

PUBLIC NOTICE

EQB SEEKS INPUT ON REVISED PROPOSED MANDATORY EAW & EIS CATEGORIES FOR PROJECTS IN SHORELANDS

In August 2006 the Environmental Quality Board (EQB) issued a Request for Comments on possible amendments to the Environmental Review program rules (chapter 4410) and in December 2006 issued Supplemental Request for Comments on additional amendments to the same rules. Included was a proposal for creating new mandatory EAW and EIS categories that would apply to certain projects constructed in shorelands of lakes and rivers. (The past documents can be viewed at the EQB website (www.eqb.state.mn.us) by selecting “Amending the Environmental Review program rules – Phase 2” under the Ongoing Projects and Studies section.

The EQB is now seeking further public comment on a revised and simplified proposal for mandatory categories in shorelands. Attached to this notice is a description of the revised proposal.

The EQB is requesting interested persons to review and comment on these proposals. Comments or questions should be directed to:

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Comments will be accepted through Monday, June 25, 2007. Following analysis of the comments, the EQB staff expects to draft actual proposed rule amendments, and the accompanying Statement of Need and Reasonableness material, and to request the Board to authorize formal rulemaking.

PROPOSED SHORELAND CATEGORIES (REVISED 4-07)

EAW Threshold Category	Sensitive Area (see definition below)	Non-Sensitive Area
1. Residential Development Projects		
Residential units/sites in a subdivision where common open space < 50% of parcel or where density exceeds the applicable M.R. 6120 unsewered residential density standards by more than 15% for the project parcel or 1 st tier	≥15	≥25
Residential units/sites in a subdivision where common open space ≥ 50% of parcel and where density does not exceed the applicable M.R. 6120 unsewered residential density standards by more than 15% for the project parcel or 1 st tier	≥25	≥50
Any new lake access lot for nonriparian lots	Yes	No
Conversion of any resort or commercial PUD to residential development where the density exceeds the applicable M.R. 6120 residential density standards by more than 15% for the project parcel or 1 st tier	Yes	Yes
2. Commercial/Industrial/Institutional Projects		
Length of shore impact zone or secondary shoreline buffer zone that project alters	≥800 feet	≥1320 feet
Any land alteration project that alters >50% of the shore impact zone and is larger than 5000 square feet	Yes	Yes
Area of naturally vegetated land that any project permanently converts	≥20 acres	≥40 acres

Comment [PR1]: I added definitions to make this clear, as PUDs can be a mixed development.

EIS Threshold Category	Sensitive Area	Non-Sensitive Area
1. Residential Development Projects		
Residential units/sites in a subdivision * - except there shall be no threshold for a subdivision of an existing extensively developed parcel for purposes of redevelopment where an engineered rainwater management plan approved by the local government exists that meets the standards in M.R. 6120 and is consistent with current best management practices as found in the latest Minnesota Stormwater Manual.	≥100*	≥200*
Any new lake access lot that serves 10 or more boats or nonriparian lots	Yes	No
Conversion of any resort or commercial PUD to residential development where the density exceeds the applicable M.R. 6120 residential density standards by more than 15% for the project parcel or 1 st tier	≥20	≥40
2. Commercial/Industrial/Institutional Projects		
Area of naturally vegetated land that any project permanently converts	≥40 acres	≥80 acres

4410.0200 DEFINITIONS AND ABBREVIATIONS.

Add the following definitions to Minn. Rules, part 4410.0200:

Note: the definition of “subdivision” is taken from MN Rules, chapter 6120; all other terms are being defined here for the first time although some of the proposed definitions are based on those developed in the “alternative 6120” process.

Subp. ?? **Access lot.**

“Access lot” means a parcel of land that provides access to public waters for owners of lots within subdivisions.

Subp. ?? **Common open space.**

“Common open space” means a portion of a development site that is permanently set aside to preserve unprotected elements of the natural landscape for public or private use. Common open space may be held in common ownership by all individual owners within a development or some other permanently established management entity, and it will not be developed. Common open space shall include wetlands, upland recreational areas, wildlife areas, historic sites, and areas unsuitable for development in their natural state. Common open space is not the space between buildings of a cluster in a conservation subdivision and planned unit development, and it does not include an area of 25 feet around each structure or any impervious surface.

