



## PLANNING & ZONING COMMISSION

### *Agenda*

September 15, 2026

7:00 PM

**1. ROLL CALL**

**2. APPROVAL OF AGENDA**

**3. APPROVAL OF MINUTES**

3A. August 18, 2026 regular meeting.

**4. PUBLIC DISCUSSION** – Public comment on any item not otherwise listed on the agenda.

**5. PUBLIC HEARINGS**

5A. An application for a Special Use Permit by Dan and Holly Elnes for the purpose of constructing a 1,632 square foot accessory structure. The property is located at 4218 Ugstad Road and is located in a R-3, Residential zoning district.

5B. Zoning Ordinance text amendments by the City of Hermantown amending Chapter 5, Section 555 SH, Shoreland, of the Hermantown Zoning Ordinance.

**6. CONTINUING BUSINESS**

**7. NEW BUSINESS**

**8. COMMUNICATIONS**

Correspondence: 2026-407 – 2026-430; 2026-432 – 2026-571; 2026-573 – 2026-576; 2026-579 – 2026-580; 2026-585 – 2026-596; 2026-598 – 2026-601; 2026-606 – 2026-636; 2026-638 – 2026-642; 2026-644 – 2026-654; and 2026-656 – 2026-657.

**9. COMMISSION MEMBER REPORTS**

Joe Peterson

Corey Kolquist

Beth Wentzlaff

Kevin Hagen

Matthew Fournier

John Stauber

Amanda Radzak

Ryan Johnson

**ADJOURN**



## PLANNING & ZONING COMMISSION

August 18, 2026 Meeting Summary

7:00 PM

### 1. ROLL CALL

Members Present: Joe Peterson; Corey Kolquist; Beth Wentzlaff; John Stauber; Matthew Fournier; Kevin Hagen; and Ryan Johnson

Members Absent: Amanda Radzak

Others Present: Eric Johnson, Community Development Director and David Bolf, City Engineer; Dawson Wojciuk, Hermantown; Paul Pedersen, Hermantown; Ross Bjorlin, Hermantown, Jeffrey Donohue, Duluth; and Tom Johnson, Hermantown.

### 2. APPROVAL OF AGENDA

Motion made by Corey Kolquist to approve the August 18, 2026 agenda as presented. Seconded by Kevin Hagen. Motion carried 6-0.

### 3. APPROVAL OF MINUTES

Motion made by Matthew Fournier to approve the July 21, 2026 minutes as presented. Seconded by John Stauber. Motion carried 6-0.

### 4. PUBLIC DISCUSSION

### 5. PUBLIC HEARING

5A. An application for a Special Use Permit by Dawson and Jessica Wojciuk for the purpose of constructing a 2,400 square foot accessory structure. The property is located at 3879 Kenroy Road and is located in a R-3, Residential zoning district.

Eric Johnson, Community Development Director, presented an application from Dawson and Jessica Wojciuk to construct a 2,400-square-foot accessory structure at 3879 Kenroy Road. Structures over 1,200 square feet require a Special Use Permit under Section 535.06.5 of the Zoning Ordinance. The applicants are requesting approval for the proposed structure.

The National Wetland Inventory indicates potential wetlands on the property. A wetland delineation and proposed impact assessment must be approved by the Hermantown Technical Evaluation Panel before building or land disturbance permits are issued.

Motion made by Corey Kolquist to approve the application for a Special Use Permit by Dawson and Jessica Wojciuk for the purpose of constructing a 2,400 square foot accessory structure. The property is

located at 3879 Kenroy Road and is located in a R-3, Residential zoning district. Seconded by Beth Wentzlaff. Motion carried. 6-0.

5B. An application for a Special Use Permit by Ross Bjorlin for the purpose of constructing a 2,688 square foot accessory structure. The property is located at 5801 W. Arrowhead Road and is located in a S-1, Suburban zoning district.

Eric presented to the commission members, that Applicant, Ross Bjorlin, desires to build a 2,688 square foot accessory structure on a property at 5801 W Arrowhead Road. Construction of an accessory structure over 2,400 square feet in size is permitted with a Special Use Permit per Section 500.06.5 of the Zoning Ordinance. The applicant is requesting approval for construction of a 2,688 square foot accessory structure.

The Applicant is requesting approval to construct a 2,688 square foot accessory building. The accessory building would be 42 feet by 64 feet in size, with 16-foot sidewalls. The overall height of the proposed building is approximately 22 feet. The construction type would be slab-on-grade, with metal siding and roof. The building will be used to house the applicant's personal belongings and storage of his RV. No business activity is proposed as part of this use.

Motion made by Ryan Johnson to approve the application for a Special Use Permit by Ross Bjorlin for the purpose of constructing a 2,688 square foot accessory structure. The property is located at 5801 W. Arrowhead Road and is located in a S-1, Suburban zoning district. Seconded by John Stauber. Motion carried. 6-0.

5C. An application for a Special Use Permit by Paul Pedersen for the purpose of constructing a 3,200 square foot accessory structure. The property is located at 4041 Sangstrom Road and is located in a S-1, Suburban zoning district.

Eric presented that applicant, Paul Pedersen, desires to build a 3,200 square foot accessory structure on a property at 4041 Sangstrom Road. Construction of an accessory structure over 2,400 square feet in size is permitted with a Special Use Permit per Section 500.06.5 of the Zoning Ordinance. The applicant is requesting approval for construction of a 3,200 square foot accessory structure.

Motion made by John Stauber to approve the application for a Special Use Permit by Paul Pedersen for the purpose of constructing a 3,200 square foot accessory structure. The property is located at 4041 Sangstrom Road and is located in a S-1, Suburban zoning district. Seconded by Corey Kolquist. Motion carried. 6-0.

5D. Zoning Ordinance text amendments by the City of Hermantown amending Chapter 10, Section 1010.04 Flag Lots, of the Hermantown Zoning Ordinance to allow for the administrative review and approval of flag lot subdivision applications.

Eric presented the zoning amendments to the commission members. Staff is proposing to streamline flag lot approvals by removing the Planning & Zoning Commission's required review.

Since 2020, 17 flag lot applications have been submitted and none denied, while P&Z review adds about four weeks to the process. Under the proposal, adjacent property owners would receive notice and have 15 days to comment, after which City staff could approve the application.

Motion made by Corey Kolquist to approve the text amendments by the City of Hermantown amending Chapter 10, Section 1010.04 Flag Lots, of the Hermantown Zoning Ordinance to allow for the administrative review and approval of flag lot subdivision applications. Seconded by Matthew Fournier. Motion carried. 6-0.

5F. The City of Hermantown will be conducting a work session to discuss the proposed Google Data Center. The purpose of the work session is for the Planning and Zoning Commission to ask questions of the developer in preparation of a potential land use application(s).

## **6. CONTINUING BUSINESS**

Correspondence 2026-407 – 2026-430; 2026-433 – 2026-487; 2026-489 – 2026-528; 2026-530 – 2026-571; 2026-574 – 2026-576; 2026-579 – 2026-580.

## **7. NEW BUSINESS**

Eric introduced to the commission that representatives from Google will be making a presentation this evening. Some items to be covered will be the introduction of a Special Use Permit, a Preliminary and Final Plat and a Wetland Replacement Plan.

Tyler Huebner, Manager for the Central Region Energy Marketing Dev. Team of Google, introduced himself and handed the presentation over to Brian Wurdeman professional Engineer with Kimly Horn and his team. Information presented included the following:

- Site selection
- Development process
- Additional land use reviews
- Proposed development/site plan
- Plat
- Building elevations
- Landscaping/screening
- Visualizations
- Grading and stormwater management
- Wetland impacts and mitigation
- Groundwater, water use and wastewater
- Public utilities and road improvements
- Lighting/photometrics
- Noise and noise abatement
- Back-up generators
- Electromagnetic fields
- Traffic and traffic mitigation plan
- Construction phases
- Project comparisons to the AUAR

## **8. COMMUNICATIONS**

None

**9. COMMISSION MEMBER REPORTS**

Joe Peterson – None

Beth Wentzlaff – None

Kevin Hagen – None

Matthew Fournier – None

John Stauber – None

Amanda Radzak – Absent

Ryan Johnson – stated he would be absent for the September 15, 2026 meeting but expressed his support for the proposed data center project

**ADJOURN**

Motion made by John Stauber to adjourn the meeting. Seconded by Kevin Hagen. Meeting adjourned at 10:36 pm.

Officiated by:

Transcribed by:

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Joe Peterson, Chairman

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Mary Melde, Administrative Assistant

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**5A. 4218 Ugstad Road – Special Use Permit to construct an 1,632 square foot accessory structure in an R-3 zoning district**

**Applicant:** Dan and Holly Elnes  
**Case No.:** 2026-48 SUP  
**Staff Contact:** Eric Johnson, Community Development Director  
**Request:** Issue a special use permit for construction of an 1,768 square foot accessory structure and associated driveway in a R-3 zoning district

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**RECOMMENDED ACTION:**

Staff recommends that the Planning Commission recommend approval of the proposed Special Use Permit for the construction of a 1,768 square foot accessory building for City Council consideration subject to the attached conditions.

**DESCRIPTION OF REQUEST:**

The applicants (Dan and Holly Elnes) desire to demolish their existing 790 square foot garage and then build an 1,768 square foot accessory structure on a property at 4218 Ugstad Road. Construction of an accessory structure over 1,200 square feet in size is permitted with a Special Use Permit per Section 535.06.5 of the Zoning Ordinance. The applicant is requesting approval for construction of a 1,768 square foot accessory structure.

**SITE INFORMATION:**

**Parcel Size:** +/- 4.75 acres  
**Legal Access:** 4218 Ugstad Road  
**Wetlands:** Yes, per the National Wetland Inventory  
**Existing Zoning:** R-3, Residential  
**Airport Overlay:** N/A  
**Shoreland Overlay:** No  
**Comprehensive Plan:** Residential

**BACKGROUND**

Accessory structures over 1,200 square feet in size are permitted only with a Special Use Permit in the R-3, Residential Zoning District. The applicant is requesting approval to construct a 1,768 square foot accessory building which consists of a 768 garage area and an attached 1000 square feet living area. The living area shows a recreation room, an exercise room, a bathroom, kitchenette area and a sauna. The applicant has indicated that the living area is for their use only and not intended as an accessory dwelling unit (ADU), however, should the living space eventually be turned into an ADU, it is within the maximum allowed living area space of 1,000 square feet. The accessory building would be 32 feet

by 55’-3” in size, with 9-foot sidewalls. The overall height of the proposed building is approximately 22’-4”. The construction type would be slab-on-grade, with LP/maintenance free siding and asphalt shingle roof. The building will be used to house the applicant’s personal belongings and vehicles as well as provide a recreation area for the family. No business activity is proposed as part of this use.

The proposed property is located at 4218 Ugstad Road, and is approximately +/- 4.75 acres in size. The proposed accessory structure is approximately 160 feet from the nearest neighboring structure and approximately 52 feet from Ugstad Road.

Section 535.06.5 of the Zoning Ordinance lists the dimensional requirements for accessory structures in excess of 1,200 square feet. They are:

| <b>Table 1. Dimensional requirements for accessory structures in excess of 1,200 square feet</b> | <b>R-3 Requirement</b>                                              | <b>Provided</b>                       |
|--------------------------------------------------------------------------------------------------|---------------------------------------------------------------------|---------------------------------------|
| Minimum depth of front yard from R.O.W.                                                          | Equal to or greater than the building line of the primary structure | +/- 52 feet                           |
| Minimum side yard setback                                                                        | Equal to the height of the accessory structure                      | +/- 100 feet from north property line |
| Minimum rear yard setback                                                                        | Equal to the height of the accessory structure                      | +/- 870 feet                          |
| Minimum setback from primary structure                                                           | 10 feet                                                             | +/- 12 feet                           |
| Maximum building height                                                                          | 35 feet                                                             | 22’-4”                                |
| Maximum sidewall height                                                                          | 14 feet                                                             | 9 feet                                |

There are several requirements that must be satisfied in order to qualify for a Special Use Permit, from Section 725 “Governing Criteria” of the Zoning Ordinance.

1. *Is the development compatible with development permitted under the general provisions of the Zoning Ordinance for lands in its vicinity?*  
There are no significant accessory structures in the vicinity of the property. However, the Zoning Ordinance allows for 35% lot coverage for structures on a property. With the addition of a 1,768 square foot structure, the property would be at approximately 1.5%.
2. *Is the proposed use injurious to the use and enjoyment of the environment, or detrimental to the rightful use and enjoyment of other property in its vicinity?*  
The proposed accessory structure will not impact adjacent properties or the community in general. The accessory structure will allow the owner to improve their property by providing storage for personal property and vehicles as well as have a recreational room for their family.
3. *Is the use consistent with the Comprehensive Plan and the spirit and intent of the Zoning Ordinance?*

The proposed accessory structure is consistent with Comprehensive Plan recommendations for residential areas of the City. The Zoning Ordinance allows for up to 35% lot coverage for structures with the proposed property being at 1.5% coverage after the construction of the proposed accessory structure. The proposed use meets the performance standards set in Section 535.06.5 regulating accessory structures in excess of 1,200 square feet.

4. *Will the use result in a random pattern of development, or cause negative fiscal and environmental effects upon the community?*

The Zoning Ordinance allows for 35% lot coverage for structures on a property. With the addition of a 1,768 square foot structure, the property would be at approximately 1.5%

5. *Are there other criteria of the Zoning Ordinance that should be considered?*

The proposed accessory structure shall only be utilized for personal use with no business related activities permitted.

### **Wetlands**

The National Wetland Inventory shows the potential presence of wetlands on the property at the eastern portion of the property. The proposed work is within the area of an existing garage, which will be demolished, so no wetland impacts are anticipated as part of the proposed project.

### **Summary**

The applicant meets the requirements for a Special Use Permit. Staff recommends a motion to recommend approval of the application to the City Council, subject to included conditions.

### **Recommendation**

Staff recommends approval of the Special Use Permit, subject to the following conditions:

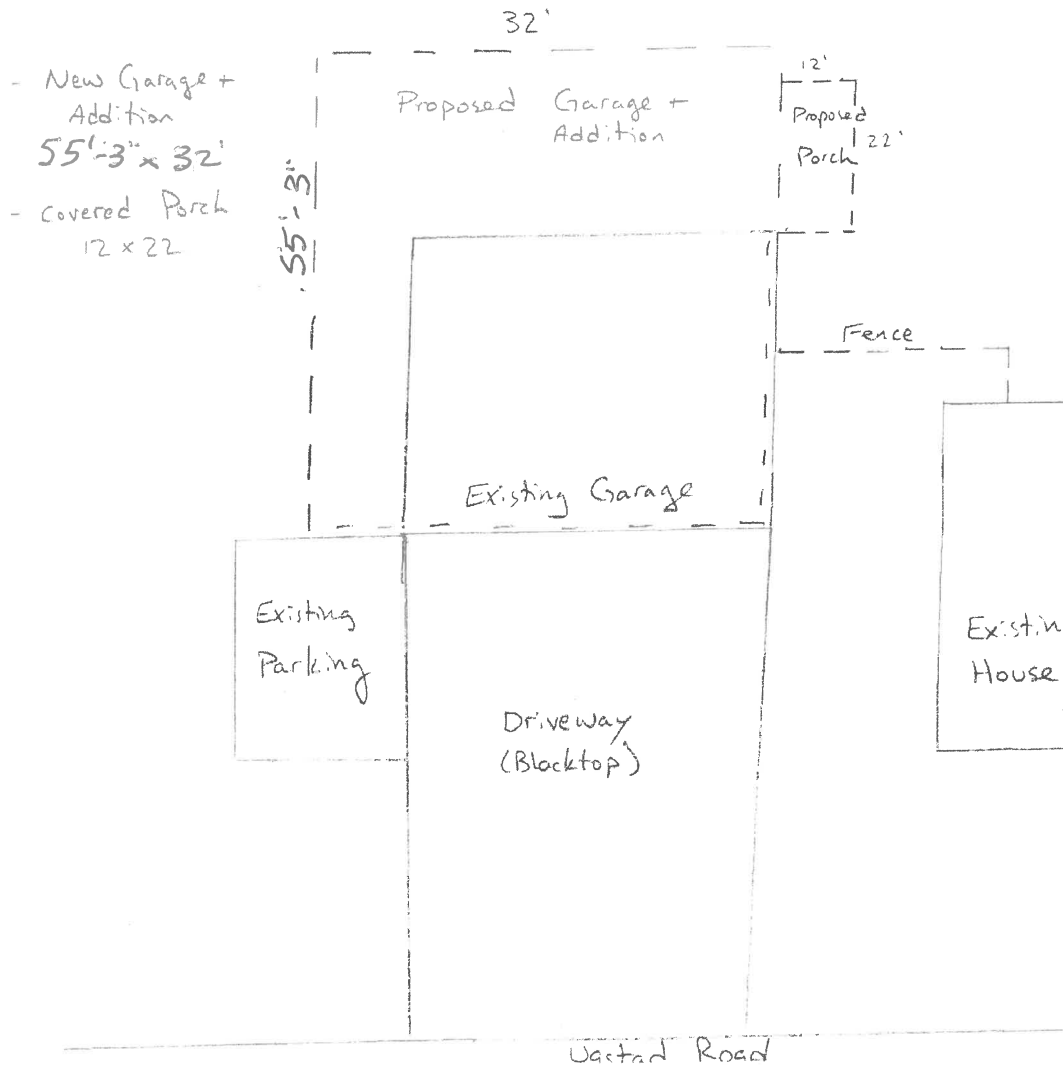
1. The approval is for a 1,768 square foot accessory structure on the property at 4218 Ugstad Road (395-0070-00665)
2. The proposed accessory structure shall meet all setback requirements for setbacks for Accessory Structures in the R-3 Zoning District.
3. The proposed accessory structure location is depicted on the approved site plan. If approved by the Community Development Director, the accessory structure may be placed in other locations on the site, however the 1,768 square foot accessory building will need to meet the minimum setback requirements and/or obtain a variance per Section 535.06.5 of the Zoning Ordinance.
4. Erosion control measures shall be utilized and remain in place throughout the construction period and shall not be removed until vegetation is established on the site.
5. Accessory structures shall not be utilized for any use or activity not otherwise allowed in the zone district in which such accessory building is to be located.
6. No business activity is allowed in association with the accessory structure approval.
7. The applicant shall sign a consent form assenting to all conditions of this approval.
8. The applicant shall pay an administrative fine of \$750 per violation of any condition of this approval.

### **ATTACHMENTS**

- Location Map
- Proposed Site Plan
- Proposed Structure Image
- Proposed Floor Plan



# Site Plan



The homeowner(s) or licensed general contractor shall assume full responsibility for the following: 1.) Completion of all work in accordance with state and local building codes and ordinances. 2.) Obtain all required building permits prior to construction. 3.) Provide any necessary engineering work. Beams, columns, and structural members shown on drawings are for bid purposes only and should be sized by the manufacturer or a qualified structural engineer to insure proper design and construction. 4.) Verify all window and door rough openings and groms as specified before ordering units and before the start of construction. Thinner Home Designs, LLC has made every effort in preparing and checking these drawings for accuracy and is not responsible for any discrepancies that result in error or omission from these drawings. These drawings have been reviewed and approved by the homeowner(s) or licensed general contractor.

