

# Updated Shoreland Rules: A Work in Progress

## The COLA Call

by Ed Mutsch

Some readers will recall a time when our beloved north central Minnesota was a comparative backwater, sparsely populated and infrequently visited by few other than family and those of a pronounced naturalist inclination. This slowly began to change after World War II, then accelerated markedly in the 1960s/70s as improved roads and a growing number of campgrounds and resorts combined to dramatically increase recreational use of Minnesota lakes; seasonal cabins appeared in ever greater numbers.

It became increasingly apparent that the lack of any control on this development of northern Minnesota littoral and riparian shoreland carried with it adverse consequences for the same precious waters which vacationers had come here to enjoy. A growing chorus of concern was the impetus for passage of the 1969 Shoreland Management Act, Minnesota's first legislation directed at minimizing adverse developmental impacts on the state's water resources. This in turn led to 1970 DNR-promulgated shoreland rules establishing minimum statewide standards for development within defined distances from lake shores and river banks. These shoreland rules were (and are) administered through county zoning ordinances which could be more, but not less, strict than the statewide standards.

Shoreland development continued to accelerate, while the nature of development began to change significantly. Where seasonal cabins were previously the rule and permanent homes the exception, the opposite increasingly came to be the case. The result?.....Ever more people using the lakes for ever longer periods, bringing ever growing pressures on water resources. Once again a rising chorus of concern and complaint, along with a growing body of scientific insight into how to manage shoreland development, prompted the 1989 promulgation of an upgraded set of shoreland management standards.

Development continued apace. More and more permanent homes were being erected in ever greater densities along northern Minnesota shorelines. Valuable wetlands were frequently being destroyed to create "buildable" lots, while many houses and associated septic systems were being inappropriately placed relative to lake levels. The rising cost of shoreland---and associated property taxes----were increasingly pricing resort owners out of business, forcing them into PUD conversions or into the arms of developers, adding to the buildup of destructive pressures on lakes, rivers and wetlands.

In 2003 Governor Pawlenty declared a Clean Water Initiative, one element of which involved a five county (Aitkin, Cass, Crow Wing, Hubbard, Itasca) pilot project to develop a set of updated shoreland regulations which could then be made available for the voluntary adoption, wholly or in part, by all Minnesota counties. An Advisory Committee comprised of 34 individuals representing a broad range of constituencies with stakes in preserving and protecting Minnesota water quality worked for over a year to develop a set of updated shoreland rules. The result was the 12/12/05 publication of "Minnesota's Alternative Shoreland Management Standards". Citizen input was subsequently solicited through numerous public hearings, and county boards were encouraged to study the standards and adopt those elements appropriate to each

county's particular situation.

As time passed, it became clear that no Minnesota county would be incorporating the proposed new rules in toto, while a few counties adopted a few----very few----of its elements. This led Minnesota Waters and the Minnesota Center for Environmental Advocacy to petition the DNR to use the Alternative Shoreland Management Standards as the basis for statewide rulemaking; the DNR refused. While the two environmental advocacy groups were pondering whether to mount a legal challenge to the DNR refusal, the state legislature intervened, directing the DNR to begin by January 15, 2008, a rulemaking process for updating its statewide shoreland management standards. This process was initiated on January 10, 2008 with the issuance of a public 'Request for Comments' letter from Mark Holsten, Minnesota DNR Commissioner, seeking citizen comments on possible amendments to existing shoreland management standards.

The entire new rulemaking process will be undertaken by a number of committees and is projected to proceed in three phases, i.e., Issue Identification (Jan.-July 2008), Policy & Option Recommendations (Aug. 2008-Feb. 2009), and Preliminary Rule Revisions (Mar. - June 2009). These will be followed by a public opportunity to review draft rules. Input received will be utilized to formulate final language to serve as the basis for the issuance of a 'Notice of Intent' (to adopt). A final series of public hearings will then be held.

COLA will be seeking to input its "two cents worth". All Hubbard County citizens will be affected in one way or another by the results of this process and are encouraged to become informed about it and to track it as it unfolds. The most informative way to begin would be by attending one of the 'Shoreland Open Houses' to be held throughout the month of June (6/11, DL; 6/17, Brainerd; 6/24, Bemidji) at which citizens can obtain information about the process, how to get involved, what the existing rules cover, and what are the potential areas that could be included in rule revision. The DNR website offers a wealth of information, e.g., a schedule of specific events, the membership and affiliation of each committee, minutes of the meetings of each committee, etc. One can also sign up to electronically receive a regular 'Shoreland Rules Update Newsletter'. Go to <http://www.dnr.state.mn.us/>; under 'Find it Fast', click on 'Public Input'; under 'Rules', click on Shoreland Rules Update Project'.

Write to [ELMutsch@aol.com](mailto:ELMutsch@aol.com)

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