

CHAPTER 8 PERMITS AND APPLICATION REVIEW PROCESSES

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Section 1 General Application Provisions That Apply to All Permits and Subdivisions

- A. **General application requirements.** Applications for all permits or subdivisions shall comply with the provisions in this subsection. Additional application requirements may apply as specified elsewhere in this Ordinance.
- B. **Application forms.** Application for a permit or subdivision will be made on forms designated by the County and shall be submitted to the Zoning Administrator.
- C. **Fees.** An application for a permit or subdivision shall be accompanied by a fee as established by the Board of County Commissioners.

Section 2 Public Hearing Requirements

Whenever a public hearing is required prior to official action the procedures in this Section shall be followed.

- A. **Notice requirements.** Notice of the time, place, and purpose of any public hearing shall be given by publication in the official newspaper of the County, at least ten (10) days before the hearing. Written notice of the time, place, and purpose of the public hearing shall be sent to entities in the following list. For the purpose of notification, ownership of property shall be determined by the tax record for the previous year. The notification to affected property owners shall include both a legal description and a common description of the property in question with a brief explanation of the intended purpose for which the application is filed.
 1. **Property owners - Incorporated areas.** Property owners of record within five hundred feet (500') of the affected property in incorporated areas.
 2. **Property owners - Unincorporated areas.** In unincorporated areas the notice shall be sent to property owners as follows:
 - a. **Variances.** In the case of variances, to owners of record within five hundred feet (500') of the affected property;

- b. **CUPs.** In the case of conditional use permits, to owners of record within one quarter mile of the affected property or to the ten (10) properties nearest to the affected property, whichever would provide notice to the greatest number of owners; and
 - c. **Other public hearings.** In the case of all other official controls, including but not limited to zoning district change, zoning regulations and subdivision regulations, to owners of record within one half (1/2) mile of the affected property.
3. **Cities.** In the case of amendments to this Ordinance notice of public hearings also shall be sent to the governing bodies of all towns and all municipalities located within the county.
 4. **Townships.** Written notice also shall be given to the board of town supervisors of the town in which the affected property is located, and the municipal council of any municipality within two (2) miles of the affected property.
 5. **Shoreland areas – DNR notice.** If the application involves lands within the shoreland areas of the County, notice of the application, along with supporting documentation described in this Ordinance, shall be forwarded to the State Commissioner of Natural Resources for review and comment in sufficient time to give the State Commissioner at least ten (10) days in which to respond to the application;
 6. **Watershed districts.** If the application involves land within a watershed district, notice of the application, along with supporting documentation described in this Ordinance, shall be forwarded to the Chair of the Watershed Board for review and comment in sufficient time to give the Chair at least ten (10) days in which to respond to the application.
- B. **When required.** At least one (1) public hearing shall be required as part of the review process for an application for a map amendment (rezoning), text amendment, conditional use permit, variance or appeal. Upon receipt in proper form of the application and other requested material, the Becker County Planning Commission or Board of Adjustment shall hold the required public hearing in a location to be prescribed by the Planning Commission or Board of Adjustment.
 - C. **Application requirements.** An application for a map amendment (rezoning), text amendment, conditional use permit, variance or appeal shall be accompanied by a map or plat showing all properties within one half mile of the boundaries of the property affected by the change. The application also shall include names and addresses of the owners of all such properties.
 - D. **Findings.** Following a public hearing, the Becker County Planning Commission or Board of Adjustment shall make a report of its findings and recommendations on the proposed request and shall file a copy with the applicant, the Board of County Commissioners and the Zoning Administrator

Section 3 General Review Standards That Apply to All Permits and Subdivisions

The provisions in this subsection shall be applied by the reviewing staff or official body to all permit or subdivision applications. Additional provisions may apply as specified elsewhere in this Ordinance.

- A. **One dwelling.** Only one dwelling unit is permitted per lot or parcel of land.
- B. **County policy on easements.** The following provisions shall apply if an application includes an easement:
 1. **Survey required.** Every application involving an easement must be accompanied by a survey of the land area that is subject to the easement;
 2. **Value of easement.** The cost of the easement is the appraised market value of the land over which the easement runs.

3. **Responsible entity.** It is the responsibility of each owner or township to obtain all necessary easements.
- C. **Land alteration standards.** Land alterations pursuant to a permit or subdivision approval issued under this Ordinance shall be subject to the following regulations:
1. **General land alteration standards.**
 - a. **Incidental to permitted or conditional use.** Land alterations shall not be allowed unless the use is incidental to a permitted or conditional use and does not adversely affect adjacent or nearby properties.
 - b. **Ground exposure and revegetation.** Any land alteration shall be accomplished in a manner that assures that the least possible amount of bare ground is exposed for the shortest time possible. Bare ground shall be covered temporarily with mulches or similar materials. A permanent vegetation cover shall be established as soon as possible after any excavation.
 - c. **Erosion control.** Soil erosion shall be minimized and efforts shall be taken to trap sediments before they reach any surface water feature. Altered areas shall be stabilized to acceptable erosion control standards consistent with the field office technical guides of the Becker Soil and Water Conservation District and the Natural Resource Conservation Service (NCRS);
 2. **Shoreland areas.** Land alteration in shoreland areas shall meet the following standards in addition to the other provisions of this subsection.
 - a. **Prohibited activities.** No land alteration permit will be granted for any land alteration that will result in:
 - (1) The destruction of natural vegetation except as allowed in Chapter 6, Section 7 of this Ordinance;
 - (2) Increased shoreline erosion;
 - (3) Increased runoff to a lake; or
 - (4) Increased runoff to adjacent properties.
 - b. **DNR approval required.** Any topographical changes below the ordinary high water level of public waters shall first be authorized by the Commissioner of the Department of Natural Resources.
 - c. **Placement of material.** Fill or excavated material shall not be placed in a manner that creates an unstable slope and shall not be placed in a bluff impact zone.
 - d. **Riprap.** Natural rock riprap, including associated grading of the shoreline and placement of a filter blanket, may be placed in a shore impact zone.
 - e. **Certification by professional.** The Zoning Administrator may require, and for a land alteration within the shore impact zone or a bluff impact zone shall require, an applicant to provide certification from a landscape architect or professional engineer that the land alteration standards of Chapter 8, Section 3, subsection C. of this Ordinance have been followed.
 3. **Wetlands.** An application for a permit or subdivision approval for a project that includes any grading or filling in any type 2, 3, 4, 5, 6, 7, or 8 wetland shall contain a description of the extent the proposed activity would affect the following functional qualities of the wetland:
 - a. Sediment and pollutant trapping and retention;
 - b. Storage of surface runoff to prevent or reduce flood damage;

- c. Fish and wildlife habitat;
 - d. Recreational use;
 - e. Shoreline or bank stabilization; and
 - f. Noteworthiness, including special qualities such as historic significance, critical habitat for endangered plants and animals, or others.
4. **Steep slopes.** If a project requires fill or excavated material to be placed on steep slopes the plans accompanying the application shall demonstrate that the slope will have continued slope stability and will not create finished slopes of thirty percent (30%) or greater.
- D. **Impervious surface coverage.** Impervious surface coverage of all lots shall not exceed the allowable percentage of the lot area in the appropriate Zoning District as specified in Table 5-4 of this Ordinance.

Section 4 Site Permits

- A. **When required.** No person, firm, or corporation shall erect, alter, repair, place or replace a building or structure without first getting a site permit.
- 1. **Exceptions.** An alteration or repair that does not change the exterior dimensions of a building or structure does not require a site permit. A site permit is not required for such buildings or structures as agricultural buildings, fish houses, play houses, dog kennels, or swing sets; however, the required building setbacks shall apply.
- B. **Application requirements.** Each application for a site permit shall be accompanied by a plan drawn to scale showing the dimension of the lot to be built upon and the size and location of the building or structure and accessory buildings or structures to be erected or placed.
- C. **Application review criteria.** The Zoning Administrator shall issue the site permit only if the plans and the application comply with this Ordinance.
- D. **Length of permit.** The site permit will be valid for a period of six (6) months with a six (6) month extension if footings are in place.
- E. **Road frontage requirement.** No site permit shall be issued for a lot, plot or tract of land not having frontage on a public road unless:
- 1. The property has no access to a public road except by an easement over the land of others;
 - 2. The easement from the property to a public road is at least fourteen feet (14') wide; except that this provision does not apply to property that is accessed by a forest management road;
 - 3. The easement serves no more than two tracts of land; except that this provision does not apply to property which is accessed by a forest management road; and
 - 4. The lot owner has signed and recorded in the Office of the County Recorder a document that:
 - a. Acknowledges the owner's responsibility for upgrading the road to public road specifications if it is converted to a public road at the owner's request; and
 - b. Specifies the front lot line.

Section 5 Subdivision of Land

A. **When required.** A subdivision application and approval of subdivision plat conforming to the provisions of this Section is required in any of the following circumstances.

1. **Platting of land.** Any plat filed after enactment of this Ordinance for each subdivision or each part thereof lying within the jurisdiction of this Ordinance shall be prepared, presented for approval, and recorded as prescribed by this Ordinance.
2. **Division of land into two or more parts.** These regulations shall apply to the subdivision of any lot, tract or parcel of land into two (2) or more lots, tracts or the division of land including the resubdivision or replatting of land or lots.
 - a. **Exemptions.** The following subdivisions shall be exempt from the requirements of this Section:
 - (1) **All large tracts.** The subdivision of land into tracts all of which are larger than five (5) acres in area located outside the shoreland district and all of which are larger than twenty (20) acres within the shoreland district; unless the project meets the exemption criteria of the Environmental Review Technical Panel.
 - (2) **Enlargement of existing lots.** The subdivision of a lot for the purpose of attachment to contiguous lots where no lots less than five (5) acres in area left unattached.
 - (3) **Governmental or utility use.** Conveyances to a governmental unit or public utility for the purpose of roads, streets residual, substations, poles, towers, telephone booths, etc.
3. **Subdivision of tracts into 3 or fewer parcels.** All subdivisions of tracts into three (3) or fewer parcels that are not exempted from subdivision review under 2., above, shall conform to the provisions of subsection J. of this Section 5.
4. **Metes and bounds transfers.** All conveyances which are exempted in subsection 2., above, in which the land conveyed is described by metes and bounds are subject to subsection K. of this Section 5.

B. **Approvals required.**

1. **Approvals necessary for acceptance of subdivision plats.**
 - a. **County approvals.** Before any plat shall be recorded or be of any validity, it shall be approved by the County Planning Commission and by the Board of County Commissioners as having fulfilled the requirements of this Ordinance.
 - b. **Cities.** Where any municipality has adopted extra-territorial subdivision platting regulations as provided by State law, any proposed plat lying within two (2) miles of said municipality shall also be submitted to and approved by said municipality.
 - c. **Townships.** Where any township in Becker County has adopted platting regulations as provided by State law, any proposed plat lying within said township shall also be submitted to and approved by said township.
2. **Approval required before recording of plat.** No plat of any subdivision shall be entitled to record in the Becker County Recorders Office or have any validity until the plat thereof has been prepared, approved, and acknowledged in the manner prescribed by this Ordinance.
3. **Approval required before issuance of site permits.** No site permits shall be issued by Becker County for the construction of any building, structure or improvement to the land or to any lot in a subdivision, as defined herein, until all requirements of this Ordinance have been complied with.

C. **Land suitability required.** Each lot created through subdivision, including planned unit developments, must be suitable in its natural state for the proposed use with minimal alteration. Suitability analysis shall consider all of the following conditions:

1. Susceptibility to flooding;
2. Existence of wetlands
3. Soil and rock formations with severe limitations for development;
4. Severe erosion potential;
5. Steep topography;
6. Inadequate water supply or sewage treatment capabilities;
7. Near-shore aquatic conditions unsuitable for water-based recreation;
8. Important fish and wildlife habitat;
9. Presence of significant historic sites; or
10. Any other feature of the natural land likely to be harmful to the health, safety, or welfare of future residents of the proposed subdivision or County.

D. **Procedure for review of subdivision applications and preliminary plats.** Applications for subdivision of land shall meet the requirements of this Ordinance, shall include a preliminary plat meeting the data requirements of subsection E., below, and shall be submitted to the Zoning Administrator on forms developed Becker County Zoning Department. The procedure for reviewing subdivision applications will follow the steps in this subsection.

1. **Staff review of applications for completeness and date of submission:** Applications shall be reviewed within ten (10) working days for completeness by the Zoning Administrator upon receipt and prior to forwarding an application to the Planning Commission or County Board. An incomplete application shall be returned to the applicant with specific information on deficiencies in the application and remedies for such deficiencies. Any date referring to the date of submission of a completed application shall mean the date upon which a complete application was submitted, it shall not mean the date upon which an incomplete application was submitted.
2. **Filing fee.** The subdivision application and preliminary plat shall be accompanied by a fee as established by the County Board. Such fees to be used for the expense of the County in connection with the review, inspection, approval or disapproval of said plat, which may thereafter be submitted.
3. **Compliance and site suitability review:** Upon receipt of a completed application and filing fee, the Zoning Administrator shall review the application and preliminary plat for conformance with this Ordinance and site characteristics for development suitability meeting the provisions of Chapter 8, Section 5, subsection C., above.
4. **Review by the County Planning Commission.** The Zoning Administrator shall forward completed subdivision applications and preliminary plats to the County Planning Commission. The Planning Commission shall hold a public hearing on said application and preliminary plat. The public hearing shall conform to the provisions of Chapter 8, Section 2, of this Ordinance. The Planning Commission shall approve the preliminary plat with findings that contain conditions for approval or shall state reasons for denial of the plat. A denial of a plat by the Planning Commission shall be reviewed by the County Board for final action on the plat. In case the plat is disapproved, the subdivider shall be notified of the reason for such action and what requirements will be necessary to meet the approval of the Planning Commission.

