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Littlefork/ Rat Root River Shoreland Management Ordinance

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**Littlefork and Rat Root Rivers
Shoreland
Management Ordinance**

**Revised
11/13/97**

**SECTION 1.0
STATUTORY AUTHORIZATION AND POLICY**

1.1 Statutory Authorization

This shoreland ordinance is adopted pursuant to the authorization and policies contained in Minnesota Statutes, Chapter 103 F, Minnesota Regulations, Parts 6120.2500 - 6120.3900, and the planning and zoning enabling legislation in Minnesota Statutes, Chapter 394.

1.2 Policy

The uncontrolled use of the shorelands of the Littlefork and Rat Root Rivers affects the public health, safety and general welfare not only by contributing to pollution of public waters, but also by impairing the local tax base. Therefore, it is in the best interests of the public health, safety and welfare to provide for the wise subdivision, use and development of these river corridors. 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. This responsibility is hereby recognized by Koochiching County.

**SECTION 2.0
GENERAL PROVISIONS AND DEFINITIONS**

2.1 Jurisdiction

The provisions of this ordinance shall apply to the Littlefork and Rat Root River shoreland corridors as defined in Sec. 4.11 of this ordinance, excluding those portions within the municipal boundaries of the City of Littlefork.

2.2 Compliance

The use of any shoreland of public waters; the size and shape of lots; the use, size, type and location of structures on lots; the installation and maintenance of water supply and waste treatment systems, the grading and filling of any shoreland area; the cutting of shoreland vegetation; and the subdivision of land shall be in full compliance with the terms of this ordinance and other applicable regulations.

2.3 Enforcement

The Koochiching County Zoning Administrator and the Koochiching County Planning and Zoning Commission are responsible for the administration and enforcement of this ordinance. Any violation of the provisions of this ordinance or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants or variances or conditional uses) shall constitute a misdemeanor and shall be punishable as defined by law. Violations of this ordinance can occur regardless of whether or not a permit is required for a regulated activity pursuant to Section 3.1 of this ordinance.

2.4 Interpretation

In their interpretation and application, the provisions of this ordinance shall be held to be minimum requirements and shall be liberally construed in favor of the governing body and shall not be deemed a limitation or repeal of any other powers granted by State Statutes.

2.5 Severability

If any section, clause, provision, or portion of this ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected thereby.

2.6 Abrogation and Greater Restrictions

2.61 This ordinance supersedes all provisions which are less restrictive of any ordinance that applies to land within the jurisdiction of this ordinance.

2.62 This ordinance does not prohibit local governments from adopting or continuing enforcement of any ordinance or regulation which apply to lands within the jurisdiction of this ordinance which are more restrictive than the provisions of this ordinance.

2.63 It is not otherwise intended, nor shall it be construed by this ordinance to repeal, abrogate or impair any existing deed restrictions or ordinances thereof other than to the extent specified in Section 2.61 above. However, when this ordinance imposes greater restrictions, the provisions of this ordinance shall apply.

2.7 Definitions

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the same meaning as they have in common usage and so as to give this ordinance its most reasonable application. For the purpose of this ordinance, the words "must" and "shall" are mandatory and not permissive. All distances, unless specified, shall be measured horizontally.

- 2.710 Agriculture definition - refer to Section 5.62 of this ordinance.
- 2.711 Accessory structure or facility. "Accessory structure" or "facility" means 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.
- 2.712 Aquafarm. "Aquafarm" means a commercial operation designed to raise fish for consumer sale and not including ponds or other such operations whose essential purpose is fish rearing for the stocking of game fish in public waters.
- 2.713 Bluff. "Bluff" means a topographic feature such as a hill, cliff, or embankment having the following characteristics (an area with an average slope of less than 18 percent over a distance for 50 feet or more shall not be considered part of the bluff):
- (1) Part or all of the feature is located in a shoreland area;
 - (2) The slope rises at least 25 feet above the ordinary high water level of the waterbody;
 - (3) 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; and
 - (4) The slope must drain toward the waterbody.
- 2.714 Bluff impact zone. "Bluff impact zone" means a bluff and land located within 20 feet from the top of a bluff.
- 2.715 Boathouse. "Boathouse" means a structure designed and used solely for the storage of boats or boating equipment.
- 2.716 Building line. "Building line" means a line parallel to a lot line or the ordinary high water level at the required setback beyond which a structure may not extend.
- 2.717 Commercial planned unit developments. "Commercial planned unit developments" are typically uses that provide transient, short-term lodging spaces, rooms, or parcels and their operations are essentially service-oriented. For example, hotel/motel accommodations, recreational vehicle and camping parks, and other primarily service-oriented activities are commercial planned unit developments.
- 2.718 Commercial use. "Commercial use" means the principal use of land or buildings for the sale, lease, rental, or trade of products, goods, and services.
- 2.719 Commissioner. "Commissioner" means the commissioner of the Department of Natural Resources.

- 2.720 Conditional use. "Conditional use" means a land use or development as defined by ordinance that would not be appropriate generally but may be allowed with appropriate restrictions as provided by official controls 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.
- 2.721 Deck. "Deck" means a horizontal, unenclosed platform with or without attached railings, seats, trellises, or other features, attached or functionally related to a principal use, site or structure and at any point extending more than three feet above the ground.
- 2.722 Duplex, triplex, and quad. "Duplex", "triplex", and "quad" means a dwelling structure on a single lot, having two, three, and four units, respectively, being attached by common walls and each unit equipped with separate sleeping, cooking, eating, living, and sanitation facilities.
- 2.723 Dwelling site. "Dwelling site" means a designated location for residential use by one or more persons using temporary or movable shelter, including camping and recreational vehicle sites.
- 2.724 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 of time-share accommodations such as motel, hotel, and resort rooms and cabins.
- 2.725 Exploratory Boring. "Exploratory Boring" means a surface drilling done to explore or prospect for oil, natural gas, and metallic minerals, including iron, copper, zinc, lead, gold, silver, titanium, vanadium, nickel, cadmium, molybdenum, chromium, manganese, cobalt, zirconium, beryllium, thorium, uranium, aluminum, platinum, palladium, radium, tantalum, tin, and niobium, and a drilling or boring for petroleum.
- 2.726 Extractive use. "Extractive use" means the use of land for surface or subsurface removal of sand, gravel, rock, industrial minerals, other nonmetallic minerals, and peat not regulated under Minnesota Statutes, Sections 93.44 to 93.51.
- 2.727 Forest land conversion. "Forest land conversion" means the clear cutting of forested lands to prepare for a new land use other than reestablishment of a subsequent forest stand.
- 2.728 Guest cottage. "Guest cottage" means 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.

- 2.729 Hardship. "Hardship" means the same as that term is defined in Minnesota Statutes, Ch. 394.
- 2.730 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 average height of the highest gable of a pitched or hipped roof.
- 2.731 Home Occupation. "Home occupations or professional offices" means a use of non-residential nature conducted entirely within the dwelling or accessory building provided no such use occupies more than 25 per cent of the total floor area of the dwelling, not more than one nonresident person is employed on the premises, and such use will not include an operational activity that would create a nuisance or otherwise be incompatible with the surrounding residential area.
- 2.732 Industrial use. "Industrial use" means the use of land or buildings for the production, manufacture, warehousing, storage, or transfer of goods, products, commodities or other wholesale items.
- 2.733 Intensive vegetation clearing. "Intensive vegetation clearing" means the complete removal of trees or shrubs in a contiguous patch, strip, row, or block.
- 2.734 Lot. "Lot" means a parcel of land designated by plat, metes and bounds, registered land survey, auditors plat, or other accepted means and separated from other parcels or portions by said description for the purpose of sale, lease, or separation.
- 2.735 Lot width. "Lot width" means the shortest distance between lot lines measured at the midpoint of the building line.
- 2.736 Mining. "Mining" means the process of removing; stockpiling; storing; transporting; excluding use of common carriers and public transportation systems; and reclaiming a material in connection with the commercial production of metallic minerals.
- 2.737 Nonconformity. "Nonconformity" means any legal use, structure or parcel of land already in existence, recorded, or authorized before the adoption of official controls or amendments thereto that would not have been permitted to become established under the terms of the official controls as now written, if the official controls had been in effect prior to the date it was established, recorded or authorized.