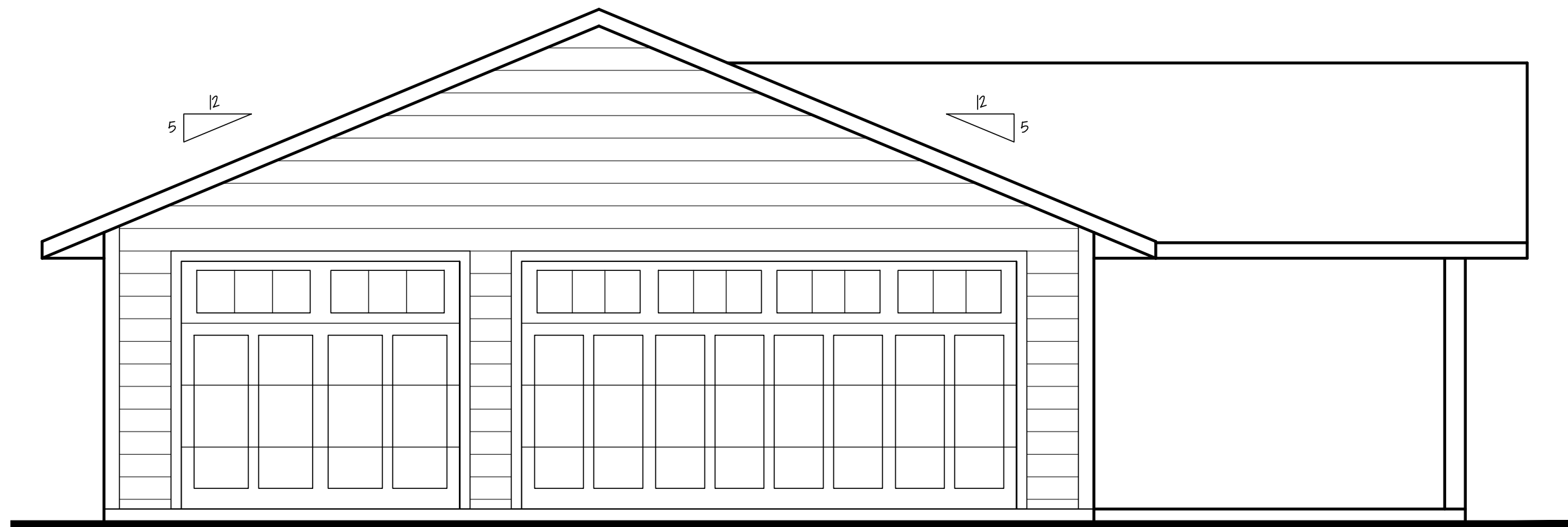
**Elnes residence**

**Ugstad Road**  
**Hermantown, MN**

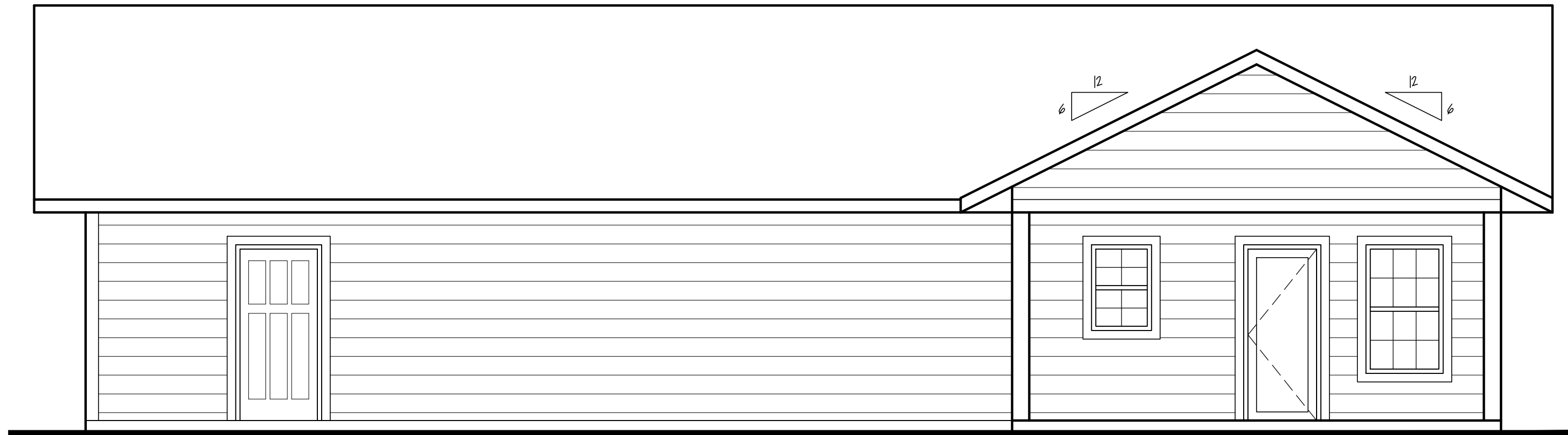
review set 4/11/23  
construction set 8/14/26  
revision 1 9/08/26

Exterior  
Elevations/  
Wall Section

**A2**



WEST EXTERIOR  
1/4" = 1'-0"



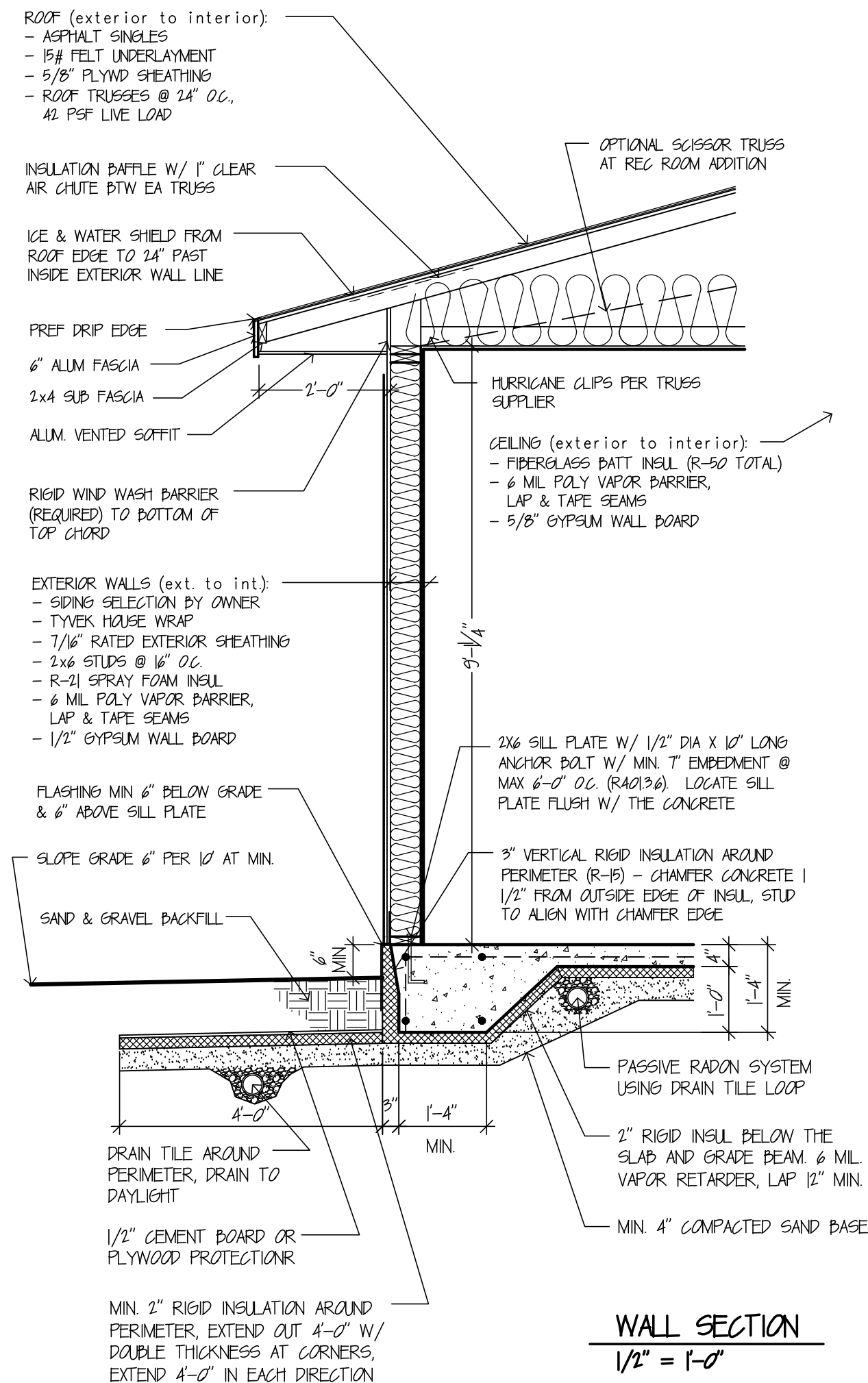
SOUTH EXTERIOR  
1/4" = 1'-0"



EAST EXTERIOR  
1/4" = 1'-0"



NORTH EXTERIOR  
1/4" = 1'-0"



SEE EXTERIOR ELEVATIONS FOR ROOF SLOPE

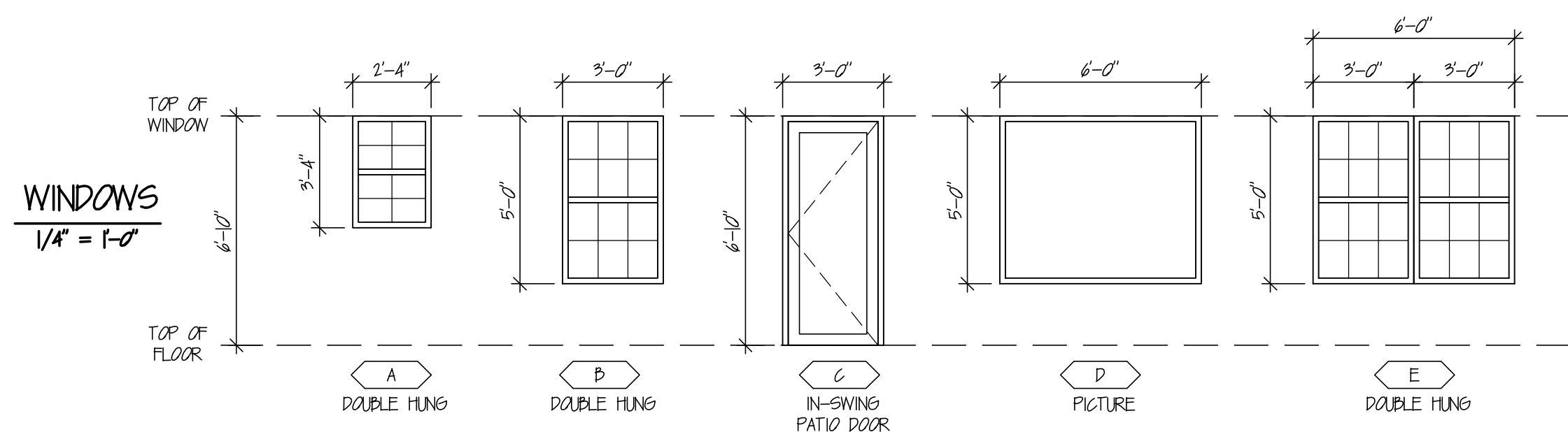
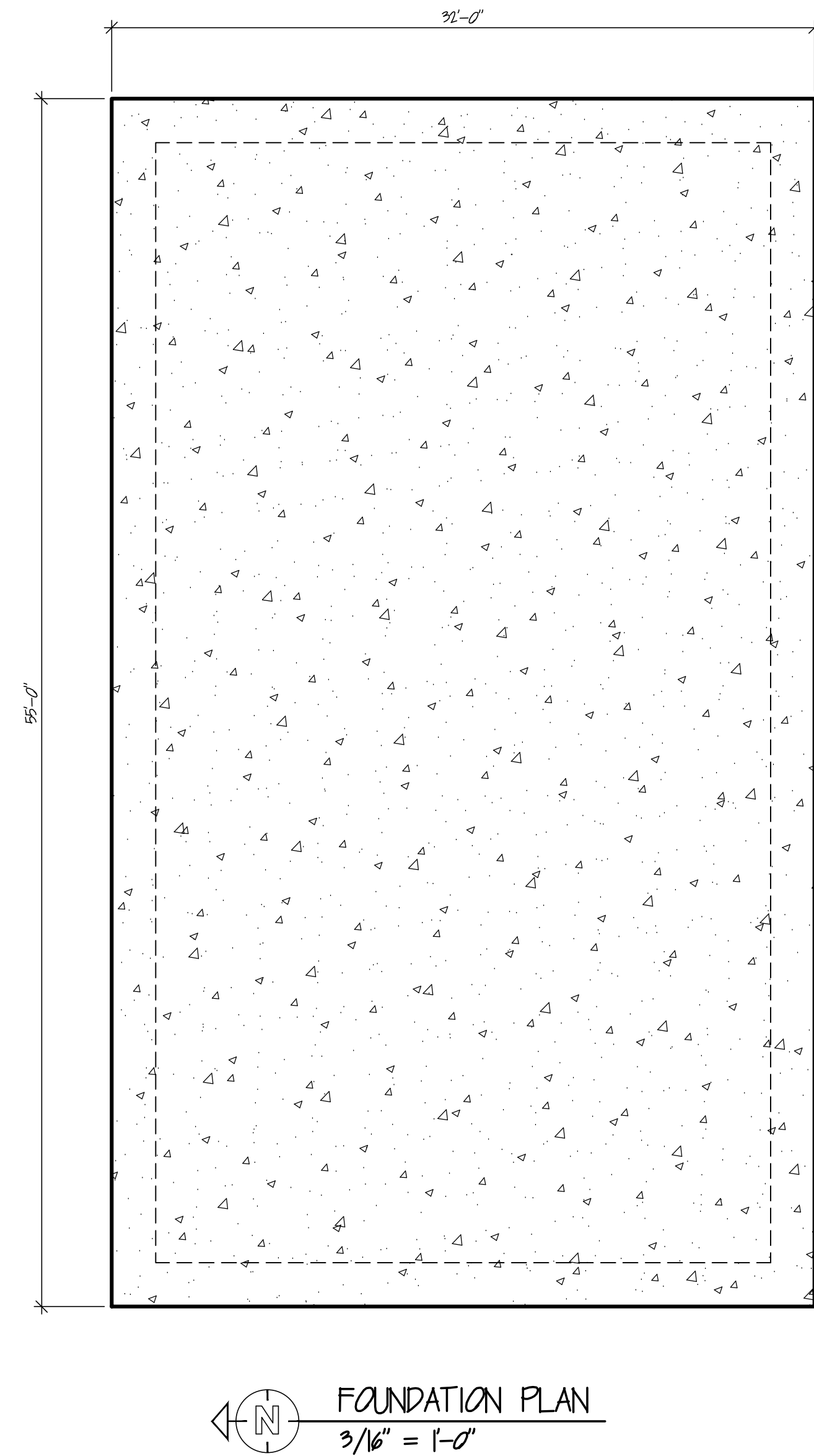
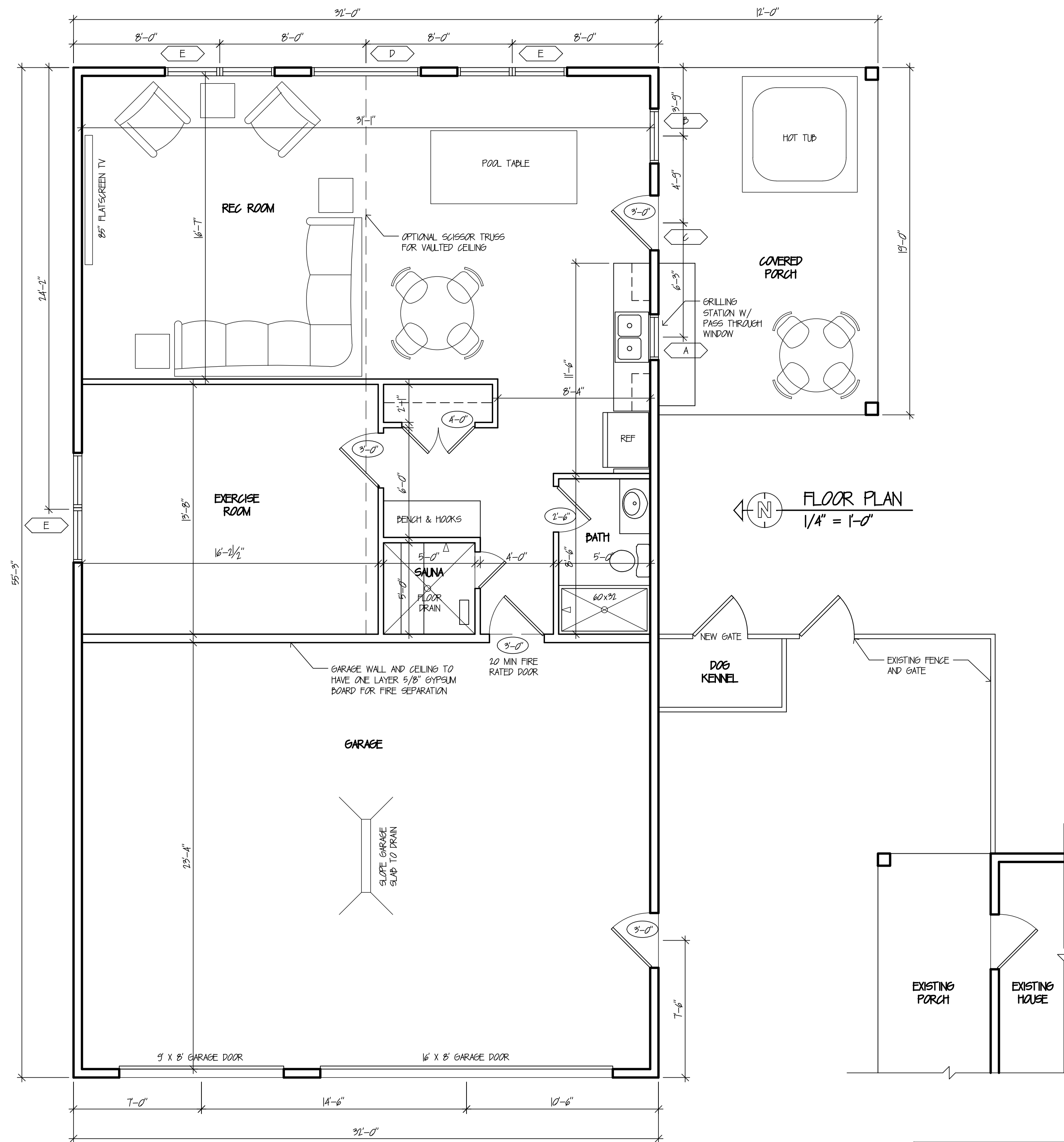
RIDGE VENT - SEE VENTILATION WORKSHEET BY  
CONTRACTOR

FOUNDATION TO ADHERE TO 2020 MINNESOTA  
STATE BUILDING CODE

ALL REINFORCING STEEL 60 KSI MIN (GRADE 60)

FOOTING & FOUNDATION WALL CONCRETE 5000  
PSI MIN.

ALL ORGANICS TO BE REMOVED. SOIL BEARING IS  
ASSUMED TO BE 1500 PSF, UNLESS CERTIFIED SOIL  
TEST IS PROVIDED



#### GENERAL NOTES:

BUILDING MATERIALS, CONSTRUCTION METHODS, HEATING, VENTILATION, AND OTHER MECHANICAL SYSTEMS SHALL CONFORM TO OR EXCEED 2010 MIN STATE RESIDENTIAL CODE.

ANY ENGINEERED LUMBER LAYOUTS, SIZES, SPECS, AND CONNECTION DETAILS TO BE PROVIDED BY MANUFACTURER.

