shoreland overlay district, an erosion control and stormwater management shall be designed using the best management practices found in Chapter 12 of the Minnesota Pollution Control Agency's Minnesota Stormwater Manual. It shall be the responsibility of the applicant to provide such plan to the County. With the application, the applicant shall submit a detailed site and grading plan, which is drawn to scale, showing the proposed project site and surrounding area, showing all relevant topography and elevations of the area to be excavated or filled, and any other information the County Zoning Official may require. Construction activity that results in the disturbance of one or more acres will require a stormwater permit from the Minnesota Pollution Control Agency.

5.9.5 **Alteration to Bed of Public Waters.** Any alteration to the bed of public waters, including construction of marinas, channels, ditches, or lagoons; dredging of bottom, muck, or weeds; or filling in a lake or river bed, including marshlands; and installation of permanent docks and other projections, shall require a permit from the Commissioner.

5.10 **Shore Access 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:

5.10.1 **Width.** Stairways and lifts must not exceed four feet in width on residential parcels. Wider stairways may be used for existing commercial properties, public open-space recreational properties, Conservation Developments, and Resorts.

5.10.2 **Landings.** Landings for stairways and lifts on residential parcels must not exceed 32 square feet in area. Landings larger than 32 square feet may be used for existing commercial properties, public open-space recreational properties, Conservation Developments, and Resorts.

5.10.3 **Canopies or roofs.** Canopies or roofs are not allowed on stairways, lifts, or landings.

5.10.4 **Construction.** Stairways, lifts, and landings may be 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.

- 5.10.5 **Location.** Stairways, lifts, and landings must be located in the most visually inconspicuous portions of parcels, as viewed from the surface of the public water assuming summer, leaf-on conditions, whenever practical; and
- 5.10.6 **Handicapped.** 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 Section 5.10 are complied with in addition to the requirements of Minnesota Rules, Part 1341.
- 5.11 **Water-Oriented Accessory Structures.** A permit must be obtained from the County for the construction of water-oriented accessory structures (“WOAS”). Permits will be authorized by the County provided all of the following criteria are met:
- 5.11.1 **Setbacks.** The location shall be no closer than 10 feet from the OHWL within the shore impact zone. The location shall be a minimum of 10 feet from the side yards, located in the view corridor, or directly adjacent to the view corridor, whichever location is furthest from the parcel line.
- 5.11.2 **Not a Dwelling.** The structure shall not contain a dwelling, interior sanitary facility or water supply, and shall not be utilized for other uses such as fuel sales, bait sales, and motor repair.
- 5.11.3 **Size.** The overall size shall not exceed 250 square feet with a maximum of a two feet overhang or eaves.
- 5.11.4 **Height.** The height shall not exceed 10 feet. The roof shall not be utilized for a deck, storage, or any other purpose for which a roof is not normally intended.
- 5.11.5 **Screening.** Trees or shrubs as viewed from the water shall screen the structure and such screening shall extend to the OHWL.
- 5.11.6 **Color.** Earth tone colors preferred.
- 5.12 **Detached Ground-Level Patio Platform.** A detached ground-level patio platform may be allowed within the shore impact zone at a setback of not less than 10 feet from the OHWL provided no part of the structure shall exceed five feet in height above ground-level and the size shall not exceed 160 square feet. Exemptions are as follows:
- (A) Exemption – Size. The combined size of a water-oriented accessory structure and the patio platform shall not exceed a total of 250 square feet.
- (B) Exemption – High Water Elevations. Detached ground-level patio platforms are exempt from the high water elevations as set forth in Section 3.17.4 of the County Ordinance.

5.13 **Dry Saunas and Gazebos.** Dry saunas and gazebos are permitted accessory structures if the following criteria are met:

5.13.1 **Setbacks.** Such structures may be located closer to the water body than the structure setback from the OHWL, but are not permitted in the shore or bluff impact zones. Side yard setback is 10 feet.

5.13.2 **Not a Dwelling.** No such structure, including saunas, shall contain a water supply or plumbing including drains. No such structure shall contain any cooking facilities.

5.13.3 **Interior.** No such structures shall contain any insulation or heating of any kind, with the exception of saunas, limited to the hot-room only.

5.13.4 **Size.** The size of such structures shall not exceed 250 square feet and is limited to one each per residential parcel.

5.13.5 **Height.** The height shall not exceed 12 feet and nor may the roof be used for any purpose other than a roof.

5.13.6 **Screening.** Such structures shall be screened from view from the water body, except a 12 foot wide view corridor.

5.13.7 **Color.** Earth tone colors preferred.

5.13.8 **Materials.** Such structures must be constructed primarily from wood and placed on footings without slab foundation.

5.14 **Notification to Minnesota Department of Natural Resources and the Western Mesabi Mine Planning Board.**

(A) All proposed amendments to this Article must be submitted to the Department of Natural Resources for review and approval for compliance with the statewide shoreland management rules. The Town will submit the proposed ordinance amendments to the commissioner or the commissioner's designated representative at least 30 days before any scheduled public hearings.

(B) All notices of public hearings to consider variances, ordinance amendments, or conditional uses under shoreland management controls must be sent to the commissioner or the commissioner's designated representative at least ten (10) days before the hearings.

(C) All approved ordinance amendments and final decisions approving 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 (10) days of final action. 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 shall also include the summary of the public record/testimony and the findings of facts and conclusions which supported the issuance of the variance.

- (D) Any request to change the shoreland management classification of public waters within the Town must be sent to the commissioner or the commissioner's designated representative for approval, and must include a resolution and supporting data as required by Minnesota Rules, Part 6120.3000, subpart 4.
- (E) Any request to reduce the boundaries of shorelands of public waters within the Town must be sent to the commissioner or the commissioner's designated representative for approval and must include a resolution and supporting data. The boundaries of shorelands may be reduced when the shoreland of water bodies with different classifications overlap. In these cases, the topographic divide between the water bodies shall be used for adjusting the boundaries.
- (F) The Zoning Administrator shall send copies of all notices of any public hearings to consider variances, amendments or conditional use permits within the Western Mesabi Mining Area to the Western Mesabi Mine Planning Board.

