













## Establishing Local Government Policies and Ordinances for EAWs

### Division of Work and Responsibilities

**Staff Duties/Responsibilities** – It is sometimes difficult for RGUs to outline which staff members are responsible for specific environmental review tasks. By devising a list of standard responsibilities and procedures, and then including these procedures in local ordinances, local government RGUs can ensure that environmental review is carried out completely, efficiently and consistently for each project.

### Role of Special Committees and Planning Commissions

– Some local governments have created special committees to comment and offer assistance on environmental issues, while other local governments may have the planning commission review an EAW before it is brought before the governing body. Utilizing special committees and planning commissions can be beneficial because they may alert the RGU to special issues that would otherwise have been missed. But local governments must be careful to follow the deadlines established in the environmental review rules. If utilizing a special committee creates significant delays in the process, the project proposer may have grounds to object.

### Application Procedures

#### Example from Itasca County:

SUBDIVISION 1 - The County Zoning officer shall be the person responsible for the administration of the Environmental Review Program, this ordinance, and the rules adopted by reference by this ordinance.

SUBDIVISION 2 - The County Zoning Officer shall be responsible for determining whether an action for which a permit is required is an action for which an EAW is mandatory under 6MCAR 3.038 and/or an EIS is mandatory under 6MCAR 3.039. The County Zoning Officer shall also determine those proposed actions for which an optional EAW may be required under the provisions of the ordinance and shall notify the Planning Commission and the County Board of these proposed actions. The Planning Commission may consult with the Environmental Council.

SUBDIVISION 3 - All EAW's and EIS's shall be prepared under the supervision of the County Zoning Officer, reviewed by the Planning Commission, in consultation with the Environmental Council, and reviewed and approved by the County Board.

SUBDIVISION 4 - When reviewing an EAW or EIS, the County Zoning Officer, and the Planning Commission, in consultation with the Environmental Council, may suggest design alterations which would lessen the environmental impact of the action. The County Board may require these design alterations to be made as a condition for issuing the permit when it finds that the design alterations are necessary to lessen the environmental impact of the action.

SUBDIVISION 5 - After an EAW is prepared, the Environmental Council shall make their recommendations to the Planning Commission. The Planning Commission shall decide and recommend to the County Board whether or not it should require the preparation of an EIS. The County Board shall require an EIS when it finds under 6MCAR 3.028 or 3.029 that an action is major and has potential for significant environmental effects.

Several local governments have designed their own “Application for Environmental Review.” This helps to facilitate the approval process because there is less ambiguity in deciding when the project proposer is actually finished with the data portions of the EAW. If the project proposer is required to pay a fee and complete an application when submitting data, they may be more likely to ensure they give all the necessary information to the RGU on the first attempt.

### Incomplete Information Submittals

Some project proposers, especially those going through envi-

#### Example from the City of Plymouth:

“If the Zoning Administrator determines that an EAW shall be prepared, the proposer of the project shall submit an “Application for Environmental Review” along with the completed data portions of the EAW. The applicant shall agree in writing, as a part of the application, to reimburse the City prior to the issuance of any permits for all reasonable costs, including legal and consultants’ fees, incurred in preparation and review of the EAW.”

ronmental review the first time, do not submit all of the necessary information when needed. The project proposer might then become frustrated because the process is taking longer to complete. Clearly stating the local government’s response to incomplete information/applications, especially by including specific deadlines (as long these deadlines are not in conflict with the environmental review rules), helps keep both RGU and the project proposer on track.

### Permit Conditions

As previously stated, the EAW rules do not provide RGUs with the authority or ability to place certain conditions on a

#### Example from the City of Plymouth:

“Pursuant to Minnesota Rules 4410.1400, the Zoning Administrator shall promptly review the submittal for completeness and accuracy. If the Zoning Administrator determines that the submittal is incomplete, the submittal shall be returned to the proposer for completion of the missing data. If the Zoning Administrator determines that the submittal is complete, the proposer shall be notified of the acceptance of the submittal within five days. The Zoning Administrator shall have 30 days from notification to add supplementary material to the EAW, if necessary, and to approve the EAW for distribution.”

project’s approval. Because the mitigation of environmental impacts is an important issue for many local governments, some adopt ordinances that allow their board/council to put conditions into local permits when a project has undergone environmental review.



