

A bill for an act

relating to local government; regulating nonconforming lots in shoreland areas;
amending Minnesota Statutes 2008, sections 82.22, subdivision 8; 394.36,
subdivision 4, by adding a subdivision; 462.357, subdivision 1e; 513.56,
subdivision 3.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 2008, section 82.22, subdivision 8, is amended to read:

Subd. 8. **Material facts.** (a) Licensees shall disclose to any prospective purchaser
all material facts of which the licensees are aware, which could adversely and significantly
affect an ordinary purchaser's use or enjoyment of the property, or any intended use of the
property of which the licensees are aware.

(b) It is not a material fact relating to real property offered for sale the fact or
suspicion that the property:

(1) is or was occupied by an owner or occupant who is or was suspected
to be infected with human immunodeficiency virus or diagnosed with acquired
immunodeficiency syndrome;

(2) was the site of a suicide, accidental death, natural death, or perceived paranormal
activity; or

(3) is located in a neighborhood containing any adult family home, community-based
residential facility, or nursing home.

(c) A licensee or employee of the licensee has no duty to disclose information
regarding an offender who is required to register under section 243.166, or about whom
notification is made under that section, if the broker or salesperson, in a timely manner,
provides a written notice that information about the predatory offender registry and

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persons registered with the registry may be obtained by contacting local law enforcement where the property is located or the Department of Corrections.

(d) A licensee or employee of the licensee has no duty to disclose information regarding airport zoning regulations if the broker or salesperson, in a timely manner, provides a written notice that a copy of the airport zoning regulations as adopted can be reviewed or obtained at the office of the county recorder where the zoned area is located.

(e) A seller, licensee, or agent of the licensee shall be held harmless on future claims related to limitations on use of a shoreland property due to lot size when a written notice is given to the buyer or the buyer's licensee that contains information about the property's compliance with city, county, or township shoreland lot size regulations for the lake or river where the property is located.

~~(e)~~ (f) A licensee is not required to disclose, except as otherwise provided in paragraph ~~(f)~~ (g), information relating to the physical condition of the property or any other information relating to the real estate transaction, if a written report that discloses the information has been prepared by a qualified third party and provided to the person. For the purposes of this paragraph, "qualified third party" means a federal, state, or local governmental agency, or any person whom the broker, salesperson, or a party to the real estate transaction reasonably believes has the expertise necessary to meet the industry standards of practice for the type of inspection or investigation that has been conducted by the third party in order to prepare the written report and who is acceptable to the person to whom the disclosure is being made.

~~(f)~~ (g) A licensee shall disclose to the parties to a real estate transaction any facts known by the broker or salesperson that contradict any information included in a written report, if a copy of the report is provided to the licensee, described in paragraph ~~(e)~~ (f).

~~(g)~~ (h) The limitation on disclosures set forth in paragraphs (b) and (c) shall modify any common law duties with respect to disclosure of material facts.

EFFECTIVE DATE. This section is effective January 1, 2010.

Sec. 2. Minnesota Statutes 2008, section 394.36, subdivision 4, is amended to read:

Subd. 4. **Nonconformities; certain classes of property.** This subdivision applies to homestead and nonhomestead residential real estate and seasonal residential real estate occupied for recreational purposes. Except as otherwise provided by law, a nonconformity, including the lawful use or occupation of land or premises existing at the time of the adoption of an official control under this chapter, may be continued, including through repair, replacement, restoration, maintenance, or improvement, but not including expansion. If the nonconformity or occupancy is discontinued for a

period of more than one year, or any nonconforming building or structure is destroyed by fire or other peril to the extent of greater than 50 percent of its estimated market value, as indicated in the records of the county assessor at the time of damage, and no building permit has been applied for within 180 days of when the property is damaged, any subsequent use or occupancy of the land or premises must be a conforming use or occupancy. If a nonconforming building or structure is destroyed by fire or other peril to the extent of greater than 50 percent of its estimated market value, as indicated in the records of the county assessor at the time of damage, the board may impose reasonable conditions upon a zoning or building permit in order to mitigate any newly created impact on adjacent property or water body. When a nonconforming structure in the shore impact zone is removed or is destroyed by fire or other peril to the extent of greater than 50 percent of its estimated market value, as indicated in the records of the county assessor at the time of damage, it shall not be replaced, repaired, or restored within the shore impact zone. Structures not meeting the required setback distances to the water body prior to damage may have reasonable conditions placed upon a zoning or building permit to mitigate created impacts on the adjacent property or water body, including, but not limited to, storm water runoff management, reducing impervious surfaces, restoration of wetlands, vegetative buffers, sewage treatment and water supply capabilities, and other conservation-designed actions.

