

2016 Proposed Pine County Ordinance Amendments

Pine County Board Meeting
February 16, 2016

Septic Ordinance Amendment

Ordinance 2016-01

4.06.01 Occupancy or Use of a Building Without a Compliant SSTS

It is unlawful for any person to maintain, occupy, or use any building intended for habitation that has a powered well directly connected to the building unless it has a ~~wastewater treatment system~~ SSTS that disposes of wastewater in a manner that complies with the provisions of this Ordinance. If such building does not have a powered well directed connected to it, it must at minimum have a composting toilet or privy that complies with the provisions of this Ordinance.

This amendment will affect townships/cities which have their own ordinance. They will need to also amend their ordinances to be the same or more restrictive than the county ordinance.

Floodplain Ordinance Amendment

Ordinance 2016-02

5.3 Conditional Provisional Uses: Any structure that is not elevated on fill or flood proofed in accordance with Section 5.21 - 5.22 and or any use of land that does not comply with the standards in Section 5.23 - 5.24 shall only be allowable as a conditional provisional use. An application for a conditional provisional-use shall be submitted to the Zoning Administrator to consider possible adverse effects of the proposed provisional use and subject to the standards and criteria and evaluation procedures specified in Sections 5.4-5.5 and 10.4 of this Ordinance. The Zoning Administrator must submit by mail or electronically to the Commissioner of Department of Natural Resources, or designee, a copy of the application for the proposed provisional use sufficiently in advance so that the DNR will receive at least ten (10) days notice before it is issued. A copy of the permit shall be submitted to the DNR within ten (10) days of being issued, otherwise all other permitting procedures and requirements shall follow Section 10.2 of this Ordinance.

5.4 Standards for Flood Fringe Conditional Provisional Uses:

This amendment will affect townships/cities which have their own ordinance. They will need to also amend their ordinances to be the same or more restrictive than the county ordinance.

A \$50 fee would be associated with these permits as apposed to the current \$650 conditional use permit.

Shoreland Ordinance Codifications and Amendments

Codification:

2.716 Buildable Area. "Buildable Area" means the contiguous area of a lot which is sufficient in area to accommodate the construction of water supply systems, sewage treatment systems, buildings and driveways, and to provide adequate setbacks. Areas which are floodway, wetlands, and stormwater detention/retention ponds, rights-of-way, septic system setbacks as defined in this ordinance, and slopes in excess of 25% cannot be included in calculating the buildable area of a lot.

This was a previous amendment approved by the county board June 19, 2007.

Amendment:

~~2.731 Hardship. "Hardship" means the same as that term is defined in Minnesota Statutes, Chapter 394.~~

This is outdated language

Shoreland Ordinance Codifications and Amendments

Amendment:

2.7332.734 Impervious Surface. "Impervious Surface" means a constructed hard surface that either prevents or retards the entry of water into the soil and causes water to run off the surface in greater quantities and at an increased rate of flow than prior to development. Examples include rooftops, decks, sidewalks, patios, paver block patios, storage areas, and concrete, asphalt or gravel driveways.

This is an amendment that was discussed at the January 19, 2016 County Board meeting. The ordinance references impervious surface several times, however has never defined it. This definition closely follows DNR suggested language.

Shoreland Ordinance Codifications and Amendments

Codifications:

2.745 Recreational Vehicle (RV). "Recreational Vehicle" Means travel trailers including those which telescope or fold down, chassis-mounted campers, motor homes, tent trailers, fifth-wheel trains, slip-in campers, and converted buses that provide temporary human living quarters.

2.762 Travel Trailer. "Travel Trailer", means a trailer mounted on wheels, that is designed to provide temporary human living quarters during recreation, camping or travel, that does not require a special highway movement permit based on its size or weight when towed by a motor vehicle that does not exceed 102 inches in width and 40 feet in length.

These were a previous amendments approved by the county board March 19, 1996.

Shoreland Ordinance Codifications and Amendments

Amendments:

These amendments to section 3.6 closely follow the new statutory language regarding variance adopted by the legislature in 2011.