ELECTRICAL, PLUMBING, AND MECHANICAL SUB-CONTRACTORS TO PROVIDE LAYOUTS PER CODE TO BE FINALIZED AND APPROVED BY HOMEOWNER AND CONTRACTOR.

EXTERIOR STUD WALLS TO BE 2X6 STUDS AND ARE DIMENSIONED TO THE FACE OF EXTERIOR SHEATHING.

INTERIOR WALLS TO BE 2X4 STUDS UNLESS NOTED OTHERWISE AND ARE DIMENSIONED TO THE FACE OF STUD.

PROTECTION OF WOOD AND WOOD BASED PRODUCTS AT SILL PLATES AND STUDS PER R307.1.

WALL BRACING AS REQUIRED PER R602.10.

ATTIC ACCESS REQUIRED PER R507.1.

ENERGY EFFICIENCY PER TABLE 1912.R402.1.1  
PENETRATION U-FACTOR: 0.32 MAXIMUM  
SKYLIGHT U-FACTOR: 0.55 MAXIMUM  
WOOD FRAME WALL, R-VALUE: 21 MINIMUM  
CEILING INSULATION, R-VALUE: 49 MINIMUM  
SLAB, R-VALUE: 10 MINIMUM  
BASEMENT & CRAWLSPACE WALL, R-VALUE: 15 MINIMUM  
FLOOR, R-VALUE: 30 MINIMUM

PIER AND POST DIMENSIONS ARE DIMENSIONED TO THE CENTER OF PIER OR POST.

WINDOWS ARE DIMENSIONED TO THE CENTER LINE OF ROUGH OPENING. VERIFY ROUGH OPENING WITH WINDOW MANUFACTURER AND INSTALL PER MANUFACTURER'S SPECS.

SAFETY GLAZING PER SECTION R302. EGRESS WINDOWS PER SECTION R302.2, AND WINDOW FALL PROTECTION PER R302.2.

MOISTURE RESISTANT BACKING BOARD REQUIRED AT TUBS AND SHOWERS PER R102.3.5.

SMOKE AND CARBON MONOXIDE ALARMS PROVIDED PER R304.3.1 & R305.1. INSTALLED IN EACH SLEEPING ROOM AND OUTSIDE SLEEPING AREAS IN THE IMMEDIATE VICINITY OF THE BEDROOMS ON EACH STORY OF THE DWELLING.

FLASHING AT EXTERIOR WALL ENVELOPE, WINDOWS, DOORS & LEDGER BOARDS PER R102.3.5.

BLOWER DOOR TEST REQUIRED PER 1912.R402.4 TO VERIFY COMPLIANCE WITH ENERGY CODE.

#### HOMEOWNER:

Dan & Holly Elnes  
218-591-3883  
hollyelnes@yahoo.com

#### DESIGN & DRAFTING:

Hiner Home Designs  
Heather Hiner  
(218) 391-7466  
heather@hinerhomedesigns.com

#### SHEET INDEX:

- A1 MAIN LEVEL FLOOR PLAN  
WINDOWS  
FOUNDATION PLAN
- A2 EXTERIOR ELEVATIONS  
WALL SECTION

|                  |         |
|------------------|---------|
| review set       | 4/11/23 |
| construction set | 8/14/26 |
| revision 1       | 9/08/26 |

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**5B. Amendments to the City Ordinance regarding Chapter 5, Section 555 – SH, Shoreland**

**Applicant:** City of Hermantown

**Case No.:** 2026-42-ZT

**Staff Contact:** Eric Johnson, Community Development Director

**Request:** Amendments to the City Ordinance regarding Chapter 5, Section 555 – SH, Shoreland

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**BACKGROUND**

City Staff has worked with the City Attorney to prepare a revised Chapter 5, Section 555 – SH, Shoreland Ordinance for the City. This work commenced in 2020 per a request from the MN DNR. Due to a change in MN DNR staff, the revised ordinance work stalled until late 2025 when the MN DNR contacted the City requiring the updated shoreland ordinance be completed and adopted in 2026. This ordinance is consistent with the model ordinance provided by the MN DNR and reflects multiple meetings and conversation with MN DNR staff.

The new model ordinance from the MN DNR follows the same general regulatory model but is more robust. A comparison showing the changes from the current Shoreland Ordinance to the model ordinance follows:

- It has more definitions;
- It includes diagrams and figures;
- Includes a section on permit types and when they are required;
- Requires notification to the MN DNR for specific work within a shoreland area;
- Classification of lakes and streams within the City;
- Adds Subdivision platting provisions;
- Adds section pertaining to Planned Unit Developments

A key discussion point with the MN DNR has been the adoption of building setbacks associated with rivers and streams. Currently, the existing ordinance utilizes building setbacks associated with lakes and lakeshore which are more restrictive than setbacks associated with rivers and streams.

For instance, as currently defined building setbacks for parcels within a Natural Environment Shoreland area are 200 feet for properties with on-site sewage treatment and 150 for properties with public sewer. The MN DNR has continued to urge the City to continue with the existing setbacks as identified within the existing ordinance and utilize their classification system once they have completed it. Per the MN DNR, other communities in the state including Duluth, have the same or in some cases even more restrictive setbacks for rivers and streams, especially for identified trout streams.

The attached Chapter 5, Section 555 shows the existing language in struck-through red font, with the new proposed language being shown in red.

## **ATTACHMENTS**

- Amended Chapter 5, Section 555 – SH, Shoreland with text changes
- Amended Chapter 5, Section 555 – SH, Shoreland – clean version

## Section 555 – SH, Shoreland

**555.1. ~~555.01~~ Purpose, Designation of Shoreland District.** In order to guide the wise development and utilization of shorelands of public waters for the preservation of water quality, natural characteristics, economic values and the general health, safety and welfare, all public waters in the City of Hermantown, Minnesota, have been given a shoreland management classification. In addition, the shorelands of the City of Hermantown are hereby designated as the Shoreland District.

**555.2. ~~555.02~~ Statutory Authorization.** This shoreland ordinance is adopted pursuant to the authorization and policies contained in Minnesota Statutes, Chapter 103F, Minnesota Rules, Parts 6120.2500 - 6120.3900, and the planning and zoning enabling legislation in Minnesota Statutes, Chapter 462.

**555.3. Policy.** The Legislature of Minnesota has delegated responsibility to local governments of the state to regulate the subdivision, use and development of the shorelands of public waters and thus preserve and enhance the quality of surface waters, conserve the economic and natural environmental values of shorelands, and provide for the wise use of waters and related land resources.

### **555.4. Definitions.**

**555.4.1. Accessory structure or facility.** Any building or improvement subordinate to a principal use.

**555.4.2. Animal feedlot.** A facility as defined by Minnesota Rules, part 7020.0300.

**555.4.3. Bluff.** A topographic feature such as a hill, cliff, or embankment having the following characteristics:

**555.4.3.1.** Part or all of the feature is located in a shoreland area;

**555.4.3.2.** The slope must drain toward the waterbody.

**555.4.3.3.** The slope rises at least 25 feet above the ordinary high water level;

**555.4.3.4.** The grade of the slope from the toe of the bluff to a point 25 feet or more above the ordinary high water level averages 30 percent or greater (see Figure 1), except that an area with an average slope of less than 18 percent over a distance of at least 50 feet shall not be considered part of the bluff (see Figure 2).

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Figure 1. Illustration of Bluff

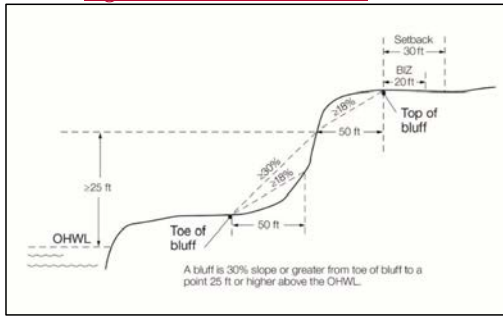
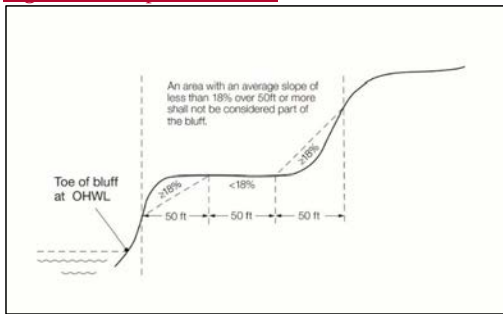
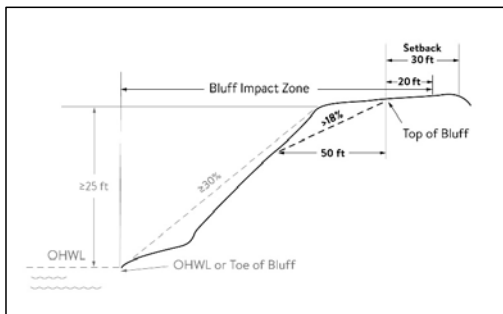


Figure 2. Exception to Bluff



**555.1.1.555.4.4. Bluff impact zone.** A bluff and land located within 20 feet of the top of a bluff.



**555.4.5. Bluff, Toe of.** The lower point of a 50-foot segment with an average slope exceeding 18 percent or the ordinary high water level, whichever is higher.

**555.4.6. Bluff, Top of.** For the purposes of measuring setbacks, bluff impact zone, and administering vegetation management standards, the higher point of a 50-foot segment with an average slope exceeding 18 percent.

555.4.7. **Boathouse.** A facility as defined by Minnesota Statutes, Section 103G.245.

555.4.8. **Buffer.** A vegetative feature as defined by Minnesota Statutes, Section 103F.48.

555.4.9. **Building line.** A line parallel to a lot line or the ordinary high water level at the required setback beyond which a structure may not extend.

555.4.10. **Controlled access lot.** A lot used to access public waters or as a recreation area for owners of nonriparian lots within the same subdivision containing the controlled access lot.

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

555.4.12. **Commercial use.** The principal use of land or buildings for the sale, lease, rental, or trade of products, goods, and services.

555.4.13. **Commissioner.** The commissioner of the Department of Natural Resources.

555.4.14. **Conditional use.** A land use or development as defined by ordinance that would not be appropriate generally but may be allowed with appropriate restrictions upon a finding that certain conditions as detailed in the zoning ordinance exist, the use or development conforms to the comprehensive land use plan of the community, and the use is compatible with the existing neighborhood.

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

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

555.4.17. **Dwelling site.** A designated location for residential use by one or more persons using temporary or movable shelter, including camping and recreational vehicle sites.

555.1.2-555.4.18. **Dwelling unit.** Any structure or portion of a structure, or other shelter designed as short- or long-term living quarters for one or more persons, including rental or timeshare accommodations such as motel, hotel, and resort rooms and cabins.

**555.4.19. Expansion.** Any increase in a dimension such as number of units or size, area, volume, or height of an existing structure or accessory structure or facility.

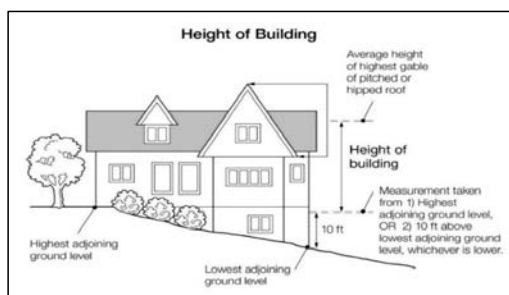
**555.4.20. Extractive use.** The use of land for surface or subsurface removal of sand, gravel, rock, industrial minerals, other nonmetallic minerals, and peat not regulated under Minnesota Statutes, Sections 93.44 to 93.51.

**555.4.21. Forest land conversion.** The clear cutting of forested lands to prepare for a new land use other than reestablishment of a subsequent forest stand.

**555.4.22. Guest cottage.** A structure used as a dwelling unit that may contain sleeping spaces and kitchen and bathroom facilities in addition to those provided in the primary dwelling unit on a lot.

**555.4.23. Height of building.** The vertical distance between the highest adjoining ground level at the building or ten feet above the lowest adjoining ground level, whichever is lower, and the highest point of a flat roof or average height of the highest gable of a pitched or hipped roof (see Figure 3).

Figure 3. Height of Building



**555.4.24. Impervious surface.** A constructed hard surface that prevents or retards entry of water into the soil and causes water to run off the surface in greater quantities and at an increased rate of flow than prior to development, including rooftops; decks; sidewalks; patios; swimming pools; parking lots; concrete, asphalt, gravel driveways, or permeable pavers; and other similar surfaces.

**555.4.25. Improvement.** Making an existing structure or accessory structure or facility of better quality, more efficient, or more aesthetically pleasing, that does not replicate what pre-existed, but does not include an expansion, enlargement, or intensification.

**555.4.26. Industrial use.** The use of land or buildings for the production, manufacture, warehousing, storage, or transfer of goods, products, commodities, or other wholesale items.

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**555.4.27. Intensive vegetation clearing.** The complete removal of trees or shrubs in a contiguous patch, strip, row, or block.

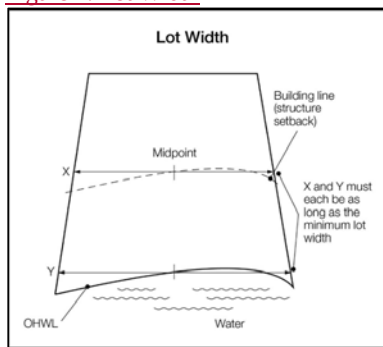
**555.4.28. Lot.** A parcel of land designated by plat, metes and bounds, registered land survey, auditors plot, or other accepted means and separated from other parcels or portions by said description for the purpose of sale, lease, or separation.

**555.4.29. Lot width.** The minimum distance between:

**555.4.29.1.** Side lot lines measured at the midpoint of the building line; and

**555.4.29.2.** Side lot lines at the ordinary high water level, if applicable (see Figure 4).

Figure 4. Lot Width



**555.4.30 Maintenance and repair.** Upkeep or preservation of an existing structure or accessory structure or facility against normal wear and tear or degradation over time that does not change exterior dimensions. Examples include the rehabilitation or replacement of windows, siding, a roof, or exterior finishes such as paint or stain.

**555.4.30. Metallic minerals and peat.** "Metallic minerals and peat" has the meaning given under Minnesota Statutes, Sections 93.44 to 93.51.

**555.4.31. Nonconformity.** Any legal use, structure or parcel of land already in existence, recorded, or authorized before the adoption of official controls or amendments to those controls that would not have been permitted to become established under the terms of the official controls as now written.

**555.4.32. Ordinary high water level.** The boundary of public waters and wetlands, and shall be an elevation delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape, commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial. For watercourses, the ordinary high water level is the elevation of the top of

the bank of the channel. For reservoirs and flowages, the ordinary high water level is the operating elevation of the normal summer pool.

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

**555.1.4.555.4.34. Public waters.** Any water as defined in Minnesota Statutes, Section 103G.005, Subd. 15, 15a.

**555.4.35. Replacement and restoration.** Reconstruction of part or all of an existing structure or accessory structure or facility that closely matches or replicates the preexisting structure or facility.

**555.4.36. Residential planned unit development.** A use where the nature of residency is nontransient and the major or primary focus of the development is not service-oriented. For example, residential apartments, manufactured home parks, time-share condominiums, townhouses, cooperatives, and full fee ownership residences would be considered as residential planned unit developments. To qualify as a residential planned unit development, a development must contain at least five dwelling units or sites.

**555.4.37. Resort.** “Resort” has the meaning in Minnesota Statute, Section 103F.227.

**555.4.38. Semipublic use.** The use of land by a private, nonprofit organization to provide a public service that is ordinarily open to some persons outside the regular constituency of the organization.

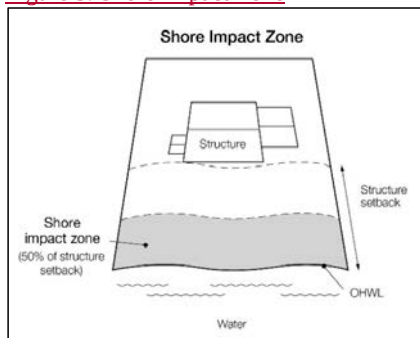
**555.4.39. Setback.** The minimum horizontal distance between a structure, sewage treatment system, or other facility and an ordinary high water level, sewage treatment system, top of a bluff, road, highway, property line, or other facility.

**555.4.40. Sewage treatment system.** “Sewage treatment system” has the meaning given under Minnesota Rules, part 7080.1100, Subp. 82.

**555.4.41. Sewer system.** Pipelines or conduits, pumping stations, and force main, and all other construction, devices, appliances, or appurtenances used for conducting sewage or industrial waste or other wastes to a point of ultimate disposal.

**555.4.42. Shore impact zone.** Land located between the ordinary high water level of a public water and a line parallel to it at a setback of 50 percent of the structure setback (see Figure 5).

Figure 5. Shore Impact Zone

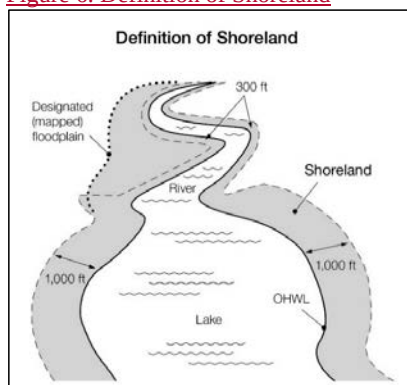


**555.4.43. Shoreland.** "Shoreland" means land located within the following distances from public waters:

**555.4.43.1.** 1,000 feet from the ordinary high water level of a lake, pond, or flowage; and

**555.4.43.2.** 300 feet from a river or stream, or the landward extent of a floodplain designated by ordinance on a river or stream, whichever is greater (see Figure 6).

Figure 6. Definition of Shoreland



**555.4.44. Shore recreation facilities.** Swimming areas, docks, watercraft mooring areas and launching ramps and other water recreation facilities.

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**555.4.45. Significant historic site.** Any archaeological site, standing structure, or other property that meets the criteria for eligibility to the National Register of Historic Places or is listed in the State Register of Historic Sites, or is determined to be an unplatted cemetery that falls under the provisions of Minnesota Statutes, Section 307.08. A historic site meets these criteria if it is presently listed on either register or if it is determined to meet the qualifications for listing after review by the Minnesota state archaeologist or the director of the Minnesota Historical Society. All unplatted cemeteries are automatically considered to be significant historic sites.

**555.4.46. Steep slope.** Lands having average slopes over 12 percent, as measured over horizontal distances of 50 feet or more, which are not bluffs.

**555.4.47. Structure.** Any building or appurtenance, including decks, except aerial or underground utility lines, such as sewer, electric, telephone, telegraph, gas lines, towers, poles, and other supporting facilities.

**555.4.48. Subdivision.** Land that is divided for the purpose of sale, rent, or lease, including planned unit developments.

**555.4.49. Suitability analysis.** An evaluation of land to determine if it is appropriate for the proposed use. The analysis considers factors relevant to the proposed use and may include the following features: susceptibility to flooding; existence of wetlands; soils, erosion potential; slope steepness; water supply, sewage treatment capabilities; water depth, depth to groundwater and bedrock, vegetation, near-shore aquatic conditions unsuitable for water-based recreation; fish and wildlife habitat; presence of significant historic sites; or any other relevant feature of the natural land.

**555.4.50. Variance.** "Variance" means the same as that defined in Minnesota Statutes, Section 394.27 Subd. 7 (for counties) or Section 462.357 Subd. 6 (2) (for municipalities).