5. **Review by the County Board.** After the public hearing and review of the preliminary plat by the Planning Commission, such preliminary plat, together with the recommendations of the Planning Commission, shall be submitted to the County Board for consideration. Approval or disapproval of the preliminary plat shall be conveyed to the subdivider in writing within ten (10) days after the meeting of the County Board at which such plat was considered. In case the plat is disapproved, the subdivider shall be notified of the reason for such action and what requirements will be necessary to meet the approval of the County Board.
 6. **Preliminary plat approval not final approval – Final plat required.** The approval of the preliminary plat does not constitute an acceptance of the subdivision, but is deemed to be an authorization to proceed with the final plat. This approval of the preliminary plat shall be effective for a period of two (2) years, unless an extension is granted by the County Board. The subdivider may file a final plat limited to such portion of the preliminary plat, which he proposes to record and develop at the time, provided that such portion must conform to all requirements of this Ordinance. If some portion of the final plat has not been submitted for approval within this period, a preliminary plat must again be submitted to the Planning Commission and the County Board for approval.
- E. **Preliminary plat data required.** The subdivider shall prepare and submit a preliminary plat as follows, together with any necessary supplementary information:
1. **Legal description.** Legal description of the property to be subdivided
 2. **Five (5) copies** of a preliminary plat of any proposed subdivision containing the following information:
 - a. Proposed name of subdivision; names shall not duplicate or too closely resemble names of existing subdivisions.
 - b. Names and addresses of the subdivider and the designer making the plat.
 - c. Graphic scale of plat, not less than one (1) inch to one hundred (100) feet.
 - d. Date and north point.
 - e. **Existing conditions:**
 - (1) Location, width, and name or identifying number of each existing or platted street, road or other public way, railroad, the utility right-of-way, parks wildlife, and other public open spaces, and permanent buildings, within or adjacent to the proposed subdivision.
 - (2) All existing sewers, water mains, gas mains, culverts, power or communication cables or other underground installations within the proposed subdivision or immediately adjacent thereto.
 - f. **Proposed development:**
 - (1) The location and width of proposed streets, roads, alleys, pedestrian ways and easements.
 - (2) The location and character of all proposed public utility lines including sewers (storm and sanitary), water, gas and power lines.
 - (3) Layout, numbers and approximate dimensions of lots and the number or letter of each block.
 - (4) Location of septic system site and an alternate septic systems site as required by Minnesota Rules 7080.0300 subpart 2.
 - (5) Location and size of proposed parks, playgrounds, churches, school sites, or other special uses of land to be considered for dedication to public use, or to be reserved by deed of

covenant for the use of all property owners in the subdivision and any conditions of such dedication or reservation.

- (6) Building setback lines with dimensions.
 - (7) Each lot shall have at least one building site with an area of more than two thousand (2,000) square feet. A building site shall be entirely within the setback lines and shall not contain any part of a bluff impact zone or shore impact zone or wetland.
 - (8) Existing topography, with contour intervals of not less than five feet (5'), related to United States Geological Survey datum.
 - (9) Also the location of water courses, ravines, bridges, lakes, springs, near shore aquatic vegetation, wetlands, wooded areas, bluffs, steep slopes, rock outcroppings, approximate acreage of each such feature, and other such features as may be pertinent to the subdivision.
 - (10) Proposed surface drainage diagrams for lots in the form of arrows, proposed contours or other appropriate method.
 - (11) Ordinary High Water Level or highest known high water level.
- g. **Supplementary requirements:** Upon request of the Planning commission, supplementary information shall be submitted; such supplementary information may include the following:
- (1) Two (2) copies of profiles for each proposed street and road, showing existing grades and proposed approximate grades and gradients on the centerline. The location of proposed culverts and bridges shall also be shown.
 - (2) Vicinity sketch, at a legible scale, to show the relation of the plat to its surroundings.
 - (3) Soil tests and reports, as specified by the County Engineer, by an approved soils laboratory.

F. **Procedure for review of final plats.** After the preliminary plat has been approved, the final plat may be submitted for approval as follows:

1. **Review by the County Planning Commission.** The final plat shall be submitted to the Zoning Administrator in the Becker County Planning and Zoning Office. The Zoning Administrator shall review the final plat for conformance with the preliminary plat approval and any conditions thereof. The Zoning Administrator shall forward the final plat with a report to the Planning Commission. The Planning Commission shall approve the final plat if it is in conformance with the preliminary plat approval and any conditions thereof. In case the plat is disapproved, the subdivider shall be notified of the reason for such action and what requirements shall be necessary to meet the approval of the Planning Commission.
2. **Review by the County Board.** After review and approval of the final plat by the Planning Commission, such final plat, together with the recommendation of the Planning Commission, shall be submitted to the County Board for action. If accepted, the final plat shall be approved by resolution, which resolution shall provide for the acceptance of all streets, roads, alleys, easements, or other public ways, and parks, or other open spaces dedicated to public purposes. If disapproved, the grounds for any refusal to approve a plat shall be set forth in the proceedings of the Board and reported to the subdivider applying for such approval.
3. **Requirements of final plat approval.**
 - a. **Development agreement required.** Before a final plat is approved by the County Board, the subdivider of the land covered by the said plat shall execute and submit to the County Board an agreement, which shall be binding on his or their heirs, personal representatives and

assigns, that he will cause no private construction to be made on said plat of file or cause to be filed any application for building permits for such construction until all improvements required under this Ordinance have been made or arranged for in the manner following as respects the highways, roads, or streets to which the lots sought to be constructed have access.

- b. **Financial assurance required.** Prior to making of such required improvements, the subdivider shall deposit with the County Auditor an amount equal to one and one quarter (1 1/4) times the County's estimated cost of such improvements, either in cash or an indemnity bond, with sureties satisfactory to the County, conditioned upon the payment of all construction costs incurred in making of such improvements and all expenses incurred by the County for engineering and legal fees and other expenses in connection with the making of such improvements.
 - c. **County Engineer certification.** No final plat shall be approved by the County Board without first receiving a report from the County Engineer certifying that the improvements described herein, together with the agreements and documents required herein, meet the minimum requirements of all applicable ordinances. Drawings showing all improvements as built shall be filed with the County Engineer.
 - d. **Flooding standards.** No final plat shall be approved by the County Board on land subject to flooding or containing poor drainage facilities and on land, which would make adequate drainage of the streets or roads and lots impossible. However, if the subdivider agrees to make improvements, which will, in the opinion of the County Engineer, make the area suitable for use without interfering with the flow of water under flood conditions, the final plat of the subdivision may be approved.
 - e. **Inspections of improvements.** All of the required improvements to be installed under the provisions of the Ordinance shall be inspected during the course of their construction by the County Engineer. All of the inspection costs pursuant thereto shall be paid by the subdivider.
- G. **Final plat data required.** The subdivider shall submit a final plat together with any necessary supplementary information, including:
- 1. **Recording fee.** The filing should be accompanied by the fees for recording the plat with the County Recorder.
 - 2. **Two (2) copies of a final plat prepared for recording purposes.** The final plat shall be prepared in accordance with provisions of Minnesota State Statutes and as required below:
 - a. Name of the subdivision, which shall not duplicate or too closely approximate the name of any existing subdivision.
 - b. Location by section, township, range, county and state, and including descriptive boundaries of the subdivision, based on an accurate traverse, giving angular and linear dimensions which must mathematically close and which boundaries must be shown in relation to a known section, quarter section or quarter-quarter section corner, or Subdivision Plat of Record. The allowable error of closure on any portion of a final plat shall be one tenth (0.1) of one (1) foot.
 - c. The location of monuments shall be shown and described on the final plat. Permanent markers shall be placed at each corner of every block or portion of a block, points of curvature and points of tangency or road lines, and at each angle point on the boundary of the subdivision. A permanent marker shall be deemed to be a steel rod or pipe, one half (1/2) inch or larger in diameter marked with the surveyor's registration number. In situations where conditions prohibit the placing of markers in the locations prescribed above, offset

markers will be permitted. The exact location of all markers shall be shown on the final plat, together with accurate bearings and distances. Permanent monuments shall be placed at all quarter section and quarter corners within the subdivision or on its perimeter.

- d. Location of lots, streets, roads, highways, alleys, parks and other features, with accurate dimensions in feet and decimals of feet with the length of radii and/or arcs of all curves, and with all other information necessary to reproduce the plat on the ground shall be shown. Dimensions shall be shown from all angle points of curve to lot lines.
- e. Lots shall be numbered clearly. If blocks are to be numbered or lettered, these shall be shown clearly in the center of the block. All lots shall be assigned an address number in accordance to the Becker County E-911 Ordinance and policies.
- f. The exact locations, widths, and names of all roads to be dedicated.
- g. Location and width of all easements to be dedicated.
- h. Scale of plat (the scale to be shown graphically and in feet per inch), date, and north point.
- i. Statement dedicating all easements as follows: Easements for installation and maintenance of utilities and drainage facilities are reserved over, under and along the strips marked "utility easements".
- j. Statement dedicating all highways, streets, roads, alleys, and other public areas not previously dedicated as follows: Roads, alleys, and other public areas shown on this plat and not heretofore dedicated to public use are hereby so dedicated.
- k. The subdivider shall submit with the final plat an opinion by an attorney admitted to the practice of law in the State of Minnesota certifying that the developer has good and marketable title to the property being subdivided including any property being dedicated to the public use.

3. Certifications required. The following certification shall appear on the final plat:

- a. Notarized certification by owner, and by any mortgage holder of record, of the adoption of the plat and the dedication of streets, roads, and other public areas.
- b. Notarized certification by a registered land surveyor, to the effect that the plat represents a survey made by him and that monuments and markers shown therein exist as located and that all dimensional and geodetic details are correct.
- c. Certification showing that all taxes and special assessments due on the property have been paid in full.
- d. Certification that the requirements of Minnesota Statute 505.03 relating to written comments and recommendations by the Commissioner of Transportation and County Highway Engineer have been compiled with.
- e. Certification by the Chairman of the Town Board of the township in which the plat is located that
 - (1) the township has accepted and agrees to maintain all roads and streets dedicated by the plat;
 - (2) the township and the developer have entered into a written agreement relating to acceptance and maintenance of all roads dedicated by the plat; or
 - (3) that the township has not accepted or agreed to maintain the roads and streets dedicated by the plat. If an agreement has been entered into between the developer and the

township, that agreement shall be filed with the County Recorder before the plat shall be accepted for recording.

- f. Space for certificates of approval to be filled in by the signatures of the Chairman of the County Planning Commission and the Chairman of the County Board.

(1) The form of approval by the Planning Commission is as follows:

Approved by the Becker County Planning Commission this _____ day of _____, _____.

Signed: _____

Chairman

Attest: _____

Secretary

(2) The form of approval of the Board of County Commissioners is as follows:

Approved by Becker County, Minnesota, this _____ day of _____, _____.

Signed: _____

Chairman, Board of County Commissioners

Attest: _____

County Administrator

4. **Supplementary documents and information may be required as follows:**

- a. A complete set of street profiles showing grade lines as constructed.
- b. Copies of any private restrictions affecting the subdivision or any part thereof.
- c. Signatures of municipal or township officials approving the plat, when such approval is required by State Law.
- e. Upon approval by the County Board, the plat shall be filed with the County Recorder.

H. **Subdivision design standards.** Each subdivision application shall contain a plat that conforms to the following general design standards.

1. **Blocks.**

- a. **Block length.** In general, intersecting street and roads, determining block lengths, shall be provided at such intervals as to serve cross-traffic adequately and to meet existing streets and roads. Where no existing plats control, the blocks in residential subdivisions shall normally not exceed thirteen hundred twenty feet (1,320') in length, except where topography or other conditions justify a departure from this maximum. In blocks longer than eight hundred feet (800'), pedestrian ways and/or easements through the block may be required near the center of the block. Blocks for business or industrial use should normally not exceed six hundred feet (600') in length.

- b. **Block width.** The width of the block shall normally be sufficient to allow two (2) tiers of lots of appropriate depth. Blocks intended for business or industrial use shall be of such width as to be considered most suitable for their respective use, including adequate space for off-street parking and deliveries.

2. **Lots.**

- a. **Minimum lot size.** The minimum lot area, lot width, and lot depth shall conform to the requirements of the Zoning District in which the plat is situated as required by Chapter 5, Section 2, of this Ordinance.
- b. **Corner lots.** Corner lots for residential use shall have additional width to permit appropriate building setback from both roads as required by the Chapter 5, Section 2, of this Ordinance.
- c. **Side lines.** Sidelines of lots shall be approximately at right angles to road or street lines or radial to curve road or street lines.
- d. **Double frontage lots.** Double frontage lots shall be avoided except where lots back on a highway or other arterial road, or where topographic or other conditions render subdividing otherwise unreasonable. Such double frontage lots shall have an additional depth of at least ten feet (10') in order to allow space for screen planting along the back lot line.
- e. **Minimum road frontage.** Every lot must have at least sixty-six feet (66') of frontage on a public dedicated road or street other than an alley except that a lot created by a Surveyor's Sketch is not required to have frontage on a public road if access is provided:
 - (1) with a fourteen foot (14') wide driving surface;
 - (2) on an easement or on property owned by the developer; and
 - (3) that access is to no more than two (2) lots.
- f. **Setbacks.** Setback or building lines shall be shown on all lots intended for residential use and shall not be less than the setback required by Chapter 5, Section 2, of this Ordinance. On those lots, which are intended for business or industrial use, the setback shall not be less than the setback required by Chapter 5, Section 2, of this Ordinance.