5.15 **Site Suitability Checklist.** Applicants for conditional use permits and requests for rezoning in the shoreland overlay districts shall complete a Site Suitability Checklist, Town Zoning application, and provide all information requested on the checklist before an application is deemed complete and reviewable by the Planning Commission, if at the time the application is filed the Zoning Administrator determines completion of the Site Suitability Checklist will aid the review process or at the request of a concerned citizen. See Appendix 2 for the Site Suitability Checklist Form.

5.16 **Forest Management Standards.** The commercial harvesting of timber and associated reforestation to the maximum extent possible should be conducted consistent with current voluntary water quality best management practices adopted by the MNDNR and the provisions of the Minnesota Forest Resources Council's Voluntary Site-Level Forest Management Guidelines. A Shoreland Alteration Permit from the County shall be required prior to any timber harvesting within the shore impact zone to regulate and prevent erosion into public waters, fix nutrients, preserve shoreland aesthetics, preserve historic values, prevent bank slumping, and protect fish and wildlife.

ARTICLE VI NONCONFORMING USES, STRUCTURES, AND LOTS

6.1 **Purpose.** It is the purpose of this Article to provide for the regulation of nonconforming buildings, structures, and uses and to specify those requirements, circumstances, and conditions under which nonconforming buildings, structures, and uses will be operated and maintained. This Ordinance establishes separate zoning districts, each of which is an appropriate area for the location of uses which are permitted in that district. It is

necessary and consistent with the establishment of these districts that nonconforming buildings, structures, and uses will not be permitted to continue without restriction. Furthermore, it is the intent of this section that all non-conforming uses shall be eventually brought into conformity.

6.2 **Nonconforming Uses and Structures.** Except as otherwise provided by law or this Ordinance, any use or structure lawfully existing on the effective date of this Ordinance may be continued at the size and in the manner of operation existing upon such date, subject to the following conditions:

- (A) Except as expressly allowed by this Ordinance, a nonconforming use or structure shall in no way be expanded, enlarged, or extended, either on the same property or onto an adjoining lot of record. Prohibited expansion, enlargement, or extension shall include anything that increases the intensity of the use including, but not limited to, a change to a more intense nonconforming use or a physical expansion of the existing use or structure that increases the height, volume, or area dimensions of the non-conforming use or structure;
- (B) Routine maintenance of a structure containing or relating to a lawful nonconforming use is permitted, including any necessary nonstructural repairs and incidental alterations which do not extend or intensify the nonconforming use. Nothing in this Section will prevent the placing of a structure into a safe condition after it has been declared unsafe by the appropriate official;
- (C) Alterations may be made to a building containing nonconforming residential units when the alterations will improve the livability of such units, provided that such alterations do not increase the number of dwelling units in the building. Such alterations must be approved by the Zoning Administrator;
- (D) Normal maintenance and repairs of a lawful nonconforming structure are allowed without a Zoning Permit provided the cost of the maintenance, repairs, and improvements do not exceed 50 percent of the structure’s market value. If the cost of the maintenance, repairs, and improvements exceeds 50 percent of the structure’s market value, a zoning permit from the County is required. Maintenance, repairs, and improvements include necessary nonstructural and structural repairs and incidental alterations, which do not physically extend or intensify the nonconforming use or structure. Permits issued by the County shall include lakeshore mitigation requirements to restore shore impact zone to effectively screen structure(s) as viewed from the waters as set forth in Section 5.9.1(B) 3. b. of this Ordinance. A shoreline buffer consisting of trees, shrubs, and ground cover of native plants and understory shall be required as follows:

| Lake Class | Buffer (Distance from OHWL landward in feet) |
|--------------------------|---|
| General Development | 10 |
| Recreational Development | 15 |

| | |
|----------------------|----|
| Natural Environment | 50 |
| Phosphorus Sensitive | 50 |

(E) Additions to nonconforming structures require a zoning permit from the County and must meet the following conditions:

1. Location limited. No part of the addition is toward the already nonconforming setback and no part of the addition will be located within a shore or bluff impact zone;
2. Septic area. No part of the addition encroaches upon the septic treatment system or septic expansion area;
3. Size limited. The proposed addition in combination with any additions allowed since April 1, 1995, shall not increase the square footage of the footprint of the original structure as it existed on April 1, 1995, by more than 100 percent or a maximum of 1,000 square feet;
4. Height. The addition or completed structure shall not exceed a total of 20 feet if within the shore impact zone or 25 feet if between the shore impact zone and required setback;
5. Actual dimensions filed. Verification by site inspection or plat drawing showing actual measured dimensions shall be filed with the County Environmental Services Department prior to construction; and
6. Lakeshore mitigation. Permits issued under this Section 6.2(E) shall include lakeshore mitigation requirements to restore shore impact zone to effectively screen structure(s) as viewed from the waters as set forth in Section 5.9.1(B) 3. b. of this Ordinance. A shoreline buffer consisting of trees, shrubs, and ground cover of native plants and understory shall be required as follows:

| Lake Class | Buffer (Distance from OHWL landward in feet) |
|--------------------------|--|
| General Development | 10 |
| Recreational Development | 15 |
| Natural Environment | 50 |
| Phosphorus Sensitive | 50 |

(F) Whenever a nonconforming structure or use is damaged by fire or other peril to the extent of 50 percent of its estimated market value, as indicated in the records of the County Assessor at the time of damage, it may be reconstructed. The nonconforming structure or use shall not be permitted to be reconstructed if the damage is greater than 50 percent of the estimated market value as indicated in

the records of the County Assessor at the time of damage and no building permit has been applied for within 180 days of when the property was damaged. When a nonconforming structure in a shoreland area with less than 50 percent of the required setback from the water is destroyed by fire or other peril to greater than 50 percent of its estimated market value, as indicated in the records of the County Assessor at the time of damage, the structure setback may be increased by the Town or County, if practical. In that event, conditions will be placed on the building permit in order to mitigate created impacts on adjacent properties and the water body;

- (G) Whenever any lawful nonconforming use of any structure or land is replaced by another use or structure, the new use or structure must conform to the provisions of this Ordinance and it shall not thereafter be changed to any nonconforming use or structure;
- (H) If the nonconforming use of land is discontinued for a period of more than one year, the subsequent use of the land or the structure shall be in conformity with this Ordinance;
- (I) Nonconforming uses or structures which are declared by the Town Board to be public nuisances shall not be allowed to continue as legal nonconforming uses or structures; and
- (J) No repair, replacement, maintenance, improvement, or expansion of a nonconforming use or structure in a floodplain area shall be allowed if such activity would jeopardize the property's continued eligibility in the National Flood Insurance Program, would increase flood damage potential, or would increase the degree of obstruction to flood flows in the floodway.