Sec. 3. Minnesota Statutes 2008, section 394.36, is amended by adding a subdivision to read:

Subd. 5. Existing nonconforming lots in shoreland areas. (a) This subdivision applies to shoreland lots of record in the office of the county recorder on the date of adoption of local shoreland controls that do not meet the requirements for lot size or lot width. A county shall regulate the use of nonconforming lots of record and the repair, replacement, maintenance, improvement, or expansion of nonconforming uses and structures in shoreland areas according to this subdivision.

(b) A nonconforming single lot of record located within a shoreland area may be allowed as a building site without variances from lot size requirements, provided that:

(1) all structure and septic system setback distance requirements can be met;

(2) a Type 1 sewage treatment system consistent with Minnesota Rules, chapter 7080, can be installed or the lot is connected to a public sewer; and

(3) the impervious surface coverage does not exceed 25 percent of the lot.

(c) In a group of two or more contiguous lots of record under a common ownership, an individual lot must not be considered as a separate parcel of land for the purpose of sale or development, unless it meets the following requirements:

(1) the lot must be 66 percent or more of the dimensional standard for lot width and lot size for the shoreland classification consistent with Minnesota Rules, chapter 6120;

(2) the lot must be connected to a public sewer, if available, or must be suitable for the installation of a Type 1 sewage treatment system consistent with Minnesota Rules, chapter 7080, and local government controls;

(3) impervious surface coverage must not exceed 25 percent of each lot; and

(4) development of the lot must be consistent with the comprehensive plan.

(d) A lot subject to paragraph (c) not meeting the requirements of paragraph (c) must be combined with the one or more contiguous lots so they equal one or more conforming lots as much as possible.

(e) Notwithstanding paragraph (c), contiguous nonconforming lots of record in shoreland areas under a common ownership may be sold or purchased individually if each lot contained a habitable residential dwelling at the time the lots came under common ownership and the lots are suitable for, or served by, a Type 1 sewage treatment system consistent with Minnesota Rules, chapter 7080, or connected to a public sewer.

(f) In evaluating all variances, zoning and building permit applications, or conditional use requests, the zoning authority shall require the property owner to address, when appropriate, storm water runoff management, reducing impervious surfaces, restoration of wetlands, vegetative buffers, sewage treatment and water supply capabilities, and other conservation-designed actions.

(g) A portion of a conforming lot may be separated from an existing parcel as long as the remainder of the existing parcel meets the lot size and sewage system requirements of the zoning district for a new lot and the newly created parcel is combined with an adjacent parcel.

Sec. 4. Minnesota Statutes 2008, section 462.357, subdivision 1e, is amended to read:

Subd. 1e. **Nonconformities.** (a) Except as otherwise provided by law, any nonconformity, including the lawful use or occupation of land or premises existing at the time of the adoption of an additional control under this chapter, may be continued, including through repair, replacement, restoration, maintenance, or improvement, but not including expansion, unless:

(1) the nonconformity or occupancy is discontinued for a period of more than one year; or

(2) any nonconforming use is destroyed by fire or other peril to the extent of greater than 50 percent of its estimated market value, as indicated in the records of the county assessor at the time of damage, and no building permit has been applied for within 180 days of when the property is damaged. In this case, a municipality may impose reasonable conditions upon a zoning or building permit in order to mitigate any newly created impact on adjacent property or water body. When a nonconforming structure in the shore impact zone is removed or is destroyed by fire or other peril to the extent of greater than 50 percent of its estimated market value, as indicated in the records of the county or city assessor at the time of damage, it shall not be replaced, repaired, or restored within the shore impact zone. Structures not meeting the required setback distances to the water body prior to damage may have reasonable conditions placed upon a zoning or building permit to mitigate created impacts on the water body or adjacent property, including, but not limited to, storm water runoff management, reducing impervious surfaces, restoration of wetlands, vegetative buffers, sewage treatment and water supply capabilities, and other conservation-designed actions.