**555.4.51. Water-oriented accessory structure or facility.** A small, above ground building or other improvement, except stairways, fences, docks, and retaining walls, which, because of the relationship of its use to surface water, reasonably needs to be located closer to public waters than the normal structure setback. Examples of such structures and facilities include, watercraft and watercraft equipment storage structures, gazebos, screen houses, fish houses, pump houses, saunas, patios, and detached decks. Boathouses and boat storage structures given the meaning under Minnesota Statutes, Section 103G.245 are not a water-oriented accessory structures.

**555.4.52. Water-dependent use.** The use of land for commercial, industrial, public or semi-public purposes, where access to and use of a public water is an integral part of the normal conduct of operation. Marinas, resorts, and restaurants with transient docking facilities are examples of commercial uses typically found in shoreland areas.

555.4.53. **Wetland.** “Wetland” has the meaning given under Minnesota Rule, part 8420.0111.

**555.5. Permits.**

555.5.1. A permit is required for the construction of buildings or building additions (including construction of decks and signs), the installation and/or alteration of sewage treatment systems, and those grading and filling activities not exempted under this Ordinance.

555.5.2. A certificate of compliance, consistent with Minnesota Rules Chapter 7082.0700 Subp. 3, is required whenever a permit or variance of any type is required for any improvement on or use of the property. A sewage treatment system shall be considered compliant if the only deficiency is the system’s improper setback from the ordinary high water level.

**555.6. Conditional Uses.** All conditional uses in the shoreland area are subject to a thorough evaluation of the waterbody and the topographic, vegetation, and soil conditions to ensure:

555.6.1. The prevention of soil erosion or other possible pollution of public waters, both during and after construction.

555.6.2. The visibility of structures and other facilities as viewed from public waters is limited.

555.6.3. There is adequate water supply and on-site sewage treatment.

555.6.4. The types, uses, and numbers of watercraft that the project will generate are compatible in relation to the suitability of public waters to safely accommodate these watercrafts.

**555.7. Notifications to the Department of Natural Resources.**

~~555.1.5.~~555.7.1. All amendments to this shoreland ordinance must be submitted to the Department of Natural Resources for review and approval for compliance with the statewide shoreland management rules. The City of Hermantown

555.7.2. will submit the proposed ordinance amendments to the commissioner or the commissioner’s designated representative at least 30 days before any scheduled public hearings.

555.7.3. All notices of public hearings to consider variances, ordinance amendments, or conditional uses under shoreland management controls must be sent to the commissioner or the commissioner’s designated representative at least ten (10) days before the hearings. Notices of hearings to consider proposed subdivisions/plats must include copies of the subdivision/plat.

555.7.4. All approved ordinance amendments and subdivisions/plats, and final decisions approving variances or conditional uses under local shoreland management controls must be sent to the commissioner or the commissioner’s designated representative and postmarked within ten days of final action. When a variance is approved after the Department of Natural Resources has formally recommended denial in the hearing record, the notification of the approved variance shall also include the summary of the public record/testimony and the findings of facts and conclusions which supported the issuance of the variance.

555.7.5. Any request to change the shoreland management classification of public waters within (insert local government name) must be sent to the commissioner or the commissioner’s designated representative for approval, and must include a resolution and supporting data as required by Minnesota Rules, part 6120.3000, subp.4.

555.7.6. Any request to reduce the boundaries of shorelands of public waters within (insert local government name) must be sent to the commissioner or the commissioner’s designated representative for approval and must include a resolution and supporting data. The boundaries of shorelands may be reduced when the shoreland of water bodies with different classifications overlap. In these cases, the topographic divide between the water bodies shall be used for adjusting the boundaries.

**555.2-555.8. Classification of Public Waters**

555.8.1 Purpose. To ensure that shoreland development on the public waters of (insert local government name) is regulated consistent with the classifications assigned by the commissioner under Minnesota Rules, part 6120.3300.

555.8.2 The shoreland area for the waterbodies listed in Sections 4.13 to 4.15 are defined in Section 2.550 and are shown on the Official Zoning Map.

555.8.3Lakes are classified as follows:

555.8.3.1 Natural environment (NE).

| Natural Environment Lake Name | DNR Public Waters I.D. #          |
|-------------------------------|-----------------------------------|
| Mogie Lake                    | (Insert DNR Public Waters I.D. #) |

555.8.4Rivers and Streams are classified as follows:

555.8.4.1 Urban

| Urban River Name    | Legal Description          |
|---------------------|----------------------------|
| (Insert river name) | (Insert legal description) |

| Urban River Name           | Legal Description                 |
|----------------------------|-----------------------------------|
| <i>(Insert river name)</i> | <i>(Insert legal description)</i> |

**555.8.4.2 Agriculture**

| Agriculture River Name     | Legal Description                 |
|----------------------------|-----------------------------------|
| <i>(Insert river name)</i> | <i>(Insert legal description)</i> |
| <i>(Insert river name)</i> | <i>(Insert legal description)</i> |

**555.8.4.3 Transition**

| Transition River Name      | Legal Description                 |
|----------------------------|-----------------------------------|
| <i>(Insert river name)</i> | <i>(Insert legal description)</i> |
| <i>(Insert river name)</i> | <i>(Insert legal description)</i> |

**555.8.4.4 Forested**

| Forested River Name        | Legal Description                 |
|----------------------------|-----------------------------------|
| <i>(Insert river name)</i> | <i>(Insert legal description)</i> |
| <i>(Insert river name)</i> | <i>(Insert legal description)</i> |

**555.8.4.5 Remote**

| Remote River Name          | Legal Description                 |
|----------------------------|-----------------------------------|
| <i>(Insert river name)</i> | <i>(Insert legal description)</i> |
| <i>(Insert river name)</i> | <i>(Insert legal description)</i> |

**Classification of Public Waters.** The public waters of the City of Hermantown are

**555.9.** hereby classified as follows:

**555.9.1. 555.02.1. Natural Environment Lakes and Streams,**

**555.9.1.1. 555.02.1.1.** Keene Creek and its tributaries located in Sections 13, 24, 25 and 36, Township 50 North, Range 15 West of the Fourth Principal Meridian;

**555.9.1.2. 555.02.1.2.** Miller Creek and its tributaries located in Sections 1, 12 and 13, Township 50 North, Range 15 West of the Fourth Principal Meridian;

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~~555.9.1.3. 555.02.1.3.~~ Midway River and its tributaries located in Sections 21, 22, ~~23,~~  
~~28, 29, 31,~~ 32 and 33, Township 50 North, Range 15 West of the Fourth Principal  
Meridian;

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~~555.9.1.4. 555.02.1.4.~~ Rocky Run (as identified on U.S.G.S. Adolph, Minnesota  
Quadrangle Map, 7.5 Minute Series, ~~4959~~1953) and its tributaries located in  
Sections 7, 8, ~~14,~~ 15, 16, 17, 20, 21, ~~28~~ and 29, Township 50 North, Range 15 West  
of the Fourth Principal Meridian, and the tributaries of the tributaries to said Rocky  
Run located in Section 8 and 15, Township 50 North, Range 15 West of the Fourth  
Principal Meridian; including the tributary running approximately on the section  
line between Section 8 and Section 9.

~~555.9.1.5. 555.02.1.5.~~ Kinsbury Creek and its tributaries in Section 33 and Section 34,  
Township 50 North, Range 15 West of the Fourth Principal Meridian.

~~555.9.1.6.~~ The tributary of Midway River (commonly called “~~West~~ Rocky Run”) located in Sections 30 and 31, Township 50 North, Range 15 West of the Fourth Principal Meridian; ~~and.~~

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~~555.9.1.7. 555.02.1.6.~~ Mogie Lake located in Section 34 and 35, Township 50 North, Range 15 West of the Fourth Principal Meridian.

~~555.9.1.8. 555.02.2.~~ Merritt Creek in Section 36, Township 50 North, Range 15 West of the Fourth Principal Meridian.

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## ~~555.9.2. 555.02.2.~~ Recreational Development Lakes and Streams.

~~555.9.2.1. 555.02.2.1.~~ All streams and their ~~Unnamed~~ tributaries to West Rocky Run in Sections 9, 10, 11 and 14, Township 50 North, Range 15 West of the Fourth Principal Meridian;

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~~555.9.2.2. 555.02.2.2.~~ Midway River and its tributaries in Section 23, Township 50 North, Range 15 West of the Fourth Principal Meridian; ~~and.~~

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~~555.9.2.3. 555.02.2.3.~~ The stream flowing into Mogie Lake in Sections 26 and 35, Township 50 North, Range 15 West of the Fourth Principal Meridian.

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## ~~555.9.3. 555.02.3.~~ General Development Lakes and Streams.

~~555.02.3.1.~~

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~~555.9.3.1.~~ The stream running approximately on the section line between Section 8 and 9, Township 50 North, Range 15 West and all streams and their tributaries in Sections 4, 5 and 6, Township 50 North, Range 15 West of the Fourth Principal Meridian; ~~and.~~

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~~555.9.3.2. 555.02.3.2.~~ Kingsbury Creek and its tributaries in Section 33 and 34, Township 50 North, Range 15 West of the Fourth Principal Meridian.

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~~555.9.4.~~ ~~555.02.4.~~ The Shorelands of the City of Hermantown shall have the same classification as the public waters adjacent to such Shoreland.

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~~555.10.~~ ~~555.03.~~ **Permitted Uses.** All uses permitted in the zone district indicated on the Zoning Map of the City of Hermantown underlying this Shoreland District subject to the general provisions of this code.

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~~555.11.~~ ~~555.04.~~ **Uses Allowed With a Special Use Permit Only.** All uses allowed with a special use permit in the zone district indicated on the Zoning Map of the City of Hermantown underlying this Shoreland District subject to the general provisions of this code.

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~~555.12.~~ ~~555.05.~~ **Uses Allowed With a Commercial-Industrial Development Permit.** All uses allowed with a commercial-industrial development permit in the zone district indicated on the Zoning Map of the City of Hermantown underlying this Shoreland District subject to the general provisions of this code.

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~~555.13.~~ ~~555.06.~~ **Shoreland Standards. – Lakes**

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~~555.13.1.~~ ~~555.06.1.~~ The following standards shall apply to all Lake Shorelands within the City of Hermantown. Where the requirements of the underlying zone district as shown on the Zoning Map of the City of Hermantown are more restrictive than those set forth herein, then the more restrictive standards shall apply:

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| <i>Unsewered Areas</i>                                                  | Natural Environment Shoreland | Recreational Development Shoreland | General Development Shoreland |
|-------------------------------------------------------------------------|-------------------------------|------------------------------------|-------------------------------|
| Lot area (square feet)                                                  | 80,000                        | 40,000                             | 20,000                        |
| Water frontage and lot width at building line (linear feet)             | 200                           | 150                                | 100                           |
| Building setback from ordinary high water mark (linear feet)            | 200                           | 100                                | 75                            |
| Building setback from roads and highways (linear feet)                  | _____50                       | Federal, State or County_____      |                               |
|                                                                         | _____20                       | Municipal or Private_____          |                               |
| Elevation of lowest floor above highest known water level (linear feet) | -----3-----                   |                                    |                               |

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|                                                                                  |              |    |    |
|----------------------------------------------------------------------------------|--------------|----|----|
| Building height limitation (linear feet)                                         | -----35----- |    |    |
| Total lot area covered by impervious surface (%)                                 | 30           | 30 | 30 |
| Sewage system setback from ordinary high water mark (linear feet)                | 150          | 75 | 50 |
| Sewage system elevation above highest groundwater level or bedrock (linear feet) | 3            | 3  | 3  |

**555.06.2.** All provisions for unsewered areas shall apply to sewer areas except for the following, which shall supersede the provisions applied to unsewered areas:

| <i>Sewered Areas</i>                                         | Natural Environment Shoreland | Recreational Development Shoreland | General Development Shoreland |
|--------------------------------------------------------------|-------------------------------|------------------------------------|-------------------------------|
| Lot area (square feet)                                       |                               |                                    |                               |
| Waterfront lots                                              | 40,000                        | 20,000                             | 15,000                        |
| Other lots                                                   | 20,000                        | 15,000                             | 10,000                        |
| Water frontage & lot width at building line (linear feet)    | 125                           | 75                                 | 75                            |
| Building setback from ordinary high-water mark (linear feet) | 150                           | 75                                 | 50                            |

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**555.07**

**555.13.1.1. General Development Lake – No Sewer**

| <u>Lot Type</u> | <u>Riparian Lot<br/>Area (sf)</u> | <u>Riparian Lot<br/>Width (ft)</u> | <u>Nonriparian Lot<br/>Area (sf)</u> | <u>Nonriparian Lot<br/>Width (ft)</u> |
|-----------------|-----------------------------------|------------------------------------|--------------------------------------|---------------------------------------|
| <u>Single</u>   | <u>20,000</u>                     | <u>100</u>                         | <u>40,000</u>                        | <u>150</u>                            |
| <u>Duplex</u>   | <u>40,000</u>                     | <u>180</u>                         | <u>80,000</u>                        | <u>265</u>                            |
| <u>Triplex</u>  | <u>60,000</u>                     | <u>260</u>                         | <u>120,000</u>                       | <u>375</u>                            |
| <u>Quad</u>     | <u>80,000</u>                     | <u>340</u>                         | <u>160,000</u>                       | <u>490</u>                            |

**555.13.1.2. General Development Lake –Sewer**

| <u>Lot Type</u> | <u>Riparian Lot<br/>Area (sf)</u> | <u>Riparian Lot<br/>Width (ft)</u> | <u>Nonriparian Lot<br/>Area (sf)</u> | <u>Nonriparian Lot<br/>Width (ft)</u> |
|-----------------|-----------------------------------|------------------------------------|--------------------------------------|---------------------------------------|
| <u>Single</u>   | <u>15,000</u>                     | <u>75</u>                          | <u>10,000</u>                        | <u>75</u>                             |
| <u>Duplex</u>   | <u>26,000</u>                     | <u>135</u>                         | <u>17,500</u>                        | <u>135</u>                            |
| <u>Triplex</u>  | <u>38,000</u>                     | <u>195</u>                         | <u>25,000</u>                        | <u>190</u>                            |
| <u>Quad</u>     | <u>49,000</u>                     | <u>255</u>                         | <u>32,500</u>                        | <u>245</u>                            |

**555.13.1.3. Recreational Development Lake –No Sewer**

| <u>Lot Type</u> | <u>Riparian Lot<br/>Area (sf)</u> | <u>Riparian Lot<br/>Width (ft)</u> | <u>Nonriparian Lot<br/>Area (sf)</u> | <u>Nonriparian Lot<br/>Width (ft)</u> |
|-----------------|-----------------------------------|------------------------------------|--------------------------------------|---------------------------------------|
| <u>Single</u>   | <u>40,000</u>                     | <u>150</u>                         | <u>40,000</u>                        | <u>150</u>                            |
| <u>Duplex</u>   | <u>80,000</u>                     | <u>225</u>                         | <u>80,000</u>                        | <u>265</u>                            |
| <u>Triplex</u>  | <u>120,000</u>                    | <u>300</u>                         | <u>120,000</u>                       | <u>375</u>                            |
| <u>Quad</u>     | <u>160,000</u>                    | <u>375</u>                         | <u>160,000</u>                       | <u>490</u>                            |

**555.13.1.4. Recreational Development Lake – Sewer**

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| <u>Lot Type</u> | <u>Riparian Lot Area (sf)</u> | <u>Riparian Lot Width (ft)</u> | <u>Nonriparian Lot Area (sf)</u> | <u>Nonriparian Lot Width (ft)</u> |
|-----------------|-------------------------------|--------------------------------|----------------------------------|-----------------------------------|
| <u>Single</u>   | <u>20,000</u>                 | <u>75</u>                      | <u>15,000</u>                    | <u>75</u>                         |
| <u>Duplex</u>   | <u>35,000</u>                 | <u>135</u>                     | <u>26,000</u>                    | <u>135</u>                        |
| <u>Triplex</u>  | <u>50,000</u>                 | <u>195</u>                     | <u>38,000</u>                    | <u>190</u>                        |
| <u>Quad</u>     | <u>65,000</u>                 | <u>255</u>                     | <u>49,000</u>                    | <u>245</u>                        |

**555.13.1.5. Natural Environment Lake – No Sewer**

| <u>Lot Type</u> | <u>Riparian Lot Area (sf)</u> | <u>Riparian Lot Width (ft)</u> | <u>Nonriparian Lot Area (sf)</u> | <u>Nonriparian Lot Width (ft)</u> |
|-----------------|-------------------------------|--------------------------------|----------------------------------|-----------------------------------|
| <u>Single</u>   | <u>80,000</u>                 | <u>200</u>                     | <u>80,000</u>                    | <u>200</u>                        |
| <u>Duplex</u>   | <u>120,000</u>                | <u>300</u>                     | <u>160,000</u>                   | <u>400</u>                        |
| <u>Triplex</u>  | <u>160,000</u>                | <u>400</u>                     | <u>240,000</u>                   | <u>600</u>                        |
| <u>Quad</u>     | <u>200,000</u>                | <u>500</u>                     | <u>320,000</u>                   | <u>800</u>                        |

**555.13.1.6. Natural Environment Lake –Sewer**

| <u>Lot Type</u> | <u>Riparian Lot Area (sf)</u> | <u>Riparian Lot Width (ft)</u> | <u>Nonriparian Lot Area (sf)</u> | <u>Nonriparian Lot Width (ft)</u> |
|-----------------|-------------------------------|--------------------------------|----------------------------------|-----------------------------------|
| <u>Single</u>   | <u>40,000</u>                 | <u>125</u>                     | <u>20,000</u>                    | <u>125</u>                        |
| <u>Duplex</u>   | <u>70,000</u>                 | <u>225</u>                     | <u>35,000</u>                    | <u>220</u>                        |
| <u>Triplex</u>  | <u>100,000</u>                | <u>325</u>                     | <u>52,000</u>                    | <u>315</u>                        |
| <u>Quad</u>     | <u>130,000</u>                | <u>425</u>                     | <u>65,000</u>                    | <u>410</u>                        |

**555.14. Shoreland Standards – Rivers/Streams**

**555.14.1. River/Stream Minimum Lot Width Standards.** There are no minimum lot area requirements for rivers and streams. The lot width standards in feet are:

| <u>Lot Type</u> | <u>Remote</u> | <u>Forested</u> | <u>Transition</u> | <u>Agriculture</u> | <u>Urban &amp; Tributary No Sewer</u> | <u>Urban &amp; Tributary Sewer</u> |
|-----------------|---------------|-----------------|-------------------|--------------------|---------------------------------------|------------------------------------|
| <u>Single</u>   | <u>300</u>    | <u>200</u>      | <u>250</u>        | <u>150</u>         | <u>100</u>                            | <u>75</u>                          |
| <u>Duplex</u>   | <u>450</u>    | <u>300</u>      | <u>375</u>        | <u>225</u>         | <u>150</u>                            | <u>115</u>                         |
| <u>Triplex</u>  | <u>600</u>    | <u>400</u>      | <u>500</u>        | <u>300</u>         | <u>200</u>                            | <u>150</u>                         |
| <u>Quad</u>     | <u>750</u>    | <u>500</u>      | <u>625</u>        | <u>375</u>         | <u>250</u>                            | <u>190</u>                         |

**555.14.2. OHWL Setback for Structures and Sewage Treatment Systems.** When more than one setback applies to a site, structures and facilities must be located to meet all setbacks, and comply with the following OHWL setback provisions. The structure

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setback standards for sewer properties can only be used if publicly owned sewer system service is available.

| Waterbody Classification               | Structures with<br>No Sewer | Structures with<br>Sewer | Sewage Treatment<br>Systems |
|----------------------------------------|-----------------------------|--------------------------|-----------------------------|
| Agriculture, Urban, & Tributary Rivers | 100                         | 50                       | 75                          |

#### 555.15. Shoreland Alterations,

**555.15.1. ~~555.07.1.~~ Removal of natural vegetation.** The removal of natural vegetation shall be restricted to prevent erosion into public waters, to conserve nutrients in the soil and to preserve shoreland aesthetics. Removal of natural vegetation in the Shoreland District shall be subject to the following provisions:

##### ~~555.07.1.1.~~

**555.15.1.1.** Selective removal of natural vegetation shall be allowed, provided that sufficient vegetation cover remains to screen cars, dwellings and other structures when viewed from the water.