ARTICLE VII ADMINISTRATION

7.1 **Zoning Administrator**. The Town Board may appoint a person to serve as the Zoning Administrator for the Town. If the Town Board does not specifically designate a person to serve as the Zoning Administrator, the Town Board shall serve as the Zoning Administrator and may delegate one or more of the duties of the position to one or more persons as the Town Board determines is appropriate. Such person or persons shall be fully authorized to carry out the delegated duties on behalf of the Town.

7.1.1 **Duties**. The Zoning Administrator shall have the following duties, which shall be conducted in a manner which is consistent with this Ordinance, applicable laws, and the directions and instructions of the Town Board:

- (A) Administer the provisions defined in the Wabana Township Zoning Ordinance;

- (B) Determine whether a permit application is complete and complies with the terms of this Ordinance;
- (C) Receive, and forward to the Planning Commission, Township Clerk, Board of Appeals and Adjustments and the Town Board all applications and other zoning materials as is appropriate;
- (A) Issue permits once they have been approved as provided in this Ordinance;
- (B) Issue notices of denial to applicants;
- (C) Maintain permanent and current records of permits and approvals issued pursuant to this Ordinance, including, but not limited to, amendments to this Ordinance, issuance of conditional use permits, variance approvals, and appeals;
- (D) Conduct inspections to determine compliance with the provisions of this Ordinance and institute in the name of the Town, any appropriate actions or proceedings against a violator as provided by this Ordinance or law;
- (E) Serve as an ex-officio member of the Planning Commission;
- (F) Collect all fees required by this Ordinance and pay the same to the Town;
- (G) Track the application of the 60-day rule to land use requests, provide notices to applicants as may be needed, and to keep the Town informed of the applicable deadlines for actions with respect to individual land use requests;
- (H) File for record with the Itasca County Recorder or Registrar of Titles all zoning related documents required to be filed by law;
- (I) To enforce this Ordinance, including through the issuance of violation notices, stop work orders, cease and desist orders, or corrective orders as determined appropriate, and to work with the Town Attorney as needed to administer and enforce this Ordinance; and
- (J) To perform such other duties and responsibilities as provided in this Ordinance or as assigned by the Town Board.

7.2 **Board of Appeals and Adjustments.** The Town Board shall serve as the Wabana Township Board of Appeals and Adjustments.

7.2.1 **Rules and Procedures.** The Board of Appeals and Adjustments may adopt rules and procedures related to how it conducts its meetings and hearings, provided

such rules and procedures are consistent with the provisions of this Ordinance and applicable laws.

7.2.2 **Meetings and Hearings.** The Board of Appeals and Adjustments will hold meetings and hearings as needed to conduct its duties. Meetings of the Board of Appeals and Adjustments may be held as part of the regular or special meetings of the Town Board.

7.2.3 **Powers and Duties.** The Board of Appeals and Adjustments shall have the following powers and duties:

- (A) To grant variances from the strict enforcement of the standards and provisions prescribed by this Ordinance. Variances shall only be granted based upon the criteria prescribed in this Ordinance. No variances shall be granted to allow non-permitted uses in any zoning district;
- (B) To hear and decide appeals. Appeals shall only be heard and considered in conformance with the procedures prescribed in this Ordinance;
- (C) To interpret the provisions of this Ordinance and of any district boundary on the zoning map consistent with the purpose and intent of this Ordinance. No interpretation shall be made to allow any non-permitted uses in any zoning district; and
- (D) Perform such other duties as provided in this Ordinance.

ARTICLE VIII ZONING REQUESTS

8.1 Conditional Use Permits.

8.1.1 **Criteria for Granting Conditional Use Permits.** In determining whether to grant a conditional use permit, the Planning Commission and Town Board shall consider the effect of the proposed use upon the health, safety, morals, and general welfare of occupants of surrounding lands and water bodies. Among other things, the Planning Commission and Town Board shall consider the following criteria in determining whether to approve a requested conditional use permit:

- (A) Conditional use permits shall not and cannot be granted to allow a non-permitted use in any zoning district.
- (B) The use will not create an excessive burden on existing parks, schools, roads, and other public facilities and utilities which serve or are proposed to serve the area;

- (C) The use will be sufficiently compatible or separated by distance or screening from adjacent agriculturally or residentially zoned or used land so that existing property will not be depreciated in value and there will be no deterrence to development of vacant land;
- (D) The structure and site shall have an appearance that will not have an adverse effect upon adjacent properties;
- (E) The use, in the opinion of the Planning Commission and Town Board, is reasonably related to the existing land use;
- (F) The use is consistent with the purpose of the this Ordinance and the purposes of the zoning district in which the applicant intends to locate the proposed use;
- (G) The use is not in conflict with the Land Use Plan of the Town; and
- (H) The use will not cause traffic hazards or congestion.