3.6 Variances from Standards

~~In any case where, upon application of any responsible parties to the Board of Adjustment shall have the exclusive power to order the issuance of variances from the requirements of any official control including restrictions placed on nonconformities. Variances may only be granted in accordance with Minnesota Statutes, Chapter 394. Variances may be granted when all of the following conditions are met: it appears that by reason of exceptional circumstances, the strict enforcement of any provision of the standards would cause unnecessary hardship or that strict conformity with the standards would be unreasonable, impractical or not feasible under the circumstances, the Board of Adjustment may permit a variance therefrom upon such conditions as it may prescribe for management of shorelands consistent with the general purpose of this ordinance and the intent of this and all other applicable state and local regulations and laws, provided that:~~

- 3.61 ~~The applicant's proposed use is allowed in the zoning district which the subject is located. The condition causing the hardship is unique to that property.~~
- 3.62 ~~The variance is in harmony with the comprehensive plan and the purposes and intent of the ordinance. The variance is proved necessary in order to secure for the applicant right or rights that are enjoyed by other owners in the same area or district.~~
- 3.63 ~~A practical difficulty exists on the property preventing the applicant from complying with the ordinance. Practical difficulty is established when the applicant proposes to use the property in a reasonable manner not permitted by the ordinance and when the variance request is due to circumstances unique to the property not created by the landowner. Economic considerations alone do not constitute practical difficulties.~~

Shoreland Ordinance Codifications and Amendments

Additional Amendments to section 3.6:

- ~~3.64 The granting of the variance will not be contrary to management policies of the area or district.~~
- 3.65 No variance shall be granted simply because there are no objections or because those who do not object outnumber those who do; nor for any other reason than a proved hardship.
- 3.66 ~~The board of adjustment may impose conditions in the granting of variances. A condition must be directly related to and must bear rough proportionality to the impact created by the variance. No variance may be granted that would allow any use that is prohibited in the zoning district in which the subject property is located.~~

Codification – Section 4.43:

H.L. Recreational vehicle repair and service facilities

This was a previous amendment approved by the county board March 19, 1996.

Shoreland Ordinance Codifications and Amendments

Amendments:

Section 5.22

These were discussed at the January 19, 2016 County Board Meeting.

C. Patios within the structure setback require a permit and shall comply with the following standards:

- 1) Not to be located in shore impact zone except as a water-oriented accessory structure according to Article 5.22B of this ordinance;
- 2) Be free standing;
- 3) Have no railings;
- 4) Be a maximum of 250 square feet in size without an approved and implemented Stormwater Management Plan according to Article 5.5 of this ordinance;
- 5) Not be more than one foot below or above natural ground level;
- 6) Construction complies with all provisions of Articles 5.32 and 5.5 of this ordinance
- 7) The maximum impervious surface limits for the lot shall not be exceeded.

D. Patios are allowed behind the structure setback without a permit provided all setbacks are met and the property does not exceed the maximum allowable impervious surface standards.

Shoreland Ordinance Codifications and Amendments

Amendment - Section 5.22:

~~3) Use of fertilizer and pesticides in the shoreland management district must be done in a way as to minimize runoff into the shore impact zone or public water by the use of earth, vegetation, or both.~~

This brings Pine County's ordinance up to date with State Statute/MN Rule, however we will not require a permit for fertilizer and pesticide use.

Shoreland Ordinance Codifications and Amendments

Amendments - Section 5.32:

B. ~~Public~~ Roads, driveways, and parking areas are regulated by Section 5.4 of this ordinance.

C. Notwithstanding Items A and B above, a grading and filling permit will be required for the movement of more than ten (10) cubic yards of material on steep slopes or within shore or bluff impact zones or more than fifty (50) cubic yards of material on property under the jurisdiction of this ordinance. Grading and filling of material outside of steep slopes and shore and bluff impact zones shall not require a permit. However, the property owner shall be required to obtain a grading and filling plan from the Planning and Zoning Department ~~Pine County Soil and Water Conservation District~~ and follow the requirements of Section 5.32D.

Subsection D:

~~4)5)~~ All grading and filling plans must be reviewed by the Planning and Zoning Department ~~Soil and Water Conservation District~~ to insure adequate seeding, mulching and other erosion control measures are being proposed.