- 2.738 Ordinary high water level. "Ordinary high water level" means the boundary of public waters and wetlands, and shall be an elevation delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape, commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial. For watercourses, the ordinary high water level is the elevation of the top of the bank or the channel. For reservoirs and flowages, the ordinary high water level is the operating elevation of the normal summer pool.
- 2.739 Peat Mining. "Peat Mining" means the removal of peat for commercial purposes, including draining, stockpiling, processing, storing, transporting, and reclaiming any material in connection with the commercial development of peat.
- 2.740 Planned unit development. "Planned unit development" means 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, campgrounds, recreational vehicle parks, resorts, hotels, motels, and conversions of structures and land uses to these uses.
- 2.741 Principal Use. "Principal Use" means any permitted or conditional use allowed within a specific land-use district as listed in Section 4.22, Subd. B.
- 2.742 Public waters. "Public waters" means any waters as defined in Minnesota Statutes, Section 103G.005, Subd. 15-18.
- 2.743 Residential planned unit development. "Residential planned unit development" means a use where the nature of residency is non-transient 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.
- 2.744 Semipublic use. "Semipublic use" means 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.

- 2.745 Sensitive resource management. "Sensitive resource management" means the preservation and management of areas unsuitable for development in their natural state due to constraints such as shallow soils over groundwater or bedrock, highly erosive or expansive soils, steep slopes, susceptibility to flooding, or occurrence of flora or fauna in need of special protection.
- 2.746 Setback. "Setback" means 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.
- 2.747 Sewage treatment system. "Sewage treatment system" means a septic tank and soil absorption system or other individual or cluster type sewage treatment system as described and regulated in Section 5.8 of this ordinance.
- 2.748 Sewer system. "Sewer system" means 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 for ultimate treatment.
- 2.749 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 structure setback.
- 2.750 Shoreland. "Shoreland" means land located within the distances from the ordinary high water level as specified in Section 4.11 of this Ordinance.
- 2.751 Significant historic site. "Significant historic site" means any archaeological site, standing structure, or other property that meets the criteria for eligibility to the National Register of Historic Places or is listed in the State Register of Historic Sites, or is determined to be an unplatted cemetery that falls under the provisions of Minnesota Statutes, Section 307.08. A historic site meets these criteria if it is presently listed on either register or if it is determined to meet the qualifications for listing after review by the Minnesota state archaeologist or the director of the Minnesota Historical Society. All unplatted cemeteries are automatically considered to be significant historic sites.
- 2.752 Steep slope. "Steep slope" means land where agricultural activity or development is either

not recommended or described as poorly suited due to slope steepness and the site's soil characteristics, as mapped and described in available county soil surveys or other technical reports, unless appropriate design and construction techniques and farming practices are used in accordance with the provisions of this ordinance. Where specific information is not available, steep slopes are lands having average slopes over 12 percent, as measured over horizontal distances of 50 feet or more, that are not bluffs.

- 2.753 Structure. "Structure" means 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.
- 2.754 Subdivision. "Subdivision" means land that is divided for the purpose of sale, rent, or lease, including planned unit developments.
- 2.755 Surface water-oriented commercial use. "Surface water-oriented commercial use" means the use of land for commercial purposes, where access to and use of a surface water feature is an integral part of the normal conductance of business. Marinas, resorts, and restaurants with transient docking facilities are examples of such use.
- 2.756 Toe of the bluff. "Toe of the bluff" means the point on a bluff where there is, as visually observed, a clearly identifiable break in the slope, from steeper to gentler slope below. If no break in the slope is apparent, the toe of the bluff shall be determined to be the lower end of a 50-foot segment, measured on the ground, with an average slope exceeding 18 percent.
- 2.757 Top of the bluff. "Top of the bluff" means the point on a bluff where there is, as visually observed, a clearly identifiable break in the slope, from steeper to gentler slope above. If no break in the slope is apparent, the top of bluff shall be determined to be the upper end of a 50-foot segment, measured on the ground, with an average slope exceeding 18 percent.
- 2.758 Transient Residency. "Transient Residency" means short term, service-oriented, lodging spaces, rooms or parcels where the term of residency is generally fourteen (14) days or less, and temporary labor camps and facilities. Including, but not limited to, hotels, motels, resorts and campgrounds. Transient Residency does not include private, seasonal recreation uses.
- 2.759 Variance. "Variance" means the same as that term is defined or described in Minnesota Statutes, Chapter 394.

2.760 Water-oriented accessory structure or facility. "Water-oriented accessory structure or facility" means a small, above ground building or other improvement, except stairways, fences, docks, and retaining walls, which, because of the relationship of its use to a surface water feature, reasonably needs to be located closer to public waters than the normal structure setback. Examples of such structures and facilities include boathouses, gazebos, screen houses, fish houses, pump houses, and detached decks.

2.761 Wetland. "Wetlands" means lands transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water. For purposes of this definition, wetlands must have the following attributes:

- (1) have a predominance of hydraulic soils;
- (2) are inundated or saturated by surface or ground water at a frequency and duration sufficient to support a prevalence of hydrophilic vegetation typically adapted for life in saturated soil conditions; and
- (3) under normal circumstances support a prevalence of such vegetation;
- (4) wetlands does not include public waters wetlands as defined in Minnesota Statutes, Section 103G.005, Subd. 18.

SECTION 3.0

ADMINISTRATION

3.1 Permits Required

3.11 A permit is required for the construction of buildings or building additions (and including such related activities as construction of decks and signs), the installation and/or alteration of sewage treatment systems, and those grading and filling activities not exempted by Section 5.3 of this ordinance. Application for a permit shall be made with Koochiching County Zoning Administrator on the forms provided. The application shall include the necessary information so that the zoning administrator can determine the site's suitability for the intended use and that a compliant sewage treatment system will be provided.

3.12 Whenever a permit is authorized for any improvement on or use of the property it shall be stipulated that any identified nonconforming sewage treatment system, as defined in Sec. 5.8, shall be upgraded or replaced in accordance with the provisions of Sec. 6.3 of this ordinance.

3.2 Certificate of Zoning Compliance

The Koochiching County Zoning Administrator shall issue a certificate of zoning compliance for each activity requiring a permit as specified in Section 3.1 of this ordinance. This certificate will specify that the use of land conforms to the requirements of this ordinance. Any use, arrangement, or construction at variance with that authorized by permit shall be deemed a violation of this ordinance and shall be punishable as provided in Section 2.3 of this ordinance.

3.3 Variances

3.31 Variances may only be granted in accordance with Minnesota Statutes, Chapter 394, as applicable. A variance may not circumvent the general purposes and intent of this ordinance. No variance may be granted that would allow any use that is prohibited in the zoning district in which the subject property is located. Conditions may be imposed in the granting of a variance to ensure compliance and to protect adjacent properties and the public interest. In considering a variance request, the board of adjustment must also consider whether the property owner has reasonable use of the land without the variance, whether the property is used seasonally or year-round, whether the variance is being requested solely on the basis of economic considerations, and the characteristics of development on adjacent properties.

3.32 The Board of Adjustment shall hear and decide requests for variances in accordance with the rules that it has adopted for the conduct of business. 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 required in Section 3.42 below shall also include the Board of Adjustment's summary of the public record/testimony and the findings of facts and conclusions which supported the issuance of the variances.

3.33 For existing developments, the application for variance must clearly demonstrate whether a conforming sewage treatment system is present for the intended use of the property. The variance, if issued, must require upgrading or replacement of all nonconforming sewage treatment system as regulated in Sec. 6.3.

3.4 Notifications to the Department of Natural Resources

3.41 Copies of all notices of any public hearings to consider variances, amendments, or conditional uses under local shoreland management controls must be sent to the commissioner or the commissioner's designated representative and postmarked at least ten days before the hearings. Notices of hearings to consider proposed subdivisions/plats must include copies of the subdivision/plat.

3.42 A copy of approved amendments and subdivisions/plats, and final decisions granting 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.

3.5 Notifications to the Local River Management Board

3.51 The Local River Board or the designated representative will receive copies of all notices of any public hearings, etc., at least ten days before the conduct of any such meetings to allow time to comment and question. A copy of approved amendments, subdivisions, plats, and final decisions granting variances or conditional uses under local shoreland management controls must be sent to the Local River Board or the designated representative and postmarked within ten days of final action. The local units of government will take into consideration recommendations from the local river board before final decisions are granted on uses in the Littlefork/Rat Root River corridor(s). Local units of government have the final decisions after all public notification(s) and hearings are made on all uses of the river corridor(s).

SECTION 4.0 **SHORELAND CLASSIFICATION SYSTEM AND LAND USE DISTRICTS**

4.1 Shoreland Classification System

The Littlefork and Rat Root River(s) within Koochiching County have been classified below consistent with the criteria found in Minnesota Regulations, Part 6120.3300, and the Protected Waters Inventory Map for Koochiching County, Minnesota.