(b) Any subsequent use or occupancy of the land or premises shall be a conforming use or occupancy. A municipality may, by ordinance, permit an expansion or impose upon nonconformities reasonable regulations to prevent and abate nuisances and to protect the public health, welfare, or safety. This subdivision does not prohibit a municipality from enforcing an ordinance that applies to adults-only bookstores, adults-only theaters, or similar adults-only businesses, as defined by ordinance.

(c) Notwithstanding paragraph (a), a municipality shall regulate the repair, replacement, maintenance, improvement, or expansion of nonconforming uses and structures in floodplain areas to the extent necessary to maintain eligibility in the National Flood Insurance Program and not increase flood damage potential or increase the degree of obstruction to flood flows in the floodway.

(d) Paragraphs (d) to (j) apply to shoreland lots of record in the office of the county recorder on the date of adoption of local shoreland controls that do not meet the requirements for lot size or lot width. A municipality shall regulate the use of nonconforming lots of record and the repair, replacement, maintenance, improvement, or expansion of nonconforming uses and structures in shoreland areas according to paragraphs (d) to (j).

(e) A nonconforming single lot of record located within a shoreland area may be allowed as a building site without variances from lot size requirements, provided that:

(1) all structure and septic system setback distance requirements can be met;

(2) a Type 1 sewage treatment system consistent with Minnesota Rules, chapter 7080, can be installed or the lot is connected to a public sewer; and

(3) the impervious surface coverage does not exceed 25 percent of the lot.

(f) In a group of two or more contiguous lots of record under a common ownership, an individual lot must not be considered as a separate parcel of land for the purpose of sale or development, unless it meets the following requirements:

(1) the lot must be 66 percent or more of the dimensional standard for lot width and lot size for the shoreland classification consistent with Minnesota Rules, chapter 6120;

(2) the lot must be connected to a public sewer, if available, or must be suitable for the installation of a Type 1 sewage treatment system consistent with Minnesota Rules, chapter 7080, and local government controls;

(3) impervious surface coverage must not exceed 25 percent of each lot; and

(4) development of the lot must be consistent with the comprehensive plan.

(g) A lot subject to paragraph (f) not meeting the requirements of paragraph (f) must be combined with the one or more contiguous lots so they equal one or more conforming lots as much as possible.

(h) Notwithstanding paragraph (f), contiguous nonconforming lots of record in shoreland areas under a common ownership may be sold or purchased individually if each lot contained a habitable residential dwelling at the time the lots came under common ownership and the lots are suitable for, or served by, a Type 1 sewage treatment system consistent with Minnesota Rules, chapter 7080, or connected to a public sewer.

(i) In evaluating all variances, zoning and building permit applications, or conditional use requests, the zoning authority shall require the property owner to address, when appropriate, storm water runoff management, reducing impervious surfaces, restoration of wetlands, vegetative buffers, sewage treatment and water supply capabilities, and other conservation-designed actions.

(j) A portion of a conforming lot may be separated from an existing parcel as long as the remainder of the existing parcel meets the lot size and sewage treatment requirements of the zoning district for a new lot and the newly created parcel is combined with an adjacent parcel.

Sec. 5. Minnesota Statutes 2008, section 513.56, subdivision 3, is amended to read:

Subd. 3. **Inspections.** (a) Except as provided in paragraph (b), a seller is not required to disclose information relating to the real property if a written report that discloses the information has been prepared by a qualified third party and provided to the prospective buyer. For purposes of this paragraph, "qualified third party" means a federal,

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state, or local governmental agency, or any person whom the seller, or prospective buyer, reasonably believes has the expertise necessary to meet the industry standards of practice for the type of inspection or investigation that has been conducted by the third party in order to prepare the written report.

(b) A seller shall disclose to the prospective buyer material facts known by the seller that contradict any information included in a written report under paragraph (a) if a copy of the report is provided to the seller.

(c) The seller has no duty to disclose information regarding airport zoning regulations if the seller, in a timely manner, provides a written notice that a copy of the airport zoning regulations as adopted can be reviewed or obtained at the office of the county recorder where the zoned area is located.

(d) A seller, licensee, or agent of the licensee shall be held harmless on future claims related to limitations on use of a shoreland property due to lot size when a written notice is given to the buyer or the buyer's licensee that contains information about the property's compliance with city, county, or township shoreland lot size regulations for the lake or river where the property is located.

EFFECTIVE DATE. This section is effective January 1, 2010.