

Updated Shoreland Ordinances to Minimize Development Damage

The COLA Call

by Ed Mutsch

The previous (07/07/07) COLA Call column summarized the history of Minnesota shoreland development regulation and concluded that the time is past due for county standards to be updated. While existing Hubbard county shoreland management standards are stricter in some respects than the state standards which all Minnesota counties are required to meet, and while Hubbard county waters are presently in comparatively good shape, this should not be a source of smugness but rather a spur to stay ahead of the curve by tightening standards as part of a larger program to forestall the worst environmental consequences of the rampant development currently underway in north central Minnesota. To borrow a sentence from an article by editor Kathleen Weflen in the most recent issue of Minnesota Conservation Volunteer, "Foresight becomes more critical as environmental pressures mount".

The prominence of water resources and their importance to Hubbard and nearby counties necessitates an ongoing commitment to their protection by the citizenry and its elected officials. While the five county north central Minnesota region (Aitkin, Cass, Crow Wing, Hubbard, Itasca) occupies something over 10% of the total area of the state, the region encompasses 2521 lakes, 21% of all the state lakes; 42%, or 289 miles, of the entire length of the mighty

Mississippi flows through the region. These waters are under siege from a surging population; since 1990, while the state of Minnesota was experiencing a 12% population increase, the five county region (which occupies a substantial portion of the Upper Mississippi watershed) grew by 22%. Growth projections for the next 20 years foresee a further acceleration of north central Minnesota growth, i.e., anticipated growth of twice to thrice the rate of statewide population growth.

Thus the importance of upgrading the county shoreland ordinances as one element of a total commitment to watershed protection. Other elements should include increased resources for Environmental Service Office inspection and compliance activities, and the establishment of more painful, attention-getting penalties for ordinance violations. Additionally, the county board must become more aggressive in the use of its enforcement powers. There are far too many instances of developers failing with impunity to meet their CUP (Conditional Use Permit) commitments. The cumulative environmental damage of such failures is incalculable and all too often regrettably irrevocable.

At the end of the last legislative session, the Minnesota legislature directed the DNR to begin by January 15, 2008 a rulemaking process for updating statewide shoreland management regulations. Since the prominent role of water resources in the Hubbard County economy will always necessitate a set of shoreland standards more rigorous than the statewide standards, the county should not wait on this probably protracted process. Rather it should immediately initiate its own update effort, possibly by charging an advisory group under ESO leadership with the responsibility for generating an updated set of Hubbard County shoreland ordinances. Such a group would find Minnesota's Alternative Shoreland Management Standards to be a valuable resource. This document, published by the Minnesota DNR on 12/12/05, is the work product of 34 individuals from the five aforementioned Minnesota counties and contains many elements which, if incorporated into the Hubbard County ordinances, would greatly strengthen them.

Issues that should be addressed in any updated county shoreland ordinance would include:

*** Lake fertilization & sedimentation---Lakes are subject to eutrophication, a natural aging process, which can be greatly accelerated by human activity. This human impact can be minimized by severely restricting allowable impervious surfaces on lakeshore property, tightening septic system maintenance requirements and restoring natural shorelines on "lawn-to-lake" properties.

*** Conservation subdivisions---Shoreland development typically proceeds in a lot and block fashion resulting in shoreland fragmentation. Any updated ordinance should allow conservation subdivisions which are characterized by common open space and clustered lots.

*** EAW, EIP, CUP processes---With the most desirable lakeshore property largely taken up, less desirable, more fragile lakeshore property is being developed, as well as second and third lakeshore property tiers, greatly increasing the development pressure on the lakes. In response, Environmental Assessment Worksheets and Environmental Impact Statements should be required more often and Conditional Use Permits should be more tightly framed and rigorously enforced.

Upcoming columns will deal more expansively with these and other suggested elements of an updated Hubbard County shoreland ordinance.