4.11 The shoreland area for the waterbodies listed in Section 4.12 shall be defined as all land within 500 feet of the ordinary high water level on either side of the Littlefork and Rat Root Rivers, with the exception that it will be 300 feet from the ordinary high water level on either side for that portion of the Rat Root River extending from the East lines of Section 5 and Section 8, Township 69N, Range 23W upstream to the South line of Section 15, Township 69N, Range 24W.

4.12 River Segment Classification in Koochiching County *

A. LITTLEFORK RIVER

1. "Ag" (Agriculture): river mouth and upstream to north line Sec. 19, T67N, R24W

2. "Urban": T68 R25W, Sec. 9 - City of Littlefork
3. "For" (Forested): north line Sec. 19, T67N, R24W to south line Sec. 31, T66N, R24W
4. "Rem" (Remote): south line Sec. 31, T66N, R24W to north line Sec. 5, T63N, R22W
5. "Ag" (Agriculture): north line Sec. 5, T63N, R22W to St. Louis County line

B. WEST BRANCH RAT ROOT RIVER (Main stem)

1. "Rem" : river mouth Sec. 13, T70N, R23W and upstream to east line Sec. 5, T69N, R23W
2. "Ag": east line Sec. 5, T69N, R23W to mid-Sec. 10, T69N, R24W
3. "Rem": mid Sec. 10, T69N, R24W, to mid-Sec. 1, T68N, R24W
4. "For": mid-Sec. 1, T68N, R24W to west line Sec. 15, T68N, R23W
5. "Ag": west line Sec. 15, T68N, R23W to east line Sec. 18, T68N, R22W
6. "Rem": east line Sec. 18, T68N, R22W to St. Louis County line

C. EAST BRANCH RAT ROOT

1. "Rem": Sec. 3, T69N, R23W upstream to west line NW1/4 NE1/4, Sec. 30, T69N, R22W
2. "Ag": west line NW1/4 NE1/4, Sec. 30, T69N, R22W upstream to south line NW1/4 SW1/4 Sec. 2, T68N, R22W
3. "Rem": south line NW1/4 SW1/4 Sec. 2, T68N, R22W to St. Louis County line

*All protected water courses in Koochiching County shown on the Protected Waters Inventory Map for Koochiching County, a copy of which is hereby adopted by reference and not given a classification in Items A, B, or C above shall be considered "Tributary".

4.2 Zoning District Designations

4.21 Criteria For Designation. The zoning districts and the delineation of those district boundaries must be consistent with the goals, policies, and objectives of the LFRRR Management Plan and the following other criteria, considerations, and objectives:

A. General Considerations and Criteria for All Land Uses:

- (1) preservation of natural areas;
- (2) present ownership and development of shoreland areas;
- (3) shoreland soil types and their engineering capabilities;
- (4) topographic characteristics;
- (5) vegetative cover;
- (6) in-water physical characteristics, values, and constraints;
- (7) recreational use of the surface water;

- (8) road and service center accessibility;
- (9) socioeconomic development needs and plan as they involve water and related land resources;
- (10) the land requirements of industry which, by its nature, requires location in shoreland areas; and
- (11) the necessity to preserve and restore certain areas having significant historical or ecological value.

B. Factors and Criteria for Planned Unit Developments:

- (1) existing recreational use of the surface waters and likely increases in use associated with planned unit developments;
- (2) physical and aesthetic impacts of increased density;
- (3) suitability of lands for the planned unit development approach;
- (4) level of current development in the area; and
- (5) amounts and types of ownership of undeveloped lands.

4.22 Zoning District Descriptions. The zoning districts delineated on the Official Zoning Map of Koochiching County along with the river classifications in Sec. 4.12 delineated on the modified Protected Waters Inventory Map and the allowable land uses therein shall become a part of this Ordinance. These zoning districts shall be in conformance with the criteria specified in Minnesota Regulation, Part 6120.3200, Subp. 3.

A. The following is a list of established zoning districts currently in place along the shores of the Littlefork and Rat Root Rivers in Koochiching County. The list does not include zoning districts within the City of Littlefork which are administered by the City of Littlefork.

R-1 (low density residential) - intended to promote low density development on large lots in areas not requiring public water and sewer services.

R-2 (medium density residential) - provides for one and two family residences without livestock and a smaller lot size than the R-1 district.

AF-1 (agricultural/forestry) - intended to encourage the continuation of forest programs, agricultural pursuits and related uses in areas best suited for such activities.

C-2 (limited commercial) - intended to provide for orderly, attractive development, at appropriate locations, of retail shops and similar establishments, which will not be detrimental

to the surrounding areas if controlled as to size, location and numbers. Must be approved with a conditional use permit.

O-1 (open space) - intended to be used strictly for seasonal recreational dwellings not requiring public utilities.

B. Proposed Uses Within River Zoning Districts

The purpose of regulating land uses within the zoning districts and the river class segments is to maintain the existing environmental quality of the Littlefork/Rat Root River(s) and its shoreland and to prohibit new uses which are incompatible with the purpose of this ordinance and the Littlefork/Rat Root River(s) Management Plan.

PROPOSED USE TABLE FOR ALL CLASSIFICATIONS OF LITTLEFORK/RAT ROOT SEGMENTS

<u>ACTIVITY</u>	<u>USE</u>
Accessory Structure/Facility	(P)
Agricultural uses	P
Aquafarms	C see below**
Bridges and railroads	C
Commercial	C
Electrical generation facilities	C
Exploratory Boring	C
Feedlots	C see below**
Fisheries and wildlife developments	P
Forest roads	P
Forestry uses	P
Government campgrounds, recreational development	C
Gravel extractive use	C
Hazardous waste processing & storage	N
Home Occupation	C
Industrial	C
Landfills (permit by rule demo sites allowed with a CUP)	N
Mining, metallic minerals & peat	C
Minor public streets	C
Permanent and Temporary docks	see below*
Planned cluster development	C
Planned unit development & resorts	C
Private campgrounds, recreational development	C
Private roads (i.e. grading & filling permit)	(P)
Public access with boat launch	C
Public access with trail-type access	C
Public roads	C
Related essential services (i.e. onsite sewage treatment system permit)	(P)
Sewage treatment plants or waste water lagoons	C
Signs necessary for public health, safety and recreational uses	P
Other signs visible from river	C
Single family residential, mobile/modular	(P)
Travel trailers and campers	C
Utility transmission power lines	C

* contact DNR for more information

** contact MPCA for more information

P = permitted use (not requiring a permit)

C = requires a conditional use permit (may be permitted with conditions)

N = not permitted

Uses not listed as P (permitted use), C (conditional permitted use) or N (not permitted) shall be considered conditional uses.

(P) = Means permitted within the Land Use District, may require issuance of a local zoning permit.

Existing uses shall be grandfathered in upon adoption of Littlefork/Rat Root River Management Ordinance. If the existing use is nonconforming it shall be regulated as outlined in Sec. 6.0.

4.23 Use and Upgrading of Inconsistent Land Use Districts.

- A. The land use districts adopted in the 1975 Koochiching County Zoning Ordinance, Sec. 2.10, as they apply to shoreland areas, and their delineated boundaries on the Official Zoning Map, are not consistent with the land use district designation criteria specified in Sec. 4.22 herein. These inconsistent land use district designations may continue until revisions are proposed to change either the land use district designation within an existing land use district boundary shown on the Official Zoning Map or to modify the boundary of an existing land use district shown on the Official Zoning Map.
- B. When a revision is proposed to an inconsistent land use district provision, the following additional criteria and procedures shall apply; the land use district boundaries and the use provisions therein for all shoreland on both sides of the river or stream within the same classification within the jurisdiction of this ordinance must be revised to make them substantially compatible with the framework in Sec. 4.21 and 4.22 of this ordinance. If the same river classification is contiguous for more than a five-mile segment, only the shoreland for a distance of 2.5 miles upstream and downstream, or to the class boundary if closer, need be evaluated and revised.
- C. When an interpretation question arises on whether a specific land use fits within a given "use" category, the interpretation shall be made by the Koochiching County Board of Adjustment. When a question arises as to whether a land use district's boundaries are properly delineated on the Official Zoning Map, this decision shall be made by the Koochiching County Planning Commission.
- D. When a revision is proposed to an inconsistent land use district provision by an individual

party or landowner, this individual party or landowner will only be responsible to provide the supporting and/or substantiating information for the specific parcel in question. The Koochiching County Planning Commission will direct the Zoning Administrator to provide such additional information for this waterbody as is necessary to satisfy Items A and B.

