

# HOUSE RESEARCH

## Bill Summary

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### Overview

This bill establishes statutory requirements for the alternative management of shorelands by local units of government in Minnesota. These standards are virtually identical to alternative shoreland management standards established in the North Central Minnesota Lakes project, a Department of Natural Resources (DNR) pilot project mandated by the legislature in 2003. The pilot project covers five counties: Aitkin, Cass, Crow Wing, Hubbard, and Itasca.

Section 2 of the bill gives local governments the option of adopting any or all of the alternative shoreland management standards established by the commissioner of natural resources ("commissioner").

Section 10 of the bill sets forth standards for shoreland management that pertain to Minnesota resorts.

### Section

- 1** **Definitions.** Defines 70 terms used in the bill.
- 2** **Alternative standards.** Makes alternative shoreland management standards established by the commissioner optional for local governments. Gives local governments the option of adopting any or all of the alternative shoreland management rules. Clarifies that local governments still must comply with DNR regulations governing the shorelands of public

## Section

waters that are subject to local government land use controls.

### **3 Shoreland management classification system.**

**Subd. 1. Criteria.** Requires the commissioner to classify public waters using ten specified criteria.

**Subd. 2. Classes.** Establishes and describes ten classes of public waters: special protection lakes; natural environment lakes; recreational development lakes; general development lakes; remote river segments; forested river segments; transition river segments; agricultural river segments; urban river segments; and tributary river segments.

**Subd. 3. Supporting data.** Identifies sources of supporting data for shoreland management classifications.

**Subd. 4. Classification procedures.** Requires the commissioner to classify public waters and to document each classification with supporting data. Establishes a procedure for submission to and review by affected local governments. Provides that unclassified public waters will default to the natural environment class until otherwise classified.

**Subd. 5. Reclassification.** Authorizes the commissioner to reclassify (and local governments to request reclassification of) public waters to more restrictive classes.

**Subd. 6. Modification and expansion of system.** Authorizes the commissioner to modify or expand the shoreland classification system to provide specialized standards for unique public waters.

**Subd. 7. Multiple shoreland management classifications.** Provides that, if a local government requests reclassification of a public water, the commissioner may apply multiple classifications to the public water. Establishes policies and criteria for approving a request for reclassification.

### **4 Land use districts.** Requires local governments to use land use zoning districts to control the development of shorelands of public waters.

### **5 Criteria for land use zoning district designation.**

**Subd. 1. Criteria.** Establishes 13 criteria that local governments must consider when establishing land use zoning districts.

**Subd. 2. Designation of zoning districts.** Authorizes local governments to continue using land use zoning districts that are in effect when this law becomes effective, until revisions are proposed. Requires local governments, when revisions are proposed, to revise existing zoning district and use provisions to make them substantially compatible with subdivision 4 (lakes) and subdivision 5 (rivers).

**Subd. 3. Land use district descriptions.** Describes the four land use districts: sensitive area districts; residential districts; water-oriented districts; and general use districts.

**Subd. 4. Shoreland classifications and uses; lakes.** Specifies the permitted, conditional, and prohibited uses for lakes classes in sensitive area districts, residential districts, water-oriented commercial districts, and general use districts.

## Section

**Subd. 5. Shoreland classifications and uses; rivers.** Specifies the permitted, conditional, and prohibited uses for river classes in sensitive area districts, residential districts, water-oriented commercial districts, and general use districts.

## 6 **Zoning provisions.**

**Subd. 1. Purpose.** Requires local governments to adopt shoreland controls to regulate lot sizes, placement of structures, and alterations of shoreland areas.

**Subd. 2. Residential lot size.** Establishes lot size requirements for single, duplex, triplex, and quad residential lots created after this law becomes effective.

**Subd. 3. Lot width, lot size, and residential lot suitable area standards for minor subdivisions and density determinations for conservation subdivisions and planned unit developments; lake classes.** Establishes minimum requirements for lake classes with respect to lot area, residential lot suitable area, and width standards for residential lot developments.