### Neighboring Property Owner Notification/ Participation

Environmental review can often provide a vehicle for hearing

**Example from the City of Bloomington:**

“In issuing any permits or granting any other required approvals for a project subject to review under this ordinance, the City Council shall consider the analysis and the comments received on it. The City Council shall, whenever practicable and consistent with other laws, require that mitigation measures identified in the analysis be incorporated in the project’s design and construction.”

and addressing citizen comments. But it is less useful when it occurs at the end of the process or when neighbors are unaware of the project proposal. Some local governments, in an attempt to ensure early and collaborative public participation, have procedures that require notification and participation procedures beyond what is required in the environmental review rules. Examples of these procedures include requiring the notification of neighboring property owner(s) about any project in which an EAW is completed and requiring the project proposer to draft a public participation plan for environmental review projects.

### Review

- Local governments have enacted ordinances to complement the purpose and scope of the environmental review program.

**Example from the City of Plymouth:**

(1) Upon completion of the EAW for distribution, the Zoning Administrator shall provide mailed notice of the availability of the EAW and date of the meeting at which the Planning Commission will consider the matter to all property owners within at least seven hundred and fifty (750) feet of the boundaries of the property which is the subject of the EAW. Said notice shall be mailed at minimum ten (10) days before the date of the Planning Commission meeting during which the EAW will be considered. (Amended by Ord. No. 2001-06, 02/13/01)

(2) Failure of a property owner to receive notice shall not invalidate any such proceedings as set forth within this Chapter.

- While the rules go into specific details regarding fees and costs for preparing an EIS, they do not outline similar procedures for an EAW. In addition, project proposers completing an EAW are not required by the EAW process to mitigate the environmental impacts of a project.
- Local governments should consider the following issues when establishing environmental review policies and ordinances:
  - ✓ Hiring/Using Consultants
  - ✓ Document Preparation and Review Fees
  - ✓ Payment Procedures
  - ✓ Division of Work and Responsibilities
  - ✓ Application Procedures
  - ✓ Incomplete Information Submittals
  - ✓ Permit Conditions
  - ✓ Neighboring Property Owner Notification



### Appendix A

The following is a list of links to ordinances that Minnesota local governments have implemented, and that are designed to complement the state environmental review rules. While the EQB does not endorse or recommend any specific ordinances or ordinance language, local government staff may find ordinances they can implement that are consistent with the environmental review rules, as well as their community's goals, values, and planning procedures. The EQB recommends that all local government staff consult with an attorney before adopting new environmental review procedures or ordinances.

It is common for links to specific ordinances to change over time, and so while a link to the environmental review related ordinance has been provided, a link to the local government's main web page is also listed. If at some time one of the links is inaccurate or no longer functional, interested parties should contact the local government directly to find out more information about its environmental review procedures and ordinances.

#### **Canosia Township**

Specific ordinance related to environmental review:

<http://www.cpinternet.com/~canosia/ZONE111804.pdf>

Main web page:

<http://www.cpinternet.com/~canosia/>

#### **City of Bloomington**

Specific ordinance related to environmental review:

[http://www.ci.bloomington.mn.us/code/Code16\\_5.html](http://www.ci.bloomington.mn.us/code/Code16_5.html)

Main web page:

<http://www.ci.bloomington.mn.us/>

#### **City of Hopkins**

Specific ordinance related to environmental review:

<http://www.hopkinsmn.com/cityhall/ordpol/05/510.html>

Main web page:

<http://www.hopkinsmn.com/>

#### **City of Oakdale**

Specific ordinance related to environmental review:

<http://www.ci.oakdale.mn.us/Code%20Chapter%2016.htm>

Main web page:

<http://www.ci.oakdale.mn.us/>

#### **City of Plymouth**

Specific ordinance related to environmental review:

[http://www2.ci.plymouth.mn.us/pls/cop/docs/FOLDER/CITY\\_GOV/CG\\_ZONE/ZONING\\_TOC/21040-ENVIRONMENTAL\\_REVIEW.PDF](http://www2.ci.plymouth.mn.us/pls/cop/docs/FOLDER/CITY_GOV/CG_ZONE/ZONING_TOC/21040-ENVIRONMENTAL_REVIEW.PDF)

Main web page:

<http://www2.ci.plymouth.mn.us/>

#### **Itasca County**

Specific ordinance related to environmental review:

<http://www.co.itasca.mn.us/Admin/Policy%20Manual/Environmental.pdf>

Main web page:

<http://www.co.itasca.mn.us/>