

**6106.0080 ADMINISTRATIVE PROVISIONS FOR ORDINANCES.**

Subpart 1. **Purpose.** The purpose of this part is to identify administrative provisions that must be included in local ordinances to ensure that ordinances are administered consistent with the purposes of this chapter.

**Subp. 2. Variances.**

A. A local government must consider applications for variances in a manner consistent with Minnesota Statutes, sections 394.27, subdivision 7, and 462.357, subdivision 6. The local government's review must consider the potential impacts of a proposed variance on primary conservation areas, public river corridor views, and other resources identified in the local government's plan.

B. If a local government determines that a variance would negatively affect primary conservation areas, public river corridor views, or other identified resources, mitigation is required. Mitigation must be proportional to, have a relationship to, and offset the impact on the affected resource as provided in subpart 5.

C. The local government's findings of fact accompanying the issuance of any variance must include a finding and evidence supporting a finding that the requested variance is consistent with the purposes and scope of this chapter.

**Subp. 3. Nonconformities.**

A. The purpose of this subpart is to allow uses and structures that came into existence legally prior to January 4, 2017, and in conformance with then-applicable requirements to continue to exist and be put to productive use.

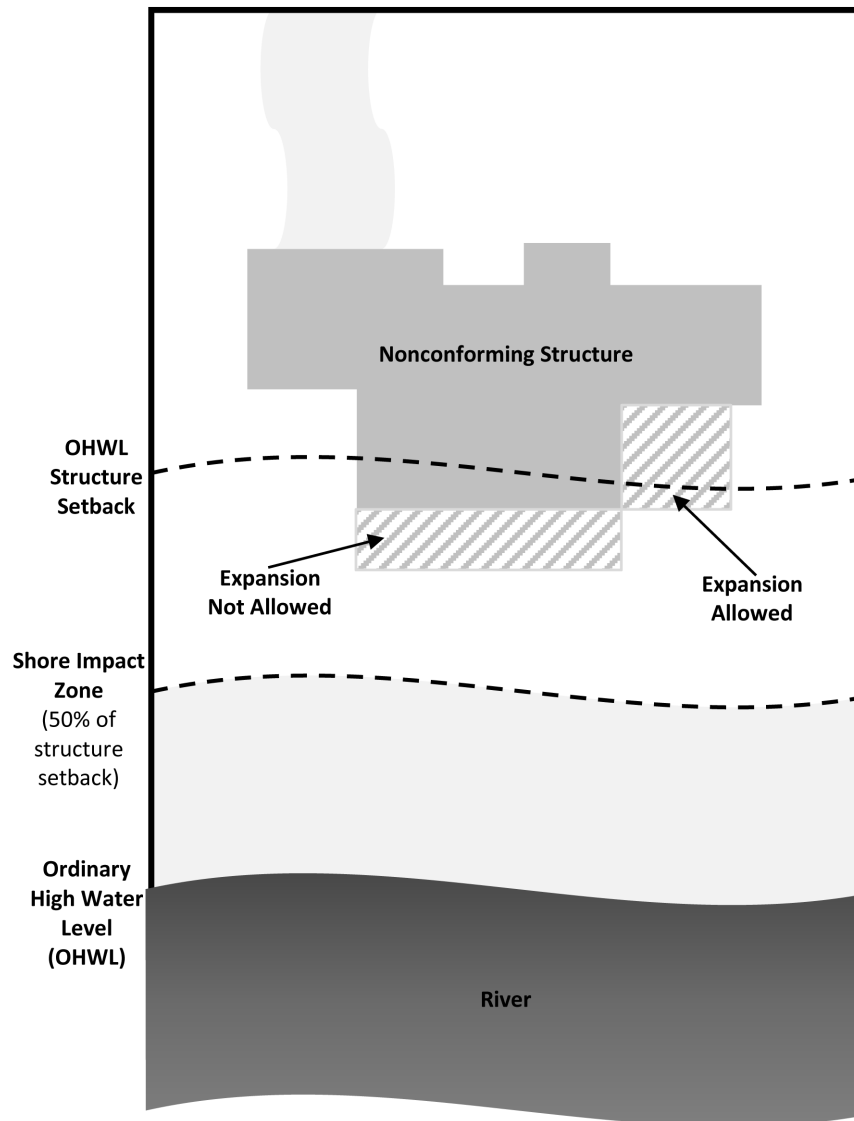
B. Nonconformities must be regulated by local governments in a manner consistent with Minnesota Statutes, sections 394.36 and 462.357, subdivision 1e.