Subp. ?? **Planned unit development.**

“Planned unit development” means a method of land use or development characterized by a unified site design for a number of dwelling units or dwelling sites on a parcel, whether for sale, rent, or lease, and that incorporates clustering of these units or sites to provide areas of common open space, and a mix of structure types and land uses. These developments may be organized and operated as residential or commercial enterprises such as individual dwelling units, townhouses, condominiums, time-share condominiums, cluster subdivisions of dwelling units, cooperatives, common interest communities, shared-interest communities, apartment buildings, non-resort campgrounds and youth camps, recreational vehicle parks, manufactured home parks, or any combination of these. Planned unit developments shall also include any conversion of pre-existing structures and land uses in order to utilize this method of development.

Comment [PR2]: Hotels and motels are essentially 'resorts' by the definition below, so I removed these from the PUD definition.

Subp. ?? **Residential development.**

“Residential development” means creation of units, sites, lots, or facilities for residential use. Subdivisions are a common form of residential development.

Subp. ?? **Residential site.**

“Residential site” means a designated location for residential use by one or more persons using temporary or movable shelter, including camping and recreational vehicle sites.

Subp. ?? **Residential unit.**

“Residential unit” means any structure or portion of a structure, or other shelter designed for residential use for one or more persons.

Subp. ?? **Residential use.**

“Residential use” means use as a dwelling unit, structure, or site, whether primary, secondary, or seasonal, but not transient use such as resorts or hotels.

Subp. ?? **Resort.**

“Resort” means a commercial establishment, that includes buildings, campgrounds, lodges, structures, dwelling units/sites, enclosures or any part thereof kept, used, maintained or advertised as, or held out to the public to be a place where sleeping accommodations are furnished to the public and primarily to those seeking recreation, for periods of one day, one week, or longer, and having for rent three (3) or more cabins, rooms, campsites, or enclosures. These establishments must be primarily service-oriented for

transient lodging of guests. All cabins, rooms, dwelling units/sites, or enclosures must be included in the resort rental business. Resorts allow no residential use of a dwelling unit/site for more than thirty (30) days within a calendar year, except dwellings used as residences for the service providers or dwelling units/sites for renters. In order to qualify as a resort pursuant to this definition, a resort shall also be fully licensed and permitted under appropriate state and local regulations. The entire parcel of land must be controlled and managed by the licensee.

Subp. ?? Secondary shoreline buffer zone.

"Secondary shoreline buffer zone" means the land located between the shore impact zone and the applicable or appropriate Minn. Rule, Chapter 6120, for structure setback.

Subp. ?? Sensitive shoreland.

"Sensitive shoreland" means any government designated sensitive or vulnerable shoreline or shoreland. Sensitive shorelands shall include the following areas:

- Shorelands of natural environment classified lakes and bays pursuant to Minn. Rules, parts 6120.3000, Subp. 1a, and 6120.3200, Subp. 1.;
- Shorelands of special protection classified lakes or districts (or comparable districts) pursuant to Minn. Rules, parts 6120.3000, Subp. 1a, and 6120.3200, Subp. 1.;
- Shorelands of designated trout lakes and streams pursuant to Minn. Rules, part 6264.0050;
- Shorelands of designated wildlife lakes pursuant to Minn. Statutes, section 97A.001, subd. 2;
- Shorelands of designated migratory waterfowl feeding and resting lakes pursuant to Minn. Statutes, section 97A.095, subd. 2;
- Shorelands of outstanding resource value waters pursuant to Minn. Rules, part 7050.0180.

Subp. ?? Shore impact zone.

"Shore impact zone" means land located between the ordinary high water level of a public water and a line parallel to it at a setback of fifty (50) percent of the applicable or appropriate Minn. Rule, Chapter 6120, for structure setback, but not less than fifty (50) feet. This area serves as the primary shoreline buffer.

Subp. ?? Subdivision.

"Subdivision" means land that is divided for the purpose of sale, rent, or lease, including planned unit development.

Subp. ?? Tier.

The tract of land located by lines approximately parallel to a line that identifies the ordinary high water level, proceeding landward pursuant to Minn. Rules, part 6120.3800.