These amendments were discussed at the January 19, 2016 County Board Meeting. They are necessary to bring Pine County's Ordinance up to date with State Statute/MN Rule and to streamline the process of obtaining a grading and filling permit.

Shoreland Ordinance Codifications and Amendments

Amendments - Section 5.32:

D. The following considerations and conditions must be adhered to during the issuance of construction permits, grading and filling permits, conditional use permits, variances, and subdivision approvals:

1) Grading, filling or draining of any 1, 2, 3, 4, 5, 6, 7, or 8 wetland must be approved by the Pine Soil and Water Conservation District, Minnesota Department of Natural Resources, and/or Army Corp of Engineers.

Before authorizing any Ggrading, filling or draining activity in ~~of~~ any type 1, 2, 3, 4, 5, 6, 7, or 8 wetland ~~the Department meeting the wetland definition as outlined in the January, 1989 "Federal Manual for Identifying and Delineating Jurisdictional Wetlands"~~ must be evaluated to determine consider how extensively the proposed activity would affect the following functional qualities of the wetland:

These amendments were discussed at the January 19, 2016 County Board Meeting and are recommended by Pine County Soil and Water to use current terminology.

Shoreland Ordinance Codifications and Amendments

Amendments - Section 5.4:

5.4 Placement and Design of Roads, Driveways, and Parking Areas

~~5.41 Construction of roads, driveways, and parking areas shall require a permit from the department.~~

~~5.41.5.42~~ ~~Public and private roads, driveways,~~ and parking areas must be designed to take advantage of natural vegetation and topography to achieve maximum screening from view from public waters. Documentation must be provided by a qualified individual that all roads and parking areas are designed and constructed to minimize and control erosion to public waters consistent with the field office technical guides of the local soil and water conservation district, or other applicable technical materials.

These amendments were discussed at the January 19, 2016 County Board Meeting and assist the Department in enforcing the ordinance.

A proposed \$50 permit fee would apply (adoption necessary).

Shoreland Ordinance Codifications and Amendments

Amendments - Section 5.7:

B. All private sewage treatment systems must meet or exceed the Minnesota Pollution Control Agency's standards for individual sewage treatment systems contained in the document titled "Individual Sewage Treatment System Standards, Chapter 7080," a copy of which is hereby adopted by reference and declared to be a part of this ordinance. In addition to the Chapter 7080 regulations, the County will also require the following:

~~1) After May 1, 1994, individual sewage treatment system evaluators, designers, inspectors, pumpers and installers shall have provisional Minnesota Pollution Control Agency certification. After May 1, 1996, full certification shall be required.~~

This amendment was not discussed at the January 19, 2016 County Board Meeting, however is outdated language and can be removed. The Pine County Subsurface Sewage Treatment Systems Ordinance now regulates this activity.

Shoreland Ordinance Codifications and Amendments

Amendments - Section 6.1:

6.1 Construction on Non-conforming Lots of Record

- 6.11 Lots of record in the office of the County Recorder as of October 1, 1973 that do not meet the requirements of Section 5.1 of this ordinance may be allowed as building sites without variances from lot size requirements provided the use is permitted in the zoning district; the lot has been in separate ownership from abutting lands at all times since it become substandard; was created in compliance with official controls in effect at the time; impervious surface lot coverage does not exceed 25 percent; and sewage treatment and setback requirements of this ordinance are met.

This amendment was discussed at the January 19, 2016 County Board Meeting and brings Pine County's ordinance in compliance with State Statute/MN Rule.

Shoreland Ordinance Codifications and Amendments

Amendments - Section 6.1:

6.15 If, in a group of two or more contiguous lots under ~~the same common~~ ownership, any individual lot does not meet the requirements 66% of the dimensional stand lot width and size described in of Section 5.1 of this Ordinance, the lot must not be considered as a separate parcel of land for the purposes of sale or development. The lot must be combined with the one (1) or more contiguous lots so they equal one (1) or more parcels of land, each meeting the requirements of Section 5.1 of this ordinance as much as possible.