3. **Roads, Highways, Streets and Alleys.**

- a. **Conformance with Comprehensive Plan.** The arrangement of highways shall conform as nearly as possible to the Becker County Comprehensive Plan.
- b. **All proposed streets or roads shall be offered for dedication as public rights-of-way.** No private streets or roads shall be permitted.
- c. **Connectivity to adjacent roads and parcels required.** Roads and streets shall connect with roads and streets already dedicated in adjoining or adjacent subdivisions, or provide for future connections to adjoining unsubdivided tracts, or shall be a reasonable projection of roads in the nearest subdivided tracts. Dead-end streets and roads shall not be prohibited, but proper cul-de-sacs or other approved means of turning traffic around will be permitted where topography or other conditions justify their use, and if the alternative proposed meets the following conditions:
 - (1) Cul-de-sac alternatives shall meet the National Fire code. Cul-de-sacs shall include a terminal turn-around, which shall be provided at the closed end, with an outside curb or shoulder radius of at least fifty feet (50') and a right-of-way radius of not less than seventy feet (70').

- (2) The Hammerhead alternative, also known as a “T” and the “L” Terminal will be allowed and shall be subject to township road standards in which the plat is located. Specifications outlined in Appendix B. The minimum leg length for this alternative is sixty feet (60’).
- (3) The other approved turn-arounds in (1) and (2), immediately above, will have a roadway width which matches the main street or road width of the plat and will have minimum radii matching the class of the road approved.
- d. **Criteria for highway arrangement.** The arrangement of highways shall be considered in their relation to the reasonable circulation of traffic, to topographic conditions, to runoff storm water, to public convenience and safety, and in their appropriate relation to the proposed uses of the area to be served.
- e. **Standard for local roads.** Local roads and streets should be so planned as to discourage their use by non-local traffic.
- f. **Plan for future roads.** Where the plat to be submitted includes only part of the tract owned or intended for development by the subdivider, a tentative plan of a proposed future street and road system for the portion shall be prepared and submitted by the subdivider, if required.
- g. **Plan for future resubdivision.** When a tract is subdivided into larger than normal building lots or parcels, such lots or parcels shall be so arranged as to permit the logical location and openings of future roads and appropriate resubdivision, with provision for adequate utility connections for such resubdivision.
- h. **Right-angle intersections.** Roads shall be designed so as to intersect as nearly as possible at right angles, except where topography or other conditions justify variations. The minimum angle of intersection of roads shall be seventy (70) degrees. Road intersection jogs with an offset of less than one hundred twenty-five feet (125’) shall be avoided.
- i. **Plan for frontage roads.** Wherever the proposed subdivision contains or is adjacent to the right-of-way of a State or Federal highway, provision shall be made for a frontage road approximately parallel and adjacent to the boundary of such right-of-way, or for a road at a distance suitable for the appropriate use of land between such road and right-of-way. Such distance shall be determined with due consideration for the minimum distance required for approach connections to future grade separations, or for lot depths.
- j. **Alleys.** Alleys shall be provided in commercial and industrial districts, except that this requirement may be waived where other definite and assured provision is made for service access, such as on-site loading, unloading and parking consistent with and adequate for the uses proposed. Except where justified by special conditions, such as the continuation of an existing alley in the same block, alleys will not be approved in residential districts. Alleys, where provided, shall not be less than twenty feet (20’) wide. Dead-end alleys shall be avoided wherever possible, but if unavoidable, such dead-end alleys may be approved if adequate turn around facilities are provided at the closed end.
- k. **Half streets prohibited.** Dedication of half streets or roads will not be approved, except where it is essential to the reasonable development of the subdivision and in conformity with the other requirements of these regulations, where it is found that it will be practical to require the dedication of the other half when the adjoining property is subdivided or where it becomes necessary to acquire the remaining half by condemnation so that it may be improved in the public interest.
- l. **Minimum ROW widths.** For all public ways hereafter dedicated the minimum right-of-way widths for streets, roads and highways shall be as shown in the Becker County Com-

prehensive Plan, and where not shown therein, the minimum right-of-way width for streets, roads, highways, alleys, or pedestrian ways included in any subdivision shall not be less than the minimum dimensions for each classification as follows in Table 8-1, except for the following.

- (1) Where the existing or anticipated traffic on major and minor arterial highways warrants greater widths or right-of-way, these shall be required.
- (2) Right-of-way widths for major intercity highways shall also meet standards established by the Minnesota State Highway Department.

Table 8-1: Minimum Right-of-Way Widths

Minimum Right-of-Way Widths		
Major Intercity and Regional Highways		
	Major Intercity Highway	150 feet
Arterial Highways		
	Major Arterial Highway	150 feet
	Minor Arterial Highway	100 feet
	Township Roads	66 feet
	Frontage Roads	66 feet
	Alley	20 feet
	Pedestrian Way	10 feet

- m. **Road and highway grades.** The grades in all streets, roads, highways and alleys in any subdivision shall not be greater than the maximum grades for each classification as follows in Table 8-2. In addition, there shall be a minimum grade on all roads and highways of not less than five-tenths of one percent (0.5%).

Table 8-2: Maximum road grades

Maximum Road Grades		
Major Intercity and Regional Highways		
	Major Intercity Expressway	As required by the MN Dept. of Transportation
	Major Intercity Highway	
Arterial Highways		
	Major Arterial Highway	5 percent
	Minor Arterial Highway	6 percent
	Township Roads	8 percent
	Alley	8 percent

- n. **Road and highway horizontal alignment.** The horizontal alignment standards on all roads, highways and streets shall be as follows in Table 8-3. In addition, there shall be a tangent between all reversed curves of at least one hundred feet (100') except for cul-de-sacs.

Table 8-3: Road and highway horizontal alignments

Horizontal Alignment – Radii of Center Line		
Major Intercity and Regional Highways		
	Major Intercity Expressway	As required by the MN Dept. of Transportation
	Major Intercity Highway	
Arterial Highways		
	Major Arterial Highway	500 feet
	Minor Arterial Highway	300 feet
	Township Roads	100 feet

- o. **Road and highway vertical alignment.** All changes in street grades shall be connected by vertical parabolic curves of such length as specified in Table 8-4.

Table 8-4: Road and highway vertical alignments

Vertical Alignment – Parabolic Curve Length		
Major Intercity and Regional Highways		
	Major Intercity Expressway	As required by the MN Dept. of Transportation
	Major Intercity Highway	
Arterial Highways		
	Major Arterial Highway	150 foot minimum
	Minor Arterial Highway	150 foot minimum
	Township Roads	50 foot minimum

4. Utility and stormwater management easements.

a. Utility easements.

- (1) **Minimum width.** An easement for utilities shall be provided along lot boundaries where necessary to form a continuous right-of-way, at least twenty feet (20’) in width. If necessary for the extension of main water or sewer lines or similar utilities, easements of greater width may be required along lot liens or across lots.
- (2) **Connection to adjoining properties.** Utility easements shall connect with easements established in adjoining properties.
- (3) **Utility pole guys.** Additional easements for pole guys should be provided at the outside of turns. Where possible, lot lines shall be arranged to bisect the exterior angle so that pole guys will fall along side lot lines.

b. Stormwater management easements. Where a subdivision contains or is traversed by a water course, drainage way, channel, lake or stream, a storm water easement, drainage right-of-way or park dedication, whichever the Planning Commission may deem the most adequate, conforming substantially with the lines of such water course, shall be provided, together with such further width or construction, or both, as will be adequate for the storm water drainage of the area. The width of such easements shall be determined by the County Engineer.

c. Changing easements prohibited. These easements, when approved, shall not thereafter be changed without the approval of the County Board, by ordinance, or upon the recommendation of the Planning Commission.

I. Improvements required for all subdivisions.

1. Road and highway improvements.

- a. All roads shall be graded, including the subgrade of the areas to be paved, in accordance with standards and specifications for road construction as approved by the County Board.

- b. All roads shall be improved in accordance with the standards and specifications for road construction as approved by the County Board and shall conform to one or more of the classes of roads shown in Appendix B as determined at the time of the preliminary plat approval and shall comply with the minimum standards of the township in which the plat is located.
- c. All roads to be paved shall be of an overall width in accordance with the standards and specifications for road construction as approved by the County Board.
- d. Curb and gutter shall be constructed as required by the standards and specifications for road construction as approved by the County Board.
- e. Storm sewers, culverts, storm water inlets, and other drainage facilities will be required where they are necessary to insure adequate storm water drainage for the subdivision and protection for lakes, watercourses and wetlands. Where required, such drainage facilities shall be constructed in accordance with the standards and specifications for road construction as approved by the County Board.
- f. Road traffic signs conforming to the Minnesota Manual of Uniform Traffic Control Devices shall be installed on each street or road as required.

2. **Sanitary sewer and water distribution improvements.**

- a. Sanitary sewers, both public and private, shall be installed as required by standards and specifications as approved by the County Board.
- b. Water facilities, both public and private, including pipefittings, hydrant, etc., shall be specifications as approved by the County Board.

3. **Public utilities.**

- a. Where telephone, electric and/or gas service lines are to be placed underground entirely, conduits or cables shall be placed within easements or dedicated public ways in such a manner so as not to conflict with other underground services. All drainage and other underground utility installations, which traverse privately owned property, shall be protected by easements.

J. **Subdivision of a tract of land into three or fewer tracts.** Applications involving tracts of land that are proposed to be subdivided into three (3) or fewer tracts, but are not exempt from subdivision review under Chapter 8, Section 5, subsection A.2, may be reviewed according to the procedures in this subsection. The design of such subdivisions shall conform to the requirements of this subsection.

- 1. **When allowed.** Any quarter-quarter section, government lot, or smaller tract of land which was under single ownership on the effective date of this Ordinance may be subdivided into three or fewer tracts without following the preceding provisions for a plat if a surveyor's sketch of the proposed subdivision is submitted and approved in accordance with the procedures in this subsection J.

2. **Review procedure.**

a. **Within a shoreland area.**

- (1) **Review by the Planning Commission.** The surveyor's sketch shall be submitted to the Zoning Administrator in the Becker County Planning and Zoning Office. The County Planning Commission shall hold a public hearing on said proposed subdivision. The public hearing shall conform to the provisions of Chapter 8, Section 2, of this Ordinance. The Planning Commission shall approve the subdivision with findings that contain

conditions for approval or shall state reasons for denial. A denial of a subdivision by the Planning Commission shall be reviewed by the County Board for final action. In case the proposed subdivision is disapproved, the subdivider shall be notified of the reason for such action and what requirements will be necessary to meet the approval of the Planning Commission.

- (2) **Review by the County Board.** After the public hearing and review of the proposed subdivision by the Planning Commission, such proposed subdivision, together with the recommendations of the Planning Commission, shall be submitted to the County Board for consideration. Approval or disapproval of the proposed subdivision shall be conveyed to the subdivider in writing ten (10) days after the meeting of the County Board at which such proposed subdivision was considered. In case the proposed subdivision is disapproved, the subdivider shall be notified in writing of the reasons for the disapproval. The approval of a proposed subdivision together with a copy of the surveyor's sketch shall be filed with the County Recorder before any conveyances of the subdivided lots shall be valid.

b. **Outside of shoreland areas.**

- (1) **Administrative review.** The surveyor's sketch shall be submitted to the Zoning Administrator for approval. The Zoning Administrator shall approve the surveyor's sketch only if it complies with the requirements of this Ordinance. Approval or disapproval of the proposed subdivision shall be conveyed to the subdivider in writing fifteen (15) days after the submission. If the proposed subdivision is disapproved, the subdivider shall be notified in writing of the reasons for the disapproval. The approval of the proposed subdivision together with a copy of the surveyor's sketch shall be filed with the County Recorder before any conveyances of the subdivided lots shall be valid.

3. **Design standards.** All tracts created with the subdivision process provided for in this subsection J. shall conform to the design standards for platted lots set forth in Chapter 8, Section 5, subsection H. 2 of this Ordinance.

4. **Surveyor's sketch requirements.** Five (5) copies of a surveyor's sketch shall be submitted by the subdivider and shall contain the following information:

- a. **Tract boundaries.** Location by section, township, range, county and state, and including descriptive boundaries of each tract based on an accurate traverse, giving angular and linear dimensions which must mathematically close and which boundaries must be shown in relation to a known section, quarter section or quarter-quarter section corner. The allowable error of closure on any portion of a tract shall be one tenth of one foot (0.1').

- b. **Monuments.** The location of monuments shall be shown and described on the tract. Permanent markers shall be placed at each corner of every lot or portion of a lot, points of curvature and points of tangency or road lines, and at each angle point on the boundary of the tract. A permanent marker shall be deemed to be a steel rod or pipe, one half inch (1/2') or larger in diameter marked with the surveyor's registration number. In situations where conditions prohibit the placing of markers in the locations prescribed above, offset markers will be permitted. The exact location of all markers shall be shown on the surveyor's sketch together with accurate interior angles, bearings and distances. Permanent monuments shall be placed at all quarter section and quarter corners within the subdivision or on its perimeter.

- c. **Dimensions.** Location of lots, streets, roads, highways, alleys, parks and other features, with accurate dimensions in feet and decimals of feet with the length of radii and/or arcs of all

curves, and with all other information necessary to reproduce the tract on the ground shall be shown. Dimensions shall be shown from all angle points of curve to lot lines

- d. **Setback lines.** Building setback lines with dimensions.
- e. **Shoreland.** If the proposed subdivision is located in shoreland, the location of the ordinary high water level and any bluffs, steep slopes and wetlands.
- f. **Names and addresses** of the subdivider and the surveyor who prepared the sketch.
- g. **Scale of plat** (the scale to be shown graphically and in feet per inch of not less than one (1) inch to one hundred (100) feet), date, and north point.
- h. **Date prepared.**
- i. **Legal description.** The legal description to be used to describe each lot. All lots shall be assigned an address number in accordance to the Becker County E-911 Ordinance and policies.
- j. **Surveyor's certification.** Certification by the surveyor preparing the sketch that the surveyor is registered by the State of Minnesota and that each description is legally sufficient to locate the boundary lines of the lots shown.
- k. **Large remnant tracts.** If a remnant tract is larger than five (5) acres and is not going to be conveyed the surveyor's sketch can be modified as follows:
 - (1) The boundaries of the remnant tract need not be shown,
 - (2) Permanent markers do not have to be placed on the boundaries of the remnant tract, and
 - (3) A legal description of the remnant tract does not have to be provided.