- E. The Koochiching County Planning Commission must make a detailed "Finding of Fact" and conclusion when taking final action that this revision, and the upgrading of any inconsistent land use district designations on said waterbody, are consistent with the enumerated criteria and use provisions of Sec. 4.2.

SECTION 5.0
ZONING AND WATER SUPPLY/SANITARY PROVISIONS

5.1 River Lot Standards.

5.11 Lot Width Standards

Minimum Lot Width for both the Littlefork and Rat Root Rivers (at building line and water line)

	Re- mote	For- ested	Transi- tion	Agri- culture	Urban & Tributary	<u>unsewered</u>	<u>sewered</u>
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	

5.12 Lot Area Standards

Minimum Lot Size for both the Littlefork and Rat Root Rivers

2.5 acres	Platted
5.0 acres	Not Platted

5.13 Additional Special Provisions

- A. Residential subdivisions with dwelling unit densities exceeding those provided here can only be allowed if designed and approved as residential planned unit developments under Section

8.0 of this ordinance. Only land above the ordinary high water level of public waters can be used to meet lot area standards, and lot width standards must be met at both the ordinary high water level and at the building line. The sewer lot area dimensions provided here can only be used if publicly owned sewer system service is available to the property.

- B. Subdivisions of duplexes, triplexes, and quads on the Littlefork/Rat Root Rivers must also meet the following standards:
- (1) each building must be set back at least 200 feet from the ordinary high water level;
 - (2) each building must have common sewage treatment and water systems in one location and serve all dwelling units in the building;
 - (3) watercraft docking facilities for each lot must be centralized in one location and serve all dwelling units in the building; and
 - (4) no more than 15 percent of a river's shoreline can be in duplex, triplex, or quad developments.
- C. One guest cottage may be allowed on lots meeting or exceeding the duplex lot area and width dimensions presented in Sec. 5.1 and 5.13 provided the following standards are met:
- (1) for lots exceeding the minimum lot dimensions of duplex lots, the guest cottage must be located within the smallest duplex-sized lot that could be created including the principal dwelling unit;
 - (2) a guest cottage must not cover more than 700 square feet of land surface and must not exceed 15 feet in height; and
 - (3) a guest cottage must be located or designed to reduce its visibility as viewed from public waters and adjacent shorelands by vegetation, topography, or increased setbacks.

5.2 Placement, Design, and Height of Structures

5.21 Placement of Structures on Lots. When more than one setback applies to a site, structures and facilities must be located to meet all setbacks. Where structures exist on the adjoining lots on both sides of a proposed building site, structure setbacks may be altered without a variance to conform to the adjoining setbacks from the ordinary high water level, provided the proposed building site is not located in a shore impact zone or in a bluff impact zone.

- A. Structures shall be located as follows. Structure and on-site sewage system setbacks (in feet) from ordinary high water level for both the Littlefork and Rat Root Rivers *

<u>Classes of Public Waters</u>	<u>Structures (unsewered-sewered)</u>		<u>Sewage Treatment Systems</u>
Remote	100	100	150
Forested	100	100	150
Agriculture	100	100	150

* One water-oriented accessory structure designed in accordance with Sec. 5.22 of this ordinance may be set back a minimum distance of ten (10) feet from the ordinary high water level.

B. **Additional Structure Setbacks.** The following additional structure setbacks apply, regardless of the classification of the waterbody:

<u>Setback From:</u>	<u>Setback (in feet)</u>
(1) top of bluff;	30
(2) unplatted cemetery;	50
(3) right-of-way line of federal, state, or county highway; and	50
(4) right-of-way line of town road, public street, or other roads or streets not classified.	20

C. **Bluff Impact Zones.** Structures and accessory facilities, except stairways and landings, must not be placed within bluff impact zones.

D. **Uses Without Water-oriented Needs.** Uses without water-oriented needs must be located on lots or parcels without public waters frontage, or if located on lots or parcels with public waters frontage, must either be set back double the normal ordinary high water level setback or be substantially screened from view from the water by vegetation or topography.

5.22 Design Criteria For Structures.

A. **High Water Elevations.** Structures must be placed in accordance with any floodplain regulations applicable to the site. Where these controls do not exist, the elevation to which the lowest floor, including basement, is placed or flood-proofed must be determined as follows:

- (1) on rivers and streams, by placing the lowest floor at least three feet above the flood of record, if data are available. If data are not available, by placing the lowest floor at least three feet above the ordinary high water level, or by conducting a technical evaluation to determine effects of proposed construction upon flood stages and flood flows and to establish a flood protection evaluation. Under all three approaches,

technical evaluations must be done by a qualified engineer or hydrologist consistent with parts 6120.5000 to 6120.6200 governing the management of flood plain areas. If more than one approach is used, the highest flood protection elevation determined must be used for placing structures and other facilities.

- (2) water-oriented accessory structures may have the lowest floor placed lower than the elevation determined in this item if the structure is constructed of flood-resistant materials to the elevation, electrical and mechanical equipment is placed above the elevation and, if long duration flooding is anticipated, the structure is built to withstand ice action and wind-driven waves and debris.

B. Water-oriented Accessory Structures. Each lot may have one water-oriented accessory structure not meeting the normal structure setback in Sec. 5.21 of this ordinance if this water-oriented accessory structure complies with the following provisions:

- (1) the structure or facility must not exceed ten feet in height, exclusive of safety rails, and cannot occupy an area greater than 250 square feet. Detached decks must not exceed eight feet above grade at any point;
- (2) the setback of the structure or facility from the ordinary high water level must be at least ten feet;
- (3) the structure or facility must be treated to reduce it's visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks or color;
- (4) the roof may be used as a deck with safety rails, but must not be enclosed or used as a storage area;
- (5) the structure or facility must not be designed or used for human habitation and must not contain water supply or sewage treatment facilities.

C. Stairways, Lifts and Landings. Stairways and lifts are the preferred alternative to major topographic alterations for achieving access up and down bluffs and steep slopes to shore areas. Stairways and lifts must meet the following design requirements:

- (1) stairways and lifts must not exceed four feet in width on residential lots. Wider stairways may be used for commercial properties, public open-space recreational properties, and planned unit developments;
- (2) landings for stairways and lifts on residential lots must not exceed 32 square feet in area. Landings larger than 32 square feet may be used for commercial properties, public open-space recreational properties, and planned unit developments;
- (3) canopies or roofs are not allowed on stairways, lifts, or landings;
- (4) stairways, lifts, and landings may be either constructed above the ground on posts or

pilings, or placed into the ground, provided they are designed and built in a manner that ensures control of soil erosion;

- (5) stairways, lifts, and landings must be located in the most visually inconspicuous portions of lots, as viewed from the surface of the public water to blend with surrounding conditions, whenever practical;
- (6) facilities such as ramps, lifts, or mobility paths for physically handicapped persons are also allowed for achieving access to shore areas, provided that the dimensional and performance standards of subitems (1) to (5) are complied with and as long as the requirements of Minnesota Regulations Chapter 1340 and the Americans with Disabilities Act accessibility guidelines are followed.

D. Significant Historic Sites. No structure may be placed on a significant historic site in a manner that affects the values of the site unless adequate information about the site has been removed and documented in a public repository.

E. Steep Slopes. The Koochiching County Zoning Administrator together with the Soil and Water Conservation District must evaluate possible soil erosion impacts and development visibility from public waters before issuing a permit for construction of sewage treatment systems, roads, driveways, structures, or other improvements on steep slopes. When determined necessary, conditions must be attached to issued permits to prevent erosion and to preserve existing vegetation screening of structures, vehicles, and other facilities as viewed from the surface of public waters.

5.23 Height of Structures. All structures, except churches and agricultural structures, must not exceed 25 feet in height.

5.3 Shoreland Alterations

Alterations of vegetation and topography will be regulated to prevent erosion into public waters, fix nutrients, preserve shoreland aesthetics, preserve historic values, prevent bank slumping, and protect fish and wildlife habitat.

5.30 Use of fertilizers, pesticides or animal wastes within the corridors must be done in such a way as to minimize runoff into the shore impact zone or public water by proper use of earth, vegetation or both.

5.31 Vegetation Alterations.

- A. Vegetation alteration necessary for the construction of structures and sewage treatment systems and the construction of roads and parking areas regulated by Sec. 5.4 of this ordinance are exempt from the vegetation alteration standards that follow.