C. Local governments may choose to allow lateral expansion of legally nonconforming principal structures that do not meet the setback requirements in part 6106.0120, provided that:

(1) the expansion does not extend into the shore impact zone or bluff impact zone or further into the required setback than the building line of the existing principal structure. See Figure 3; and

(2) the expanded structure's scale and bulk is consistent with that of the original structure and existing surrounding development.

Figure 3: Expansion of Nonconforming Structure within OHWL Setback



D. New structures erected in conformance with the setback averaging provisions of part 6106.0120, subpart 3, item D, are considered to be in conformance with local ordinance requirements.

E. Site alterations that were legally made prior to the effective date of local ordinances adopted under this chapter are considered conforming. Site alterations include vegetation, erosion control, storm water control measures, and other nonstructural site improvements. Expansion of site alterations must comply with this chapter.

**Subp. 4. Conditional and interim use permits.**

A. In addition to meeting the requirements of Minnesota Statutes, sections 394.301, 394.303, 462.3595, and 462.3597, a local government's review of conditional and interim uses must consider potential impacts of the conditional or interim use on primary conservation areas, public river corridor views, and other resources identified in a local government's plan.

B. When evaluation and assessment identify a negative impact under item A, issuance of a conditional or interim use permit must include conditions for mitigation according to subpart 5.

**Subp. 5. Mitigation.**

A. In evaluating a request for a variance or conditional or interim use permit, if a local government identifies a potential negative impact to primary conservation areas, public river corridor views, or other resources identified in the local government's plan, the variance or conditional or interim use permit must require mitigation.

B. Mitigation must be directly related to and must bear a rough proportionality to the impact of the project on primary conservation areas, public river corridor views, and other resources identified in the local government's plan.

**Subp. 6. Project information.**

A. An applicant must submit relevant information to the responsible local government to evaluate how any development that requires discretionary action or a permit under this chapter complies with the plans and ordinances adopted under this chapter.

B. In addition to local government requirements, project information must include the following, unless the responsible local government determines that the information is not necessary:

- (1) a detailed description of the project; and
- (2) scaled maps and plans, dimensional renderings, maintenance agreements, and other materials that identify and describe:
  - (a) primary conservation areas;
  - (b) public river corridor views;
  - (c) buildable area;
  - (d) existing and proposed topography and drainage patterns;
  - (e) proposed storm water and erosion and sediment control practices;
  - (f) existing and proposed vegetation to be removed and established;
  - (g) ordinary high water level, blufflines, and all required setbacks;
  - (h) existing and proposed structures;
  - (i) existing and proposed impervious surfaces; and

(j) existing and proposed subsurface sewage treatment systems.

Subp. 7. **Accommodating disabilities.** Ramps or other facilities to provide persons with disabilities access to the persons' property, as required by the federal Americans with Disabilities Act and the federal Fair Housing Act and as provided by chapter 1341, are allowed, subject to the following standards:

A. parts 6106.0120 to 6106.0180 must be complied with, except as provided in item B; and

B. when parts 6106.0120 to 6106.0180 cannot be complied with, the local government may issue an interim use permit to allow ramps or other facilities that do not comply with those parts. Upon expiration of the interim use permit, the ramp or other facilities must be removed.

**Statutory Authority:** *MS s 116G.15*

**History:** *41 SR 799*

**Published Electronically:** *January 27, 2023*