**Subd. 4. Lot standards for residential development; river classes.** Establishes residential lot suitable area requirements for all river classes.

**Subd. 5. Placement and height of structure and facilities on lots.** Requires the location of structures and facilities to comply with all applicable setback requirements. Establishes minimum requirements for shoreland controls for the placement of structures and other facilities on lots, including requirements for structure setbacks, high water elevations, bluff impact zones, steep slopes, proximity to unplatted cemeteries and significant historic sites, proximity to roads and highways, height, accessory structures and facilities, and decks and platforms.

**Subd. 6. Shoreline buffer standards.** Requires local governments to control alterations of natural vegetation and topography to prevent erosion into public waters, fix nutrients, infiltrate rainwater runoff, preserve shoreland aesthetics and historic values, prevent bank slumping, limit impacts on water quality, and protect fish and wildlife habitat. Requires shoreline buffers in compliance with specified minimum standards. Establishes requirements for how shore impact zones are brought into compliance with this section. Requires local governments to establish controls for land-distributed activities within a shoreland management district, consistent with 13 minimum standards. Also requires local shoreland controls for excavations intended to provide connection to a public water, subject to approval by the commissioner.

**Subd. 7. Placement and design of roads, driveways, and parking areas.** Establishes requirements for the placement and design of roads, driveways, and parking areas.

**Subd. 8. Shoreline recreation facilities for lots.** Requires shore recreation facilities on residential lots to be clustered or grouped in suitable areas, as specified in this subdivision. Requires walkways to be used in place of fill to bridge wetlands to the shore in certain situations.

**Subd. 9. Agricultural use standards.** Establishes standards for lots with permitted agricultural land uses.

**Subd. 10. Forest management standards.** Establishes minimum standards for the

## Section

harvesting of timber and reforestation or conversion of forested use to nonforested use.

**Subd. 11. Extractive use standards.** Requires local governments to approve extractive use site development and restoration plans, which must be followed during operation. Establishes setback standards for processing machinery.

**Subd. 12. Standards for commercial, industrial, public, and semipublic uses.** Establishes minimum standards for commercial, industrial, public, and semipublic uses with water-oriented needs.

**Subd. 13. Storm water management.** Requires local governments to incorporate certain standards for proper erosion control and storm water management into local controls and administration of those controls. Requires local governments to develop and implement programs to identify properties that are inconsistent with impervious surface coverage limits, as described in this subdivision.

**Subd. 14. Mining of metallic minerals and peat.** Authorizes the mining of metallic minerals and peat as a permitted use, as long as the statutory requirements for the reclamation of mineral land are met.

### 7 **Sanitary provisions.**

**Subd. 1. Water supply.** Requires domestic water supplies to meet Health Department and Pollution Control Agency water quality standards.

**Subd. 2. Sewage treatment.** Requires premises for human occupancy to have adequate methods of sewage treatment. Requires the use of publicly owned sewer systems where available and establishes rules for private sewage treatment systems, including compliance with Health Department and Pollution Control Agency rules and with local government standards. Requires local governments to develop and implement programs to identify and upgrade sewage treatment plants that are inconsistent with design criteria established in this subdivision.

### 8 **Subdivision provisions.**

**Subd. 1. Purpose.** States the legislature's intent to allow greater flexibility in the design of residential subdivisions; to facilitate more economical and efficient construction of streets, utilities, and public services; and to promote conservation subdivisions.

**Subd. 2. Subdivision methods.** Requires minor and major subdivision controls to comply with the minimum standards in this section.

**Subd. 3. Land suitability and consistency with other controls.** Provides that a lot must be suitable in its natural state for the proposed use, with minimal alteration. Prohibits local governments from issuing building or sewage permits to unsuitable lots. Requires subdivisions to conform with local government controls as well.

