



Creating Standards for Lake and River Conservation

August 2010 Newsletter

Governor Pawlenty Returns Draft Rules for Further Work

On August 11, 2010, Governor Pawlenty returned the draft shoreland rules to DNR for further work. At the same time, he returned the draft structure rules for similar reasons. His primary concerns were:

- Whether the rules provided adequate flexibility for local governments with diverse resources and development issues;
- Finding an appropriate balance between protection of Minnesota's lakes and waterways and the rights of citizens to enjoy them and their property;
- The potential impacts of changing the regulatory threshold for basins located near municipalities;
- The draft rules may be too much of a "one-size-fits-all" approach.

DNR has been directed to revisit the scope and intent of the rulemaking with its stakeholders and the legislature. Meanwhile, the governor noted that local governments are free to adopt the same or similar rules as those in the draft DNR proposal. "Some local units of government have already taken such steps," he said. "I encourage all local units of government to work with the DNR to move forward together in areas where additional regulations will achieve desired goals."

Minnesota Statutes 103F.221 allow local governments to adopt standards that are stricter than the statewide minimum shoreland standards found in the current rules. The current shoreland rules have a flexibility provision that allows local governments to deviate from the strict adherence to certain statewide standards in certain instances if they can demonstrate to DNR that their alternative approach satisfies the intent of the standard.

Until such time as new shoreland rules have been fully promulgated, DNR will accept any local government's ordinance amendments that follow the draft rules as substantially meeting the statutory and regulatory requirements.

Because certain elements of the draft rules do deviate from current rules in appearing to be less strict (e.g. relaxed height and lot size restrictions in cities), it is necessary that a local government request flexibility approval from DNR in order to use them.

State Supreme Court Weighs in on Variance Determinations

Two recent Minnesota Supreme Court decisions in as many years may affect the outcome of future variance decisions by local governments. See the following link for further details

[http://files.dnr.state.mn.us/waters/watermgmt_section/shoreland/variances_in_shoreland_management.pdf].

Clean Water and Climate Adaptation Summit

This year's Summit at the Minnesota Landscape Arboretum builds upon past summits in its focus on the use of green infrastructure to meet key water management needs in a period of greater weather fluctuations. The Summit will draw from both local and national examples on how these challenges are being met. See the following links for greater details.

[REGISTER NOW!](#)

[Clean Water and Climate Adaptation Summit 2010](#)

September 16-17 at the Minnesota Landscape Arboretum

Stay Connected

The project Web site at <http://mndnr.gov/waters/shoreland.html> remains active while DNR assesses the Governor's comments. At the Web site, there is a list serv available for sign up to receive updates. Public comment related to shoreland rule development is welcome and can be directed to the Web site.

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