

Preliminary Draft

Minnesota's Shoreland Rules: *Standards for Lake and River Conservation*

**1ST Working Draft of Resort Section, January 16,
2009**

Developed with advice from the Resort Working Group Meetings

Some definitions used within the draft resort section.

Subp. 27. Dwelling site.

"Dwelling site" means a designated location for living accommodations by one or more persons using temporary or movable shelter, including camping and recreational vehicle sites.

Subp. 28. Dwelling unit.

"Dwelling unit" means 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.

Subp. 31. Fractional ownership property.

"Fractional ownership property" means the division of any real property into portions or shares. Shared or joint ownership of the property and its deed entitle shareholders to certain usage rights, including use. Real estate that is subject to an instrument which obligates several persons owning the same described parcel of the real estate and occupying a part of the real estate pursuant to a proprietary lease or covenant for use, by reason of their ownership or occupancy, to pay for real estate taxes levied against, insurance premiums payable with respect to, maintenance of, or construction, maintenance, repair or replacement of improvements is fractional ownership property.

Subp. 33. Height of building.

"Height of building" means the vertical distance between the highest adjoining ground level at the building or ten feet above the lowest ground level, whichever is lower, and the highest point of a flat roof or mean height between the eaves and the ridge for gable, hip, mansard, gambrel, or other pitched or hipped roofs.

Subp. 45. Planned unit development.

"Planned unit development" means a method of land use or 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 a mix of structure types and land uses. These developments may be organized and operated as residential or commercial enterprises such as individual dwelling units, townhouses, condominiums, time-share condominiums, cooperatives, common interest communities, apartment buildings, recreational vehicle parks, manufactured home parks, hotels, motels, or any combination of these. Enterprises not meeting the definition of resort, which may include forms of fractional ownership properties, campgrounds, youth camps, etc., are planned unit developments. Planned unit developments shall also include any conversion of pre-existing structures and land uses in order to utilize this method of development.

Subp. 53. Residential use.

"Residential use" means use as a dwelling, whether primary, secondary or seasonal, but not transient occupancy or use.

Subp. 54. Resort.

"Resort" has the meaning as defined in Minnesota Statutes, section 103F.

Subp. 61. Shore impact zone.

"Shore impact zone" means 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 required structure setback, but not less than 50 feet. This zone serves as all or part of the shoreline buffer.

Subp. 75. Transient occupancy.

"Transient occupancy" means the same as that term is defined in Minnesota Statutes, chapter 327.

6120.4300 RESORTS.

Subpart 1. Purpose.

To give flexibility in structure replacement and resort redevelopment due to the unique economic and cultural value that resorts provide, while improving rainwater management and promoting natural shorelines in these developments.

Subp. 2. Mixed use common interest communities.

Licensed commercial establishments existing prior to the adoption of these standards that function similar to a resort, but inconsistent with the resort definition, shall be permitted. Local governments may allow existing commercial establishments with common interest communities that allow residential use within the establishment and at least 5 dwelling units that are held out to the public for transient use to replace or expand provided the following standards are met or exceeded:

A. Rental structures held out to the public for transient use may be replaced consistent with subpart 5.

B. Expansion shall be consistent with planned unit development standards in part 6120.4000, except local governments may allow these establishments to expand their rental properties held out to the public for transient use by acquisition of adjoining properties or nearby properties consistent with subpart 7 provided that when they cease to function as rental properties held out to the public for transient use that these parcels must be redeveloped to meet or exceed the standards in subpart 11.

C. The administration requirements for documenting rental structure use shall met or exceed the standards in subpart 12.

Subp. 3. Residential use in resorts.

Residential use is prohibited, except for the service providers. All dwelling units/sites must be held out to the public for transient use and be included in the rental pool, and the following standards shall apply:

A. For resorts operating as a traditional family-owned resort where the licensee owns the entire resort, seasonal use of dwelling sites shall be allowed from April 1 to November 1, and no residential use shall be allowed in recreational vehicles, travel trailers, camper trailers, mobile homes or manufactured homes on dwelling sites. Dwelling units must be used for transient use, and extended stays for transient use is allowed.