**555.15.1.2. ~~555.07.1.2.~~** Clear cutting of natural vegetation shall be prohibited.

**555.15.1.3. ~~555.07.1.3.~~** Natural vegetation shall be restored insofar as feasible after any construction project is completed in order to retard surface runoff and soil erosion; and

**555.15.1.4. ~~555.07.1.4.~~** The provisions of this section shall not apply to permitted uses which normally require the removal of natural vegetation.

**555.15.2. ~~555.07.2.~~ Grading and Filling.** No person shall grade or fill in the Shorelands of the City of Hermantown unless such grading or filling is authorized by a special use permit. No person shall alter the natural topography of any Shoreland of the City of Hermantown unless such alteration is authorized by a special use permit.

**555.15.2.1. ~~555.07.2.1.~~** Any permit granted shall be subject to the following conditions:

**555.15.2.1.1. ~~555.07.2.1.1.~~** That the smallest amount of bare ground is exposed for as short a time as feasible;

**555.15.2.1.2. ~~555.07.2.1.2.~~** That temporary groundcover, such as mulch, is used, and permanent groundcover, such as sod, is planted;

**555.15.2.1.3. ~~555.07.2.1.3.~~** That adequate methods to prevent erosion and trap sediment are employed;

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~~555.15.2.1.4.~~ ~~555.07.2.1.4.~~ That fill is stabilized to accepted engineering standards;

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~~555.15.2.1.5.~~ ~~555.07.2.1.5.~~ That adequate methods are employed to reduce the runoff and/or flow of water on or over the affected shoreland so that the grading, filling or alteration of the natural topography does not contribute to downstream flooding;

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~~555.15.2.1.6.~~ ~~555.07.2.1.6.~~ That adequate methods are employed to preserve water quality so that the grading, filling or alteration of the natural topography will not detrimentally affect the quality of the public waters of the City of Hermantown;

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~~555.15.2.1.7.~~ ~~555.07.2.1.7.~~ That adequate methods are employed for the preservation or establishment of local vegetation that provides wildlife habitat and screening; and

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~~555.15.2.1.8.~~ ~~555.07.2.1.8.~~ That the fill used will consist of suitable material free from toxic pollutants in other than trace quantities.

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~~555.15.2.2.~~ ~~555.07.2.2.~~ In reviewing any application for a special use permit for grading and filling in a Shoreland, the Planning and Zoning Commission and the City Council shall give appropriate consideration to whether the proposed activity is primarily dependent on being located in the Shoreland of the City of Hermantown and whether feasible alternative sites are available.

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~~555.15.2.3.~~ ~~555.07.2.3.~~ The requirements of ~~555.07.2.1.5 through 555.07.2.1.7; this Ordinance~~ and the Planning and Zoning Commission and the City Council would be satisfied by the construction of retention basins that (1) are designated and engineered to assure that the development would have no appreciable effect on downstream flooding; (2) are designed and engineered with water quality improvement features such as filtration or skimming devices; and (3) are designed and engineered to utilize local vegetation for screening and to provide wildlife habitat.

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~~555.15.2.4.~~ ~~555.07.2.4.~~ Copies of all permits issued hereunder shall be mailed to the St. Paul District of the United States Army Corps of Engineers as soon as possible after issuance.

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~~555.15.3.~~ ~~555.07.3.~~ **Alteration of Beds of Public Waters.** Any work which will change or diminish the course, current or cross-section of a public water shall be approved by the Commissioner of Natural Resources of the State of Minnesota before the work is begun. This includes construction of channels and ditches, lagoons, dredging of lakes or stream bottom for removal of muck, silt or weeds, and filling of the lake or stream bed. Approval shall be construed to mean the issuance by the Commissioner of Natural

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Resources of the State of Minnesota of a permit under the procedures of ~~M.S. Minnesota Statutes~~ Section 105.42, as it may be amended from time to time, and other related statutes.

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~~555.15.4. 555.07.4. Other Excavations in Shoreland Areas.~~ Excavations on shorelands where the intended purpose is connection to a public water, such as boat slips, canals, lagoons and harbors, shall require a permit from the Zoning Inspector before construction is begun. Such permit may be obtained only after the Commissioner of Natural Resources of the State of Minnesota has issued a permit for work in the beds of public waters.

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~~555.16. 555.08. Roads, Parking Areas and Other Impervious Surfaces.~~ The placement of roads, parking areas and other impervious surfaces shall be controlled in order to retard the runoff of surface waters and excess nutrients. The placement of roads, parking areas and other impervious surfaces shall conform with the following criteria:

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surfaces shall conform with the following criteria:

~~555.08.1.~~

~~555.16.1.~~ No impervious surface shall be placed within 50 feet of the ordinary highwater mark.

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~~555.16.2. 555.08.2.~~ Where feasible and practical, all roads, parking areas and other impervious surfaces shall meet the setback requirements established for structures for the Shoreland District, and.

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~~555.08.3.~~ Natural vegetation or other natural materials shall be used in order to screen parking

~~555.16.3.~~ areas from the water.

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~~555.17. 555.09. Sewage Disposal, County Permit Required.~~

~~555.17.1. 555.09.1.~~ The disposal of sewage, commercial, industrial and agricultural wastes as defined in ~~M.S. Minnesota Statutes~~ Chapter 115, as it may be amended from time to time, within the Shorelands of the City of Hermantown shall be subject to the standards, criteria, rules and regulations of the Minnesota Pollution Control Agency, the Minnesota Department of Health and any applicable county or city regulations. In particular, the Minnesota Pollution Control Agency regulations contained in WPC 40 (Minn. Reg. WPC 40) shall govern the installation, use and inspection of septic systems within the Shorelands of the City of Hermantown.

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~~555.17.2. 555.09.2.~~ No building permit for construction within any unsewered portions of any Shoreland in the City of Hermantown shall be issued unless the applicant for such

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building permit shall have obtained from the St. Louis County Health Department a sewage disposal permit and a certificate indicating that the sewage system complies with the requirements of the above described Regulation WPC 40.

**555.18. Subdivision/Platting Provisions.**

**555.18.1. Purpose.** To ensure that new development minimizes impacts to shoreland resources and is safe and functional.

**555.18.2. Land suitability.** Each lot created through subdivision, including planned unit developments authorized under Section 10.0 of this ordinance, must be suitable in its natural state for the proposed use with minimal alteration. A suitability analysis must be conducted for each proposed subdivision, including planned unit developments, to determine if the subdivision is suitable in its natural state for the proposed use with minimal alteration and whether any feature of the land is likely to be harmful to the health, safety, or welfare of future residents of the proposed subdivision or of the community.

**555.18.3. Consistency with other controls.** Subdivisions and each lot in a subdivision shall meet all official controls so that a variance is not needed later to use the lots for their intended purpose.

**555.18.3.1. Water and Sewer Design Standards.**

**555.18.3.2.** A potable water supply and a sewage treatment system consistent with Minnesota Rules, Chapters 7080 – 7081 must be provided for every lot.

**555.18.3.3.** Each lot must include at least two soil treatment and dispersal areas that support systems described in Minnesota Rules, parts 7080.2200 to 7080.223 or site conditions described in part 7081.0270, subparts 3 to 7, as applicable.

**555.18.3.4.** Lots that would require use of holding tanks are prohibited.

**555.18.4. Information requirements.**

**555.18.4.1.** Topographic contours at ten-foot intervals or less from United States Geological Survey maps or more current sources, showing limiting site characteristics.

**555.18.4.2.** The surface water features required in Minnesota Statutes, section 505.021, Subd. 1, to be shown on plats, obtained from United States Geological Survey quadrangle topographic maps or more current sources.

**555.18.4.3.** Adequate soils information to determine suitability for building and sewage treatment capabilities for every lot from the most current existing sources or from field investigations such as soil borings, percolation tests, or other methods.

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

555.18.4.5. Location of 100-year flood plain areas and floodway districts from existing adopted maps or data.

555.18.4.6. A line or contour representing the ordinary high water level, the “toe” and the “top” of bluffs, and the minimum building setback distances from the top of the bluff and the lake or stream.

555.18.5. **Dedications.** When a land or easement dedication is a condition of subdivision approval, the approval must provide easements over natural drainage or ponding areas for management of stormwater and significant wetlands.

555.18.6. **Platting.** All subdivisions that cumulatively create five or more lots or parcels that are 2-1/2 acres or less in size shall be processed as a plat in accordance with Minnesota Statutes, Chapters 462.358 Subd. 3a (cities) and 505. No permit for construction of buildings or sewage treatment systems shall be issued for lots created after the adoption of this ordinance unless the lot was previously approved as part of a formal subdivision.

555.18.7. **Controlled Access Lots.** Controlled access lots within a subdivision must meet or exceed the lot size criteria in as referenced in this Ordinance.

#### 555.19. **Planned Unit Developments (PUDs).**

555.19.1. **Purpose.** To protect and enhance the natural and scenic qualities of shoreland areas during and after development and redevelopment of high density residential and commercial uses.

555.19.2. **Types of PUDs Permissible.** Planned unit developments (PUDs) are allowed for new projects on undeveloped land, redevelopment of previously built sites, or conversions of existing buildings and land. Deviation from the minimum lot size standards of Section 6.2 of this ordinance is allowed if the standards in this Section are met.

555.19.3. **Processing of PUDs.** Planned unit developments in the shoreland district must be processed as a conditional use and comply with the provisions of this section in addition to those standards outlined elsewhere in the zoning and subdivision regulations. When there is a conflict in requirements, the more stringent of the requirements shall be applied. An expansion to an existing commercial PUD involving 6 or less new dwelling units or sites since the date this ordinance was adopted is permissible as a permitted use

provided the total project density does not exceed the allowable densities calculated in the project density evaluation procedures in Section 10.5. Approval cannot occur until all applicable environmental reviews are complete.

**555.19.4. Application for a PUD.** The applicant for a PUD must submit the following documents prior to final action on the application request:

**555.19.4.1. Site plan and/or plat showing:**

**555.19.4.2. Locations of property boundaries:**

**555.19.4.3. Surface water features:**

**555.19.4.4. Existing and proposed structures and other facilities:**

**555.19.4.5. Land alterations:**

**555.19.4.6. Sewage treatment and water supply systems (where public systems will not be provided):**

**555.19.4.7. Topographic contours at ten-foot intervals or less; and**

**555.19.4.8. Identification of buildings and portions of the project that are residential, commercial, or a combination of the two (if project combines commercial and residential elements).**

**555.19.5. A property owner's association agreement (for residential PUD's) with mandatory membership, and consistent with Section 10.6 of this ordinance.**

**555.19.6. Deed restrictions, covenants, permanent easements or other instruments that:**

**555.19.6.1. Address future vegetative and topographic alterations, construction of additional buildings, beaching of watercraft, and construction of commercial buildings in residential PUDs; and**

**555.19.6.2. Ensure the long-term preservation and maintenance of open space in accordance with the criteria and analysis specified in this Ordinance.**

**555.19.7. A master plan/site plan describing the project and showing floor plans for all commercial structures.**

**555.19.8. Additional documents necessary to explain how the PUD will be designed and will function.**

**555.19.9. Density Determination.** Proposed new or expansions to existing planned unit developments must be evaluated using the following procedures.

**555.19.9.1. Step 1. Identify Density Analysis Tiers.** Divide the project parcel into tiers by drawing one or more lines parallel to the ordinary high water level at the following intervals, proceeding landward:

| <u>Waterbody Classification</u>                    | <u>No Sewer (ft)</u> | <u>Sewer (ft)</u> |
|----------------------------------------------------|----------------------|-------------------|
| <u>General Development Lakes – 1st tier</u>        | <u>200</u>           | <u>200</u>        |
| <u>General Development Lakes – all other tiers</u> | <u>267</u>           | <u>200</u>        |
| <u>Recreational Development Lakes</u>              | <u>267</u>           | <u>267</u>        |
| <u>Natural Environment Lakes</u>                   | <u>400</u>           | <u>320</u>        |
| <u>All Rivers</u>                                  | <u>300</u>           | <u>300</u>        |

**555.19.9.2. Step 2. Calculate Suitable Area for Development.** Calculate the suitable area within each tier by excluding all wetlands, bluffs, or land below the ordinary high water level of public waters.

**555.19.9.3. Step 3. Determine Base Density:**

**555.19.9.3.1.** For residential PUDs, divide the suitable area within each tier by the minimum single residential lot area for lakes to determine the allowable number of dwelling units, or base density, for each tier. For rivers, if a minimum lot area is not specified, divide the tier width by the minimum single residential lot width.

**555.19.9.3.2.** For commercial PUDs:

**555.19.9.3.2.1.** Determine the average area for each dwelling unit or dwelling site within each tier. Include both existing and proposed dwelling units and sites in the calculation.

**555.19.9.3.2.2.** For dwelling units, determine the average inside living floor area of dwelling units in each tier. Do not include decks, patios, garages, or porches and basements, unless they are habitable space.

**555.19.9.3.3.** For dwelling sites (campgrounds), determine the area of each dwelling site as follows:

**555.19.9.3.4.** For manufactured homes, use the area of the manufactured home, if known, otherwise use 1,000 sf.

**555.19.9.3.5.** For recreational vehicles, campers or tents, use 400 sf.

**555.19.9.3.6.** Select the appropriate floor area/dwelling site area ratio from the following table for the floor area or dwelling site area determined in this Ordinance.

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| <u>Inside Living Floor Area or Dwelling Site Area (sf)</u> | <u>General Development Lakes w/Sewer – all tiers</u><br><u>General Development Lakes w/no sewer – 1<sup>st</sup> tier</u><br><u>Agricultural, Urban and Tributary Rivers</u> | <u>General Development Lakes w/no sewer – all other tiers</u><br><u>Recreational Development Lakes</u><br><u>Forested and Transition Rivers</u> | <u>Natural Environment Lakes</u><br><u>Remote Rivers</u> |
|------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------|
| <u>&lt; 200</u>                                            | <u>.040</u>                                                                                                                                                                  | <u>.020</u>                                                                                                                                     | <u>.010</u>                                              |
| <u>300</u>                                                 | <u>.048</u>                                                                                                                                                                  | <u>.024</u>                                                                                                                                     | <u>.012</u>                                              |
| <u>400</u>                                                 | <u>.056</u>                                                                                                                                                                  | <u>.028</u>                                                                                                                                     | <u>.014</u>                                              |
| <u>500</u>                                                 | <u>.065</u>                                                                                                                                                                  | <u>.032</u>                                                                                                                                     | <u>.016</u>                                              |
| <u>600</u>                                                 | <u>.072</u>                                                                                                                                                                  | <u>.038</u>                                                                                                                                     | <u>.019</u>                                              |
| <u>700</u>                                                 | <u>.082</u>                                                                                                                                                                  | <u>.042</u>                                                                                                                                     | <u>.021</u>                                              |
| <u>800</u>                                                 | <u>.091</u>                                                                                                                                                                  | <u>.046</u>                                                                                                                                     | <u>.023</u>                                              |
| <u>900</u>                                                 | <u>.099</u>                                                                                                                                                                  | <u>.050</u>                                                                                                                                     | <u>.025</u>                                              |
| <u>1,000</u>                                               | <u>.108</u>                                                                                                                                                                  | <u>.054</u>                                                                                                                                     | <u>.027</u>                                              |
| <u>1,100</u>                                               | <u>.116</u>                                                                                                                                                                  | <u>.058</u>                                                                                                                                     | <u>.029</u>                                              |
| <u>1,200</u>                                               | <u>.125</u>                                                                                                                                                                  | <u>.064</u>                                                                                                                                     | <u>.032</u>                                              |
| <u>1,300</u>                                               | <u>.133</u>                                                                                                                                                                  | <u>.068</u>                                                                                                                                     | <u>.034</u>                                              |
| <u>1,400</u>                                               | <u>.142</u>                                                                                                                                                                  | <u>.072</u>                                                                                                                                     | <u>.036</u>                                              |
| <u>&gt; 1,500</u>                                          | <u>.150</u>                                                                                                                                                                  | <u>.075</u>                                                                                                                                     | <u>.038</u>                                              |

555.19.9.3.7. Multiply the suitable area within each tier determined in this Ordinance by the floor area or dwelling site area ratio to yield the total floor area or dwelling site area for each tier to be used for dwelling units or dwelling sites.

555.19.9.3.8. Divide the total floor area or dwelling site area for each tier calculated in this Ordinance by the average inside living floor area for dwelling units or dwelling site area determined in this Ordinance. This yields the allowable number of dwelling units or dwelling sites, or base density, for each tier.

555.19.9.4. Allowable densities may be transferred from any tier to any other tier further from the waterbody, but must not be transferred to any tier closer to the waterbody.

555.19.9.5. All PUDs with densities at or below the base density must meet the design standards in this Ordinance.

**555.19.10. Step 4. Determine if the Site can Accommodate Increased Density:**

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555.19.10.1. The following increases to the dwelling unit or dwelling site base densities determined in this Ordinance are allowed if the design criteria in Section 10.6 of this ordinance are satisfied as well as the standards in this Ordinance:

| <u>Shoreland Tier</u> | <u>Maximum density increase within each tier (percent)</u> |
|-----------------------|------------------------------------------------------------|
| <u>1<sup>st</sup></u> | <u>50</u>                                                  |
| <u>2<sup>nd</sup></u> | <u>100</u>                                                 |
| <u>3<sup>rd</sup></u> | <u>200</u>                                                 |
| <u>4<sup>th</sup></u> | <u>200</u>                                                 |
| <u>5<sup>th</sup></u> | <u>200</u>                                                 |

555.19.10.2. Structure setbacks from the ordinary high water level:

555.19.10.2.1. Are increased to at least 50 percent greater than the minimum setback; or

555.19.10.2.2. The impact on the waterbody is reduced an equivalent amount through vegetative management, topography, or additional acceptable means and the setback is at least 25 percent greater than the minimum setback.

555.19.11. Design Criteria. All PUDs must meet the following design criteria.

555.19.11.1. General Design Standards.

555.19.11.1.1. All residential planned unit developments must contain at least five dwelling units or sites.

555.19.11.1.2. On-site water supply and sewage treatment systems must be centralized and meet the standards in Section 6.5 of this ordinance. Sewage treatment systems must meet the setback standards of Section 6.41, item A of this ordinance.

555.19.11.1.3. Dwelling units or dwelling sites must be clustered into one or more groups and located on suitable areas of the development.

555.19.11.1.4. Dwelling units or dwelling sites must be designed and located to meet the dimensional standards in Sections 6.41, 6.42, and 6.43:

555.19.11.1.5. Shore recreation facilities:

555.19.11.1.5.1. Must be centralized and located in areas suitable for them based on a suitability analysis.

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555.19.11.1.5.2. The number of spaces provided for continuous beaching, mooring, or docking of watercraft must not exceed one for each allowable dwelling unit or site in the first tier (notwithstanding existing mooring sites in an existing commercially used harbor).