**Subd. 4. Minor subdivision provisions.** Establishes minimum standards for local controls authorizing minor subdivisions.

**Subd. 5. Conventional subdivisions provisions.** Limits local governments to issuing conventional subdivision permits only as conditional use permits, in compliance with

## Section

minimum requirements. Prohibits conventional subdivisions on special protection lakes.

**Subd. 6. Informational requirements.** Specifies that local subdivision controls must require submission of adequate information, as specified, to make a determination of land suitability under subdivision 3.

**Subd. 7. Dedications.** Requires local governments to provide easements over natural drainage or ponding areas for management of storm water and wetlands if they require land or easement dedications.

### 9 Access lots and access easements.

**Subd. 1. Purpose.** Requires local shoreland controls to regulate access to public waters for the purpose of managing water surface crowding, reducing fish and wildlife disturbance, preventing surface water pollution by suspension of sediment, maintaining property values, and maintaining the natural characteristics of shorelands.

**Subd. 2. Access lots.** Authorizes local governments to allow access lots (parcels of land providing owners of riparian lots within subdivisions access to public waters) if direct riparian access is not feasible due to protected vegetation, wetlands, or other critical fish or wildlife habitat. Requires access lots to meet minimum standards.

**Subd. 3. Controlled access lots.** Prohibits controlled access lots (a lot, tract, or parcel of land intended to be use to provide owners of nonriparian lots access to public waters).

**Subd. 4. Easement or other access.** Prohibits easements to nonriparian lot owners to allow access to public waters.

### 10 Resorts.

**Subd. 1. New resorts.** Allows local governments to authorize new resort developments only by issuing conditional use permits within an established land use district. Prohibits new resort developments on special protection and natural environment lakes or shorelands within sensitive area districts. Local governments may allow the creation of new resorts if the resorts meet or comply with requirements pertaining to the following:

- information requirements (§ 0, subd. 2);
- development density evaluation steps (subd. 5);
- structure setbacks and maximum height (§§ 0, subd. 5; 0, subd. 3);
- erosion control and storm water management (§ 0, subd. 13);
- garages, storage structures, parking, and amenities that encourage long-term residential use;

## Section

- required marina permits (Minn. Rules, part 6115.0211); and
- development design criteria (§ 0, subd. 5), subject to certain exceptions.

**Subd. 2. Structure replacement within an existing resort.** Authorizes local governments to allow resorts to maintain and replace existing structures as long as an establishment continues to operate as a resort and meets standards pertaining to:

- setback, elevation, and height requirements, including a requirement that there be no increase in a structure's footprint (subject to certain exceptions);
- restoring and maintaining an area within the development to its natural state;
- erosion control and storm water management for any resort that has 20 or more dwelling units; and
- management of storm water runoff from expansion structures.

**Subd. 3. Resort expansion.** Authorizes local governments to allow resort expansions of establishments that will continue to operate as a resort and will meet standards pertaining to:

- additional density (see subd. 5);
- impervious surface coverage;
- structure setbacks and maximum heights (§§ 0, subd. 5; 0, subd. 3);
- garages, storage structures, parking, and amenities that encourage long-term residential use;
- on-site water supply and sewage treatment systems (see § 0);
- required marina permits (Minn. Rules, part 6115.0211);
- management of storm water runoff from expansion structures;
- erosion control and storm water management for any resort that has 20 or more dwelling units and more than 15 percent impervious surface coverage in the first tier; and
- restoring and maintaining an area within the development to its natural state.

**Subd. 4. Shoreline recreation facilities for resorts.** Requires shoreline recreation areas to be clustered or grouped in suitable areas. Establishes specific requirements

## **Section**

for boating facilities, continuous docking space, number of docks (limited to one), launching ramp facilities, and parking of nonlodger vehicles.