8.1.2 **Conditions of Approval.** In permitting a new conditional use or the alteration of an existing conditional use, the Planning Commission may recommend, and the Town Board may impose, in addition to these standards and requirements expressly specified by this Ordinance, additional conditions considered necessary to protect the best interest of the surrounding area or the community as a whole. These conditions include, but are not limited to, the following:

- (A) Increasing the required lot size or yard dimension;
- (B) Limiting the height, size or location of buildings;
- (C) Controlling the location and number of vehicle access points;
- (D) Increasing the road width;
- (E) Increasing the number, size, location or lighting of signs;
- (F) Requiring diking, fencing, screening, landscaping or other facilities to protect adjacent or nearby property;
- (G) Designation of open space;
- (H) Annual review if deemed appropriate by the Town Board; and
- (I) Such other conditions as deemed necessary to eliminate or reduce the negative impacts of the use.

8.1.3 Procedure.

- (A) Applications for conditional use permits will not be accepted from anyone who is not an owner of land for which the application is made.
- (B) The person applying for a conditional use permit shall fill out and submit to the Zoning Administrator a conditional use permit application form and application fee.
- (C) The Zoning Administrator shall refer the application to the Planning Commission for review.
- (D) The Planning Commission shall hold a public hearing on the application. At least ten (10) days' published notice shall be provided of the public hearing. The Planning Commission shall forward its recommendation to either deny or approve the conditional use permit to the Town Board together with any recommended conditions. The Town Board will take final action on the request. A written record of conditions of approval shall be made at the time of the decision by the Town Board.
- (E) The applicant or his representative shall appear before the Planning Commission in order to present evidence concerning the proposed conditional use;
- (F) If the Planning Commission recommends granting the conditional use permit, it may recommend conditions it considers necessary to protect the public health, safety and welfare.
- (G) An amended conditional use permit application shall be administered in a manner similar to that required for a new conditional use permit. Amended conditional use permits shall include requests for changes in conditions and as otherwise described in this Ordinance.
- (H) No application for a conditional use permit shall be resubmitted for a period of six (6) months from the date of denial.
- (I) Granted conditional use permits shall become void if the applicant does not proceed substantially on the work within six (6) months, where applicable. To proceed substantially means to make visible improvement to the property. One or more extensions for not more than six (6) months each may be granted by the Town Board for good cause.
- (J) If the land use does not conform to the conditions of the permit, the conditional use permit may be revoked after notice to the applicant of a public hearing for the intended revocation and passage of a resolution of the Town Board to that effect.

- (K) All conditional use permits that are granted by the Town Board must be recorded at the office of the Itasca County recorder at the applicant's expense.
- (L) The Zoning Administrator shall maintain a record of all conditional use permits issued including information on the use, location, and conditions imposed by the Planning Commission and Town Board, time limits, review dates, and such other information as may be appropriate.

8.1.4 **Amended Conditional Use Permit.** Any change involving structural alterations, enlargement, intensification of use, or similar change not specifically permitted by the conditional use permit issued, shall require an amended conditional use permit and all procedures shall apply as if a new permit were being issued.

8.2 **Variances.** No variances shall be granted by the Town except in conformance with this Section.

8.2.1 **Authority.** The Board of Appeals and Adjustments may grant a variance from the provisions of this Ordinance in order to promote the effective and reasonable application and enforcement of this Ordinance. A variance is a modification or variation of the provisions of this Ordinance as applied to a specific property. The Board of Appeals and Adjustments may not grant a variance for any use that is not allowed by this Ordinance for property in the zoning district in which the property is located.

8.2.2 **Application.** Application for a variance shall be made by the property owner, or its authorized agent, on the Town's application form, be accompanied by the required application fee and escrow (if required), and must, at a minimum, contain all of the following information:

- (A) The name and mailing address of all property owners of record, according to the county auditor's property tax records, within one-half mile of the property to which the application relates;
- (B) The name of the applicant and of all owners of the property to which the application relates;
- (C) A description of the proposed use or structure to which the variance relates; and
- (D) An explanation of the specific conditions and circumstances that give rise to the practical difficulties in strictly complying with the provisions of this Ordinance and the specific provisions of this Ordinance from which a variance is being sought.

8.2.3 **Procedure.** Requests for a variance shall comply, and shall be processed in accordance, with the following:

8.2.3.1 **Zoning Administrator.** An application for a variance must be submitted to the Zoning Administrator. The Zoning Administrator shall review the application to determine if it contains all the required information and is otherwise complete, including payment of the required fees. If an application is not complete, the Zoning Administrator shall provide the applicant written notice of what information is needed in order to make the application complete within 15 days of the Town's receipt of the application. The Zoning Administrator shall forward complete applications to the Planning Commission to conduct a hearing.

8.2.3.2 **Notice.** At least ten days before the date of the hearing, notice shall be published in the Town's official newspaper and mailed by first-class mail to all property owners of record, according to the county auditor's property tax records, within one-half mile of the property to which the application relates. The notice shall state the time, place, and purpose of the hearing. Failure of any property owner to receive notice of the hearing shall not in any way affect the validity of the hearing or its results.

8.2.3.3 **Site Investigation.** The Town may conduct one or more site investigations of the property as part of processing a variance application. If a quorum or more of the Planning Commission or the Board of Appeals and Adjustments conducts a site investigation, notice shall be posted at the Town's posting places at least three days before the date of the inspection unless the inspection is being conducted as part of the hearing. The Town may also conduct one or more site investigations after a variance has been issued to review an alleged or potential violation of the conditions of the variance or of this Ordinance. Submission of an application, and acceptance of a variance, constitutes consent on the part of the owners of the property to the conditions imposed on the variance and to allow the Town to conduct inspections of the property at reasonable times to determine eligibility to receive a variance and then related to the administration and enforcement of the variance.

8.2.3.4 **Planning Commission.** The Planning Commission shall conduct a public hearing on the proposed variance and develop a recommendation to the Board of Appeals and Adjustments regarding the proposed variance. The owner, or its authorized agent, is expected to attend the hearing to explain the application and to answer the Planning Commission's questions. In reviewing

the request and developing its recommendation, the Planning Commission shall consider the criteria set out in this Section and such other factors as it determines are appropriate to evaluate the proposed use. It is the owner's burden to demonstrate it is eligible to receive the requested variance. If the Planning Commission recommends approval of the variance, its recommendation shall include the conditions it recommends be placed on the variance. The recommendation shall include any conditions the Planning Commission determines are appropriate and reasonable to address anticipated impacts of the proposed use in order to protect the public health, safety, and welfare. The Planning Commission shall forward its recommendation, together with its supporting findings, to the Board of Appeals and Adjustments.