1) Notwithstanding paragraph Section 6.32, contiguous nonconforming lots of record in shoreland areas under a common ownership must be able to be sold or purchased individually if each lot contained a habitable residential dwelling at the time the lots came under common ownership and the lots are suitable for, or served by, a sewage treatment system consistent with the requirements of section Minnesota Statute 115.5 and Minnesota Rules, chapter 7080, or connected to a public sewer.

2) A portion of a conforming lot may be separated from an existing parcel as long as the remainder of the existing parcel meets the lot size and sewage system requirements of the zoning district for a new lot and the newly created parcel is combined with an adjacent parcel.

This amendment were not discussed at the January 19, 2016 County Board Meeting, however the MN DNR recommended these changes.

Shoreland Ordinance Codifications and Amendments

Amendment

Section 6.2

This amendment was not discussed at the January 19, 2016 County Board Meeting, however the MN DNR recommended these changes; this language mirrors Minnesota Statute.

6.2 ~~Additions/Expansions~~ Repair, restoration, maintenance, or improvement to Certain Non-conforming Structures

6.21 ~~For homestead, nonhomestead residential real estate and seasonal residential real estate occupied for recreational purposes except as otherwise provided by law, a nonconformity, including the lawful use or occupation of land or premises existing at the time of the adoption of this ordinance, may be continued, including through repair, replacement, restoration, maintenance, or improvement, but not including expansion. If the nonconformity or occupancy is discontinued for a period of more than one year, or any nonconforming building or structure is destroyed by fire or other peril to the extent of greater than 50 percent of its estimated market value, as indicated in the records of the county assessor at the time of damage, and no building permit has been applied for within 180 days of when the property is damaged, any subsequent use or occupancy of the land or premises must be a conforming use or occupancy. If such building permit is applied for, the board may impose reasonable conditions upon a zoning or building permit in order to mitigate any newly created impact on adjacent property or water body. When a nonconforming structure in the shoreland district with less than 50 percent of the required setback from the water is destroyed by fire or other peril to greater than 50 percent of its estimated market value, as indicated in the records of the county assessor at the time of damage, the structure setback may be increased if practicable and reasonable conditions are placed upon a zoning or building permit to mitigate created impacts on the adjacent property or water body. All additions or expansion to the outside dimensions of an existing non-conforming structure must meet the setback, height and other requirements of Section 5.0 of this ordinance. Lateral additions to non-conforming structures which follow existing building lines and meet all other setbacks are permissible without a variance. Any deviation from these requirements must be authorized by a variance pursuant to Section 3.6.~~

Shoreland Ordinance Codifications and Amendments

Amendment

Section 6.3

This amendment was not discussed at the January 19, 2016 County Board Meeting, however is outdated language and can be removed. The Pine County Subsurface Sewage Treatment Systems Ordinance now regulates this activity.

6.3 ~~Non-conforming Sewage Treatment Systems~~

6.31 ~~All non-conforming properties will be subject to the regulations described in the Pine County Subsurface Sewage Treatment Systems Ordinance as well as Minnesota Chapter 7080. A sewage treatment system not meeting the requirements of Section 5.7 of this ordinance must be upgraded, at a minimum, at any time a permit or variance of any type is required for any improvement on, or use of, the property. For the purposes of this provision, a sewage treatment system shall not be considered non-conforming if the only deficiency is the sewage treatment system's improper setback from the ordinary high water level.~~

The remaining portion of this section A-D would be deleted.

Shoreland Ordinance Codifications and Amendments

Amendment

Section 9.0 Ordinance Repeal

This ordinance repeals the [Shoreland Management Ordinance for Pine County, Minnesota](#) adopted September 7, 1993 and any amendments hereto.

This amendment was not discussed at the January 19, 2016 County Board Meeting, however is necessary to replace the previous ordinance with a codified one.

Actions Necessary

- Questions/Discussion by County Board
- Open Public Hearing and Take Public Testimony regarding ordinance changes and proposed fees.
- Close Public Hearing
- Additional questions/discussion by County Board
- Consider adoption of:
 - Ordinance 2016-01 amending the Pine County Subsurface Sewage Treatment Systems Ordinance
 - Ordinance 2016-02 amending the Pine County, Minnesota Floodplain Management Ordinance
 - \$50 permit for:
 - Provisional use permit
 - Road, driveway, and parking area permit