K. Registered surveys and conveyance by metes and bounds.

- 1. **Registered land surveys.** It is the intention of this Ordinance that all registered land surveys in Becker County shall be presented to the Planning Commission in the form of a preliminary plat in accordance with the standards set forth in this Ordinance for preliminary plats and that the Planning Commission shall first approve the arrangement, sizes, and relationships of proposed tracts in such registered land surveys, and that tracts to be used as easements or roads should be so dedicated. Unless such approvals have been obtained from the Planning Commission and County Board in accordance with the standards set forth in this Ordinance, building permits will be withheld for buildings on tracts which have been so subdivided by registered land surveys and the County may refuse to take over tracts as streets or roads, or to improve, repair or maintain any such tracts unless so approved.
- 2. **Conveyance by Metes and Bounds.**
 - a. **Use of metes and bounds conveyance limited.** No conveyance in which the land conveyed is described by metes and bounds shall be made or recorded unless such parcel was a separate parcel of record at the effective date of this Ordinance or unless a surveyor's sketch is first submitted to the Office of the Zoning Administrator and presented to the County Recorder along with a copy of the conveyance.
 - b. **Surveyor's sketch required.** A surveyor's sketch is required for a metes and bounds conveyance and the surveyor's sketch shall contain the same information required by Section 5, subsection J. 4 of this Chapter except that:
 - (1) No permanent monuments need be set; and

- (2) If the sole purpose of the conveyance is to modify a boundary line, only the modified boundary line need be shown on the sketch.
 3. **Enforcement.** Building permits will be withheld for buildings on tracts, which have been subdivided and conveyed by metes and bounds without submission of a surveyor's sketch and the County may refuse to take over tracts as streets or roads or to improve, repair or maintain any such tracts.
- L. **Enforcement.** The provisions of this Chapter shall be enforced in the following manner in addition to the general enforcement powers in Chapter 9 of this Ordinance.
1. **Recorder's responsibilities.** The County Recorder shall submit to the Office of Zoning Administration copies of any documents presented for filing which appear to be in violation of this ordinance. The Zoning Administrator shall examine each such instrument to determine whether the proposed conveyance complies with this ordinance. If the conveyance does not comply with this ordinance, the Zoning Administrator shall give notice by mail of the potential violation to the parties to the conveyance.
 2. **Sale of lots from unrecorded plats.** It shall be unlawful to sell, trade, or otherwise convey any lot or parcel of land in violation of this ordinance.
 3. **Misrepresentations as to construction, supervision, or inspection of improvements.** It shall be unlawful for any subdivider, person, firm or corporation owning an addition or subdivision of land within the County to represent that any improvement upon any of the highways, roads, streets or alleys of said addition or subdivision or any sewer in said addition or subdivision has been constructed according to the plans and specifications approved by the County Board, or has been supervised or inspected by the County, when such improvements have not been so constructed, supervised, or inspected.

Section 6 Non –Shoreland Multi-Unit Developments (MUDs)

- A. **Types of MUDs permissible.** Multi-unit developments (MUDs) are allowed for new projects on undeveloped land, redevelopment of previously built sites, or conversions of existing buildings and land. The land use districts in which they are an allowable use are identified in Table 5-1.
- B. **Processing of MUDs.** Multi-unit developments shall be processed as a conditional use, except that an expansion to an existing commercial MUD involving six (6) or less new dwelling units or sites is permissible as a permitted use provided the total project density does not exceed the allowable densities calculated in the project density evaluation procedures in subsection D. of this section. Approval shall not be given until the environmental review process (EAW/EIS) is completed, if required.
- C. **Application for a MUD.** The applicant for a MUD shall submit the following documents prior to final action being taken on the application request:
 1. **Site plan and plat.** A site plan and plat for the project showing locations of property boundaries, surface water features, existing and proposed structures and other facilities, land alterations, sewage treatment and water supply systems (if public systems will not be provided), and topographic contours at ten foot (10') intervals or less. When a MUD is a combined commercial and residential development, the site plan and plat shall indicate and distinguish which buildings and portions of the project are residential, commercial, or a combination of the two. The plat shall comply with design standards and submission procedures of the Section 5 of this Chapter unless otherwise provided in this section.

- a. **Open space.** All common open space shall be labeled on the site plan. The site plan also shall contain a statement of the intended purpose of all open space.
2. **Property owner's association.** A property owner's association agreement (for residential MUDs) with mandatory membership which agreement shall meet the requirements of this section.
3. **Property restrictions.** Deed restrictions, covenants, permanent easements or other instruments that:
 - a. Properly address future vegetative and topographic alterations, construction of additional buildings, and construction of commercial buildings in residential MUDs; and
 - b. Ensure the long-term preservation and maintenance of open space in accordance with the other provisions of this section.
4. **Master Plan.** When necessary, a master plan or drawing describing the project and the floor plan for all commercial structures to be occupied.
5. **Additional information.** Those additional documents as requested by the Planning Commission which are necessary to explain how the MUD will be designed and will function.

D. General regulations

1. **Density.** Except for individual lot area and frontage requirements, the multi-unit development project shall conform to the density requirements of the zoning district.
2. **Minimum lot sizes.** The multi-unit development project shall have a minimum individual lot size equal to two-thirds (2/3) the minimum requirements for the zoning district, except that street setbacks shall conform to that of the district.
3. **Commercial MUD density and site area.** There shall be maximum density and minimum site area for commercial MUDs as established in the zoning district under which the conditional use is requested. Land area requirements for dwelling units of the owner or persons employed by the owner, convenience stores or other buildings, shall be in addition to these requirements.
4. **Minimum area and frontage.** There shall be a minimum area requirement of six (6) acres with a minimum frontage on a public road of two hundred feet (200') for any MUD other than a mobile home park.

E. Mobile home parks and recreational vehicle parks. In addition to other provisions of this Section 6, the following regulations shall apply to mobile home or recreational vehicle parks reviewed as a MUD.

1. **Minimum area and frontage.** There shall be a minimum area requirement of eight (8) acres with a minimum frontage on a public road of three hundred feet (300') for any MUD for a mobile home park or recreational vehicle park.
2. **Recreation area size.** Every mobile home park and recreational vehicle park shall contain at least one (1) recreation area that shall contain five hundred (500) square feet of park area for each mobile home stand or pad in the mobile home park and two hundred (200) square feet of park area for each recreational vehicle stand or pad in a recreational vehicle park.
3. **Recreation area location.** The recreation area shall not be located in the side, front or rear yards of any mobile home and recreational vehicle stand or pad, but shall be in a separately defined area of the park.
4. **Lot coverage.** Maximum lot coverage for mobile home parks and recreational vehicle parks shall be twenty-five percent (25%) excluding roads and parking areas.

5. **Separation distance.** Minimum distance between mobile home and recreational vehicle units shall be twenty-five (25) and fifteen (15) feet respectively, the point of measurement being a straight horizontal line on a flat plane and at the closest point between the units being measured.
6. **Non-public street width.** Non-public streets in a MUDs for mobile home parks or recreational vehicle parks shall be at least fourteen feet (14') in width one way and twenty-four feet (24') in width two way to permit ease of access to the mobile home or recreational vehicle parking stand or pad for the placement or removal of a unit, without causing damage to or otherwise jeopardizing the safety of any occupants or mobile home or recreation vehicle in the park or court.
7. **Setbacks and landscaping.** There shall be a minimum setback of eighty feet (80') between the property line and any use within the mobile home or recreational vehicle park, the setback area shall be landscaped and screened by a fence or screen plantings of sufficient size to permit complete privacy for the residents of both the mobile home park, recreational vehicle park and adjacent properties.
8. **Parking.** In mobile home and recreational vehicle parks at least one (1) off-street parking space shall be provided at each stand or pad. All additional spaces required shall be located within three hundred feet (300') of the stand or pad.
9. **Storage lockers.** Enclosed storage lockers shall be provided either adjacent to the mobile home in a mobile home park or at such other place in the park as to be convenient to the unit for which it is provided. Large items such as boats, boat trailer, etc., shall not be stored at the site of the mobile stand or pad, but rather shall be stored in a separate screened area of the park.
10. **Maintenance.** The operator of any mobile home park, or a duly authorized attendant or caretaker, shall always be in charge to keep the mobile home park, its facilities and equipment, in a clean, orderly and sanitary condition. The attendant or caretaker shall be answerable, with the operator, for the violation of any of these regulations to which the operator is subject.

F. Street and parking requirements.

1. **Parking.** Parking requirements shall be as prescribed in Chapter 7, Section 12 of this Ordinance.
2. **Commercial MUD streets.** Public streets and roads within a commercial MUD shall be designed to comply with the regulations in Chapter 8, Section 8, subsection H. of this Ordinance and the Becker County E-911 Ordinance.

G. Maintenance and administration requirements.

1. **Long-term existence.** Before final approval of a multi-unit development, adequate provisions shall be developed for preservation and maintenance in perpetuity of open spaces and for the continued existence and functioning of the development.
2. **Open space preservation.** Deed restrictions, covenants, permanent easements, public dedication and acceptance, or other equally effective and permanent means shall be provided to assure long-term preservation and maintenance of open space. The instruments shall include all of the following prohibitions:
 - a. Commercial uses prohibited in residential multi-unit developments;
 - b. Vegetation and land alterations other than routine maintenance;
 - c. Construction of additional buildings or storage of vehicles and other materials; and
 - d. Uncontrolled beaching of watercraft.

3. **Development organization and functioning.** Unless an equally effective alternative community framework is established all residential multi-unit developments shall use an owners association with the following features:
 - a. Membership shall be mandatory for each dwelling unit or site purchaser and any successive purchasers;
 - b. Each member shall pay a pro rata share of the association's expenses, and unpaid assessments can become liens on units or sites;
 - c. Assessments shall be adjustable to accommodate changing conditions; and
 - d. The association shall be responsible for insurance, taxes, and maintenance of all commonly owned property and facilities.

H. Design requirements.

1. **Open space design.** Multi-unit developments shall contain open space meeting the following requirements:
 - a. **Size.** At least fifty percent (50%) of the total project area shall be preserved as open space, and the design of the open space shall conform to the following:
 - (1) Dwelling units or sites, road right-of-ways, or land covered by road surfaces, parking areas, or structures, are developed areas and shall not be included in the computation of minimum open space;
 - (2) Open space shall include areas with physical characteristics unsuitable for development in their natural state, and areas containing significant historic sites or unplatted cemeteries;
 - (3) Open space may include outdoor recreational facilities for use by owners of dwelling units or sites, by guests and by the general public;
 - (4) Open space may include sewage treatment systems if the use of the space is restricted to avoid adverse impacts on the systems.
2. **Park dedication.** The Planning Commission and County Board may determine that portions of the required open space (not to exceed five percent (5%) of the total site area), or an equivalent value of the raw land will be dedicated to the County for public recreation or open space purposes.
3. **Erosion control and stormwater management.** Erosion control and stormwater management plans shall be developed and the MUD shall:
 - a. **Erosion control design standard.** Erosion control systems shall be designed, and the construction managed, to reduce the likelihood of serious erosion occurring either during or after construction.
 - b. **Method of control.** Erosion control shall be accomplished by limiting the amount and the length of time of bare ground exposure. Temporary ground covers, sediment entrapment facilities, vegetated buffer strips, or other appropriate techniques shall be used to reduce erosion impacts on surface water features. Erosion control plans approved by a Soil and Water Conservation District may be required if project size and site physical characteristics warrant; and
 - c. **Stormwater management design standard.** Stormwater management systems shall be designed and constructed to effectively manage reasonably expected quantities and qualities of stormwater runoff.

- d. **Impervious surface limit.** In Non-Shoreland MUDs impervious surface coverage shall not exceed twenty-five percent (25%) of the MUD area.
- 4. **Centralization and design of facilities.** Facilities structures shall be centralized according to the following standards:
 - a. **Utilities.** Multi-unit developments shall be connected to publicly owned water supply and sewer systems, if available. On-site water supply and sewage treatment systems shall be centralized and designed and installed to meet or exceed applicable standards or rules of the Minnesota Department of Health and Chapter 4 of this Ordinance. On-site sewage treatment systems shall be located on the most suitable areas of the development, and sufficient lawn area free of limiting factors shall be provided for a replacement soil treatment system for each sewage system.
 - b. **Dwellings.** Dwelling units or sites shall be clustered into one or more groups and located on suitable areas of the development.

I. Phasing of development.

- 1. **Details and timing.** Any application for a MUD proposed to be constructed in phases shall include full details of the proposed phasing. The application shall state the time for beginning and completion of each phase.
- 2. **Assurances required.** The landowner or developer shall make such easements, covenants and other arrangements and shall furnish such performance bond or bonds as may be determined by the County Planning Commission and County Board to be reasonably required to assure performance and completion of private streets and utilities, landscaping and privately owned and maintained recreational facilities in accordance with the plan and to protect the public interest in the event of abandonment of the plan before completion.

- J. **Minor modification to design.** The uniqueness of each proposal for a MUD requires that specifications and standards for streets, utilities and services may be subject to minor modifications from the specifications and standards established in this and other County ordinances governing their construction. The County Board may therefore, waive or modify the specifications or standards if it is found that they are not required in the interests of the residents or of the County. The plans and profiles of all streets, utilities and services shall be reviewed, modified, if necessary, and approved by the County Engineer prior to the final approval of the MUD plan by the County Board.