B. For resorts not operating as a traditional family-owned resort where the licensee owns the entire resort, transient rental income must exceed income from association, cooperative, or other unit owner fees and the following:

(1) Whole ownership, where one party owns a dwelling unit or site within a resort, shall require that each owner be prohibited from occupying the unit or site for more than 6 weeks within the period from May 1st through October 31st or November 1st through April 31st, whichever is the prime rental time period. No owner shall occupy the unit or site for more than 14 continuous days. These limits shall be deed-recorded or by covenant and ownership agreement.

(2) Fractional ownership properties shall have proprietary leases or covenants that limit personal use. Fractional ownership units and sites must be available for rent for at least 140 days within the period from May 1st through October 31st or November 1st through April 31st, whichever is the prime rental time period. No owner shall occupy the unit or site for more than 14 continuous days.

C. Resorts that cease to function consistent with the resort definition and fail to meet these standards must convert to residential properties consistent with the standards in subpart 11.

Subp. 4. New resorts.

Local governments shall allow the creation of new resorts provided they meet all of the following standards:

- A. Development density evaluation steps in subpart 10 are followed.
- B. Structure setbacks and maximum height must meet the standards in part 6120.3300.
- C. Erosion control and stormwater management for developments must meet the standards in part 6120.3500.
- D. Resorts shall be designed and managed such that there are no garages associated with dwelling units/sites, limited parking adjacent to dwelling units, and similar amenities that would encourage long-term residential use, except for the service providers.
- E. Mobile home and recreation vehicle spacing must meet the standards in part 4630.0400.
- F. All requirements in part 6120.4000 are met.
- G. Development must meet the design criteria in part 6120.4200, subpart 5, with the following exceptions:
 - (1) an establishment must consist of 5 dwelling units on a contiguous parcel.
 - (2) shoreline recreation facilities follow standards in subpart 9.
 - (3) common open space may include commercial facilities.

Subp. 5. Structure replacement within a resort.

Local governments shall allow resorts to maintain and replace their structures, without regard to available density, so long as the establishment continues to operate as a resort and all of the following standards are met:

A. Structures, including lodges, not meeting structure setback from ordinary high water level in part 6120.3300 shall not be replaced any closer to any waterbody than the existing structure. Replacement structures must meet elevation and maximum height requirements for the relevant shoreland classification, except replacement structures within the shore impact zone must only be replaced with structures with the same height or a maximum of 20 feet in height of building, whichever is greater. There shall be no increase in structure footprint area, except as follows:

(1) An increase in the structure footprint area may be permitted to minimally meet federal, state, or local dwelling standards or codes, provided there is no increase in structure footprint lakeward and no increase in structure width as measured parallel to shore. To minimally meet such standards or codes means that the replacement structure shall not add new architectural elements such as more bedrooms than the original structure.

(2) A structure within the first tier that is moved or replaced outside the shore impact zone and landward to the maximum extent feasible within the tier with regard to wetlands, bluffs, land below the ordinary high water level of public waters, roads, and sewage treatment systems, may be permitted an increase in the structure footprint to minimally meet federal, state, or local dwelling standards or codes, provided there is no increase in structure footprint lakeward and no increase in structure width as measured parallel to shore. To minimally meet such standards or codes means that the replacement structure shall not add new architectural elements such as more bedrooms than the original structure.

B. A structure within the first tier that is moved or replaced that meets the structure setback from ordinary high water level requirement may be permitted a larger building footprint provided it conforms with the allowable total land surface area that can be covered by structures in each tier as calculated in subpart 10.

C. Erosion control and stormwater management for redevelopments must meet the standards in part 6120.3500. Stormwater runoff from the replacement structures and associated impervious surfaces created shall be specifically mitigated using best management practices that may include filter strips, infiltration basins, rain gardens and other conservation designs. Best management practices must be designed and installed in accordance with the latest Minnesota Stormwater Manual.