**Subd. 5. Resort development density evaluation steps.** Establishes density evaluation steps for resort developments.

**Subd. 6. Conversions.** Authorizes local governments to allow the conversion of existing resorts to a planned unit or residential development if the a resort meets applicable standards pertaining to:

- planned unit developments (§ 0) or residential lots (§ 0), whichever is applicable;
- dwelling units and dwelling site densities;
- water supply and sewage treatment, impervious coverage, common open space, and shore recreation facilities; and
- shore and bluff impact zones.

**Subd. 7. Administration and maintenance requirements.** Requires the preservation, restoration, and maintenance of shoreline vegetation in accord with an approved shoreland vegetation plan. Requires local governments to adopt controls for determining the development as a resort. Establishes requirements for the creation or modification of covenants or deed restrictions. Requires local controls requiring resorts to inform investors of potential risks adopted in local controls.

**Subd. 8. Technical review.** Requires DNR to conduct a shoreland technical review for all new resort developments and resort expansions. Upon initiation of the review by a local government, requires DNR to make technical findings and to provide written recommendations to the local government within 30 days.

## **11 Conservation subdivision and planned unit developments.**

**Subd. 1. Scope of provisions.** Requires local governments to adopt, subject to DNR approval, shoreland management controls to allow for conservation subdivision and planned unit developments. Provides that local controls must be consistent with the standards in this section and that each lot or dwelling site created must be suitable for the proposed use in its natural state, with minimal alteration.

**Subd. 2. Information requirements.** Requires official controls to require project proponents to submit adequate information, including items listed in this subdivision.

**Subd. 3. Dwelling unit or site density evaluation.** Requires local governments to evaluate proposed new developments or expansions to existing developments using specified procedures and standards.

**Subd. 4. Conservation subdivision and planned unit development density**

## **Section**

**calculation.** Establishes the procedure for determining the density calculation for developments.

**Subd. 5. Development criteria.** Establishes requirements for minimum acreage, common open space, centralization and design of facilities and structures, erosion control and storm water management; easements and other means of maintaining a common open space, and the preservation, restoration, and maintenance of shoreland vegetation. Requires local governments to ensure that there are adequate provisions for preservation and maintenance of common open spaces and for the continued existence of the development prior to granting final approval of a development. Requires residential developments to use an owners association, unless an equally effective alternative is established. Requires developers to submit documents for local government review before establishing or recording any common interest community. Authorizes local governments to allow the conversion of other land uses and facilities to planned unit developments if statutory requirements are met.

12

### **Administration.**

**Subd. 1. Administration and enforcement.** Requires local governments to administer and enforce shoreland management controls by establishing permit procedures for lot creation, building construction, installation of sewage treatment plants, and grading and filling.

**Subd. 2. Variances.** Delineates the circumstances under which a local government may grant a variance.

**Subd. 3. Conditional uses.** Requires local governments to incorporate certain standards into existing local controls for reviewing conditional uses in shoreland areas.

**Subd. 4. Nonconformities.** Requires local governments to mandate upgrading or replacement of nonconforming on-site sewage treatment systems. Requires the management of other nonconformities in accord with applicable state statutes and local controls. Defines "increases in nonconformity" for purposes of this section.

**Subd. 5. Shoreland management by townships.** Authorizes townships to adopt shoreline management controls if they are inconsistent with or at least as restrictive as applicable county controls.

**Subd. 6. Joint exercise of powers.** Encourages local units of government to enter joint powers agreements with adjacent or similarly-situated local governments to jointly administer shoreland management controls.

**Subd. 7. Notification procedures.** Requires notice to the commissioner of local public hearings under shoreland management controls. Also requires the submission of copies of approved amendments and plats, and final decisions within ten days of final action. Requires townships with shoreland management controls to provide the same information to the zoning official in the relevant county.

**Subd. 8. Shoreline steward program.** Encourages local governments, lake improvements, lake improvement districts, and lake associations to establish shoreland protection incentive programs meeting certain specified criteria.