- B. Removal or alteration of vegetation, except for agricultural and forest management uses as regulated in Sec. 5.62 and 5.63, respectfully, is allowed subject to the following standards:
 - (1) Intensive vegetation clearing within the shore and bluff impact zones and on steep slopes is not allowed. Intensive vegetation clearing for forest land conversion to another use outside of these areas is allowable as a conditional use if an erosion control and sedimentation plan is developed and approved by the soil and water conservation district in which the property is located.
 - (2) In shore and bluff impact zones and on steep slopes, limited clearing of trees and shrubs and cutting, pruning, and trimming of trees is allowed to provide a view to the water from the principal dwelling site and to accommodate the placement of stairways and landings, picnic areas, access paths, livestock watering areas, beach and watercraft access areas, and permitted water-oriented accessory structures or facilities, provided that:
 - (a) the screening of structures, vehicles, or other facilities as viewed from the water is not substantially reduced.
 - (b) existing shading of water surfaces is preserved; and
 - (c) the above provisions are not applicable to the removal of trees, limbs, or branches that are dead, diseased, or pose safety hazards.

5.32 Topographic Alterations/Grading and Filling

- A. Grading and filling and excavations necessary for the construction of structures, sewage treatment systems, and driveways under validly issued construction permits do not require the issuance of a separate grading and filling permit; however, the grading and filling standards in this Section must be incorporated into the issuance of permits for construction of structures, sewage treatment systems, and driveways.

- B. Public roads and parking areas are regulated by Section 5.4 of this ordinance.

- C. Notwithstanding Items A. and B. above, within the 500ft river corridor a grading and filling permit will be required for:
 - (1) the movement of more than ten (10) cubic yards of material on steep slopes or within the shore or bluff impact zones.

- (2) the movement of more than 50 cubic yards of material outside of steep slopes and shore and bluff impact zones.

D. The following considerations and conditions must be adhered to during the issuance of construction permits, grading and filling permits, conditional use permits, variances and subdivision approvals:

- (1) Grading or filling in any type 2, 3, 4, 5, 6, 7, or 8 wetland must be evaluated by the Soil and Water Conservation District to determine how extensively the proposed activity would affect the following functional qualities of the wetland*:
 - (a) sediment and pollutant trapping and retention;
 - (b) storage of surface runoff to prevent or reduce flood damage;
 - (c) fish and wildlife habitat;
 - (d) recreational use;
 - (e) shoreline or bank stabilization; and
 - (f) noteworthiness, including special qualities such as historic significance, critical habitat for endangered plants and animals, or others.

* This evaluation must also include a determination of whether the wetland alteration being proposed requires permits, reviews, or approvals by other local, state, or federal agencies such as a watershed district, the Minnesota Department of Natural Resources, or the United States Army Corps of Engineers. The applicant will be so advised.

- (2) Alterations must be designed and conducted in a manner that ensures only the smallest amount of bare ground is exposed for the shortest time possible;
- (3) Mulches or similar materials must be used, where necessary, for temporary bare soil coverage, and a permanent vegetation cover must be established as soon as possible;
- (4) Methods to minimize soil erosion and to trap sediments before they reach any surface water feature must be used;
- (5) Altered areas must be stabilized to acceptable erosion control standards consistent with the field office technical guides of the local soil and water conservation districts and the United States Natural Resource Conservation Service;
- (6) Fill or excavated material must not be placed in a manner that creates an unstable slope;
- (7) Plans to place fill or excavated material on steep slopes must be reviewed by qualified professionals for continued slope stability and must not create finished slopes of 30 percent or greater;
- (8) Fill or excavated material must not be placed in bluff impact zones;

- (9) Any alterations below the ordinary high water level of public waters must first be authorized by the commissioner under Minnesota Statutes, Section 103.G.245.
- (10) Alterations of topography must only be allowed if they are accessory to permitted or conditional uses and do not adversely affect adjacent or nearby properties
- (11) Placement of natural rock riprap, including associated grading of the shoreline and placement of a filter blanket, is permitted if the finished slope does not exceed three feet horizontal to one foot vertical, the landward extent of the riprap is within ten feet of the ordinary high water level, and the height of the riprap above the ordinary high water level does not exceed three feet.

E. Connections to public waters. Excavations where the intended purpose is connection to a public water, such as boat slips, canals, lagoons, and harbors, must be controlled by local shoreland controls. Permission for excavations may be given only after the commissioner has approved the proposed connection to public waters.

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

5.41 Public and private roads and parking areas must be designed to take advantage of natural vegetation and topography to achieve maximum screening from view from the waters. Documentation must be provided by a qualified individual that all roads and parking areas are designed and constructed to minimize and control erosion to the Littlefork/Rat Root Rivers consistent with the field office technical guides of the local soil and water conservation district, or other applicable technical materials.

5.42 Roads, driveways, and parking areas must meet structure setbacks and must not be placed within bluff and shore impact zones, when other reasonable and feasible placement alternatives exist. If no alternatives exist, they may be placed within these areas, and must be designed to minimize adverse impacts.

5.43 Public and private watercraft access ramps, approach roads, and access-related parking areas may be placed within shore impact zones provided the vegetative screening and erosion control conditions of this subpart are met. For private facilities, the grading and filling provisions of Section 5.32 of this ordinance must be met.

5.5 Stormwater Management. The following general and specific standards shall apply:

5.51 General Standards:

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

5.52 Specific Standards:

- A. Impervious surface coverage of lots shall be subject to the specific zoning district.
- B. When constructed facilities are used for stormwater management, documentation must be provided by a qualified individual that they are designed and installed consistent with the field office technical guide of the local soil and water conservation districts.
- C. New constructed stormwater outfalls to public waters must provide for filtering or settling of suspended solids and skimming of surface debris before discharge.

5.6 Specific Provisions for Commercial, Industrial, Public/Semipublic, Agricultural, Forestry and Extractive Uses and Mining of Metallic Minerals and Peat.

5.61 Standards for Commercial, Industrial, Public, and Semipublic Uses.

- A. River oriented commercial uses and public, or semipublic uses with similar needs to have access to and use of public waters may be located on parcels or lots with frontage on public waters. Those uses with river-oriented needs must meet the following standards:
 - (1) in addition to meeting impervious coverage limits, setback, and other zoning standards in this ordinance, the uses must be designed to incorporate topographic and vegetative screening of parking areas and structures;

- (2) uses that require short-term watercraft mooring for patrons must centralize these facilities and design them to avoid obstructions of navigation and to be the minimum size necessary to meet the need; and
- (3) uses that depend on patrons arriving by watercraft may use signs and lighting to convey needed information to the public, subject to the following general standards:
 - (a) no advertising signs or supporting facilities for signs may be placed in or upon public waters. Signs conveying information or safety messages may be placed in or on public waters by a public authority or under a permit issued by the county sheriff;
 - (b) signs may be placed, when necessary, within the shore impact zone if they are designed and sized to be the minimum necessary to convey needed information. They must only convey the location and name of the establishment and the general types of goods or services available. The signs must not contain other detailed information such as product brands and prices, must not be located higher than ten feet above the ground, and must not exceed 32 square feet in size. If illuminated by artificial lights, the lights must be shielded or directed to prevent illumination out across the riverways;
 - (c) other outside lighting may be located within the shore impact zone or over public waters if it is used primarily to illuminate potential safety hazards and is shielded or otherwise directed to prevent direct illumination out across the riverways. This does not preclude use of navigational lights.

B. Uses without river-oriented needs must be located on lots or parcels without public waters frontage, or, if located on lots or parcels with public waters frontage, must either be set back double the normal ordinary high water level setback or be substantially screened from view from the water by vegetation or topography, to blend with surrounding conditions.

5.62 Agriculture Use Standards.

A. General cultivation farming, grazing, nurseries, horticulture, truck farming, sod farming, and wild crop harvesting are permitted uses if steep slopes and shore and bluff impact zones are maintained in permanent vegetation or operated under an approved conservation plan (Resource Management Systems) consistent with the field office technical guides of the local soil and water conservation districts or the United States Natural Resources Conservation Service, as provided by a qualified individual or agency. The shore impact zone for parcels with permitted agricultural land uses is equal to a line parallel to 50 percent of the required structure setback from the ordinary high water level.

B. Animal feedlots must meet the following standards:

- (1) new feedlots must not be located in the shoreland of watercourses or in bluff impact zones and must meet a minimum setback of 500 feet from the ordinary high water level of all public waters basins; and
- (2) modifications or expansions to existing feedlots located within 300 feet of the ordinary high water level or within a bluff impact zone are allowed if they do not further encroach into the existing ordinary high water level setback or encroach on bluff impact zones.
- (3) the MPCA requires an NPDES general permit for owners of feedlots with greater than 1,000 animal units (An animal unit is a measure used to account for differences in animals and manure produced. For example, beef cattle equal one animal unit, one finishing hog equals 0.4 animal units, one dairy cow equals 1.4 animal units, etc.). Owners of feedlots with between 300 and 999 animal units may require an NPDES permit if their exists the potential to discharge to state waters, through man-made conveyances. A man-made conveyance includes all man-made structures and devices that allow wastes or waste contaminated waters to discharge to state waters.