D. The local government shall require the resort to have an approved stormwater/buffer plan that is effectively implemented or require that a specified area within the establishment be restored and maintained in a natural state to the following standards:

(1) For establishments with less than 50 percent of shore impact zone currently in a natural state, at least 10 percent of the shore impact zone and shoreline shall be restored to its natural state or, alternatively, in front of each replacement structure for its entirety, a buffer strip consisting of native vegetation of trees, shrubs, understory plants extending from the shoreline landward 35 feet shall be created according to a plan approved by the local government.

(2) For establishments with at least 50 percent of the shore impact zone currently in a natural state, this condition shall be preserved and maintained according to a plan approved by the local government.

Subp. 6. Resort structure expansion.

Local governments shall allow a resort to increase the number of structures or expand an existing structure on a resort so long as the establishment continues to operate as a resort. Expansions of units shall be allowed as a permitted use. Expansions to a resort involving up to 12 additional dwelling sites shall be allowed as permitted use, and expansions of 12 dwelling sites or more shall require a conditional use permit. Any expansion must meet the following standards:

A. There is available additional density as calculated in subpart 10, and the expansion will not result in exceeding the authorized density.

B. Structure setbacks and maximum heights shall meet the standards in part 6120.3300, subpart 3.

C. Expansions shall be designed and managed such that there are no garages associated with dwelling units/sites and similar amenities that would encourage long-term residential use, except for the service providers.

D. On-site water supply and sewage treatment systems shall be designed and installed to meet or exceed applicable standards or rules of the Minnesota Department of Health, the Minnesota Pollution Control Agency, and those in part 6120.3600.

E. Mobile home and recreation vehicle spacing must meet the standards in part 4630.0400.

F. Continuous docking space for new dwelling sites shall be reviewed and approved by the local government.

G. Erosion control and stormwater management for developments must meet the standards in part 6120.3500. Stormwater runoff from the expansion structures and associated impervious surfaces created shall be specifically mitigated using best management practices that may include filter strips, infiltration basins, rain gardens and other conservation designs. Best management practices must be designed and installed in accordance with the latest Minnesota Stormwater Manual.

H. The local government shall require the resort to have an approved stormwater/buffer plan that is effectively implemented or require that a specified area within the establishment be restored and maintained in a natural state to the following standards:

(a) For establishments with less than 50 percent of shore impact zone currently in a natural state, at least 10 percent of the shore impact zone and shoreline shall be restored to its natural state or, alternatively, in front of each replacement structure for its entirety, a buffer strip consisting of native vegetation of trees, shrubs, understory plants extending from the shoreline landward 35 feet shall be created according to a plan approved by the local government.

(b) For establishments with at least 50 percent of the shore impact zone currently in a natural state, this condition shall be preserved and maintained according to a plan approved by the local government.

Subp. 7. Resort parcel expansion.

Local governments shall allow resorts to increase the size of the commercial establishment by acquisition of adjoining properties or nearby properties, provided the use is permitted in the zoning district. The following standards must be met:

A. Development density evaluation steps in subpart 10 shall be followed, and where density and impervious surface coverage reduction is necessary it must be accomplished in an orderly and timely phased process according to a plan approved by the local government.

B. Expansions must meet the provisions of subpart 6, items B to H.

Subp. 8. Recreational vehicles, travel trailers, and camper trailers.

Dwelling sites for recreational camping areas within resorts shall meet or exceed the standards in Minnesota Rules, chapter 4630.

Subp. 9. Shoreline recreation facilities for resorts.

Shoreline recreation facilities, including but not limited to swimming areas, docks and watercraft mooring areas, and launching ramps shall be clustered or grouped in suitable areas. Evaluation of suitability must include determination of reasonable areas for facilities based on land slope, water depth, aquatic and shoreland vegetation, soils, depth to groundwater and bedrock, or other relevant factors. Boating facilities shall be located adjacent to the deepest water available and avoid or minimize impacts to aquatic vegetation. Continuous docking space shall only be used by the transient lodgers at the resort. The resort licensee may also have dockage for personal use. Launching ramp facilities, including a small dock for loading and unloading equipment, may be provided for use by lodgers or the public not lodged. Non-lodger vehicles shall be parked so they are screened by vegetation or topography as much as practical from view from the public water. All shoreline facilities must also comply with rules in part 6115.0210.