Section 7 Shoreland Conservation Subdivision Developments

A Conservation Subdivision is a method of development characterized by clustering homes adjacent to a permanently preserved common open space. Critical natural areas and community recreation areas are identified and protected. Vulnerable natural features are incorporated into the design, which provides for the preservation of significant native habitat and creates a balance between housing development and the ecology of shoreland areas.

- A. **Purpose.** The purpose of these regulations is to establish procedures and criteria to evaluate conservation subdivision developments. It is intended to provide a relationship between buildings, and between building and sites, that cannot be accomplished by the one building-one lot application of the land use provisions of this ordinance. In order to encourage well-designed building groups, this section provides for the development of more than one structure upon a single lot or tract as well as the integral development of one or more lots as a single tract.

B. Where allowed. Conservation subdivision developments are allowed for new projects on undeveloped land, redevelopment of previously built sites, or conversions of existing buildings, resorts, campsites and land use.

C. Definition of residential development. Shoreland conservation subdivision developments consisting of sites or units that are sold or leased for purposes of establishing the residence of the occupant, or any other method of transferring long term rights to lodging spaces, rooms, recreational vehicle sites, or parcels shall be considered residential and must comply with this section of the Ordinance.

D. Review process for Conservation Subdivisions.

1. **Conditional use permit required.** Conservation subdivision developments shall be processed as conditional uses.
2. **Pre-application.** The developer shall submit a pre-application conceptual plan to the Planning and Zoning Department for review of project plans. Conceptual plans shall contain, at a minimum, the following information:
 - a. The project scope and number of units proposed;
 - b. The size and configuration of the parcel;
 - c. The presence and proximity to wetlands and lakes;
 - d. Significant topographical or physical features;
 - e. The presence of significant historic sites;
 - f. The site suitability for individual subsurface sewage treatment systems, if they are to be installed;
 - g. North arrow;
 - h. Scale;
 - i. Vicinity map; and
 - j. Area dedicated for each site.
3. **Pre-application meeting.** In order to avoid costly revisions of plans and plats, the developer or the developer's representative, must have preliminary meetings with the Planning and Zoning and Environmental Review Technical Panel to insure that the applicant is informed of the procedural requirements or limitations imposed by other county ordinances or plans, prior to the development of the conservation subdivision development. Applicants shall present a conceptual plan to the Planning and Zoning Department and Environmental Review Technical Panel prior to the filing of the multi-unit development plans.
4. **Written authorization to proceed.** Applicant will receive written authorization from the Planning and Zoning Department to proceed with the preparation of the conservation subdivision development plan. This authorization may contain comments identifying particular issues, concerns and items to address in the conservation subdivision development plan. No conservation subdivision development application will be accepted for review without this written authorization.
5. **Environmental review.** The Department, along with the assistance of the Environmental Review Technical Panel, may recommend that a discretionary Environmental Assessment Worksheet (EAW) be prepared for the proposed project or a project that meets mandatory threshold requirements for an EAW. If the Environmental Review Technical Panel recommends that an EAW is to be completed and the County Board of Commissioners approves this recommendation, the EAW must be completed prior to the conservation subdivision development conditional use permit application.

6. **Conditional use permit application.** The following documents must be submitted with a conservation subdivision development conditional use permit application:
 - a. **Site plan or plat.** A site plan and/or plat for the project showing locations of property boundaries, surface water features, existing and proposed structures and other facilities, land alterations, sewage treatment and water supply systems (where public systems will not be provided), and topographical contours at two foot (2') intervals or less.
 - b. **Declaration documents.** Declaration documents shall be provided with the application indicating the ultimate intended ownership of the lots or units within the conservation subdivision.
 - (1) **CIC requirements.** If the subdivision will be a common interest community it shall be created in accordance with Minnesota Condominium Acts (Chapters 515 and 515A of the Minnesota Statutes) or a Common Interest Community (CIC) formed under Chapter 515B of the Minnesota Statutes (which would also include condominiums, cooperatives, a Planned Community that is not a condominium or a cooperative, or a Leasehold Common Interest Community).
 - (2) **Documents required.** At minimum, there shall be provided by the applicant the Declaration for the Common Interest Community or planned unit development as well as copies of the Owners' Association documents, including, but not limited to, Articles of Incorporation and Bylaw of the Association or in the case of an Owners' Association which will be a limited liability company or a non-profit corporation, the Articles of Organization, Member Control Agreement and Operation Agreement.
 - c. **Minimum content of application documents.** The following items must be permanently included in the Declaration Documents:
 - (1) Vegetative and topographic alterations and maintenance;
 - (2) The construction of additional buildings if allowed;
 - (3) Regulation of shore recreation areas;
 - (4) Long-term preservation plans and maintenance of open space and the shore impact zone;
 - (5) Protection of wetlands from any future draining or filling;
 - (6) Provisions for third-party management of individual subsurface sewage treatment systems.
 - d. **Master plan.** A master plan/drawing describing the project and the site plan for the dedicated area of each site.
 - e. **Additional information.** Those additional documents as requested by the Planning & Zoning Department and the Planning Commission that are necessary to explain the conservation subdivision design and function.
- E. **Suitable area and density calculation.** The suitable area and density will be calculated for each conservation subdivision development conditional use application according to the following provisions.
 1. **Calculation of tiers.** The parcel is divided into tiers by locating one or more lines approximately parallel to the ordinary high water level at intervals set forth in the table 8.5 below. The first tier is closest to the water.

Table 8.5 Shoreland tier dimensions

Lake or River Classification	Tier Depth
General Development Lakes – First tier	200 feet
General Development Lakes – All other tiers	267 feet
Recreational Development Lakes – All tiers	267 feet
Natural Environment Lakes – All tiers	400 feet
All River Classes – All tiers	300 feet

2. **Suitable area calculation.** The suitable area within each tier is calculated by excluding from the tier area all wetlands, bluffs, public road right of ways, easements, or land below the ordinary high water level of Protected Waters. All suitable area of the project must be located within the shoreland district.
3. **Density calculation for General Developments Lakes and Recreational Development Lakes.**
 - a. **Maximum number of tiers.** A maximum of three tiers of development will be allowed.
 - b. **First tier density calculation.** The number of units in the first tier will be determined by the number of lots that would be allowed on the suitable area by a single-family residential subdivision.
 - c. **Second tier density calculation.** The number of units in the second tier will be determined by the number of lots that would be allowed by a single-family residential subdivision or one and one-half (1.5) times the number of lots in the first tier, which ever number is more restrictive.
 - d. **Third tier density calculation.** The number of units in the third tier will be determined by the number of lots that would be allowed by a single-family residential subdivision or two (2) times the number of lots in the first tier, which ever number is more restrictive.
4. **Design requirements for General Developments Lakes and Recreational Development Lakes.**
 - a. **Density transfers between tiers.** Allowable density and placement may be transferred from any tier to another tier further from the lake or river, but must not be transferred to any other tier closer, excepting twenty five percent (25%) of Tier 3 structures may be moved to Tier 2 if necessary for reasons of topography.
 - b. **Maximum impervious surface.** Impervious surface coverage cannot exceed twenty-five percent (25%) of conservation subdivision development suitable area.
 - c. **Controlled access lots.** No controlled access lot is required. Space must be reserved in the first tier for access to shore recreation areas.
5. **Density calculation for Natural Environment Lakes.**
 - a. **Density calculation.** One tier of development will be allowed. The number of units will be determined by the number of lots that would be allowed on the suitable area.
 - (1) **Lakes larger than 250 acres.** The number of dwelling units will be determined by allowing one site for each 200 feet of lake frontage and 80,000 sq ft of suitable area

(2) **Lakes smaller than 250 acres.** The number of dwelling units will be determined by allowing one site for each 250 feet of lake frontage and 100,000 sq ft of suitable area.

6. **Design requirements for Natural Environment Lakes.**

- a. **Maximum impervious surface.** Impervious surface coverage cannot exceed twenty-five percent (25%) of conservation subdivision development suitable area.
- b. **Controlled access lot.** No controlled access lot is required. Space must be reserved for access to shore recreation areas.

F. **Open space requirements.** Multi-unit residential developments must contain open space meeting all of the following requirements:

1. **Preserved open space.** At least fifty percent (50%) of the total project area shall be preserved as open space, and the design of the open space shall conform to the following:
 - a. Dwelling units or sites, road right-of-ways, or land covered by road surfaces, parking areas, or structures, are developed areas and shall not be included in the computation of minimum open space;
 - b. Open space shall include areas with physical characteristics unsuitable for development in their natural state, and areas containing significant historic sites or unplatted cemeteries;
 - c. Open space may include outdoor recreational facilities for use by owners of dwelling units or sites, by guests and by the general public;
 - d. Open space may include sewage treatment systems if the use of the space is restricted to avoid adverse impacts on the systems; and
 - e. The shore impact zone must be included as open space. At least seventy percent (70%) of the shore impact zone must be a preservation area or a restoration area;

G. **Other design requirements.** In addition to other design requirements of this section, conservation subdivision developments must meet all of the following requirements:

1. **Shore recreation area.** A contiguous thirty percent (30%) of the shore impact zone or two hundred feet (200'), whichever is the most restrictive, may be used for shore recreation area. Evaluation for suitability of shore recreation areas must include consideration of land slope, water depth, upland and aquatic vegetation, presence of wetlands, soils, depth to ground water and bedrock or other relevant factors;
2. **Minimum setback.** There shall be a minimum setback of twenty feet (20') between any property line and any improved use within the development. The setback area shall be landscaped and screened by a fence or screen plantings of sufficient size to permit complete privacy for the residents of the development and adjacent properties; and
3. **Maximum impervious surface.** Impervious surface coverage cannot exceed twenty-five percent (25%) of conservation subdivision development suitable area.

H. **Erosion control and stormwater management.** Storm water management and grading plans that meet the design requirements set forth by the Environmental Review Technical Panel. The storm water management controls shall be constructed and maintained to effectively manage storm water run off. This requirement does not substitute for review and permit requirements of other entities including MPCA, Watersheds, etc.

1. **Maximum impervious surface.** Impervious surface coverage cannot exceed twenty-five percent (25%) of conservation subdivision development suitable area.

- I. **Centralization and design of facilities.** Centralization and design of facilities and structures must be done according to the following standards:
1. **Utilities.** Conservation subdivision developments shall be connected to publicly owned water supply and sewer systems, if available. On-site water supply shall be designed and installed to meet or exceed applicable standards or rules of the Minnesota Department of Health and Chapter 4 Section 9 of this Ordinance. On-site sewage treatment systems may be a single system or more than one centralized system, with the locations designated on the plan, and designed and installed to meet or exceed applicable standards or rules of the State of Minnesota and Chapter 4 Section 10 of this Ordinance. On-site sewage treatment systems shall be located on the most suitable areas of the development, and sufficient lawn area free of limiting factors shall be provided for a replacement soil treatment system for each sewage system.
 2. **Dwellings.** Dwelling units or sites shall be clustered into one or more groups and located on suitable areas of the development.
 3. **Shore recreation areas.** Shore recreation areas, including but not limited to swimming areas, docks and watercraft mooring areas must be centralized and located in areas suitable for them. Evaluation of suitability must include consideration of land slope, water depth, upland and aquatic vegetation, presence of wetlands, soils, depth to ground water and bedrock or other relevant factors.
 4. **Docks.** The number of spaces provided for continuous docking of watercraft on a general development or recreational development lake shall not exceed one and one-half for each allowable dwelling unit in the first tier, with a maximum of one slip for each unit in the development. The number of spaces provided for continuous docking of watercraft on a natural environment lake shall not exceed one for each allowable dwelling in the development. Launching ramp facilities, including a small dock for short-term loading and unloading equipment, and a day dock may be provided, if suitable, for use by the occupants of the development.
 5. **Screened from lake view.** Structures, parking areas, and other facilities must be treated to reduce visibility as viewed from Protected Waters and adjacent shorelands by vegetation, topography, increased setbacks, color, or other means, assuming summer, leaf-on conditions. Vegetative and topographic screening must be preserved, if existing, or may be required to be provided.
 6. **Accessory structures and facilities.** One water-oriented structure will be allowed. Maximum structure size is 120 sq ft. The minimum setback from the lake is twenty feet (20') from the ordinary high water mark or current water level, whichever is most restrictive.
 7. **Minimum street width.** Non-public streets shall be a minimum of fourteen feet (14') in width one-way and twenty-four feet (24') in width two-way to permit ease of access, without causing damage to or otherwise jeopardizing the safety of any occupants in the development.
- J. **Criteria for evaluation of conservation subdivision applications.** Before recommending the approval of the preliminary development plan and conditional use permit for a conservation subdivision, the Planning Commission shall find that all of the following criteria are satisfied:
1. The conservation subdivision development conforms to the regulations of the land use district in which it is proposed to be located;
 2. The conservation subdivision development or unit thereof is of sufficient size, composition and arrangement that its construction, marketing and operation are feasible as a complete unit without dependence upon any subsequent unit;

3. The conservation subdivision development will not create an excessive burden on parks, schools, streets and other public facilities and utilities, which serve or are proposed to serve the multi-unit development;
4. The minimum area of land to be included in the conservation subdivision development is as designated in the land use district in which it is proposed to be located; and
5. Adequate provisions are developed for preservation and maintenance in perpetuity of open spaces and for the continued existence and functioning of the development.