5.63 Forest Management Standards.

The harvesting of timber and associated reforestation must be conducted consistent with the provisions of the Minnesota Nonpoint Source Pollution Assessment-Forestry and the provisions of Water Quality in Forest Management "Best Management Practices in Minnesota."

5.64 Extractive Use Standards.

- A. Site Development and Restoration Plan. An extractive use site development and restoration plan must be included with any permits issued for these activities. The plan must be developed, approved, and followed over the course of operation of the site. The plan must address dust, noise, possible pollutant discharges, hours and duration of operation, and anticipated vegetation and topographic alterations. It must also identify actions to be taken during operation to mitigate adverse environmental impacts, particularly erosion, and must clearly explain how the site will be rehabilitated after extractive activities end.
- B. Setbacks for Processing Machinery. Setbacks shall be the same as that for structures.

5.65 Mining of Metallic Minerals and Peat.

Mining of metallic minerals and peat, as defined in Minnesota Statutes, Sections 93.44 to

93.51, shall be subject to approval of a conditional use permit provided the provisions of Minnesota Statutes, Sections 93.44 to 93.51, are satisfied.

5.7 Conditional Use

All conditional uses granted within the Littlefork/Rat Root River(s) land use districts shall be subject to the provisions used for review and approval procedures established community-wide. The following additional evaluation criteria and conditions apply within shoreland areas:

- 5.71 Evaluation criteria. A thorough evaluation of the waterbody and the topographic, vegetation, and soils conditions on the site must be made to ensure:
- (1) the prevention of soil erosion or other possible pollution of public waters, both during and after construction;
 - (2) the visibility of structures and other facilities as viewed from public waters is limited;
 - (3) the site is adequate for water supply and on-site sewage treatment, and
 - (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 watercraft.
- 5.72 Conditions attached to conditional use permits. The Koochiching County Planning Commission shall attach such conditions to the issuance of the conditional use permits as it deems necessary to fulfill the purposes of this ordinance. Such conditions may include, but are not limited to, the following:
- (1) increased setbacks from the ordinary high water level; and
 - (2) limitations on the natural vegetation to be removed or the requirement that additional vegetation be planted; and
 - (3) special provisions for the location, design, and use of structures, sewage treatment systems, watercraft launching and docking areas, and vehicle parking areas.
- 5.8 Water Supply and Sewage Treatment
- 5.81 Water supply. Any public or private supply of water for domestic purposes must meet or exceed standards for water quality of the Minnesota Department of Health and the Minnesota Pollution Control Agency.
- 5.82 Sewage treatment. Any premises used for human occupancy must be provided with an adequate method of sewage treatment, as follows:

- A. Publicly owned sewer systems must be used where available.
- B. All private sewage treatment systems must meet or exceed the Minnesota Pollution Control Agency's standards for individual sewage treatment systems contained in the document titled, "Individual Sewage Treatment Systems Standards, Chapter 7080", a copy of which is hereby adopted by reference and declared to be a part of this ordinance. Alternative types of systems may be allowed with approval from the MPCA.
- C. On-site sewage treatment systems must be set back from the ordinary high water level in accordance with the setbacks contained in Section 5.21 of this ordinance.
- D. All proposed sites for individual sewage treatment systems shall be evaluated in accordance with the criteria in subitems (1)-(4). If the determination of a site's suitability cannot be made with publicly available, existing information, it shall then be the responsibility of the applicant to provide sufficient soil borings and percolation tests from on-site field investigations.
Evaluation criteria:
 - (1) depth to the highest known or calculated ground water table or bedrock;
 - (2) soil conditions, properties, and permeability;
 - (3) slope;
 - (4) the existence of lowlands, local surface depressions, and rock out crops;
- E. Nonconforming sewage treatment systems shall be regulated and upgraded in accordance with Section 6.3 of this ordinance.

SECTION 6.0
NONCONFORMITIES

All legally established nonconformities as of the date of this ordinance may continue, but they will be managed according to applicable state statutes and other county or city regulations of this community for the subjects of alterations and additions, repair after damage, discontinuance of use, and intensification of use; except that the following standards will also apply in shoreland areas:

6.1 Construction on nonconforming lots of record.

- A. Lots of record in the office of the county recorder on the date of enactment of local shoreland controls that do not meet the requirements of Section 5.0 of this ordinance may be allowed as building sites without variances from lot size requirements provided the use is permitted in the zoning district, the lot has been in separate ownership from abutting lands at all times since it became substandard, was created compliant with official controls in effect at the time,

and provided all sewage treatment and setback requirements of this ordinance are met.

- B. A variance from setback requirements must be obtained before any use, sewage treatment system, or building permit is issued for a lot. In evaluating the variance, the Board of Adjustment shall consider sewage treatment and water supply capabilities or constraints of the lot and shall deny the variance if adequate facilities cannot be provided.
- C. If, in a group of two or more contiguous lots under the same ownership, any individual lot does not meet the requirements of Section 6.1 of this ordinance the lot must not be considered as a separate parcel of land for the purposes of sale or development. The lot must be combined with the one or more contiguous lots so they equal one or more parcels of land, each meeting the requirements of Section 5.0 of this ordinance as much as possible.

6.2 Addition or expansions to nonconforming structures.

- A. All additions or expansions to the outside dimensions of an existing nonconforming structure must meet the setback, height, and other requirements of Section 5.0 of this ordinance. Any deviation from these requirements must be authorized by a variance pursuant to Section 3.3.
- B. Deck additions may be allowed without a variance to a structure not meeting the required setback from the ordinary high water level if all of the following criteria and standards are met:
 - (1) the structure existed on the date the structure setbacks were established;
 - (2) a thorough evaluation of the property and structure reveals no reasonable location for a deck meeting or exceeding the existing ordinary high water level setback of the structure;
 - (3) the deck encroachment toward the ordinary high water level does not exceed 15 percent of the existing setback of the structure from the ordinary high water level or does not encroach closer than 30 feet, whichever is more restrictive; and
 - (4) the deck is constructed primarily of wood, and is not roofed or screened.

6.3 Nonconforming sewage treatment systems.

- A. A sewage treatment system, including privies (outhouses), not meeting the requirements of Section 5.8 of this ordinance must be upgraded, at a minimum, any time a permit or variance of any type is required for any improvement on, or use of, the property. For the purpose of these provisions, a sewage treatment system shall not be considered nonconforming if the only deficiency is the sewage treatment system's improper setback from

the ordinary high water level.

- B. The Koochiching County Board of Commissioners has by formal resolution notified the commissioner of its program to identify nonconforming sewage treatment systems. Koochiching County will require upgrading or replacement of any nonconforming system within a period of time consistent with Ch. 7080 regulations. Sewage systems installed according to all applicable local shoreland management standards adopted under Minnesota Statutes, Section 103.F, in effect at the time of installation may be considered as conforming unless they are determined to be failing, except that systems using cesspools, leaching pits, seepage pits, or other deep disposal methods, or systems with less soil treatment and separation above groundwater than required by the Minnesota Pollution Control Agency's Chapter 7080 for design of on-site sewage treatment systems, shall be considered nonconforming.

SECTION 7.0 **SUBDIVISION/PLATTING PROVISIONS**

- 7.11 Land suitability. Each lot created through subdivision, including planned unit developments authorized under Section 8.0 of this ordinance, must be suitable in its natural state for the proposed use with minimal alteration. Suitability analysis by the local unit of government shall consider susceptibility to flooding, existence of wetlands, soil and rock formations with severe limitations for development, severe erosion potential, steep topography, inadequate water supply or sewage treatment capabilities, near-shore aquatic conditions unsuitable for water-based recreation, important fish and wildlife habitat, presence of significant historic sites, or any other feature of the natural land likely to be harmful to the health, safety, or welfare of future residents of the proposed subdivision or of the community.
- 7.12 Consistency with other controls. Subdivisions must conform to all official controls of this community. A subdivision will not be approved where a later variance from one or more standards in official controls would be needed to use the lots for their intended purpose. In areas not served by publicly owned sewer and water systems, a subdivision will not be approved unless domestic water supply is available and a sewage treatment system consistent with Sections 5.2 and 5.8 can be provided for every lot. Each lot shall meet the minimum lot size and dimensional requirements of Section 5.0, including at least a minimum contiguous lawn area, that is free of limiting factors sufficient for the construction of two standard soil treatment systems. Lots that would require use of holding tanks must not be approved.

