

6120.3900 ADMINISTRATION.

Subpart 1. **Administration and enforcement.** Local governments must provide for the administration and enforcement of their shoreland management controls by establishing permit procedures for building construction, installation of sewage treatment systems, and grading and filling.

Subp. 2. [Repealed, 13 SR 3029]

Subp. 3. **Variances.** Variances may only be granted in accordance with Minnesota Statutes, chapters 394 or 462, as applicable. They may not circumvent the general purposes and intent of the official controls. 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 variances to ensure compliance and to protect adjacent properties and the public interest. In considering variance requests, boards of adjustment must also consider whether property owners have reasonable use of the lands without the variances, whether existing sewage treatment systems on the properties need upgrading before additional development is approved, whether the properties are used seasonally or year-round, whether variances are being requested solely on the basis of economic considerations, and the characteristics of development on adjacent properties.

Subp. 3a. **Conditional uses.** In addition to any existing standards local governments may have for reviewing conditional uses, the following standards must be incorporated into local controls and used for reviewing conditional uses located in shoreland areas:

A. a thorough evaluation of the topographic, vegetation, and soils conditions on the site to ensure:

(1) prevention of soil erosion or other possible pollution of public waters, both during and after construction;

(2) limiting visibility of structures and other facilities as viewed from public waters; and

(3) adequacy of the site for water supply and on-site sewage treatment; and

B. an assessment of the types, uses, and numbers of watercraft that the project will generate in relation to the suitability of public waters to safely accommodate these watercraft.

Local governments may impose conditions when granting conditional use permits that specify: increased setbacks from public waters; vegetation allowed to be removed or required to be established; sewage treatment system location, design, or use; location, design, and use requirements for watercraft launching or docking, and for vehicular parking; structure or other facility design, use, and location; phasing of construction; and other conditions considered necessary by the local unit of government.

Subp. 4. **Nonconformities.**

A. Local governments must require upgrading or replacement of any existing, on-site sewage treatment system identified as a nonconformity under a program established under part 6120.3400. Systems installed according to all applicable local shoreland management standards adopted under Minnesota Statutes, sections 103F.201 to 103F.221, 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 area separation above groundwater than required by chapter 7080, shall be considered nonconforming.

B. All nonconformities other than on-site sewage treatment systems must be managed according to applicable state statutes and local government official controls.

Subp. 4a. **Shoreland management by townships.** Townships may adopt shoreland management controls under authority of Minnesota Statutes, section 394.33, subdivision 1, if the controls are not inconsistent with or less restrictive than the controls adopted by the county in which the township is located.

A. For the purposes of parts 6120.2500 to 6120.3900, shoreland management controls adopted by townships will only be considered to be consistent with county controls if they cover the same full range of shoreland management provisions covered by the county controls, contain dimensional standards at least as restrictive as those in the county controls, and do not allow land uses in particular areas that are not allowed under the county's official controls.

B. The township must demonstrate to the county board that their proposed ordinance and administration is at least as restrictive as the county's prior to final adoption by the township. Townships must provide for administration and enforcement of shoreland management controls at least as effective as county implementation. Townships that adopt adequate shoreland controls must follow all of the notification procedures in subpart 6. After adequate shoreland management controls are adopted by a township, property owners must only obtain necessary permits and approvals as required in the township shoreland management controls. Property owners do not have to obtain similar permits or approvals under the county's shoreland controls.

Subp. 5. **Joint exercise of powers.** To facilitate more logical, consistent, and efficient administration of shoreland management controls, local governments are encouraged to enter into joint powers agreements with adjacent or otherwise similarly situated local units of government to jointly administer shoreland management controls pursuant to the procedures and authority of Minnesota Statutes, sections 394.32 and 471.59.

Subp. 6. Notification procedures.

A. 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 plats must include copies of the plats.

B. A copy of approved amendments and 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.

C. Townships with shoreland management controls adopted under subpart 4a must also provide these materials to the zoning official of the county.

Statutory Authority: *MS s 103F.211; 105.485*

History: *13 SR 3029*

Published Electronically: *June 11, 2008*