8.2.3.5 **Board of Appeals and Adjustments.** The Board of Appeals and Adjustments shall make the final decision regarding the requested variance after conducting a public hearing. The Board of Appeals and Adjustments shall not issue a variance unless it determines that the particular request satisfies the criteria set out in this Section. The Board of Appeals and Adjustments may impose such conditions on the variances it issues as it determines are reasonable. All such conditions must be directly related to and bear at least a rough proportionality to the impact the Board of Appeals and Adjustments determines will be created by the variance.

8.2.4 **Criteria.** The owner has the burden of demonstrating that sufficient practical difficulties exist, based on the following criteria, with respect to its property to justify the issuance of a variance. The Board of Appeals and Adjustments shall consider the following criteria in determining whether to issue a variance:

- (A) The variance is in harmony with the general purposes and intent of this Ordinance;
- (B) The variance is consistent with the Land Use Plan;
- (C) The owner proposes to use the property in a reasonable manner not permitted by this Ordinance;
- (D) The plight of the owner is due to circumstances unique to the property that were not created by the owner;
- (E) If granted, the variance will not alter the essential character of the locality; and
- (F) Economic considerations are not the sole basis for the requested variance.

8.2.5 **Recording.** The Town Board will record, at the owners' expense, the variances it issues.

8.2.6 **Expiration and Revocation.** A variance shall expire and become void if the use or structure to which it relates is not substantially started within 12 months from its date of issuance. A substantial start means more than preliminary steps have been taken such that preparations to initiate the use are mostly complete. The Board of Appeals and Adjustments may revoke a variance if it determines, after notice to the owner and conducting a public hearing, that any of conditions imposed on the variance have been violated.

8.3 **Amendments.** An amendment to the text of this Ordinance or of the land use map, including requests to rezone property, may only occur as provided in this Section.

8.3.1 **Who May Initiate:** An amendment to this Ordinance or the land use map may be initiated by the Town Board, the Planning Commission, or by application of an affected property owner. Any amendment not initiated by the Planning Commission shall be referred to the Planning Commission for review and may not be acted upon by the Town Board until it has received the Planning Commission's recommendations, or until at least 60 days after the proposed amendment was submitted to the Planning Commission.

8.3.2 **Application.** An owner seeking an amendment, including a request to rezone property, shall complete the Town's application form, together with the required application fee and escrow (if required), and the application must, at a minimum, contain all of the following information:

- (A) If the application involves a request to change district boundaries affecting an area of five acres or less, the name and mailing address of all property owners of record, according to the county auditor's property tax records, within one-half mile of the property to which the application relates;
- (B) The name of the applicant and of all owners of the property to which the application relates; and
- (C) A description of the specific provisions of the Ordinance, or the proposed change in zoning, and proposed change.

8.3.3 **Procedure.** Applications for an amendment, including rezoning, shall comply, and shall be processed in accordance, with the following:

8.3.3.1 **Zoning Administrator.** An application for an amendment must be submitted to the Zoning Administrator. The Zoning Administrator shall review the application to determine if it contains all the required information and is otherwise complete, including payment of the required

fee. If an application is not complete, the Zoning Administrator shall provide the applicant written notice of what information is needed in order to make the application complete within 15 days of the Town's receipt of the application. The Zoning Administrator shall forward complete applications to the Planning Commission to conduct a hearing.

8.3.3.2 Town Initiated Amendments. An amendment proposed by the Planning Commission shall be forwarded in writing to the Town Board for review. If the Town Board authorizes the Planning Commission to proceed with the amendment, the Planning Commission shall hold a hearing on the proposed amendment in accordance with the Town Board's authorization and this Section. If the Town Board initiated the amendment, the Planning Commission shall hold a hearing on the proposed amendment in accordance with this Section.

8.3.3.3 Notice. At least ten days before the date of the hearing, notice shall be published in the Town's official newspaper. If the application involves a request to change district boundaries affecting an area of five acres or less, the notice shall also be mailed by first-class mail to all property owners of record, according to the county auditor's property tax records, within one-half mile of the property to which the application relates at least ten days before the hearing. The notice shall state the time, place, and purpose of the hearing. Failure of any property owner to receive notice of the hearing shall not in any way affect the validity of the hearing or its results.

8.3.3.4 Planning Commission. The Planning Commission shall conduct a public hearing on the proposed amendment and develop a recommendation to the Town Board regarding the proposed amendment. The owner, or its authorized agent, is expected to attend the hearing to explain the application and to answer the Planning Commission's questions. The Planning Commission shall forward its recommendations regarding a proposed amendment to the Town Board for final action.

8.3.3.5 Town Board. The Town Board shall take action on the proposed amendment at a Town Board meeting. Approval of an amendment shall be by ordinance amending this Ordinance. If the amendment was initiated by application of an owner, the Town shall inform the property owner of the Town Board's decision.

8.3.4 Limit on Similar Applications. No application of an owner for an amendment to the text of the Ordinance or the Zoning Map shall be considered by the Town within a one-year period following a denial of such request, except that a new application may be allowed if, in the opinion of the Zoning Administrator, there is new evidence or a sufficient change of circumstances to warrant additional consideration of the proposal by the Town.

8.4 **Appeals.** As of the effective date of this Ordinance, no appeal shall be heard except in accordance with the following.

8.4.1 **Appealable Decisions:** Only alleged errors in an order, requirement, decision, or determination made by the Zoning Administrator in the enforcement of this Ordinance are appealable to the Board of Appeals and Adjustments. The decisions of the Town Board and the Board of Appeals and Adjustments are final and are not appealable to the Board of Appeals and Adjustments. Recommendations of the Planning Commission are not final decisions and are not appealable to the Board of Appeals and Adjustments.