7.13 Information requirements. Sufficient information must be submitted by the applicant for the community to make determination of land suitability. The information shall include at least the following:

- (1) topographic contours at ten-foot intervals or less from United States Geological Survey maps or more accurate sources, showing limiting site characteristics;
- (2) the surface water features required in Minnesota Statutes, Section 505.02, subdivision 1, to be shown on plats, obtained from United States Geological Survey quadrangle topographic maps or more accurate sources;
- (3) adequate soils information to determine suitability for building and on-site sewage treatment capabilities for every lot from the most current existing sources or from field investigations such as soil borings, percolation tests, or other methods;
- (4) information regarding adequacy of domestic water supply; extent of anticipated vegetation and topographic alterations; 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;
- (5) location of 100-year flood plain areas and floodway districts from existing adopted maps or data; and
- (6) a line or contour representing the ordinary high water level, the "toe" and the "top" of bluffs, and the minimum building setback distances from the top of the bluff and the lake or stream.

7.14 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.

7.15 Platting. All subdivisions that 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, Chapter 505. No permit for construction of buildings or sewage treatment systems shall be issued for lots created after these official controls were enacted unless the lot was approved as part of a formal subdivision.

SECTION 8.0 **PLANNED UNIT DEVELOPMENTS (PUD's)**

8.1 Types of PUD's Permissible

Planned unit developments (PUD's) are allowed for new projects on undeveloped land, redevelopment of previously built sites, or conversions of existing buildings and land. The land use

districts in which they are an allowable use are identified in Sec. 2.87 of the 1975 Koochiching County Zoning Ordinance.

8.2 Processing of PUD's

Planned unit developments must be processed as a conditional use, except that 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 8.5. Approval cannot occur until the environmental review process (EAW/EIS) is complete.

8.3 Application for a PUD

The applicant for a PUD must submit the following documents prior to final action being taken on the application request:

- 8.31 A site plan and/or plat for the project showing locations of property boundaries, surface water features, existing and proposed structures and other facilities, land alterations, sewage treatment and water supply systems (where public systems will not be provided), and topographic contours at ten-foot intervals or less. When a PUD is a combined commercial and residential development, the site plan and/or plat must indicate and distinguish which buildings and portions of the project are residential, commercial, or a combination of the two.
- 8.32 A property owners association agreement (for residential PUD's) with mandatory membership, and all in accordance with the requirements of Section 8.6 of this ordinance.
- 8.33 Deed restrictions, covenants, permanent easements or other instruments that: 1) properly address future vegetative and topographic alterations, construction of additional buildings, beaching of watercraft, and construction of commercial buildings in residential PUD's; and 2) ensure the long-term preservation and maintenance of open space in accordance with the criteria and analysis specified in Section 8.6 of this ordinance.
- 8.34 When necessary, a master plan/drawing describing the project and the floor plan for all commercial structures to be occupied.
- 8.35 Those additional documents as requested by the Koochiching County Planning Commission that are necessary to explain how the PUD will be designed and will function.

8.4 Site "Suitable Area" Evaluation

Proposed new or expansions to existing planned unit developments must be evaluated using the following procedures and standards to determine the suitable area for the dwelling unit/dwelling site density evaluation in Section 8.5.

8.41 The project parcel must be divided into tiers by locating one or more lines approximately parallel to a line that identifies the ordinary high water level at the following intervals, proceeding landward:

Riparian Tier Dimensions
Littlefork/Rat Root Rivers tributaries
("protected waters")

Unsewered	Sewered
300 feet	300 feet

8.42 The suitable area within each tier is next calculated by excluding from the tier area all wetlands, bluffs, or land below the ordinary high water level or floodplain of the rivers. This suitable area and the proposed project are then subjected to either the residential or commercial planned unit development density evaluation steps to arrive at an allowable number of dwelling units or sites.

8.5 Residential and Commercial PUD Density Evaluation

The procedures for determining the "base" density of a PUD and density increase multipliers are as follows. Allowable densities may be transferred from any tier to any other tier further from the waterbody, but must not be transferred to any other tier closer.

8.51 Residential PUD "Base" Density Evaluation:

A. The suitable area within each tier is divided by the single residential lot size standard for the Littlefork/Rat Root Rivers and their tributaries, the single residential lot width standard times the tier depth, unless Koochiching County has specified an alternative minimum lot size for rivers which shall then be used to yield a base density of dwelling units or sites for each tier. Proposed locations and numbers of dwelling units or sites for the residential planned unit developments are then compared with the tier, density, and suitability analysis herein and the design criteria in Section 8.6.

8.52 Commercial PUD "Base" Density Evaluation:

- A. Determine the average inside living area size of dwelling units or sites within each tier, including both existing and proposed units and sites. Computation of inside living area sizes need not include decks, patios, stoops, steps, garages, or porches and basements, unless they are habitable space.
- B. Select the appropriate floor area ratio from the following table:

Commercial Planned Unit Development Floor Area Ratios*

*Average Unit Floor Area (Sq.Ft.)	Littlefork/Rat Root River Segments		
	<u>Agriculture</u>	<u>Forested</u>	<u>Remote</u>
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
1000	.108	.054	.027
1100	.116	.058	.029
1200	.125	.064	.032
1300	.133	.068	.034
1400	.142	.072	.036
1500	.150	.075	.038

*For average unit floor areas less than shown, use the floor area ratios listed for 200 square feet. For areas greater than shown, use the ratios listed for 1,500 square feet. For recreational camping areas, use the ratios listed at 400 square feet. Manufactured home sites in recreational camping areas shall use a ratio equal to the size of the manufactured home, or if unknown, the ratio listed for 1,000 square feet.

- C. Multiply the suitable area within each tier by the floor area ratio to yield total floor area for each tier allowed to be used for dwelling units or sites.
- D. Divide the total floor area by tier computed in Item C. above by the average inside living area size determined in Item A. above. This yields a base number of dwelling units and sites for each tier.

- E. Proposed locations and numbers of dwelling units or sites for the commercial planned unit development are then compared with the tier, density and suitability analysis herein and the design criteria in Section 8.6.

8.53 Density Increase Multipliers:

- A. Increases to the dwelling unit or dwelling site base densities previously determined are allowable if the dimensional standards in Section 5.0 are met or exceeded and the design criteria in Section 8.6 are satisfied. The allowable density increases in Item B below will only be allowed if structure setbacks from the ordinary high water level are increased to at least 50 percent greater than the minimum setback, or the impact on the waterbody is reduced an equivalent amount through vegetative management, topography, or additional means acceptable to the local unit of government and the setback is at least 25 percent greater than the minimum setback.
- B. Allowable Dwelling Unit or Dwelling Site Density Increases for Residential or Commercial Planned Unit Developments.

<u>Density evaluation tiers</u>	<u>Maximum density increase within each tier (percent)</u>
First	50
Second	100
Third	200
Fourth	200
Fifth	200

8.6 Maintenance and Design Criteria

8.61 Maintenance and Administration Requirements.

- A. Before final approval of a planned unit development, adequate provisions must be developed for preservation and maintenance in perpetuity of open spaces and for the continued existence and functioning of the development.
- B. Open space preservation. Deed restrictions, covenants, permanent easements, public dedication and acceptance, or other equally effective and permanent means must be provided to ensure long-term preservation and maintenance of open space. The instruments must

include all of the following projections:

- (1) commercial uses prohibited (for residential PUD's);
- (2) vegetation and topographic alterations other than routine maintenance prohibited;
- (3) construction of additional buildings or storage of vehicles and other materials prohibited; and
- (4) uncontrolled beaching of watercraft prohibited.

C. Development organization and functioning. All residential planned unit developments must use an owners association with the following features:

- (1) membership must be mandatory for each dwelling unit or site purchaser and any successive purchasers;
- (2) each member must pay a pro rate share of the association's expenses, and unpaid assessments can become liens on units or sites;
- (3) assessments must be adjustable to accommodate changing conditions; and
- (4) the association must be responsible for insurance, taxes, and maintenance of all commonly owned property and facilities.