Subp. 10. Resort development density evaluation steps.

The density evaluation steps for resort developments are as follows:

A. The tract of land occupied by the establishment shall be divided into two tiers by locating one line approximately parallel to a line that identifies the ordinary high water level:

Shoreland First Tier Dimensions (feet from OHW)

General development lakes	200
Recreational development lakes	267
Natural environment lakes	400
All river classes	300

The second tier shall include all the remaining area in the parcel within the shoreland district.

B. Select the appropriate ratio to determine the land surface area that can be covered by structures from the following table:

Public waters classes*	1 st Tier	2 nd Tier
General development	0.125	0.075
Recreational development	0.075	0.075
Natural environment	0.038	0.038
Coldwater river	0.038	0.038

* - for resorts in existence within areas subject to reclassification or special protection shoreland overlay districts consistent with parts 6120.3000 or 6120.3100, the ratio shall be that of the original classification or the basic shoreland overlay district for the lake or river.

C. Multiply the area within each tier, excluding all wetlands, bluffs, and land below the ordinary high water level of public waters, by the ratio to yield the total land surface area that can be covered by structures in each tier. For recreational campgrounds, dwelling sites shall be assessed as follows:

(1) each existing tent camping site in a recreational camping area shall be minimally assessed 400 square feet.

(2) each existing manufactured dwelling, mobile home, recreational vehicle, or camper trailer site shall be assessed by determining the land surface area covered by the structure and any accessory structures, and if unknown, minimally assessed 1000 square feet.

(3) each new site shall be minimally assessed 1000 square feet when in the first tier and 750 square feet when in the second tier.

D. Allowable densities may be transferred from the first tier to the second tier, but not the reverse.

Subp. 11. Conversions.

All resorts that cease to exist or function as a resort must redevelop to meet or exceed the standards in this part. Local governments must allow existing resorts to be converted to planned unit developments or residential developments and all of the following standards must be met:

A. For conversions to residential lots, all inconsistencies between existing features of the development and the standards in part 6120.3300 must be identified and corrected, except the local government may allow deficiencies in suitable area to be addressed using mitigation consistent with part 6120.2900, subpart 8.

B. For conversions to shoreland conservation subdivisions, all inconsistencies between existing features of the development and shoreland conservation subdivision standards in part 6120.4200 shall be identified and corrected.

C. For conversions to planned unit developments, all inconsistencies between existing features of the development and planned unit development requirements in part 6120.4000, subpart 7, item B, shall be identified and corrected.

D. Deficiencies involving water supply and sewage treatment, impervious coverage, common open space, and shore recreation facilities shall be corrected as part of the conversion.

E. Shore and bluff impact zone deficiencies shall be corrected as part of the conversion. Where applicable, these improvements must include the following:

(1) removal of extraneous structures, docks, boat launching areas and ramps, or other facilities located in shore or bluff impact zones to comply with all the standards for a new residential or planned unit development including but not limited to setbacks and shoreland alterations and restorations;

(2) remedial measures to correct erosion sites and improve vegetative cover and screening of buildings and other facilities as viewed from the water to meet shoreland vegetation buffer standards in part 6120.3400.

Subp. 12. Administration and maintenance requirements.

Shoreland vegetation shall be preserved, restored and maintained according to the approved shoreland vegetation plan. The loss of vegetation in restoration sites shall be replaced.

Provisions for determination of the development as a resort or commercial establishment shall be adopted in local controls. Control provisions may include requirements for filing annual reports detailing the use of the facility and all dwelling units; by separately breaking out personal use and rental use on a dwelling unit/site basis, and including restrictions on personal use within the establishment and proportion of income from transient rental as an informational requirement.

No covenants or deed restrictions for fractional ownership properties shall be created or modified without the local government's determination that such instruments or proposed changes to such instruments fully comply with the definition of a resort in part 6120.2500 and the requirements of this part.

Provisions that require resorts to inform investors of potential risks shall be adopted in local controls. Such notice shall be deed recorded on the parcel that the resort is located that dwelling units/sites may be required to be moved or removed in compliance with subpart 11 should the resort cease to exist.