

6105.0540 CERTIFYING CERTAIN ACTIONS.

Subpart 1. **In general.** In order to ensure that the standards and criteria herein are not nullified by unjustified exceptions in particular cases, and to promote uniformity in the treatment of applications for such exceptions, a review and certification procedure is hereby established for certain land use decisions. These certain decisions consist of any decisions which directly affect the use of the land in the Saint Croix Riverway, and are one of the following types of action:

A. Adopting or amending a Saint Croix Riverway ordinance regulating the use of land, including rezoning of particular tracts of land.

B. Granting a variance from the provisions of a Saint Croix Riverway ordinance which relates to the dimensional standards and criteria of part 6105.0380.

Subp. 2. **Effective date of action.** No such action becomes effective unless and until the commissioner has certified that the action complies with the intent of the National Wild and Scenic Rivers Act, the federal and state Lower Saint Croix River acts and the master plan adopted thereunder, and these standards and criteria. In determining the acceptability of the proposed action, the items in part 6105.0530, subpart 4 shall also be considered.

Subp. 3. **Certification process.** Certification process:

A. A copy of all notices of any public hearings to consider adoption or amendment of a Saint Croix Riverway ordinance, or variance application shall be received by the commissioner at least 20 days prior to such hearings to consider such actions. The notice shall include a copy of the proposed Saint Croix Riverway ordinance or amendments, or a description of the requested variance.

B. The local authority shall notify the commissioner of its final decision on the proposed action within ten days of the decision.

C. The commissioner shall, no later than 30 days after receiving notice of the final decision, communicate to the local authority either certification of approval, with or without conditions; or notice of nonapproval.

D. The action becomes effective when and only when either:

(1) the final decision taken by the local authority has previously received certification of approval from the commissioner;

(2) the local authority receives certification of approval after its final decision;

(3) 30 days have elapsed from the day the commissioner receives notice of the final decision, and the local authority has previously received from the commissioner neither certification of approval nor notice of nonapproval; or

(4) the commissioner certifies approval after conducting a public hearing.

E. In the case of notice of nonapproval of a Saint Croix Riverway ordinance, amendment, or variance, either the local authority or the applicant may, within 30 days of said notice, file with the commissioner a demand for hearing. If the demand for hearing is not made within the 30 days, the notice of nonapproval becomes final. If a public hearing is demanded:

(1) The hearing shall be held in the appropriate local community within 60 days of the demand for it but not before two weeks' published notice. Notice and the conduct of the hearing and the allocation of costs of the hearing shall be accomplished in the same manner as provided in Minnesota Statutes, section 103G.311, subdivisions 2, 6, and 7.

(2) Within 30 days after the hearing, the commissioner shall either certify approval of the proposed action, or deny it. The decision shall be based upon findings of fact made on substantial evidence found in the hearing record. On concluding that the proposed action satisfies the criteria of subpart 2, then the commissioner shall certify approval; otherwise the commissioner shall deny it.

Statutory Authority: *MS s 104.25; 103F.351*

History: *17 SR 1279*

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