8.62 Open Space Requirements. Planned unit developments must contain open space meeting all of the following criteria:

- (1) at least 60 percent of the total project area must be preserved as open space;
- (2) dwelling units or sites, road rights-of-way, or land covered by road surfaces, parking areas, or structures, except water-oriented accessory structures or facilities, are developed areas and shall not be included in the computation of minimum open space;
- (3) open space must include areas with physical characteristics unsuitable for development in their natural state, and areas containing significant historic sites or unplatted cemeteries;
- (4) open space may include 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;
- (5) open space may include subsurface sewage treatment systems if the use of the space is restricted to avoid adverse impacts on the systems;
- (6) open space must not include commercial facilities or uses, but may contain water-oriented accessory structures or facilities;
- (7) the appearance of open space areas, including topography, vegetation, and allowable uses, must be preserved by use of restrictive deed covenants, permanent easements, public dedication and acceptance, or other equally effective and permanent means; and

- (8) the shore impact zone, based on normal structure setbacks, must be included as open space. For residential PUD's, at least 60 percent of the shore impact zone area of existing developments or at least 80 percent of the shore impact zone area of new developments must be preserved in its natural or existing state. For commercial PUD's, at least 60 percent of the shore impact zone must be preserved in its natural state.

8.63 Erosion Control and Stormwater Management.

Erosion Control and stormwater management plans must be developed and the PUD must:

- (1) be designed, and the construction managed, to minimize the likelihood of serious erosion occurring either during or after construction. This must be accomplished by limiting the amount and length of time of bare ground exposure. Temporary ground covers, sediment entrapment facilities, vegetated buffer strips, or other appropriate techniques must be used to minimize erosion impacts on surface water features. Erosion control plans approved by a soil and water conservation district may be required if project size and site physical characteristics warrant; and
- (2) be designed and constructed to effectively manage reasonably expected quantities and qualities of stormwater runoff. Impervious surface coverage within any tier must not exceed 25 percent of the tier area, except that for commercial PUD's 35 percent impervious surface coverage may be allowed in the first tier of general development lakes with an approved stormwater management plan and consistency with Section 5.3.
- (3) stormwater management must be consistent with Urban Best Management Practices.

8.64 Centralization and Design of Facilities.

Centralization and design of facilities and structures must be done according to the following standards:

- (1) planned unit developments must be connected to publicly owned water supply and sewer systems, if available. On-site water supply and sewage treatment systems must be centralized and designed and installed to meet or exceed applicable standards or rules of the Minnesota Department of Health and Sections 5.2 and 5.8 of this ordinance. On-site sewage treatment systems must be located on the most suitable areas of the development, and sufficient lawn area free of limiting factors must be provided for a replacement soil treatment system for each sewage system;
- (2) dwelling units or sites must be clustered into one or more groups and located on suitable areas of the development. They must be designed and located to meet or

exceed the following dimensional standards for the relevant shoreland classification: setback from the ordinary high water level, elevation above the surface water features, and maximum height.

- (3) shore recreation facilities, including but not limited to swimming areas, docks, and watercraft mooring areas and launching ramps, must be centralized and located in areas suitable for them. Evaluation of suitability must include consideration of land slope, water depth, vegetation, soils, depth to groundwater and bedrock, or other relevant factors. 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). 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;
- (4) 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, to blend with surrounding conditions. Vegetative and topographic screening must be preserved, if existing, or may be required to be provided;
- (5) accessory structures and facilities, except water oriented accessory structures, must meet the required principal structure setback and must be centralized; and
- (6) water-oriented accessory structures and facilities may be allowed if they meet or exceed design standards contained in Section 5.2 of this ordinance and are centralized.

8.7 Conversions

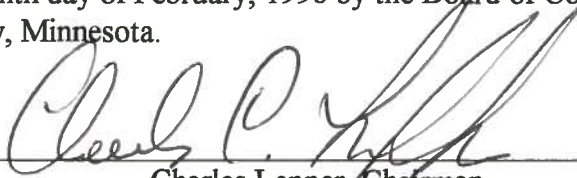
Local governments may allow existing resorts or other land uses and facilities to be converted to residential planned unit developments if all of the following standards are met:

- 8.71 Proposed conversions must be initially evaluated using the same procedures for residential planned unit developments involving all new construction. Inconsistencies between existing features of the development and these standards must be identified.
- 8.72 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.

- 8.73 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:
- (1) removal of extraneous buildings, docks, or other facilities that no longer need to be located in shore or bluff impact zones;
 - (2) remedial measures to correct erosion sites and improve vegetative cover and screening of buildings and other facilities as viewed from the water; and
 - (3) if existing dwelling units are located in shore or bluff impact zones, conditions are attached to approvals of conversions 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.
- 8.74 Existing dwelling unit or dwelling site densities that exceed standards in Section 8.5 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.
- 8.75 Conversions do not materially adversely affect the implementation of this management plan.

**KOOCHICHING COUNTY
LITTLEFORK / RAT ROOT RIVER
SHORELAND MANAGEMENT ORDINANCE**

Passed this seventeenth day of February, 1998 by the Board of County Commissioners,
Koochiching County, Minnesota.

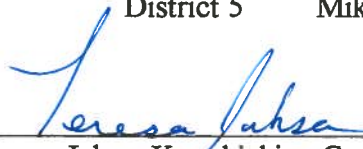


Charles Lepper, Chairman
Koochiching County Board of Commissioners

Board of Commissioners

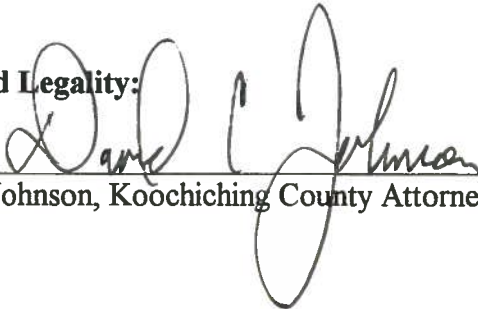
District 1	Wade Pavleck
District 2	Gary Bowman
District 3	Larry Chezick
District 4	Charles Lepper
District 5	Mike Hanson

Attest:



Teresa Jaksa, Koochiching County Coordinator

Approved as to Form and Legality:



David Johnson, Koochiching County Attorney

REGULAR MEETING OF THE KOOCHICHING COUNTY BOARD OF COMMISSIONERS
Held on Tuesday, February 17, 1998; 9:45 a.m.

MEMBERS PRESENT: Commissioner Lepper, Bowman, Hanson, Chezick,
Pavleck

MEMBERS ABSENT: None

000 Board Chair stated that no public comment would be allowed at this time for the proposed Rat Root/Littlefork River Ordinance as this agenda time was schedule for Board discussion and action only The Board held several public hearings on this issue which allowed the public opportunity to comment on the proposed ordinance. Commissioner Hanson reiterated his position to accept the draft ordinance as last presented at the January 20, 1998 meeting which included a change for a 300 foot corridor for the residential portion on the Rat Root River only. Commissioner Pavleck stated that the 300 foot corridor should be extended for both rivers and suggested inserting a paragraph in the ordinance that could allow the Board to change it to a 500 foot corridor if needed. Question was raised on whether this insertion would be allowed as any change in an ordinance would require the public hearing process and Board action to amend the ordinance.

00098/02-54 Motion by Hanson, seconded by Chezick to adopt a Littlefork and Rat Root River Shoreland Management Ordinance as deemed in the best interests of the public health, safety and welfare to provide for the wise subdivision, use and development of these river corridors and as delegated by the State of Minnesota to its local governments 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. Adoption of said Ordinance defines the shoreland area for the waterbodies as all land 500 feet from the ordinary high water level on either side of the Littlefork and Rat Root Rivers except for a segment of the Rat Root River which is established at 300 feet from the east line of Section 5 and Section 8 of Township 69N, Range 23 W up the river to the south line of Section 15, Township 69N, Range 24 W and also excludes those portions within the municipal boundaries of the City of Littlefork. A printed copy of the Ordinance is available for inspection by any person during regular office hours at the office of the County Auditor. Voting yes: Lepper, Hanson, Chezick; voting no: Bowman, Pavleck. Motion carried.

*Real
file*

STATE OF MINNESOTA
COUNTY OF KOOCHICHING

I, Teresa Jaksa, Clerk to the County Board, in and for the County of Koochiching, State of Minnesota, do hereby certify that the records of my office show that the above is a true and correct copy of a resolution adopted by the County Board at their meeting on February 17, 1998.

Date: 2/18/98

Teresa Jaksa
Teresa Jaksa, Board Clerk
Koochiching County

OFFICE OF COUNTY RECORDER
County of Koochiching, Minn.

I hereby Certify that the within instrument was Filed in this office for Record on the 16 day of March A.D., 1998 at 10 o'clock A.M., and was duly Recorded on Microfilm No. 220553

Tamela A. Jakso
County Recorder

By _____ Deputy