555.19.11.1.5.3. Launching ramp facilities, including a small dock for loading and unloading equipment, may be provided for use by occupants of dwelling units or sites located in other tiers.

555.19.11.1.6. Structures, parking areas, and other facilities must be treated to reduce visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks, color, or other means acceptable to the local unit of government, assuming summer, leaf-on conditions. Vegetative and topographic screening must be preserved, if existing, or may be required to be provided.

555.19.11.1.7. Accessory structures and facilities, except water oriented accessory structures, must meet the required structure setback and must be centralized.

555.19.11.1.8. Water-oriented accessory structures and facilities may be allowed if they meet or exceed design standards contained in Section 7.3 of this ordinance and are centralized.

#### 555.19.12. Open Space Requirements.

555.19.12.1. Open space must constitute at least 50 percent of the total project area and must include:

555.19.12.1.1. Areas with physical characteristics unsuitable for development in their natural state;

555.19.12.1.2. Areas containing significant historic sites or unplatted cemeteries;

555.19.12.1.3. Portions of the shore impact zone preserved in its natural or existing state as follows:

555.19.12.1.3.1. For existing residential PUD's, at least 50 percent of the shore impact zone

555.19.12.1.3.2. For new residential PUDs, at least 70 percent of the shore impact zone.

555.19.12.1.3.3. For all commercial PUD's, at least 50 percent of the shore impact zone.

555.19.12.2. Open space may include:

555.19.12.2.1. Outdoor recreational facilities for use by owners of dwelling units or sites, by guests staying in commercial dwelling units or sites, and by the general public;

555.19.12.2.2. Subsurface sewage treatment systems if the use of the space is restricted to avoid adverse impacts on the systems; and

555.19.12.2.3. Non-public water wetlands.

555.19.12.3. Open space shall not include:

555.19.12.3.1. Dwelling sites or lots, unless owned in common by an owners association;

555.19.12.3.2. Dwelling units or structures, except water-oriented accessory structures or facilities;

555.19.12.3.3. Road rights-of-way or land covered by road surfaces and parking areas;

555.19.12.3.4. Land below the OHWL of public waters; and

555.19.12.3.5. Commercial facilities or uses.

555.19.13. Open Space Maintenance and Administration Requirements.

555.19.13.1. Open space preservation. The appearance of open space areas, including topography, vegetation, and allowable uses, must be preserved and maintained by use of deed restrictions, covenants, permanent easements, public dedication, or other equally effective and permanent means the instruments must prohibit:

555.19.13.1.1. Commercial uses (for residential PUD's);

555.19.13.1.2. Vegetation and topographic alterations other than routine maintenance;

555.19.13.1.3. Construction of additional buildings or storage of vehicles and other materials; and

555.19.13.1.4. Uncontrolled beaching of watercraft.

555.19.13.2. **Development organization and functioning.** Unless an equally effective alternative community framework is established, all residential planned unit developments must use an owners association with the following features:

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555.19.13.2.1. Membership must be mandatory for each dwelling unit or dwelling site owner and any successive owner;

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

555.19.13.2.3. Assessments must be adjustable to accommodate changing conditions; and

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

**555.19.14. Erosion Control and Stormwater Management.**

555.19.14.1. Erosion control plans must be developed and must be consistent with the provisions of Section 8.3 of this ordinance. Erosion control plans approved by a soil and water conservation district may be required if project size and site physical characteristics warrant.

555.19.14.2. Stormwater management facilities must be designed and constructed to manage expected quantities and qualities of stormwater runoff.

555.19.14.2.1. For residential PUDs, impervious surface for the entire project site must not exceed 25%.

555.19.14.2.2. For commercial PUDs, impervious surfaces within any tier must not exceed 25 percent of the tier area.

**555.19.15. Conversions.** Local governments may allow existing resorts or other land uses and facilities to be converted to residential PUDs if all of the following standards are met:

555.19.15.1. Proposed conversions must be evaluated using the same procedures for residential PUDs involving new construction. Inconsistencies between existing features of the development and these standards must be identified;

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

555.19.15.3. Shore and bluff impact zone deficiencies must be evaluated and reasonable improvements made as part of the conversion. These improvements must include, where applicable, the following:

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555.19.15.3.1. Removal of extraneous buildings, docks, or other facilities that no longer need to be located in shore or bluff impact zones;

555.19.15.3.2. Remedial measures to correct erosion, improve vegetative cover and improve screening of buildings and other facilities as viewed from the water; and

555.19.15.3.3. Conditions attached to existing dwelling units located in shore or bluff impact zones that preclude exterior expansions in any dimension or substantial alterations. The conditions must also provide for future relocation of dwelling units, where feasible, to other locations, meeting all setback and elevation requirements when they are rebuilt or replaced.

555.19.15.4. Existing dwelling unit or dwelling site densities that exceed standards in Section 10.5 of this ordinance may be allowed to continue but must not be allowed to be increased, either at the time of conversion or in the future. Efforts must be made during the conversion to limit impacts of high densities by requiring seasonal use, improving vegetative screening, centralizing shore recreation facilities, installing new sewage treatment systems, or other means.

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## 📖 Section 555 – SH, Shoreland

**555.1. Purpose, Designation of Shoreland District.** In order to guide the wise development and utilization of shorelands of public waters for the preservation of water quality, natural characteristics, economic values and the general health, safety and welfare, all public waters in the City of Hermantown, Minnesota, have been given a shoreland management classification. In addition, the shorelands of the City of Hermantown are hereby designated as the Shoreland District.

**555.2. Statutory Authorization.** This shoreland ordinance is adopted pursuant to the authorization and policies contained in Minnesota Statutes, Chapter 103F, Minnesota Rules, Parts 6120.2500 - 6120.3900, and the planning and zoning enabling legislation in Minnesota Statutes, Chapter 462.

**555.3. Policy.** The Legislature of Minnesota has delegated responsibility to local governments of the state to regulate the subdivision, use and development of the shorelands of public waters and thus preserve and enhance the quality of surface waters, conserve the economic and natural environmental values of shorelands, and provide for the wise use of waters and related land resources.

### **555.4. Definitions.**

**555.4.1. Accessory structure or facility.** Any building or improvement subordinate to a principal use which, because of the nature of its use, can reasonably be located at or greater than normal structure setbacks. Examples include: swimming pools, saunas, detached garages, and storage sheds.

**555.4.2. Animal feedlot.** A facility as defined by Minnesota Rules, part 7020.0300.

**555.4.3. Bluff.** A topographic feature such as a hill, cliff, or embankment having the following characteristics:

**555.4.3.1.** Part or all of the feature is located in a shoreland area.

**555.4.3.2.** The slope must drain toward the waterbody.

**555.4.3.3.** The slope rises at least 25 feet above the ordinary high water level.

**555.4.3.4.** The grade of the slope from the toe of the bluff to a point 25 feet or more above the ordinary high water level averages 30 percent or greater (see Figure 1), except that an area with an average slope of less than 18 percent over a distance of at least 50 feet shall not be considered part of the bluff (see Figure 2).

Figure 1. Illustration of Bluff

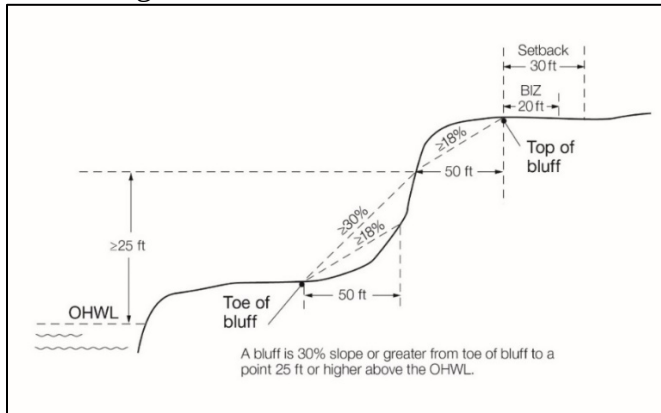
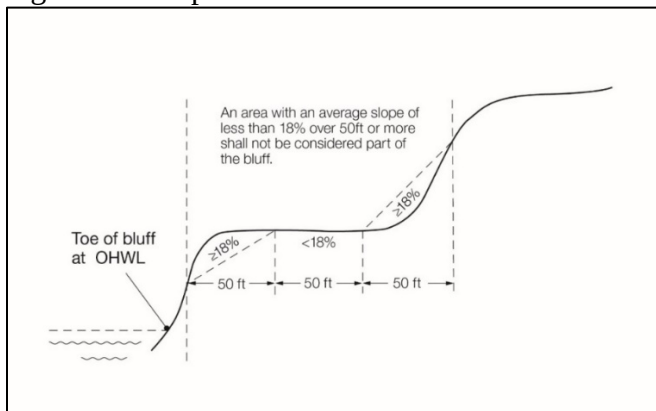
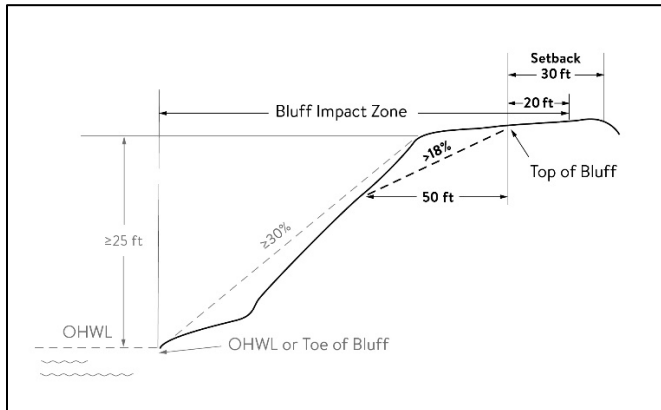


Figure 2. Exception to Bluff



**555.4.4. Bluff impact zone.** A bluff and land located within 20 feet of the top of a bluff.



**555.4.5. Bluff, Toe of.** The lower point of a 50-foot segment with an average slope exceeding 18 percent or the ordinary high water level, whichever is higher.

**555.4.6. Bluff, Top of.** For the purposes of measuring setbacks, bluff impact zone, and administering vegetation management standards, the higher point of a 50-foot segment with an average slope exceeding 18 percent. See Figure 3.

**555.4.7. Boathouse.** A facility as defined by Minnesota Statutes, Section 103G.245.

- 555.4.8. Buffer.** A vegetative feature as defined by Minnesota Statutes, Section 103F.48.
- 555.4.9. Building line.** A line parallel to a lot line or the ordinary high water level at the required setback beyond which a structure may not extend.
- 555.4.10. Controlled access lot.** A lot used to access public waters or as a recreation area for owners of nonriparian lots within the same subdivision containing the controlled access lot.
- 555.4.11. Commercial planned unit developments.** Developments that provide transient, short-term lodging spaces, rooms, or parcels and their operations are essentially service-oriented. For example, hotel/motel accommodations, resorts, recreational vehicle and camping parks, and other primarily service-oriented activities are commercial planned unit developments.
- 555.4.12. Commercial use.** The principal use of land or buildings for the sale, lease, rental, or trade of products, goods, and services.
- 555.4.13. Commissioner.** The commissioner of the Department of Natural Resources.
- 555.4.14. Conditional use.** A land use or development as defined by ordinance that would not be appropriate generally but may be allowed with appropriate restrictions upon a finding that certain conditions as detailed in the zoning ordinance exist, the use or development conforms to the comprehensive land use plan of the community, and the use is compatible with the existing neighborhood.
- 555.4.15. Deck.** A horizontal, unenclosed platform with or without attached railings, seats, trellises, or other features, attached or functionally related to a principal use or site and at any point extending more than three feet above ground.
- 555.4.16. Duplex, triplex, and quad.** A dwelling structure on a single lot, having two, three, and four units, respectively, attached by common walls and each unit equipped with separate sleeping, cooking, eating, living, and sanitation facilities.
- 555.4.17. Dwelling site.** A designated location for residential use by one or more persons using temporary or movable shelter, including camping and recreational vehicle sites.
- 555.4.18. Dwelling unit.** Any structure or portion of a structure, or other shelter designed as short- or long-term living quarters for one or more persons, including rental or timeshare accommodations such as motel, hotel, and resort rooms and cabins.
- 555.4.19. Expansion.** Any increase in a dimension such as number of units or size, area, volume, or height of an existing structure or accessory structure or facility.

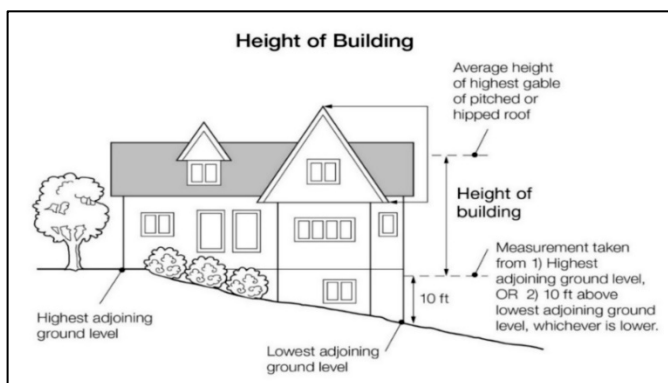
**555.4.20. Extractive use.** The use of land for surface or subsurface removal of sand, gravel, rock, industrial minerals, other nonmetallic minerals, and peat not regulated under Minnesota Statutes, Sections 93.44 to 93.51.

**555.4.21. Forest land conversion.** The clear cutting of forested lands to prepare for a new land use other than reestablishment of a subsequent forest stand.

**555.4.22. Guest cottage.** A structure used as a dwelling unit that may contain sleeping spaces and kitchen and bathroom facilities in addition to those provided in the primary dwelling unit on a lot.

**555.4.23. Height of building.** The vertical distance between the highest adjoining ground level at the building or ten feet above the lowest adjoining ground level, whichever is lower, and the highest point of a flat roof or average height of the highest gable of a pitched or hipped roof (see Figure 3).

Figure 3. Height of Building



**555.4.24. Impervious surface.** A constructed hard surface that prevents or retards entry of water into the soil and causes water to run off the surface in greater quantities and at an increased rate of flow than prior to development, including rooftops; decks; sidewalks; patios; swimming pools; parking lots; concrete, asphalt, gravel driveways, or permeable pavers; and other similar surfaces.

**555.4.25. Improvement.** Making an existing structure or accessory structure or facility of better quality, more efficient, or more aesthetically pleasing, that does not replicate what pre-existed, but does not include an expansion, enlargement, or intensification.

**555.4.26. Industrial use.** The use of land or buildings for the production, manufacture, warehousing, storage, or transfer of goods, products, commodities, or other wholesale items.

**555.4.27. Intensive vegetation clearing.** The complete removal of trees or shrubs in a contiguous patch, strip, row, or block.

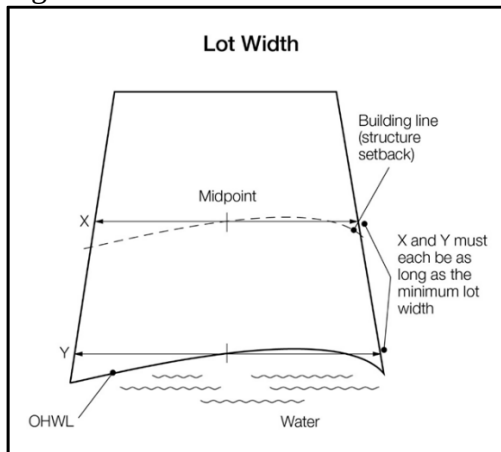
**555.4.28. Lot.** A parcel of land designated by plat, metes and bounds, registered land survey, auditors plot, or other accepted means and separated from other parcels or portions by said description for the purpose of sale, lease, or separation.

**555.4.29. Lot width.** The minimum distance between:

**555.4.29.1.** Side lot lines measured at the midpoint of the building line; and

**555.4.29.2.** Side lot lines at the ordinary high water level, if applicable (see Figure 4).

Figure 4. Lot Width



**555.4.30. Maintenance and repair.** Upkeep or preservation of an existing structure or accessory structure or facility against normal wear and tear or degradation over time that does not change exterior dimensions. Examples include the rehabilitation or replacement of windows, siding, a roof, or exterior finishes such as paint or stain.

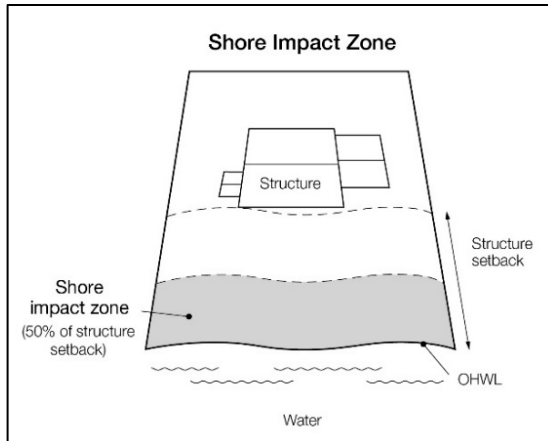
**555.4.31. Metallic minerals and peat.** "Metallic minerals and peat" has the meaning given under Minnesota Statutes, Sections 93.44 to 93.51.

**555.4.32. Nonconformity.** Any legal use, structure or parcel of land already in existence, recorded, or authorized before the adoption of official controls or amendments to those controls that would not have been permitted to become established under the terms of the official controls as now written.

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

- 555.4.34. Planned unit development.** A type of development characterized by a unified site design for a number of dwelling units or dwelling sites on a parcel, whether for sale, rent, or lease, and also usually involving clustering of these units or sites to provide areas of common open space, density increases, and a mix of structure types and land uses. These developments may be organized and operated as condominiums, time-share condominiums, cooperatives, full fee ownership, commercial enterprises, or any combination of these, or cluster subdivisions of dwelling units, residential condominiums, townhouses, apartment buildings, dwelling grounds, recreational vehicle parks, resorts, hotels, motels, and conversions of structures and land uses to these uses.
- 555.4.35. Public waters.** Any water as defined in Minnesota Statutes, Section 103G.005, Subd. 15, 15a.
- 555.4.36. Replacement and restoration.** Reconstruction of part or all of an existing structure or accessory structure or facility that closely matches or replicates the preexisting structure or facility.
- 555.4.37. Residential planned unit development.** A use where the nature of residency is nontransient and the major or primary focus of the development is not service-oriented. For example, residential apartments, manufactured home parks, time-share condominiums, townhouses, cooperatives, and full fee ownership residences would be considered as residential planned unit developments. To qualify as a residential planned unit development, a development must contain at least five dwelling units or sites.
- 555.4.38. Resort.** “Resort” has the meaning in Minnesota Statute, Section 103F.227.
- 555.4.39. Semipublic use.** The use of land by a private, nonprofit organization to provide a public service that is ordinarily open to some persons outside the regular constituency of the organization.
- 555.4.40. Setback.** The minimum horizontal distance between a structure, sewage treatment system, or other facility and an ordinary high water level, sewage treatment system, top of a bluff, road, highway, property line, or other facility.
- 555.4.41. Sewage treatment system.** “Sewage treatment system” has the meaning given under Minnesota Rules, part 7080.1100, Subp. 82.
- 555.4.42. Sewer system.** Pipelines or conduits, pumping stations, and force main, and all other construction, devices, appliances, or appurtenances used for conducting sewage or industrial waste or other wastes to a point of ultimate disposal.
- 555.4.43. Shore impact zone.** Land located between the ordinary high water level of a public water and a line parallel to it at a setback of 50 percent of the structure setback (see Figure 5).