8.4.2 **Notice of Appeal:** In order to bring an appeal, a person shall file a written notice of appeal with the Town Clerk within 15 days of the date of the order or decision being appealed together with the required fee. The notice of appeal must, at a minimum, contain all of the following information:

- (A) The name, mailing address, and phone number of the person making the appeal;
- (B) The name and mailing address of all property owners of record, according to the county auditor's property tax records, within one-half mile of the property to which the appeal relates;
- (C) Describe the specific order or decision being appealed, the date of the order or decision, and identify the person who issued the order or made the decision;
- (D) A detailed explanation of the grounds for the appeal; and
- (E) Identify the specific relief being sought by the appeal.

8.4.3 **Procedure:** Notices of appeals shall comply, and shall be processed in accordance, with the following:

8.4.3.1 **Town Clerk.** The Town Clerk shall review the notice of appeal to determine if it contains all the required information and is otherwise complete. If a notice of appeal is not complete, the order or decision to which it relates is not appealable, or if it was not filed in a timely manner, the Town Clerk shall reject the notice of appeal. The Town Clerk shall provide a written notice of the rejection to the person that filed the appeal. The Town Clerk may consult the Board of Appeals and Adjustments and the Town Attorney as needed to make a determination as to whether a notice of appeal is complete, proper, and filed in a timely manner. The Town Clerk shall forward complete, proper, and timely notices of appeals to the Board of Appeals and Adjustments to conduct a hearing. The Town

Clerk shall also provide a copy of the notice of appeal to the Planning Commission.

8.4.3.2 **Notice.** At least ten days before the date of the hearing, notice shall be published in the Town's official newspaper and mailed by first-class mail to the person bringing the appeal and to all property owners of record, according to the county auditor's property tax records, within one-half mile of the property to which the appeal relates. The notice shall state the time, place, and purpose of the hearing. Failure of any property owner to receive notice of the hearing shall not in any way affect the validity of the hearing or its results. In scheduling the hearing, the Board of Appeals and Adjustments shall allow a reasonable time, not to exceed 60 days, for the Planning Commission to review and report on the notice of appeal.

8.4.3.3 **Planning Commission.** The Planning Commission may review and provide a report to the Board of Appeals and Adjustments on a notice of appeal. The Planning Commission is not authorized to conduct a hearing on the notice of appeal. If the Planning Commission develops a report it shall provide it to the Board of Appeals and Adjustments prior to the scheduled hearing.

8.4.3.4 **Board of Appeals and Adjustments.** The Board of Appeals and Adjustments shall conduct a public hearing on the notice of appeal. The appellant, or its authorized agent, is expected to attend the hearing to explain the appeal and to answer the Board of Appeals and Adjustments' questions. The Board of Appeals and Adjustments shall make the final decision regarding the matter being appealed. The Board of Appeals and Adjustments may reverse or affirm, wholly or partly, or modify the order or decision being appealed, and issue such orders, requirements, decisions, permits, or determinations, or provide such other relief as it deems appropriate. The Board of Appeals and Adjustments shall issue its decision in a written order which contains its findings. It shall provide a copy of its order to the appellant within 10 days of its issuance.

8.4.3.5 **Judicial Review.** Appeals from the final decisions of the Town Board or of the Board of Appeals and Adjustments may be brought as provided in Minnesota Statutes, section 462.361, provided such appeal is served on the Town and filed in District Court in Itasca County within 30 days from the date of the decision being appealed.

8.5 **Fees.** This section sets out the general requirements for fees related to the administration of, and for zoning requests made pursuant to, this Ordinance. The amount of the fees shall be established by a fee schedule in a resolution or ordinance adopted by the Town Board.

- 8.5.1 **Application Fee.** Applicants shall be required to pay an application fee when submitting an application under this Ordinance. Application fees shall be in the amount determined by the Town Board and are intended to defray the administrative costs of processing requests. Application fees submitted as part of a complete application are not refundable, regardless of whether the application is approved, denied, or withdrawn;
- 8.5.2 **Escrow.** In order to defray the additional costs the Town may incur to process a request made under this Ordinance, applicants may also be required to reimburse the Town for all consulting costs it incurs related to the particular request. Consulting costs include, without limitation, all attorney, planner, and engineering fees incurred related to the request. An applicant may be required to escrow cash with the Town in the amount determined by the Town Board or Zoning Administrator from which the Town will reimburse itself for the consulting costs it incurs. The applicant remains responsible for all such costs and shall promptly escrow additional funds if the Town Board or Zoning Administrator determines the existing escrowed amount will not be sufficient to fully reimburse the Town for its costs. Failure to promptly provide additional funds or to otherwise fully reimburse the Town for its consulting cost shall be a sufficient basis on which to delay the processing of a request or to deny a request.
- 8.5.3 **Reimbursement in Full Required.** Upon the termination of the application, by an approval, denial, withdrawal, or any other means, all costs incurred by the Town shall be immediately payable by the applicant. If no escrow was required, or if the Town's costs exceed the escrowed amount, the Town will provide the applicant a written statement of the amount to be reimbursed. The stated amount shall be paid in full to the Town within 30 days from the date of the written statement. If the escrowed amount exceeds the Town's costs, the excess shall be refunded to the applicant. No permits shall be issued, no construction or development shall commence, and no use of the property pursuant to the zoning request shall be made until all fees and costs are paid in full. In the event that payment of costs is not made within a reasonable time after demand, the Town Board or Zoning Administrator may take such steps as are available to the Town under law to collect the unreimbursed amounts, including collection costs. The steps the Town may take to recover its costs include, but are not limited to, placing the amount on any property the person owns in Minnesota as a service charge pursuant to Minnesota Statutes, section 366.012, filing a lien upon the subject property or other property of the applicant pursuant to Minnesota Statutes, section 514.67, or taking such other action as may be deemed appropriate to obtain full reimbursement for the Town for all costs it incurs related to the application.