K. Maintenance and administration requirements.

1. **Long-term existence.** Before final approval of a conservation subdivision development, adequate provisions shall be developed for preservation and maintenance in perpetuity of open spaces and for the continued existence and functioning of the development.
2. **Open space preservation.** Deed restrictions, covenants, permanent easements, public dedication and acceptance, or other equally effective and permanent means shall be provided to assure long-term preservation and maintenance of open space. The instruments shall include all of the following prohibitions:
 - a. Commercial uses prohibited in multi-unit residential developments;
 - b. Protection of vegetation is encouraged and topographic alterations shall be prohibited in the preservation areas and restoration areas;
 - c. Prohibition of construction of additional buildings or storage of vehicles and other materials;
 - d. Prohibition of uncontrolled beaching of watercraft; and
 - e. Identification of all wetlands in the parcel with signs and protection against alterations of any type.

- L. **Minor modification to design.** The uniqueness of each proposal for a conservation subdivision development requires that specifications and standards for streets, utilities and services may be subject to minor modifications from the specifications and standards established in this and other County ordinances governing their construction. The County Board may therefore, waive or modify the specifications or standards if it is found that they are not required in the interests of the residents or of the County. The plans and profiles of all streets, utilities and services shall be reviewed, modified, if necessary, and approved by the County Engineer prior to the final approval of the conservation subdivision development plan by the County Board.

M. Design changes during development.

1. **Minor design changes.** During the development of the approved conservation subdivision development, the Department may approve minor changes in the location, placement and height of buildings, if such changes are required by engineering or other circumstances not foreseen at the time the preliminary plan was approved.
2. **Changes not allowed.** Changes in uses, rearrangement of lots, block and building tracts, or any changes in the provisions of the common open space require re-submission and re-approval of the preliminary plan by the Planning Commission.

- N. **Conversions of existing uses.** Existing resorts or other land uses and facilities may be converted to conservation subdivision developments provided that the land is reclassified to the residential use category and all of the following standards are met:

1. **Application and correction of deficiencies.** At the time of conversion, the plan meets conservation subdivision development application and general regulation standards in subsection

D of this Section and includes the correction of all site deficiencies such as water supply, sewer systems, storm water management, shoreline and bluffs;

2. **Density.** At the time of conversion, the plan meets shoreland residential density standards in subsection E of this Section.
3. **Brought into conformity with regulations.** At the time of conversion, the site is brought into conformity including: removal of buildings, units and recreational vehicle sites to the approved density, centralization of shore recreation facilities, restoration of the shore impact zone and all other open space requirements;
4. **Future replacement sites designated for nonconformities.** At the time of conversion, the plan designates a future site for replacement of each nonconforming unit including cabins, cottages, and recreational vehicle sites. Thus, a purchaser acquires an existing structure and the rights to a specific location for future replacement building or recreational vehicle site. The nonconforming structures can continue to be utilized until such time when a rebuild or replacement is proposed and then must comply with all ordinance standards at the pre-designated site, not to exceed ten years from the date of the approved conversion. Exterior expansions, normal maintenance or replacement of existing structures are allowed only if the structures are already located on its designated future site meeting the required lake classification setbacks.

O. Phasing of development.

1. **Details and timing.** Any application for a conservation subdivision development proposed to be constructed in phases shall include full details of the proposed phasing. The application shall state the time for beginning and completion of each phase.
2. **Assurances required.** The landowner or developer shall make such easements, covenants and other arrangements and shall furnish such performance bond or bonds as may be determined by the County Planning Commission and County Board to be reasonably required to assure performance and completion of private streets and utilities, landscaping and privately owned and maintained recreational facilities in accordance with the plan and to protect the public interest in the event of abandonment of the plan before completion.

Section 8 Controlled Access Lots

- A. **Purpose.** The purpose of this Section is to manage water surface crowding, to reduce fish and wildlife disturbance, to prevent pollution to surface water by suspension of sediment, to maintain property values, and to maintain natural characteristics of shorelands, shoreland controls must regulate access to public waters.
- B. **Application and review.** Application for a land subdivision with a controlled access lot shall follow the guidelines and procedures in Chapter 8, Section 5 of this Ordinance.
- C. **Standards.** Access lots, or parcels of land that provide access to public waters for owners of riparian lots within a subdivision may be allowed where the local government determines that direct riparian access is not feasible due to the presence of protected vegetation, wetlands, or other critical fish or wildlife habitat. Access lots that provide riparian access for owners of nonriparian lots or parcels shall be prohibited. Where allowed by local governments, access lots shall meet or exceed the following standards:
 1. **Suitability and minimum lot sizes.** The lot shall meet the width and size requirements for residential lots in the respective lake classification, and be suitable for the intended use of controlled access lots.

2. **Conversion prohibited.** Existing residential lots shall not be converted to access lots for nonriparian subdivisions.
3. **Maximum watercraft storage.** If the lot is to be used for docking, mooring, or over-water storage, the number of spaces for continuous docking of watercraft shall not exceed docking criteria as outlined in the conservation subdivision development requirements in Chapter 8, Section 7.
4. **Ownership.** The access lot shall be jointly owned by owners of lots within the subdivision who are allowed riparian access rights of the access lot as determined by the first tier density criteria outlined in the conservation subdivision development requirements in Chapter 8, Section 7.
5. **Covenants.** Covenants or other equally effective legal instruments shall be developed that include provisions for the following:
 - a. **Allowed users.** Provisions specifying the lot owners who have authority to use the access lot and the activities that are allowed.
 - b. **Allowed activities.** Provisions identifying allowed activities may only include:
 - (1) Watercraft launching, loading, mooring, or docking; and
 - (2) Other outdoor recreational activities that do not significantly conflict with general public use of the public water or the enjoyment of normal property rights by adjacent property owners. Examples of the nonsignificant conflict activities include swimming, sunbathing, or picnicking.
 - c. **Limits on vehicles and watercraft.** Provisions limiting the total number of vehicles, which will be parked and the total number of watercraft, which will be continuously moored, docked, or stored over water.
 - d. **Common facilities.** Provisions requiring centralization of all common facilities and activities in the most suitable locations on the lot to minimize topographic and vegetation alterations.
 - e. **Screening of view from lake.** Provisions requiring all parking areas, storage buildings, and other facilities to be screened by vegetation or topography as much as practical from view from the public water, assuming summer, leaf-on conditions.
6. **Location of shore recreation facilities.** Shore recreation facilities, including but not limited to swimming, docks, and watercraft mooring areas must be centralized and located in areas suitable for them. Evaluation of suitability must include consideration of land slope, water depth, upland and aquatic vegetation, presence of wetlands, soil type, depth to ground water and bedrock, or other relevant factors. Lake access must not impact critical fish or wildlife habitat as determined by the DNR. All wetlands must be identified with signs and protected against any alterations.
7. **Shore impact zone.** The controlled access lot must include preservation or restoration areas, at least seventy percent (70%) of the shore impact zone. The natural or restored area must be protected. The lot may use up to thirty percent (30%) or two hundred feet (200'), whichever is more restrictive, for shore recreation purposes.
8. **Placement of docks.** The landward end of all docks must be a minimum of ten feet (10') from the nearest lot line. Docks must be placed so that no portion extends across the projection of the setback from side lot lines into the lake and so as not to block access from an adjacent property owner to open water.

9. **Prohibition.** Controlled access lots, or any lot, tract or parcel of land, however designated or described, intended to be used to provide accesses to public waters for owners of nonriparian lots, shall be prohibited.

D. Review process for controlled access lots.

1. **Pre-application.** The developer shall submit a pre-application conceptual plan to the Planning and Zoning Department for review of project plans. Conceptual plans shall contain, at a minimum, the following information:
 - a. The project scope and number of lots proposed;
 - b. The size and configuration of the parcel;
 - c. The presence and proximity to wetlands and lakes to the project;
 - d. Significant topographical or physical features;
 - e. The presence of significant historic sites;
 - f. The site suitability for individual subsurface sewage treatment systems, if they are to be installed;
 - g. North arrow;
 - h. Scale; and
 - i. Vicinity map.
2. **Pre-application meeting.** In order to avoid costly revisions of plans and plats, the developer or the developer's representative, must have preliminary meetings with the Planning and Zoning and Environmental Review Technical Panel to insure that the applicant is informed of the procedural requirements or limitations imposed by other county ordinances or plans, prior to development. Applicants shall present a conceptual plan to the Planning and Zoning Department and Environmental Review Technical Panel prior to the filing of the development plans.
3. **Written authorization to proceed.** Applicant will receive written authorization from the Planning and Zoning Department to proceed with the preparation of the development plan. This authorization may contain comments identifying particular issues, concerns and items to address in the development plan. No development application will be accepted for review without this written authorization.
4. **Environmental review.** The Department, along with the assistance of the Environmental Review Technical Panel, may recommend that a discretionary Environmental Assessment Worksheet (EAW) be prepared for the proposed project or a project that meets mandatory threshold requirements for an EAW. If the Environmental Review Technical Panel recommends that an EAW is to be completed and the County Board of Commissioners approves this recommendation, the EAW must be completed prior to the development application.

Section 9 Commercial Planned Unit Developments

- A. **Purpose and applicability.** The purpose of this Section is to establish procedures and criteria to evaluate commercial/transient multi-unit developments. It is intended to provide a relationship between buildings, and between building and sites, that cannot be accomplished by the one building-one lot application of the land use provisions of this Ordinance. In order to encourage well-designed building groups, this Section provides for the development of more than one structure upon a single lot or tract as well as the integral development of one or more lots as a single tract.

- B. **Where allowed.** Commercial/transient multi-unit developments (MUDs) are allowed for new projects on undeveloped land, redevelopment of previously built sites, conversions of existing buildings, resorts, campsites and land use.
- C. **Definition.** Commercial/transient multi-unit developments consist of sites or units that allow transient occupancy of short-term lodging spaces, rooms, RV sites or parcels. “Transient occupancy” means occupancy when it is the intention of the parties that occupancy will be temporary. There is a rebuttable presumption that, if the unit occupied is the sole residence of the guest, the occupancy is not transient. There is a rebuttable presumption that, if the unit occupied is not the sole residence of the guest, the occupancy is transient.
- D. **Applicability to licensed resorts, parks and campgrounds.** Existing licensed resorts, RV parks and campgrounds that are licensed, with the Minnesota Department of Health as of April 26, 2005, *and continue to operate as a resort*, are only subject to the provisions of subsection Q of this Section.
- E. **Review process for Shoreland Commercial/Transient MUDs.**
1. **Conditional use permit required.** Shoreland commercial/transient multi-unit developments shall be processed as conditional use permits meeting the provisions of Chapter 8, Section 10 of this Ordinance.
 2. **Pre-application meeting.** In order to avoid costly revisions of plans and plats, the subdivider or the subdivider’s representative, must have preliminary meetings with the Planning and Zoning and Environmental Review Technical Panel to insure that the applicant is informed of the procedural requirements or limitations imposed by other County ordinances or plans, prior to the development of the commercial/transient multi-unit development. Applicants shall present a conceptual plan to the Planning and Zoning Department and Environmental Review Technical Panel prior to the filing of the commercial/transient multi-unit development plans.
 3. **Pre-application.** The developer shall submit a pre-application conceptual plan to the Planning and Zoning Department for review of project plans. Conceptual plans shall contain, at a minimum, the following information:
 - a. The project scope and number of units proposed;
 - b. The size and configuration of the parcel;
 - c. The presence and proximity to wetlands and lakes;
 - d. Significant topographical or physical features including the general land contour, bluffs and low areas;
 - e. Near shore aquatic conditions including vegetation, water depth, and lake bottom sediments;
 - f. The presence of significant historic sites and past land use;
 - g. The site suitability for individual subsurface sewage treatment systems, if they are to be installed;
 - h. North arrow;
 - i. Scale; and
 - j. Vicinity map.

4. **Written authorization to proceed.** Applicant will receive written authorization from the Planning and Zoning Department to proceed with the preparation of the multi-unit development plan. This authorization may contain comments identifying particular issues, concerns and items to address in the multi-unit development plan. No commercial/transient multi-unit development application will be accepted for review without this written authorization.
5. **Environmental review.** The Department, along with the assistance of the Environmental Review Technical Panel, may recommend that a discretionary Environmental Assessment Worksheet (EAW) be prepared for the proposed project or a project that meets mandatory threshold requirements for an EAW. If the Environmental Review Technical Panel recommends that an EAW is to be completed and the County Board of Commissioners approves this recommendation, the EAW must be completed prior to the commercial/transient multi-unit development conditional use permit application.
6. **Conditional use permit application.** The following documents must be submitted with a commercial/transient multi-unit conditional use permit application:
 - a. **Site plan or plat.** A site plan and/or plat for the project showing locations of property boundaries, surface water features, existing and proposed structures and other facilities, land alterations, sewage treatment and water supply systems (where public systems will not be provided), and topographical contours at two foot (2') intervals or less.
 - b. **Documents.** Deed restrictions, covenants, permanent easements or other enforceable instruments that:
 - (1) Properly address vegetative and topographic alterations and maintenance;
 - (2) Properly address the construction of additional buildings, if allowed;
 - (3) Properly address the regulation of shore recreation facilities and watercraft docking,
 - (4) Properly address the construction of commercial buildings, if allowed;
 - (5) Ensure the long-term preservation and maintenance of open space and shore impact zone;
 - (6) Protect wetlands from any future draining or filling;
 - c. **Master plan.** A master plan/drawing describing the project and the site plan for the dedicated area of each site.
 - d. **Additional information.** Those additional documents as requested by the Planning and Zoning Department and the Planning Commission that are necessary to explain the commercial/transient MUD design and function.
- F. **Suitable area and density calculation.** The suitable area and density will be calculated for each commercial/transient MUD conditional use application according to the following provisions.
 1. **Structure free zone.** The structure free zone is the area, which is designated and is consistent with the required lake classification structure setback from the ordinary high water level of the lake. This area shall remain free of all structures.
 2. **Suitable area.** The suitable area shall be calculated by excluding from the area all wetlands, bluffs, public road right of ways, easements, or land below the ordinary high water level of public waters. All suitable area of the project must be located within the shoreland district. For density calculation, there shall be a maximum tier depth of two (2) times the lake frontage width.

