

6120.2800 SCOPE.

Subpart 1. **Responsibilities and authorities.** These minimum standards and criteria apply to those shorelands of public waters of the state which are subject to local government land use controls. They are intended to be incorporated into local government shoreland management controls. Each local government is responsible for administration and enforcement of its shoreland management controls adopted in compliance with these standards and criteria. Nothing in these standards and criteria shall be construed as prohibiting or discouraging a local government from adopting and enforcing controls that are more restrictive.

Subp. 1a. **North Shore Management plan.** The minimum standards and criteria for the subdivision, use, and development of the shoreland of Lake Superior, other than for the city of Duluth, are those specified in the North Shore Management plan, A Shoreland Management Plan for Lake Superior's North Shore, December 1988, adopted by the North Shore Management Board on November 29, 1988. The plan is incorporated by reference, is available through the Minitex interlibrary loan system, and is not subject to frequent change.

Local governments shall comply with part 6120.3900, subpart 6, in administration of their shoreland management controls.

Local governments shall adopt shoreland management controls conforming to the North Shore Management Plan within 18 months of the effective date of this part.

Subp. 2. **Adoption schedule.** Counties, and those cities designated by the commissioner in consultation with the appropriate county, must adopt or amend land use controls to bring them into substantial compliance with these standards and criteria within two years of being notified by the commissioner.

Subp. 3. **Implementation flexibility.** Local governments may, under special circumstances and with the commissioner's approval, adopt shoreland management controls that are not in strict conformity with these minimum standards and criteria, provided the purposes of Minnesota Statutes, sections 103F.201 to 103F.221, are satisfied.

A. Special circumstances may include the following situations:

(1) where shorelands have been developed with an assortment of urban land uses for many years and much of the development does not meet the standards in parts 6120.2500 to 6120.3900;

(2) cities with central business districts located within shorelands;

(3) cities whose only shorelands are along rivers classified as tributary;

(4) small cities that have not had, and do not anticipate, much development activity within shorelands;

(5) counties or portions of counties with topography or vegetation characteristics that would make use of particular minimum state standards impractical;

(6) shorelands that are managed under other water and related land resource management programs authorized by state or federal legislation with goals compatible with Minnesota Statutes, sections 103F.201 to 103F.221, and parts 6120.2500 to 6120.3900; or

(7) individual lakes or systems of lakes that are being managed under standards developed specifically for these water resources after a comprehensive study and planning effort.

B. Alternative management standards may use the following concepts and approaches, or others:

(1) expanded or different public waters classification systems;

(2) designation of areas where land use districts and associated standards are more restrictive than these standards and criteria as trade-offs for other areas where they are less restrictive;

(3) standards and other management approaches that are developed for specific water resources after a comprehensive evaluation and planning effort;

(4) standards developed to take into account commonly occurring hydrologic, geologic, property ownership, topographic, and vegetation patterns and shoreland accessibility issues that would make use of these standards and criteria impractical; or

(5) other types of management or acquisition programs such as storm water management and public land acquisition programs that reduce the need for use of specific standards in parts 6120.2500 to 6120.3900.

C. Local governments must request consideration of an alternative approach under this subpart and must provide written justification and supporting information, maps, and documents, as appropriate, to justify the request to the commissioner, including the following:

(1) existing land use plans and controls for shorelands of each public water;

(2) for the shorelands of each public water, the number, average size, and percent of shoreline occupied by undeveloped lots of record and land in public ownership;

(3) characteristics of existing development, including types, densities, heights, colors, and presence or absence of screening vegetation or topography;

(4) presence or absence of public sewer and storm water management practices or facilities; and

(5) explanations of how deviations from state standards are justified.

D. The commissioner shall respond to the local government's request for consideration of an alternative approach under this subpart in accordance with subitems (1) to (5).

(1) The commissioner shall in writing acknowledge and approve or deny the request within 60 days of receipt of the request and all necessary supporting documents and technical data. For extraordinarily complex issues and requests involving multigovernment coordination or multiorganization coordination, the commissioner and the affected local units of government may mutually agree to an extension of the 60-day response.

(2) The commissioner in the approval or denial pursuant to this subpart shall state to the local governments the reasons for the approval or denial and, as appropriate, suggest alternative solutions or regulatory approaches that would be acceptable to the commissioner.

(3) The local governments proposing the alternative control and the commissioner shall solicit the input of the public and other governmental bodies that could be affected by the alternate control.

(4) Alternate shoreland controls must be approved by other units of government having adjacent land use authority impacted by the alternate controls.

(5) The local government either proposing an alternate local control or a local government being impacted by an alternate local control may request a contested case hearing under Minnesota Statutes, section 103G.311.

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

History: *13 SR 3029; 14 SR 1718*

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