**ARTICLE IX
PENALTIES AND ENFORCEMENT**

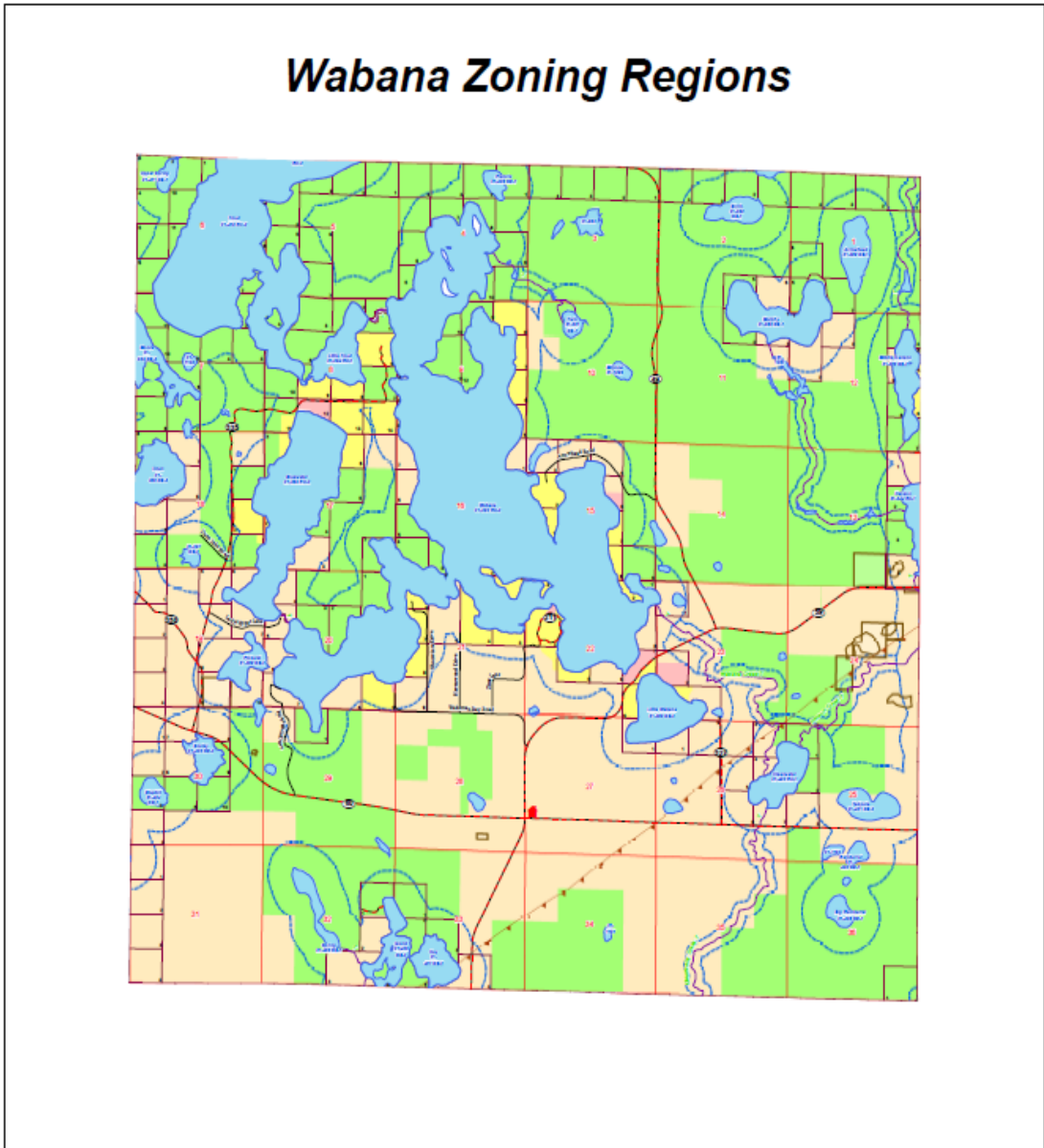
9.1 Enforcement and Penalties.

- 9.1.1 **General Offense.** Any person who violates any of the provisions of this Ordinance shall be guilty of a misdemeanor and, upon conviction thereof, shall be subject to a maximum fine or maximum period of imprisonment, or both, as specified by Minnesota Statutes, section 609.03. A violation of this Ordinance shall include, but is not limited to, any of the following: failing, neglecting, or refusing to comply with the provisions of this Ordinance; violating any condition placed on a permit or variance issued by the Town; exceeding the scope of a permit; or knowingly making any false statements in any document required to be submitted under the provisions of this Ordinance. Each day that a violation continues shall constitute a separate offense. In the event of a violation or a threatened violation of this Ordinance, the Town Board, in addition to other remedies, may institute appropriate criminal and/or civil actions or proceedings to prevent, prosecute, restore, restrain, correct or abate such violations or threatened violations. A criminal prosecution for a violation shall not be a bar to a civil remedy.
- 9.1.2 **Enforcement.** The Town Board, Zoning Administrator, and Town Board's appointed representatives have the authority to enforce this Ordinance by issuing notices of violation, cease and desist orders, citations, and taking or instituting such other lawful actions as may be needed to enforce this Ordinance and to bring a property into compliance. A violation of this Ordinance can occur regardless of whether a permit is required for a regulated activity. If a cease and desist order or stop work order is issued to stop an activity, the activity may not be resumed until the reason for the work stoppage has been completely satisfied and the cease and desist order lifted.
- 9.1.3 **Costs of Enforcement.** The cost of enforcement may be added to any fines or other penalties imposed as provided in Minnesota Statutes, section 366.01, subdivision 10. The Town may also collect such other reasonable costs it incurs to enforce this Ordinance by certifying the amount to the County Auditor as a service charge pursuant to Minnesota Statutes, section 366.012 for collection together with the property taxes levied against any real property the person or entity subject to the enforcement action owns in the Town. The Town will provide the property owner written notice of its intent to certify the amount on or before September 15. The amounts so certified to the County shall be subject to the same penalties, interest, and other conditions provided for the collection of property taxes.
- 9.1.4 **After the Fact Applications.** Any application for a permit or variance required under this Ordinance that is submitted to the Town after the use was initiated or the work has commenced shall be required to pay an after-the-fact application fee,