3. **Density determination.**

- a. The number of units allowed will be determined by the amount of suitable area divided by the appropriate division factor determined by the amount of lakeshore frontage. Table 8-6, below, contains the division factors by lake classification for each lake frontage category.
- b. All structures or sites will be placed behind the structure free zone.

Table 8-6 Density division factors for commercial/ transient multi-unit developments

Division factors by lake class	Lake frontage length				
	300 ft to 599 ft	600 ft to 899 ft	900 ft to 1199 ft	1200 ft to 1499 ft	1500 ft plus
General Development lakes	30,000	25,000	20,000	15,000	10,000
Recreational Development lakes	35,000	30,000	25,000	20,000	15,000
Natural Environment lakes	40,000	35,000	30,000	25,000	20,000

G. **Open space requirements.** Commercial/transient multi-unit developments must contain open space meeting all of the following requirements:

- 1. At least fifty percent (50%) of the total project area shall be preserved as open space, and the design of the open space shall conform to the following:
 - c. Dwelling units or sites, road right-of-ways, or land covered by road surfaces, parking areas, or structures, are developed areas and shall not be included in the computation of minimum open space;
 - d. Open space shall include areas with physical characteristics unsuitable for development in their natural state, and areas containing significant historic sites or unplatted cemeteries;
 - e. Open space may include outdoor recreational facilities;
 - f. Open space may include subsurface sewage treatment systems if the use of the space is restricted to avoid adverse impacts on the systems; and
 - g. The shore impact zone must be included as open space. At least seventy percent (70%) of the shore impact zone must be a preservation area or a restoration area.

H. **Other design requirements.** In addition to other design requirements of this Section, commercial/transient multi-unit developments must meet all of the following requirements:

- 1. **Minimum unit site dimensions.** A minimum of two thousand five-hundred (2,500) square feet is allowed per unit site. The unit site will be a minimum of fifty feet (50') wide.
- 2. **Side lot setback.** Structures must be ten feet (10') from the side lot line of the unit site.
- 3. **Shore recreation area.** A contiguous thirty percent (30%) of the shore impact zone or two hundred feet (200'), which ever is the most restrictive, may be used for shore recreation facility purposes. Evaluation for suitability of shore recreation areas must include consideration of land slope, water depth, upland and aquatic vegetation, presence of wetlands, soils, depth to ground water and bedrock or other relevant factors;
- 4. **Minimum setback.** There shall be a minimum setback of twenty feet (20') between any property line and any use within the development. The setback area shall be landscaped and screened by a fence or screen plantings of sufficient size to permit complete privacy for the residents of the development and adjacent properties; and
- 5. **Maximum impervious surface.** Impervious surface coverage cannot exceed twenty-five percent (25%) of commercial/transient MUD suitable area.

- I. **Erosion control and stormwater management.** Commercial/transient MUDs must have storm water management and grading plans that are approved by the Planning and Zoning Department. The storm water management controls shall be constructed and maintained to effectively manage storm water run off. This requirement does not substitute for review and permit requirements of other entities including MPCA, Watersheds, etc.
- J. **Centralization and design of facilities.** Centralization and design of facilities and structures must be done according to the following standards:
1. **Utilities.** Commercial/transient multi-unit developments shall be connected to publicly owned water supply and sewer systems, if available. On-site water supply and sewage treatment systems shall be centralized and designed and installed to meet or exceed applicable standards or rules of the Minnesota Department of Health and Chapter 4, Section 10, of this Ordinance. On-site sewage treatment systems shall be located on the most suitable areas of the development, and sufficient lawn area free of limiting factors shall be provided for a replacement soil treatment system for each sewage system.
 2. **Dwellings.** Dwelling units or sites shall be clustered into one or more groups and located on suitable areas of the development. They must be designed and located outside of the structure free zone.
 3. **Shore recreation areas.** Shore recreation areas, including but not limited to swimming areas, docks and watercraft mooring areas must be centralized and located in areas suitable for them. Evaluation of suitability must include consideration of land slope, water depth, upland and aquatic vegetation, presence of wetlands, soils, depth to ground water and bedrock or other relevant factors.
 4. **Docks.** The number of spaces provided for continuous docking of watercraft shall not exceed one and one-half for each allowable dwelling unit as established by the conservation subdivision development provisions in Chapter 8, Section 7, subsection I.4, of this Ordinance. Launching ramp facilities, including a small dock for short-term loading and unloading equipment, may be provided, if suitable, for use by the occupants of the development.
 5. **Screened from lake view.** Structures, parking areas, and other facilities must be treated to reduce visibility as viewed from Protected Waters and adjacent shorelands by vegetation, topography, increased setbacks, color, or other means, assuming summer, leaf-on conditions. Vegetative and topographic screening must be preserved, if existing, or may be required to be provided.
 6. **Accessory structures and facilities.** Accessory structures and facilities must be located outside the structure free zone and must be centralized.
 7. **Minimum street width.** Non-public streets shall be a minimum of fourteen feet (14') in width one-way and twenty-four feet (24') in width two-way to permit ease of access, without causing damage to or otherwise jeopardizing the safety of any occupants in the development.
- K. **Criteria for evaluation of commercial/transient MUD conditional use applications.** Before recommending the approval of the preliminary development plan and conditional use permit for a commercial/transient MUD, the Planning Commission shall find that all of the following criteria are satisfied:
1. The MUD conforms to the regulations of the land use district in which it is proposed to be located;
 2. The MUD or unit thereof is of sufficient size, composition and arrangement that its construction, marketing and operation are feasible as a complete unit without dependence upon any subsequent unit;

3. The MUD will not create an excessive burden on parks, schools, streets and other public facilities and utilities which serve or are proposed to serve the multi-unit development;
4. The minimum area of land to be included in the MUD shall be as designated in the land use district in which it is proposed to be located; and
5. Adequate provisions are developed for preservation and maintenance in perpetuity of open spaces and for the continued existence and functioning of the development.

L. Maintenance and administration requirements.

1. **Open space preservation.** Deed restrictions, covenants, permanent easements, public dedication and acceptance, or other equally effective and permanent means shall be provided to ensure long-term preservation and maintenance of open space. The instruments shall include all of the following protections:
 - a. Vegetation topographic alterations shall be prohibited in the shore impact zone and restoration area except as part of an approved vegetation restoration plan;
 - b. Construction of additional buildings or storage of vehicles and other materials is prohibited;
 - c. Uncontrolled beaching of watercraft is prohibited; and
 - d. All wetlands in the parcel shall be identified with signs and protected against alterations of any type.

M. Design changes during development.

1. **Minor design changes.** During the development of the approved commercial/transient MUD, the Planning and Zoning Department may approve minor changes in the location, placement and height of buildings, if such changes are required by engineering or other circumstances not foreseen at the time the preliminary plan was approved.
2. **Changes not allowed.** Changes in uses, rearrangement of lots, block and building tracts, or any changes in the provisions of the common open space require re-submission and re-approval of the preliminary plan by the Planning Commission.

N. Conversions of existing uses. Existing resorts or other land uses and facilities may be converted to conservation subdivision developments meeting provisions of Chapter 8, Section 7 of this Ordinance, and provided that the land is reclassified to the residential use category and all of the following standards are met:

1. **Application and correction of deficiencies.** At the time of conversion, the plan meets the conservation subdivision development application and general regulation standards in Chapter 8, Section 7 of this Ordinance and includes the correction of all site deficiencies such as water supply, sewer systems, storm water management, shoreline and bluffs;
2. **Density.** At the time of conversion, the plan must meet conservation subdivision density standards in Chapter 8, Section 7, subsection E, of this Ordinance.
3. **Brought into conformity with regulations.** At the time of conversion, the site is brought into conformity including: removal of buildings, units and recreational vehicle sites to the approved density, centralization of shore recreation facilities, restoration of the shore impact zone and all other open space requirements;
4. **Future replacement sites designated for nonconformities.** At the time of conversion, the plan designates a future site for replacement of each nonconforming unit including cabins, cottages, and recreational vehicle sites. Thus, a purchaser acquires an existing structure and the rights to a specific location for future replacement building or recreational vehicle site. The nonconforming structures can continue to be utilized until such time when a rebuild or replacement is proposed

and then must comply with all Ordinance standards at the pre-designated site, not to exceed ten years from the date of the approved conversion. Exterior expansions, normal maintenance or replacement of existing structures are allowed only if the structures is already located on its designated future site meeting the required lake classification setbacks.

O. Phasing of development.

1. **Details and timing.** Any application for a commercial/transient MUD proposed to be constructed in phases shall include full details of the proposed phasing. The application shall state the time for beginning and completion of each phase.
2. **Assurances required.** The landowner or developer shall make such easements, covenants and other arrangements and shall furnish such performance bond or bonds as may be determined by the County Planning Commission and County Board of Commissioners to be reasonably required to assure performance and completion of private streets and utilities, landscaping and privately owned and maintained recreational facilities in accordance with the plan and to protect the public interest in the event of abandonment of the plan before completion.

P. Minor modification to design. The uniqueness of each proposal for a commercial/transient MUD requires that specifications and standards for streets, utilities and services may be subject to minor modifications from the specifications and standards established in this and other County ordinances governing their construction. The County Board may therefore, waive or modify the specifications or standards if it is found that they are not required in the interests of the residents or of the County. The plans and profiles of all streets, utilities and services shall be reviewed, modified, if necessary, and approved by the County Engineer prior to the final approval of the MUD plan by the County Board.

Q. Licensed resort expansion or replacement. The provisions in this subsection are applicable only to proposed unit or area expansion or replacement for existing licensed resorts (Minnesota Department of Health license list as of April 26, 2005) so long as they continue to maintain licensed status and continue to operate as a resort at their present location. Expansion to an existing resort involving six (6) or more additional units, at once or cumulatively, shall be processed as a conditional use.

1. **Exception to commercial/transient MUD density provisions.** Existing resorts, RV parks and campgrounds that are licensed and operational prior to the adoption of Chapter 8, Section 9, of this Ordinance are not subject to the density standards listed in Chapter 8, Section 9, subsection F, of this Ordinance. At the time of proposed unit or resort area expansion or replacement the allowable density of existing licensed resorts, RV parks, or campgrounds will be determined by existing conditional use permits or the previous commercial shoreland planned unit development (PUD) density evaluation listed under subsection 2., Suitable area and density evaluation, of Chapter 8, Section 9, subsection Q.
2. **Suitable area and density evaluation.**
 - a. **Density evaluation - Commercial PUD.** The maximum number of dwelling units allowed in a commercial shoreland PUD is determined for each tier of development as follows:
 - (1) **Calculation of tiers.** The PUD parcel is divided into tiers by locating one or more lines approximately parallel to the ordinary high water level at intervals set forth in the following Table 8-7. The first tier is closest to the water. There shall be no more than three (3) tiers for density evaluation purposes.

Table 8-7 Commercial PUD shoreland tier dimensions

Lake or River Classification	Tier Depth	
	Unsewered	Sewered
General Development Lakes – First tier	200 feet	200 feet
General Development Lakes – All other tiers	267 feet	200 feet
Recreational Development Lakes – All tiers	267 feet	267 feet
Natural Environment Lakes – All tiers	400 feet	320 feet
All River Classes – All tiers	300 feet	300 feet

- (2) **Calculation of useable area.** The useable area of each tier is calculated by excluding from the tier area all wetlands, bluffs, public rights-of-way or land below the ordinary high water level.
- (3) **Calculation of living units or sites.** The maximum number of living units or sites in a commercial PUD is computed as follows:
 - a. Determine the average inside living area size of dwelling units or sites within each tier, including both existing and proposed units and sites. Computation of inside living area sizes need not include decks, patios, stoops, steps, garages, or porches and basements, unless they are habitable space.
 - b. Select the appropriate floor area ratio from Table 8-8 below.
 - i. For average unit floor areas less than shown in Table 8-8, use the floor area ratios listed for two-hundred (200) square feet.
 - ii. For areas greater than shown, use the ratios listed for one thousand five hundred (1,500) square feet.
 - iii. For recreational camping areas and RV pads, use the ratios listed at four hundred (400) square feet.
 - iv. Manufactured home sites in recreational camping areas shall use a ratio equal to the size of the manufactured home, or if unknown, the ratio listed for one thousand (1,000) square feet.

Table 8-8 Commercial PUD floor area ratios

Average unit floor area in square feet	Public water classification		
	Sewered general development lakes; First tier on unsewered general development lakes; and Urban, agricultural, tributary river segments	Second and additional tiers on unsewered general development lakes; Recreational development lakes; and Transition & forested river segments	Natural environment lakes; and Remote river segments
200	0.040	0.020	0.010
300	0.048	0.024	0.012
400	0.056	0.028	0.014
500	0.065	0.032	0.016
600	0.072	0.038	0.019
700	0.082	0.042	0.021
800	0.091	0.046	0.023
900	0.099	0.050	0.025
1,000	0.108	0.054	0.027
1,100	0.116	0.058	0.029
1,200	0.125	0.064	0.032
1,300	0.133	0.068	0.034
1,400	0.142	0.072	0.036
1,500	0.150	0.075	0.038

- c. Multiply the suitable area within each tier by the floor area ratio to yield total floor area for each tier allowed to be used for dwelling units or sites.
 - d. Divide the total floor area by tier computed above by the average inside living area size determined in Item (1) above. This yields a base number of dwelling units and sites for each tier.
3. **Allowable density required for expansions.** Expansions to licensed resorts may be permitted provided that:
- a. There is allowable density combining all tiers of the resort area as calculated by Chapter 8, Section 9, subsection Q.2, of this Ordinance, or permitted by an existing conditional use permit. Units may be added, if allowed by a total site density calculation (determined above) minus the existing units/sites located within all tiers of the resort area.
 - b. There is allowable density in tier 2 and/or tier 3 as calculated by Chapter 8, Section 9, subsection Q.2, of this Ordinance. Limited to the maximum individual tier density calculation (determined above); two units may be added in tier 2 and/or tier 3 for each unit removed from tier 1.
 - c. The resort has a conforming sewage treatment system.
4. **Nonconforming structure replacement and expansion – outside of the shore impact zone.** Licensed resorts may replace, improve or expand nonconforming structures following these procedures:
- a. Existing nonconforming structures, located within the first tier, on a licensed resort may be replaced without regard to available density.