Figure 5. Shore Impact Zone

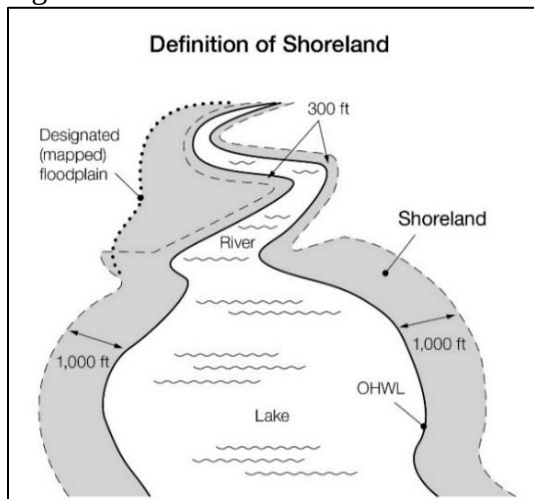


**555.4.44. Shoreland.** “Shoreland” means land located within the following distances from public waters:

**555.4.44.1.** 1,000 feet from the ordinary high water level of a lake, pond, or flowage; and

**555.4.44.2.** 300 feet from a river or stream, or the landward extent of a floodplain designated by ordinance on a river or stream, whichever is greater (see Figure 6).

Figure 6. Definition of Shoreland



**555.4.45. Shore recreation facilities.** Swimming areas, docks, watercraft mooring areas and launching ramps and other water recreation facilities.

**555.4.46. Significant historic site.** Any archaeological site, standing structure, or other property that meets the criteria for eligibility to the National Register of Historic Places or is listed in the State Register of Historic Sites, or is determined to be an unplatted cemetery that falls under the provisions of Minnesota Statutes, Section 307.08. A historic site meets these criteria if it is presently listed on either register or if it is determined to meet the qualifications for listing after review by the Minnesota state

archaeologist or the director of the Minnesota Historical Society. All unplatted cemeteries are automatically considered to be significant historic sites.

**555.4.47. Steep slope.** Lands having average slopes over 12 percent, as measured over horizontal distances of 50 feet or more, which are not bluffs.

**555.4.48. Structure.** Any building or appurtenance, including decks, except aerial or underground utility lines, such as sewer, electric, telephone, telegraph, gas lines, towers, poles, and other supporting facilities.

**555.4.49. Subdivision.** Land that is divided for the purpose of sale, rent, or lease, including planned unit developments.

**555.4.50. Suitability analysis.** An evaluation of land to determine if it is appropriate for the proposed use. The analysis considers factors relevant to the proposed use and may include the following features: susceptibility to flooding; existence of wetlands; soils, erosion potential; slope steepness; water supply, sewage treatment capabilities; water depth, depth to groundwater and bedrock, vegetation, near-shore aquatic conditions unsuitable for water-based recreation; fish and wildlife habitat; presence of significant historic sites; or any other relevant feature of the natural land.

**555.4.51. Variance.** “Variance” means the same as that defined in Minnesota Statutes, Section 394.27 Subd. 7 (for counties) or Section 462.357 Subd. 6 (2) (for municipalities).

**555.4.52. Water-oriented accessory structure or facility.** A small, above ground building or other improvement, except stairways, fences, docks, and retaining walls, which, because of the relationship of its use to surface water, reasonably needs to be located closer to public waters than the normal structure setback. Examples of such structures and facilities include, watercraft and watercraft equipment storage structures, gazebos, screen houses, fish houses, pump houses, patios, and detached decks. Boathouses and boat storage structures given the meaning under Minnesota Statutes, Section 103G.245 are not a water-oriented accessory structures.

**555.4.53. Water-dependent use.** The use of land for commercial, industrial, public or semi-public purposes, where access to and use of a public water is an integral part of the normal conduct of operation. Marinas, resorts, and restaurants with transient docking facilities are examples of commercial uses typically found in shoreland areas.

**555.4.54. Wetland.** “Wetland” has the meaning given under Minnesota Rule, part 8420.0111.

## **555.5. Permits.**

**555.5.1.** A permit is required for the construction of buildings or building additions (including construction of decks and signs), the installation and/or alteration of sewage

treatment systems, and those grading and filling activities not exempted under this Ordinance.

**555.5.2.** A certificate of compliance, consistent with Minnesota Rules Chapter 7082.0700 Subp. 3, is required whenever a permit or variance of any type is required for any improvement on or use of the property. A sewage treatment system shall be considered compliant if the only deficiency is the system's improper setback from the ordinary high water level.

**555.6. Conditional Uses.** All conditional uses in the shoreland area are subject to a thorough evaluation of the waterbody and the topographic, vegetation, and soil conditions to ensure:

**555.6.1.** The prevention of soil erosion or other possible pollution of public waters, both during and after construction.

**555.6.2.** The visibility of structures and other facilities as viewed from public waters is limited.

**555.6.3.** There is adequate water supply and on-site sewage treatment.

**555.6.4.** The types, uses, and numbers of watercraft that the project will generate are compatible in relation to the suitability of public waters to safely accommodate these watercrafts.

**555.7. Notifications to the Department of Natural Resources.**

**555.7.1.** All amendments to this shoreland ordinance must be submitted to the Department of Natural Resources for review and approval for compliance with the statewide shoreland management rules. The City of Hermantown

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

**555.7.3.** All notices of public hearings to consider variances, ordinance amendments, or conditional uses under shoreland management controls must be sent to the commissioner or the commissioner's designated representative at least ten (10) days before the hearings. Notices of hearings to consider proposed subdivisions/plats must include copies of the subdivision/plat.

**555.7.4.** All approved ordinance amendments and subdivisions/plats, and final decisions approving variances or conditional uses under local shoreland management controls must be sent to the commissioner or the commissioner's designated representative and postmarked within ten days of final action. When a variance is approved after the

Department of Natural Resources has formally recommended denial in the hearing record, the notification of the approved variance shall also include the summary of the public record/testimony and the findings of facts and conclusions which supported the issuance of the variance.

**555.7.5.** Any request to change the shoreland management classification of public waters within (insert local government name) must be sent to the commissioner or the commissioner's designated representative for approval, and must include a resolution and supporting data as required by Minnesota Rules, part 6120.3000, subp.4.

**555.7.6.** Any request to reduce the boundaries of shorelands of public waters within (insert local government name) must be sent to the commissioner or the commissioner's designated representative for approval and must include a resolution and supporting data. The boundaries of shorelands may be reduced when the shoreland of water bodies with different classifications overlap. In these cases, the topographic divide between the water bodies shall be used for adjusting the boundaries.

## **555.8. Classification of Public Water**

**555.8.1.** Purpose. To ensure that shoreland development on the public waters of (insert local government name) is regulated consistent with the classifications assigned by the commissioner under Minnesota Rules, part 6120.3300.

**555.8.2.** The shoreland area for the waterbodies listed in Sections 4.13 to 4.15 are defined in Section 2.550 and are shown on the Official Zoning Map.

**555.8.3.** Lakes are classified as follows:

**555.8.3.1.** Natural environment (NE).

| Natural Environment Lake Name | DNR Public Waters I.D. #                 |
|-------------------------------|------------------------------------------|
| <i>Mogie Lake</i>             | <i>(Insert DNR Public Waters I.D. #)</i> |

**555.8.4.** Rivers and Streams are classified as follows:

**555.8.4.1. Urban**

| Urban River Name           | Legal Description                 |
|----------------------------|-----------------------------------|
| <i>(Insert river name)</i> | <i>(Insert legal description)</i> |
| <i>(Insert river name)</i> | <i>(Insert legal description)</i> |

**555.8.4.2. Agriculture**

| Agriculture River Name     | Legal Description                 |
|----------------------------|-----------------------------------|
| <i>(Insert river name)</i> | <i>(Insert legal description)</i> |
| <i>(Insert river name)</i> | <i>(Insert legal description)</i> |

**555.8.4.3. Transition**

| Transition River Name      | Legal Description                 |
|----------------------------|-----------------------------------|
| <i>(Insert river name)</i> | <i>(Insert legal description)</i> |
| <i>(Insert river name)</i> | <i>(Insert legal description)</i> |

**555.8.4.4. Forested**

| Forested River Name        | Legal Description                 |
|----------------------------|-----------------------------------|
| <i>(Insert river name)</i> | <i>(Insert legal description)</i> |
| <i>(Insert river name)</i> | <i>(Insert legal description)</i> |

**555.8.4.5. Remote**

| Remote River Name          | Legal Description                 |
|----------------------------|-----------------------------------|
| <i>(Insert river name)</i> | <i>(Insert legal description)</i> |
| <i>(Insert river name)</i> | <i>(Insert legal description)</i> |

**555.8.5. Natural Environment Lakes and Streams.**

**555.8.5.1.** Keene Creek and its tributaries located in Sections 13, 24, 25 and 36, Township 50 North, Range 15 West of the Fourth Principal Meridian.

**555.8.5.2.** Miller Creek and its tributaries located in Sections 1, 12 and 13, Township 50 North, Range 15 West of the Fourth Principal Meridian.

**555.8.5.3.** Midway River and its tributaries located in Sections 21, 22, 23, 28, 29, 31, 32 and 33, Township 50 North, Range 15 West of the Fourth Principal Meridian.

**555.8.5.4.** Rocky Run (as identified on U.S.G.S. Adolph, Minnesota Quadrangle Map, 7.5 Minute Series, 1953) and its tributaries located in Sections 7, 8, 14, 15, 16, 17, 20, 21, 28 and 29, Township 50 North, Range 15 West of the Fourth Principal Meridian, and the tributaries of the tributaries to said Rocky Run located in Section 8 and 15, Township 50 North, Range 15 West of the Fourth Principal Meridian, including the tributary running approximately on the section line between Section 8 and Section 9.

**555.8.5.5.** Kinsbury Creek and its tributaries in Section 33 and Section 34, Township 50 North, Range 15 West of the Fourth Principal Meridian.

**555.8.5.6.** The tributary of Midway River (commonly called “West Rocky Run”) located in Sections 30 and 31, Township 50 North, Range 15 West of the Fourth Principal Meridian.

**555.8.5.7.** Mogie Lake located in Section 34 and 35, Township 50 North, Range 15 West of the Fourth Principal Meridian.

**555.8.5.8.** Merritt Creek in Section 36, Township 50 North, Range 15 West of the Fourth Principal Meridian.

**555.8.6. Recreational Development Lakes and Streams.**

**555.8.6.1.** Unnamed tributaries to West Rocky Run in Sections 9, 10, 11 and 14, Township 50 North, Range 15 West of the Fourth Principal Meridian.

**555.8.6.2.** Midway River and its tributaries in Section 23, Township 50 North, Range 15 West of the Fourth Principal Meridian.

**555.8.6.3.** The stream flowing into Mogie Lake in Sections 26 and 35, Township 50 North, Range 15 West of the Fourth Principal Meridian.

**555.8.7. General Development Lakes and Streams.**

**555.8.7.1.** The stream running approximately on the section line between Section 8 and 9, Township 50 North, Range 15 West and all streams and their tributaries in Sections 4, 5 and 6, Township 50 North, Range 15 West of the Fourth Principal Meridian.

**555.8.7.2.** Kingsbury Creek and its tributaries in Section 33 and 34, Township 50 North, Range 15 West of the Fourth Principal Meridian.

**555.8.8.** The Shorelands of the City of Hermantown shall have the same classification as the public waters adjacent to such Shoreland.

**555.9. Permitted Uses.** All uses permitted in the zone district indicated on the Zoning Map of the City of Hermantown underlying this Shoreland District subject to the general provisions of this code.

**555.10. Uses Allowed With a Special Use Permit Only.** All uses allowed with a special use permit in the zone district indicated on the Zoning Map of the City of Hermantown underlying this Shoreland District subject to the general provisions of this code.

**555.11. Uses Allowed With a Commercial-Industrial Development Permit.** All uses allowed with a commercial-industrial development permit in the zone district indicated on the Zoning Map of the City of Hermantown underlying this Shoreland District subject to the general provisions of this code.

**555.12. Shoreland Standards – Lakes**

**555.12.1.** The following standards shall apply to all Lake Shorelands within the City of Hermantown. Where the requirements of the underlying zone district as shown on the Zoning Map of the City of Hermantown are more restrictive than those set forth herein, then the more restrictive standards shall apply:

**555.12.1.1. General Development Lake – No Sewer**

| Lot Type | Riparian Lot Area (sf) | Riparian Lot Width (ft) | Nonriparian Lot Area (sf) | Nonriparian Lot Width (ft) |
|----------|------------------------|-------------------------|---------------------------|----------------------------|
| Single   | 20,000                 | 100                     | 40,000                    | 150                        |
| Duplex   | 40,000                 | 180                     | 80,000                    | 265                        |
| Triplex  | 60,000                 | 260                     | 120,000                   | 375                        |
| Quad     | 80,000                 | 340                     | 160,000                   | 490                        |

**555.12.1.2. General Development Lake –Sewer**

| Lot Type | Riparian Lot Area (sf) | Riparian Lot Width (ft) | Nonriparian Lot Area (sf) | Nonriparian Lot Width (ft) |
|----------|------------------------|-------------------------|---------------------------|----------------------------|
| Single   | 15,000                 | 75                      | 10,000                    | 75                         |
| Duplex   | 26,000                 | 135                     | 17,500                    | 135                        |
| Triplex  | 38,000                 | 195                     | 25,000                    | 190                        |
| Quad     | 49,000                 | 255                     | 32,500                    | 245                        |

**555.12.1.3. Recreational Development Lake –No Sewer**

| Lot Type | Riparian Lot Area (sf) | Riparian Lot Width (ft) | Nonriparian Lot Area (sf) | Nonriparian Lot Width (ft) |
|----------|------------------------|-------------------------|---------------------------|----------------------------|
| Single   | 40,000                 | 150                     | 40,000                    | 150                        |
| Duplex   | 80,000                 | 225                     | 80,000                    | 265                        |
| Triplex  | 120,000                | 300                     | 120,000                   | 375                        |
| Quad     | 160,000                | 375                     | 160,000                   | 490                        |

**555.12.1.4. Recreational Development Lake – Sewer**

| Lot Type | Riparian Lot Area (sf) | Riparian Lot Width (ft) | Nonriparian Lot Area (sf) | Nonriparian Lot Width (ft) |
|----------|------------------------|-------------------------|---------------------------|----------------------------|
| Single   | 20,000                 | 75                      | 15,000                    | 75                         |
| Duplex   | 35,000                 | 135                     | 26,000                    | 135                        |
| Triplex  | 50,000                 | 195                     | 38,000                    | 190                        |
| Quad     | 65,000                 | 255                     | 49,000                    | 245                        |

#### 555.12.1.5. Natural Environment Lake – No Sewer

| Lot Type | Riparian Lot Area (sf) | Riparian Lot Width (ft) | Nonriparian Lot Area (sf) | Nonriparian Lot Width (ft) |
|----------|------------------------|-------------------------|---------------------------|----------------------------|
| Single   | 80,000                 | 200                     | 80,000                    | 200                        |
| Duplex   | 120,000                | 300                     | 160,000                   | 400                        |
| Triplex  | 160,000                | 400                     | 240,000                   | 600                        |
| Quad     | 200,000                | 500                     | 320,000                   | 800                        |

#### 555.12.1.6. Natural Environment Lake –Sewer

| Lot Type | Riparian Lot Area (sf) | Riparian Lot Width (ft) | Nonriparian Lot Area (sf) | Nonriparian Lot Width (ft) |
|----------|------------------------|-------------------------|---------------------------|----------------------------|
| Single   | 40,000                 | 125                     | 20,000                    | 125                        |
| Duplex   | 70,000                 | 225                     | 35,000                    | 220                        |
| Triplex  | 100,000                | 325                     | 52,000                    | 315                        |
| Quad     | 130,000                | 425                     | 65,000                    | 410                        |

#### 555.13. Shoreland Standards – Rivers/Streams

**555.13.1. River/Stream Minimum Lot Width Standards.** There are no minimum lot area requirements for rivers and streams. The lot width standards in feet are:

| Lot Type | Remote | Forested | Transition | Agriculture | Urban & Tributary No Sewer | Urban & Tributary Sewer |
|----------|--------|----------|------------|-------------|----------------------------|-------------------------|
| Single   | 300    | 200      | 250        | 150         | 100                        | 75                      |
| Duplex   | 450    | 300      | 375        | 225         | 150                        | 115                     |
| Triplex  | 600    | 400      | 500        | 300         | 200                        | 150                     |
| Quad     | 750    | 500      | 625        | 375         | 250                        | 190                     |

**555.13.2. OHWL Setback for Structures and Sewage Treatment Systems.** When more than one setback applies to a site, structures and facilities must be located to meet all setbacks, and comply with the following OHWL setback provisions. The structure setback standards for sewered properties can only be used if publicly owned sewer system service is available.

| Waterbody Classification               | Structures with No Sewer | Structures with Sewer | Sewage Treatment Systems |
|----------------------------------------|--------------------------|-----------------------|--------------------------|
| Agriculture, Urban, & Tributary Rivers | 100                      | 50                    | 75                       |

#### 555.14. Shoreland Alterations.

**555.14.1. Removal of natural vegetation.** The removal of natural vegetation shall be restricted to prevent erosion into public waters, to conserve nutrients in the soil and to

preserve shoreland aesthetics. Removal of natural vegetation in the Shoreland District shall be subject to the following provisions:

**555.14.1.1.** Selective removal of natural vegetation shall be allowed, provided that sufficient vegetation cover remains to screen cars, dwellings and other structures when viewed from the water.

**555.14.1.2.** Clear cutting of natural vegetation shall be prohibited.

**555.14.1.3.** Natural vegetation shall be restored insofar as feasible after any construction project is completed in order to retard surface runoff and soil erosion.

**555.14.1.4.** The provisions of this section shall not apply to permitted uses which normally require the removal of natural vegetation.

**555.14.2. Grading and Filling.** No person shall grade or fill in the Shorelands of the City of Hermantown unless such grading or filling is authorized by a special use permit. No person shall alter the natural topography of any Shoreland of the City of Hermantown unless such alteration is authorized by a special use permit.

**555.14.2.1.** Any permit granted shall be subject to the following conditions:

**555.14.2.1.1.** That the smallest amount of bare ground is exposed for as short a time as feasible.

**555.14.2.1.2.** That temporary groundcover, such as mulch, is used, and permanent groundcover, such as sod, is planted.

**555.14.2.1.3.** That adequate methods to prevent erosion and trap sediment are employed.

**555.14.2.1.4.** That fill is stabilized to accepted engineering standards.

**555.14.2.1.5.** That adequate methods are employed to reduce the runoff and/or flow of water on or over the affected shoreland so that the grading, filling or alteration of the natural topography does not contribute to downstream flooding.

**555.14.2.1.6.** That adequate methods are employed to preserve water quality so that the grading, filling or alteration of the natural topography will not detrimentally affect the quality of the public waters of the City of Hermantown.

**555.14.2.1.7.** That adequate methods are employed for the preservation or establishment of local vegetation that provides wildlife habitat and screening.

**555.14.2.1.8.** That the fill used will consist of suitable material free from toxic pollutants in other than trace quantities.

**555.14.2.2.** In reviewing any application for a special use permit for grading and filling in a Shoreland, the Planning and Zoning Commission and the City Council shall give appropriate consideration to whether the proposed activity is primarily dependent on being located in the Shoreland of the City of Hermantown and whether feasible alternative sites are available.

**555.14.2.3.** The requirements of this Ordinance and the Planning and Zoning Commission and the City Council would be satisfied by the construction of retention basins that (1) are designated and engineered to assure that the development would have no appreciable effect on downstream flooding; (2) are designed and engineered with water quality improvement features such as filtration or skimming devices; and (3) are designed and engineered to utilize local vegetation for screening and to provide wildlife habitat.