Appendix 1 Wabana Township Zoning Map

Legend

- River Class Change
- Township Halls
- Roads**
 - US
 - MN/DOT
 - COUNTY
 - TOWNSHIP
 - MUNICIPAL
- Lakes**
- Rivers - Classification**
 - SRC
 - F
 - NE-1
 - R
 - S
 - T
 - W
- Government Lot Lines
- 2- & 6-Mile Lines From Iron Formation
- Divisive Iron Formation
- Gravel Pit
- High Sand & Gravel Potential
- Highway 30 Corridor
- Shoreland District
- Section Lines
- Zoning Districts**
 - 1 - Rural Residential
 - 2 - Farm Residential
 - 3 - Recreational Commercial
 - 4 - Light Industrial / Commercial
 - 5 - Industrial
 - 6 - Public
 - M - Municipal



Lake Classifications

NE-1 Natural Environment 1
 NE-2 Natural Environment 2
 NE-3 Natural Environment 3
 RD-1 Recreational Development 1
 RD-2 Recreational Development 2
 GD General Development

River Classifications

SRC Bigfork River Corridor
 F Forested
 NE-1 Natural Environment 1
 R Riparian
 S Shaded - Mississippi
 T Tributary
 W Wild - Mississippi

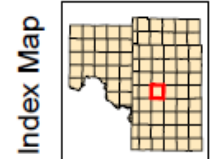
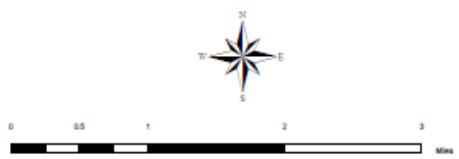
Alphanumeric characters inside of the lake boundaries and along streams and rivers represent MNDNR identification and classification designations.

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This information is a compilation of data from different sources with varying degrees of accuracy and requires a qualified field survey to verify.

Itasca Geographic Information System
 "Decision support through automation"



**Appendix 2
Site Suitability Checklist form**

| Site Suitability Checklist | |
|--|--|
| <p>The applicant or the applicant's agent is to complete this checklist to the best of his or her knowledge. An Environmental Assessment Worksheet (EAW) may or may not be required.</p> | |
| Applicant Information | |
| Owner | Name _____ Address _____ Phone _____ |
| Developer | Name _____ Address _____ Phone _____ |
| Checklist completed by: _____ <div style="display: flex; justify-content: space-around; margin-top: 10px;"> _____ _____ </div> <div style="display: flex; justify-content: space-around; margin-top: 5px;"> Signature Date </div> | |
| Project Description or Request | |
| _____ _____ _____ _____ _____ | |
| Property Information | |
| Parcel Number(s) _____ | Acreage _____ |
| Legal Description _____ | _____ |
| SECTION _____ | TWP _____ RANGE _____ |
| Lake Name _____ | Lake Class _____ |
| Current Zoning District _____ | Proposed Zoning District _____ |

1. Describe surrounding land use by checking applicable boxes.

- Residential
- Agricultural
- Forestry
- Light Industrial Commercial
- Industrial

Other _____

2. Is property in a Flood Zone per National Flood Insurance Program map?

Yes – Circle applicable Flood Zone: A A0 AH A1-A30 A99 B C D

No

Unknown

3. Roads.

List existing road(s) to be used _____

Describe any proposed roads _____

Estimated increase in traffic volume _____

List any potential problems _____

4. Environmental Hazards. Are there any environmental hazards on the site (sinkholes, improperly abandoned wells, buried solid and hazardous wastes, unauthorized dumping of wastes or other sites presenting hazards to health or safety)?

NO _____ YES _____

If YES, describe the environmental hazard(s) and the steps proposed to mitigate the hazard.

5. Impervious surface covered: _____%

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

6. Impacts on Surface Water Resources.

Will the project involve dredging, filling, stream diversion, or impoundment of surface water (lake, pond, wetland, stream, drainage ditch) or the appropriation of surface water?

NO _____ YES _____

If YES, please check the boxes of all that apply and provide requested information.

Water resource to be affected _____

Describe the alteration, including the construction process _____

Volumes of dredged or fill material_____

Area affected_____

Length of stream diversion_____

Water surface area affected_____

Timing and extent of fluctuations in water surface elevations_____

Spoils disposal sites_____

Proposed mitigation measures to minimize impacts_____

Is a stormwater permit required?

NO _____ YES _____

How will runoff from the site be managed during disturbance of the site?

What type(s) of erosion control will be used?

How will runoff from the site be managed after disturbance of the site?

7. Impact on Air Quality (applicable to NON-RESIDENTIAL uses only). Will the proposed use generate emissions other than vehicle emissions or other sources of air pollutants?

NO _____ **YES** _____

If YES, describe measures to be taken to avoid degeneration of air quality from:

- ⊗ Emissions - _____

- ⊗ Dust - _____

- ⊗ Odors - _____

- ⊗ Other sources - _____

8. Will the use generate the following?

⊗ Noise at levels exceeding ambient levels? **NO** _____ **YES** _____
If YES, what is the extent to which adjacent properties may be affected? _____

If YES, what measures will be taken to control impacts? _____

⊗ Odors? **NO** _____ **YES** _____
If YES, what is the extent to which adjacent properties may be affected? _____

If YES, what measures will be taken to control impacts? _____

Dust? **NO** _____ **YES** _____

If YES, what is the extent to which adjacent properties may be affected? _____

If YES, what measures will be taken to control impacts? _____

⊗ Debris? **NO** _____ **YES** _____
If YES, what is the extent to which adjacent properties may be affected? _____

If YES, what measures will be taken to control impacts? _____

⊗ Other hazards? **NO** _____ **YES** _____
If YES, what is the extent to which adjacent properties may be affected? _____

If YES, what measures will be taken to control impacts? _____

9. Will the project involve onsite sewage treatment? NO _____ YES _____
If YES, Designer name _____ License # _____

10. Is an Environmental Assessment Worksheet (EAW) needed? NO _____ YES _____

DRAFT