- b. Existing nonconforming structures must be replaced in their current location and there must be no expansion closer to the lake.
 - c. Licensed resorts, at maximum density (calculated in Chapter 8, Section 9, subsection Q.2.), may add three hundred (300) square feet to the existing structures' livable area footprint if:
 - (1) The unit size does not exceed one thousand five hundred (1,500) square feet with expansion;
 - (2) The unit is not expanded closer to the lake;
 - (3) These expansions will be approved one time per unit without issuance of a variance; and
 - (4) The resort must have a conforming sewage treatment system.
5. **Nonconforming structure replacement and expansion – within the shore impact zone.** Existing nonconforming structures, if destroyed by fire or an Act of God will be permitted to rebuild in the same footprint as the previous structure.
- a. Deteriorated nonconforming structures may be allowed to rebuild if:
 - (1) The resort has an approved storm water management plan; and
 - (2) The resort has an approved shore impact zone restoration plan.
6. **Docking /mooring calculations.**
- a. A maximum of one mooring space per allowable unit/site or twenty-five (25) lineal feet of shoreline, whichever is most restrictive, may be provided for continuous mooring of watercraft at existing licensed resorts, RV parks, and campgrounds abutting public waters. Centralization of docking and mooring spaces is recommended. Additional mooring spaces/lifts may be allowed by variance with an approved centralized docking system.
 - b. Boatlifts may be allowed and will be equal to one and one-half (1.5) times a mooring space calculated above.
7. **Approval by Planning and Zoning Department.** If the licensed resort expansion meets the criteria of this subsection Q the plan may be approved by the Planning and Zoning Department.

Section 10 Conditional Use Permits

- A. **Conditional uses allowed.** Conditional use permits may be issued only for the conditional uses allowed in the zoning district in which the land in the application is located. Conditional uses for each zoning district are specified in Chapter 5, Section 1, Table 5-1.
- B. **Application.** An application for a conditional use permit shall be filed with the Zoning Administrator on a form prescribed by the Board of County Commissioners. The application shall be accompanied by such plans, elevations and site plans as prescribed by the County Planning Commission.
- C. **Planning Commission public hearing.** Upon receipt in proper form of the application and other requested material, the Becker County Planning Commission shall hold at least one (1) public hearing in a location to be prescribed by the Planning Commission. Such public hearing shall conform to the provisions in Chapter 8, Section 2 of this Ordinance.
- D. **Planning Commission report to the County Board.** For each application for a conditional use, the County Planning Commission shall report to the Board of County Commissioners its findings and recommendations, including the stipulation of additional conditions and guarantees that these conditions will be complied with when they are necessary for the protection of the public interest.

- E. **County Board action.** Upon receipt of the report of the Planning Commission, the Board of County Commissioners shall hold whatever public hearings it deems advisable and shall decide whether to grant or deny a Conditional use permit.
- F. **Findings and criteria.** No conditional use shall be recommended by County Planning Commission or granted by the Board of County Commissioners unless the Commission or the Board shall find that all of the following criteria are met:
1. **Affect on surrounding property.** That the conditional use will not harm the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish or impair property values within the immediate vicinity.
 2. **Affect on orderly, consistent development.** That establishing the conditional use will not impede the normal, orderly development and improvement of surrounding vacant property for uses predominant in the area.
 3. **Adequate facilities.** That adequate utilities, access roads, drainage and other necessary facilities have been or are being provided.
 4. **Adequate parking.** That adequate measures have been or will be taken to provide sufficient off-street parking and loading space to serve the proposed use.
 5. **Not a nuisance.** That adequate measures have been or will be taken to prevent or control offensive odor, fumes, dust, noise and vibration, so none of these will constitute a nuisance, and to control lighted signs and other lights so that no disturbance to neighboring properties will result.
 6. **Additional criteria for shoreland areas.** In Shoreland areas, it shall be found that adequate measures have been or will be taken to assure that:
 - a. **Pollution.** Soil erosion or other possible pollution of public waters will be prevented, both during and after construction;
 - b. **View from public waters.** That the visibility of structures and other facilities as viewed from public waters will be limited;
 - c. **Adequate utilities.** That the site is adequate for water supply and on-site sewage treatment; and
 - d. **Watercraft.** That the types, uses, and number of watercrafts that the project will generate can be safely accommodated.
- G. **Report to DNR.** If an application for conditional use is for property located within the limits of the shoreland of public waters, the application shall be filed with the Commissioner of Natural Resources for comments at least 10 days before the official public hearing. A copy of the decision granting or denying the conditional use application shall be sent to the State Commissioner within ten (10) days of the action.
- H. **Continuing compliance with terms required.** Any use permitted under the terms of any conditional use permit shall be established and conducted in conformity with the terms and conditions of the permit.
- I. **Expiration.** If two years after the date that the conditional use permit is granted and the use has not been implemented, the conditional use permit shall be null and void, unless a request for extension of time in which to complete the work has been granted by the Board of Commissioners. The request must be placed on the Board of Commissioners agenda prior to the expiration of the conditional use permit to request a one year extension with no limit on extension requests. The request for extension shall state facts showing a good faith attempt to complete the work permitted in the conditional use

permit. If the permitted use was implemented, but the use has been discontinued for a period of two years, the conditional use permit shall also be null and void. This does not pertain to conditional use permits issued prior to December 1, 2009.

Section 11 Variances

- A. **Review authority.** The Board of Adjustment shall have the exclusive power to order the issuance of variances from the terms of this Ordinance.
- B. **Application.** Application for a variance or other adjustment shall be made to the Board of Adjustment in the form of a written application.
- C. **Public hearing required.** Upon receipt of any application, the Board of Adjustment shall set a time and place for a public hearing on the application. Such public hearing shall conform to the provisions in Chapter 8, Section 2 of this Ordinance.
- D. **Findings.** If the Board of Adjustment finds that a variance meets the criteria for granting a variance as specified in subsection I, below, the Board of Adjustment shall make written findings of the facts upon which its decision is based clearly identifying the specific conditions that exist which justify the granting of the variance. Copies of the findings shall be mailed to the applicant and to any other party who appears at the hearing and the town board.
- E. **Conditions.** The Board of Adjustment may impose conditions in the granting of variances to insure compliance and to protect adjacent properties and the public interest.
- F. **Recording of decision.** A certified copy of any order issued by the Board of Adjustment acting upon a request for a variance, shall be filed with the county recorder or registrar of titles for record. The order issued by the Board of Adjustment shall include the legal description of the property involved
- G. **Appeals.** The decision of the Board of Adjustment shall be final except that any person or persons, or any department, board or commission of the county or of the state shall have the right to appeal within thirty (30) days, after receipt of notice of decision, to the district court.
- H. **Minimum variance necessary.** The variance granted shall be the minimum variance necessary to relieve the circumstance that justifies the variance.
- I. **Criteria for granting variances.** A variance shall be granted only if all of the following criteria are met:
 - 1. **Compliance with Statute.** The Board of Adjustment shall not grant a variance unless it finds that the standards of Minnesota Statutes Annotated section 394.27, subsection 7 have been met.
 - 2. **Intent of Ordinance:** Variances shall only be permitted if they are in harmony with the general purposes and intent of this Ordinance.
 - 3. **Hardship.** Variances shall only be permitted if there are practical physical difficulties or particular physical hardships when the strict letter of this Ordinance is imposed. "Hardship" as used in connection with the granting of a variance means the property in question cannot be put to a reasonable use if used under the conditions allowed by this Ordinance. Economic considerations alone shall not constitute a hardship if a reasonable use for the property exists under the terms of this ordinance. The Board of Adjustment may consider the inability to use solar energy systems a "hardship" in the granting of variances.
 - 4. **Plight of Landowner.** Variances shall only be permitted if the plight of the landowner is due to circumstances unique to the property not created by the landowner.

5. **Health and Safety.** Variances shall be permitted only if the granting of the variance will not materially adversely affect the health or safety of persons residing or working in the area adjacent to the property of the applicant and will not be materially detrimental to the public welfare or injurious to property or improvements in the area adjacent to the property of the applicant.
6. **Earth Shelter Construction.** Variances shall be permitted for earth-sheltered construction as defined in Minnesota Statutes when in harmony with this ordinance.

J. **Additional criteria for Shoreland setback variances.** Variances to the Shoreland setback provision of the ordinance may be granted under the following circumstances:

1. **Alternative sewage treatment method.** Where structures incorporate a method of sewage treatment other than soil absorption.
2. **Setback averaging.** Where development exists on both sides of a proposed building site, setbacks may be varied to conform to the existing setbacks.
3. **Unusual topography.** In areas of unusual topography or substantial elevation above the lake level, setbacks may be varied to allow a riparian owner reasonable use and enjoyment of his property.

K. **Prohibited variances.**

1. **ISTS non-compliance.** No variance shall be issued for replacement, or for the addition of a bedroom or bathroom on property served by a system unless the individual subsurface sewage treatment system is in compliance with the Becker County ordinance on individual subsurface sewage treatment systems as evidenced by a certificate of compliance.
2. **Prohibited uses.** No variance shall be granted that would allow any use that is prohibited in the zoning district in which the subject property is located.

L. **Notice of decision to DNR.** A notification of any decision involving shoreland areas shall be sent to the Commissioner of the Department of Natural Resources or the Commissioner's designated representative within ten (10) days. If the Department of Natural Resources has formally recommended denial of a variance and the variance is approved the notification also shall include the Board of Adjustment's record of the hearing and the findings and conclusions which supported approval.

M. **Expiration.** If two years after the date that the variance was granted, a zoning permit was not obtained and construction did not begin, the variance shall become null and void, unless a request for extension of time in which to complete the work has been granted by the Board of Adjustment. The request must be placed on the Board of Adjustment agenda prior to the expiration of the variance. The request for extension shall state facts showing a good faith attempt to complete the work permitted in the variance. This does not pertain to variances issued prior to December 1, 2009.

Section 12 Rezoning or Text Amendment

A. **Criteria for amendment.** This Ordinance may be amended whenever required by the public necessity and the general welfare.

- B. **Who may request an amendment.** Proceedings for amendment of this Ordinance shall be initiated by:
1. A petition of the owner or owners of actual property;
 2. A recommendation of the County Planning Commission;
 3. Or by action of the Board of County Commissioners.
- C. **Application requirements.** An application for an amendment shall be filed with the Zoning Administrator. An application for a change in the boundaries of any zoning district shall be accompanied by a map or plat showing the boundaries proposed to be changed and all properties within one-half (1/2) mile of the boundaries to be changed, the application also shall include the names and addresses of the owners of all such properties.
- D. **Planning Commission public hearing.** Upon receipt in proper form of the application and other requested material, the Becker County Planning Commission shall hold at least one public hearing as delineated in Chapter 8, Section 2, of this Ordinance.
- E. **Planning Commission findings and decision.** Following the public hearing, the County Planning Commission shall make a report of its findings and recommendations on the proposed amendment and shall file a copy with the Board of County Commissioners and the Zoning Administrator within sixty (60) days after the hearing. If no report or recommendation is transmitted by the County Planning Commission within sixty (60) days after the hearing, the Board of County Commissioners may act without awaiting a recommendation.
- F. **County Board hearing and decision.** Upon filing of the Planning Commission report or recommendation, the Board of County Commissioners may hold such public hearings upon the amendment as it deems advisable. After the hearings, if any, the Board of County Commissioners may adopt the amendment or any part thereof. The amendment shall be effective only if four-fifths (4/5) of all the members of the Board concur in its passage.

Section 13 Land Alteration Permit

- A. **Land alteration permit required.** Except for public roads, public ditches or public parking areas no land alterations shall be made until a land alteration permit meeting the requirements of Chapter 8, Section 3, subsection C of this Ordinance has been obtained from the Becker County Zoning Administrator unless the changes will result in:
1. The movement of less than ten (10) cubic yards of material on steep slopes or within shore or bluff impact zones;
 2. The movement of less than fifty (50) cubic yards of material in other areas.
- B. **Agricultural use exemption.** A land alteration permit is not required for a land alteration that is part of an agricultural use provided that the land alteration follows the Best Management Practices for farming as recommended by the University of Minnesota Extension Service, the Becker County Soil and Water District, Minnesota Pollution Control Agency or a Federal Farm Program where such stipulations are placed as a result of enrollment in a farm program.
- C. **May be part of another permit.** A separate land alteration permit is not required if a permit has been granted for construction of a structure or sewer system unless the information required for the land alteration permit was not included in the application for the permit.

- D. **Statement regarding other permits.** An application for a permit for a project that includes land alterations shall contain a statement that all required permits, reviews, or approvals by other local, state, or federal agencies such as a watershed district, the Minnesota Department of Natural Resources, or the United States Army Corps of Engineers have been obtained or applied for.
- E. **Certification by professional.** The Zoning Administrator may require, and for a land alteration within the shore impact zone or a bluff impact zone shall require, an applicant to provide certification from a landscape architect or professional engineer that the requirements of this subsection and the requirements of Chapter 8, Section 3, subsection C of this Ordinance have been followed.