**555.14.2.4.** Copies of all permits issued hereunder shall be mailed to the St. Paul District of the United States Army Corps of Engineers as soon as possible after issuance.

**555.14.3. Alteration of Beds of Public Waters.** Any work which will change or diminish the course, current or cross-section of a public water shall be approved by the Commissioner of Natural Resources of the State of Minnesota before the work is begun. This includes construction of channels and ditches, lagoons, dredging of lakes or stream bottom for removal of muck, silt or weeds, and filling of the lake or stream bed. Approval shall be construed to mean the issuance by the Commissioner of Natural Resources of the State of Minnesota of a permit under the procedures of Minnesota Statutes Section 105.42, as it may be amended from time to time, and other related statutes.

**555.14.4. Other Excavations in Shoreland Areas.** Excavations on shorelands where the intended purpose is connection to a public water, such as boat slips, canals, lagoons and harbors, shall require a permit from the Zoning Inspector before construction is begun. Such permit may be obtained only after the Commissioner of Natural Resources of the State of Minnesota has issued a permit for work in the beds of public waters.

**555.15. Roads, Parking Areas and Other Impervious Surfaces.** The placement of roads, parking areas and other impervious surfaces shall be controlled in order to retard the runoff of surface waters and excess nutrients. The placement of roads, parking areas and other impervious surfaces shall conform with the following criteria:

**555.15.1.** No impervious surface shall be placed within 50 feet of the ordinary highwater mark.

**555.15.2.** Where feasible and practical, all roads, parking areas and other impervious surfaces shall meet the setback requirements established for structures for the Shoreland District.

**555.15.3.** Natural vegetation or other natural materials shall be used in order to screen parking areas from the water.

**555.16. Sewage Disposal, County Permit Required.**

**555.16.1.** The disposal of sewage, commercial, industrial and agricultural wastes as defined in Minnesota Statutes Chapter 115, as it may be amended from time to time, within the Shorelands of the City of Hermantown shall be subject to the standards, criteria, rules and regulations of the Minnesota Pollution Control Agency, the Minnesota Department of Health and any applicable county or city regulations. In particular, the Minnesota Pollution Control Agency regulations contained in WPC 40 (Minn. Reg. WPC 40) shall govern the installation, use and inspection of septic systems within the Shorelands of the City of Hermantown.

**555.16.2.** No building permit for construction within any unsewered portions of any Shoreland in the City of Hermantown shall be issued unless the applicant for such building permit shall have obtained from the St. Louis County Health Department a sewage disposal permit and a certificate indicating that the sewage system complies with the requirements of the above described Regulation WPC 40.

**555.17. Subdivision/Platting Provisions.**

**555.17.1. Purpose.** To ensure that new development minimizes impacts to shoreland resources and is safe and functional.

**555.17.2. Land suitability.** Each lot created through subdivision, including planned unit developments authorized under Section 10.0 of this ordinance, must be suitable in its natural state for the proposed use with minimal alteration. A suitability analysis must be conducted for each proposed subdivision, including planned unit developments, to determine if the subdivision is suitable in its natural state for the proposed use with minimal alteration and whether any feature of the land is likely to be harmful to the health, safety, or welfare of future residents of the proposed subdivision or of the community.

**555.17.3. Consistency with other controls.** Subdivisions and each lot in a subdivision shall meet all official controls so that a variance is not needed later to use the lots for their intended purpose.

**555.17.3.1. Water and Sewer Design Standards.**

**555.17.3.2.** A potable water supply and a sewage treatment system consistent with Minnesota Rules, Chapters 7080 – 7081 must be provided for every lot.

**555.17.3.3.** Each lot must include at least two soil treatment and dispersal areas that support systems described in Minnesota Rules, parts 7080.2200 to 7080.223 or site conditions described in part 7081.0270, subparts 3 to 7, as applicable.

**555.17.3.4.** Lots that would require use of holding tanks are prohibited.

**555.17.4. Information requirements.**

**555.17.4.1.** Topographic contours at ten-foot intervals or less from United States Geological Survey maps or more current sources, showing limiting site characteristics.

**555.17.4.2.** The surface water features required in Minnesota Statutes, section 505.021, Subd. 1, to be shown on plats, obtained from United States Geological Survey quadrangle topographic maps or more current sources.

**555.17.4.3.** Adequate soils information to determine suitability for building and sewage treatment capabilities for every lot from the most current existing sources or from field investigations such as soil borings, percolation tests, or other methods.

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

**555.17.4.5.** Location of 100-year flood plain areas and floodway districts from existing adopted maps or data.

**555.17.4.6.** A line or contour representing the ordinary high water level, the “toe” and the “top” of bluffs, and the minimum building setback distances from the top of the bluff and the lake or stream.

**555.17.5. Dedications.** When a land or easement dedication is a condition of subdivision approval, the approval must provide easements over natural drainage or ponding areas for management of stormwater and significant wetlands.

**555.17.6. Platting.** All subdivisions that cumulatively create five or more lots or parcels that are 2-1/2 acres or less in size shall be processed as a plat in accordance with Minnesota Statutes, Chapters 462.358 Subd. 3a (cities) and 505. No permit for construction of buildings or sewage treatment systems shall be issued for lots created after the adoption of this ordinance unless the lot was previously approved as part of a formal subdivision.

**555.17.7. Controlled Access Lots.** Controlled access lots within a subdivision must meet or exceed the lot size criteria in as referenced in this Ordinance.

**555.18. Planned Unit Developments (PUDs).**

**555.18.1. Purpose.** To protect and enhance the natural and scenic qualities of shoreland areas during and after development and redevelopment of high density residential and commercial uses.

**555.18.2. Types of PUDs Permissible.** Planned unit developments (PUDs) are allowed for new projects on undeveloped land, redevelopment of previously built sites, or conversions of existing buildings and land. Deviation from the minimum lot size standards of Section 6.2 of this ordinance is allowed if the standards in this Section are met.

**555.18.3. Processing of PUDs.** Planned unit developments in the shoreland district must be processed as a conditional use and comply with the provisions of this section in addition to those standards outlined elsewhere in the zoning and subdivision regulations. When there is a conflict in requirements, the more stringent of the requirements shall be applied. An expansion to an existing commercial PUD involving 6 or less new dwelling units or sites since the date this ordinance was adopted is permissible as a permitted use provided the total project density does not exceed the allowable densities calculated in the project density evaluation procedures in Section 10.5. Approval cannot occur until all applicable environmental reviews are complete.

**555.18.4. Application for a PUD.** The applicant for a PUD must submit the following documents prior to final action on the application request:

**555.18.4.1.** Site plan and/or plat showing:

**555.18.4.2.** Locations of property boundaries;

**555.18.4.3.** Surface water features;

**555.18.4.4.** Existing and proposed structures and other facilities;

**555.18.4.5.** Land alterations;

**555.18.4.6.** Sewage treatment and water supply systems (where public systems will not be provided);

**555.18.4.7.** Topographic contours at ten-foot intervals or less; and

**555.18.4.8.** Identification of buildings and portions of the project that are residential, commercial, or a combination of the two (if project combines commercial and residential elements).

**555.18.5.** A property owner's association agreement (for residential PUD's) with mandatory membership, and consistent with Section 10.6 of this ordinance.

**555.18.6.** Deed restrictions, covenants, permanent easements or other instruments that:

**555.18.6.1.** Address future vegetative and topographic alterations, construction of additional buildings, beaching of watercraft, and construction of commercial buildings in residential PUDs; and

**555.18.6.2.** Ensure the long-term preservation and maintenance of open space in accordance with the criteria and analysis specified in this Ordinance.

**555.18.7.** A master plan/site plan describing the project and showing floor plans for all commercial structures.

**555.18.8.** Additional documents necessary to explain how the PUD will be designed and will function.

**555.18.9. Density Determination.** Proposed new or expansions to existing planned unit developments must be evaluated using the following procedures.

**555.18.9.1. Step 1. Identify Density Analysis Tiers.** Divide the project parcel into tiers by drawing one or more lines parallel to the ordinary high water level at the following intervals, proceeding landward:

| Waterbody Classification                    | No Sewer (ft) | Sewer (ft) |
|---------------------------------------------|---------------|------------|
| General Development Lakes – 1st tier        | 200           | 200        |
| General Development Lakes – all other tiers | 267           | 200        |
| Recreational Development Lakes              | 267           | 267        |
| Natural Environment Lakes                   | 400           | 320        |
| All Rivers                                  | 300           | 300        |

**555.18.9.2. Step 2. Calculate Suitable Area for Development.** Calculate the suitable area within each tier by excluding all road rights-of way or easements, wetlands, bluffs, or land below the ordinary high water level of public waters.

**555.18.9.3. Step 3. Determine Base Density:**

**555.18.9.3.1.** For residential PUDs, divide the suitable area within each tier by the minimum single residential lot area for lakes to determine the allowable number of dwelling units, or base density, for each tier. For rivers, if a minimum lot area is not specified, divide the tier width by the minimum single residential lot width.

**555.18.9.3.2.** For commercial PUDs:

**555.18.9.3.2.1.** Determine the average area for each dwelling unit or dwelling site within each tier. Include both existing and proposed dwelling units and sites in the calculation.

**555.18.9.3.2.2.** For dwelling units, determine the average inside living floor area of dwelling units in each tier. Do not include decks, patios, garages, or porches and basements, unless they are habitable space.

**555.18.9.3.3.** For dwelling sites (campgrounds), determine the area of each dwelling site as follows:

**555.18.9.3.4.** For manufactured homes, use the area of the manufactured home, if known, otherwise use 1,000 sf.

**555.18.9.3.5.** For recreational vehicles, campers or tents, use 400 sf.

**555.18.9.3.6.** Select the appropriate floor area/dwelling site area ratio from the following table for the floor area or dwelling site area determined in this Ordinance.

| Inside Living Floor Area or Dwelling Site Area (sf) | General Development Lakes w/Sewer – all tiers                                                           | General Development Lakes w/no sewer – all other tiers           | Natural Environment Lakes |
|-----------------------------------------------------|---------------------------------------------------------------------------------------------------------|------------------------------------------------------------------|---------------------------|
|                                                     | General Development Lakes w/no sewer – 1 <sup>st</sup> tier<br>Agricultural, Urban and Tributary Rivers | Recreational Development Lakes<br>Forested and Transition Rivers | Remote Rivers             |
| < 200                                               | .040                                                                                                    | .020                                                             | .010                      |
| 300                                                 | .048                                                                                                    | .024                                                             | .012                      |
| 400                                                 | .056                                                                                                    | .028                                                             | .014                      |
| 500                                                 | .065                                                                                                    | .032                                                             | .016                      |
| 600                                                 | .072                                                                                                    | .038                                                             | .019                      |
| 700                                                 | .082                                                                                                    | .042                                                             | .021                      |
| 800                                                 | .091                                                                                                    | .046                                                             | .023                      |
| 900                                                 | .099                                                                                                    | .050                                                             | .025                      |
| 1,000                                               | .108                                                                                                    | .054                                                             | .027                      |
| 1,100                                               | .116                                                                                                    | .058                                                             | .029                      |
| 1,200                                               | .125                                                                                                    | .064                                                             | .032                      |
| 1,300                                               | .133                                                                                                    | .068                                                             | .034                      |
| 1,400                                               | .142                                                                                                    | .072                                                             | .036                      |
| > 1,500                                             | .150                                                                                                    | .075                                                             | .038                      |

**555.18.9.3.7.** Multiply the suitable area within each tier determined in this Ordinance by the floor area or dwelling site area ratio to yield the total floor

area or dwelling site area for each tier to be used for dwelling units or dwelling sites.

**555.18.9.3.8.** Divide the total floor area or dwelling site area for each tier calculated in this Ordinance by the average inside living floor area for dwelling units or dwelling site area determined in this Ordinance. This yields the allowable number of dwelling units or dwelling sites, or base density, for each tier.

**555.18.9.4.** Allowable densities may be transferred from any tier to any other tier further from the waterbody, but must not be transferred to any tier closer to the waterbody.

**555.18.9.5.** All PUDs with densities at or below the base density must meet the design standards in this Ordinance.

**555.18.10. Step 4. Determine if the Site can Accommodate Increased Density:**

**555.18.10.1.** The following increases to the dwelling unit or dwelling site base densities determined in this Ordinance are allowed if the design criteria in Section 10.6 of this ordinance are satisfied as well as the standards in this Ordinance:

| Shoreland Tier  | Maximum density increase within each tier (percent) |
|-----------------|-----------------------------------------------------|
| 1 <sup>st</sup> | 50                                                  |
| 2 <sup>nd</sup> | 100                                                 |
| 3 <sup>rd</sup> | 200                                                 |
| 4 <sup>th</sup> | 200                                                 |
| 5 <sup>th</sup> | 200                                                 |

**555.18.10.2.** Structure setbacks from the ordinary high water level:

**555.18.10.2.1.** Are increased to at least 50 percent greater than the minimum setback; or

**555.18.10.2.2.** The impact on the waterbody is reduced an equivalent amount through vegetative management, topography, or additional acceptable means and the setback is at least 25 percent greater than the minimum setback.

**555.18.11. Design Criteria.** All PUDs must meet the following design criteria.

**555.18.11.1. General Design Standards.**

**555.18.11.1.1.** All residential planned unit developments must contain at least five dwelling units or sites.

**555.18.11.1.2.** On-site water supply and sewage treatment systems must be centralized and meet the standards in Section 6.5 of this ordinance. Sewage treatment systems must meet the setback standards of Section 6.41, item A of this ordinance.

**555.18.11.1.3.** Dwelling units or dwelling sites must be clustered into one or more groups and located on suitable areas of the development.

**555.18.11.1.4.** Dwelling units or dwelling sites must be designed and located to meet the dimensional standards in Sections 6.41, 6.42, and 6.43:

**555.18.11.1.5.** Shore recreation facilities:

**555.18.11.1.5.1.** Must be centralized and located in areas suitable for them based on a suitability analysis.

**555.18.11.1.5.2.** The number of spaces provided for continuous beaching, mooring, or docking of watercraft must not exceed one for each allowable dwelling unit or site in the first tier (notwithstanding existing mooring sites in an existing commercially used harbor).

**555.18.11.1.5.3.** Launching ramp facilities, including a small dock for loading and unloading equipment, may be provided for use by occupants of dwelling units or sites located in other tiers.

**555.18.11.1.6.** Structures, parking areas, and other facilities must be treated to reduce visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks, color, or other means acceptable to the local unit of government, assuming summer, leaf-on conditions. Vegetative and topographic screening must be preserved, if existing, or may be required to be provided.

**555.18.11.1.7.** Accessory structures and facilities, except water oriented accessory structures, must meet the required structure setback and must be centralized.

**555.18.11.1.8.** Water-oriented accessory structures and facilities may be allowed if they meet or exceed design standards contained in Section 7.3 of this ordinance and are centralized.

## **555.18.12. Open Space Requirements.**

**555.18.12.1.** Open space must constitute at least 50 percent of the total project area and must include:

- 555.18.12.1.1.** Areas with physical characteristics unsuitable for development in their natural state;
- 555.18.12.1.2.** Areas containing significant historic sites or unplatted cemeteries;
- 555.18.12.1.3.** Portions of the shore impact zone preserved in its natural or existing state as follows:
  - 555.18.12.1.3.1.** For existing residential PUD's, at least 50 percent of the shore impact zone
  - 555.18.12.1.3.2.** For new residential PUDs, at least 70 percent of the shore impact zone.
  - 555.18.12.1.3.3.** For all commercial PUD's, at least 50 percent of the shore impact zone.
- 555.18.12.2.** Open space may include:
  - 555.18.12.2.1.** Outdoor recreational facilities for use by owners of dwelling units or sites, by guests staying in commercial dwelling units or sites, and by the general public;
  - 555.18.12.2.2.** Subsurface sewage treatment systems if the use of the space is restricted to avoid adverse impacts on the systems; and
  - 555.18.12.2.3.** Non-public water wetlands.
- 555.18.12.3.** Open space shall not include:
  - 555.18.12.3.1.** Dwelling sites or lots, unless owned in common by an owners association;
  - 555.18.12.3.2.** Dwelling units or structures, except water-oriented accessory structures or facilities;
  - 555.18.12.3.3.** Road rights-of-way or land covered by road surfaces and parking areas;
  - 555.18.12.3.4.** Land below the OHWL of public waters; and
  - 555.18.12.3.5.** Commercial facilities or uses.

### **555.18.13. Open Space Maintenance and Administration Requirements.**

**555.18.13.1.** Open space preservation. The appearance of open space areas, including topography, vegetation, and allowable uses, must be preserved and maintained by use of deed restrictions, covenants, permanent easements, public dedication, or other equally effective and permanent means the instruments must prohibit:

**555.18.13.1.1.** Commercial uses (for residential PUD's);

**555.18.13.1.2.** Vegetation and topographic alterations other than routine maintenance;

**555.18.13.1.3.** Construction of additional buildings or storage of vehicles and other materials; and

**555.18.13.1.4.** Uncontrolled beaching of watercraft.

**555.18.13.2. Development organization and functioning.** Unless an equally effective alternative community framework is established, all residential planned unit developments must use an owners association with the following features:

**555.18.13.2.1.** Membership must be mandatory for each dwelling unit or dwelling site owner and any successive owner;

**555.18.13.2.2.** Each member must pay a pro rata share of the association's expenses, and unpaid assessments can become liens on units or dwelling sites;

**555.18.13.2.3.** Assessments must be adjustable to accommodate changing conditions; and

**555.18.13.2.4.** The association must be responsible for insurance, taxes, and maintenance of all commonly owned property and facilities.

### **555.18.14. Erosion Control and Stormwater Management.**

**555.18.14.1.** Erosion control plans must be developed and must be consistent with the provisions of Section 8.3 of this ordinance. Erosion control plans approved by a soil and water conservation district may be required if project size and site physical characteristics warrant.

**555.18.14.2.** Stormwater management facilities must be designed and constructed to manage expected quantities and qualities of stormwater runoff.

**555.18.14.2.1.** For residential PUDs, impervious surface for the entire project site must not exceed 25%.

**555.18.14.2.2.** For commercial PUDs, impervious surfaces within any tier must not exceed 25 percent of the tier area.

**555.18.15. Conversions.** Local governments may allow existing resorts or other land uses and facilities to be converted to residential PUDs if all of the following standards are met:

**555.18.15.1.** Proposed conversions must be evaluated using the same procedures for residential PUDs involving new construction. Inconsistencies between existing features of the development and these standards must be identified;

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

**555.18.15.3.** Shore and bluff impact zone deficiencies must be evaluated and reasonable improvements made as part of the conversion. These improvements must include, where applicable, the following:

**555.18.15.3.1.** Removal of extraneous buildings, docks, or other facilities that no longer need to be located in shore or bluff impact zones;

**555.18.15.3.2.** Remedial measures to correct erosion, improve vegetative cover and improve screening of buildings and other facilities as viewed from the water; and

**555.18.15.3.3.** Conditions attached to existing dwelling units located in shore or bluff impact zones that preclude exterior expansions in any dimension or substantial alterations. The conditions must also provide for future relocation of dwelling units, where feasible, to other locations, meeting all setback and elevation requirements when they are rebuilt or replaced.

**555.18.15.4.** Existing dwelling unit or dwelling site densities that exceed standards in Section 10.5 of this ordinance may be allowed to continue but must not be allowed to be increased, either at the time of conversion or in the future. Efforts must be made during the conversion to limit impacts of high densities by requiring seasonal use, improving vegetative screening, centralizing shore recreation facilities, installing new sewage treatment systems, or other means.