

Land Use Management

A publication of the Association of Minnesota Counties

Land use regulation is often referred to as planning and zoning. In recent years, however, the scope of county land use activities has expanded to include a range of programs that address environmental concerns. These programs are typically directed toward specific land uses or landscape features including shoreland areas, floodplains, wild and scenic rivers, wetlands, wells, feedlots, septic systems and soil erosion. Some program areas are mandated by the state and others are optional for county adoption.

Planning and Zoning

County authority to plan for and manage land use began in 1959 with passage of the County Planning Act (Minn. Stat. 394). County adoption of comprehensive plans and zoning ordinances are voluntary under this law. Currently, 69 counties have adopted comprehensive land use plans and 71 counties have adopted zoning ordinances. However, pressures ranging from feedlot controversies to expanding urbanization are prodding counties to update comprehensive plans and ordinances or to establish comprehensive land use management programs.

The County Planning Act provides counties with authority to promote the "health, safety, moral and general welfare of the community." The law specifies that this authority is available to all counties except those with populations of more than 300,000, according to the 1950 census. Ramsey and Hennepin counties were above this threshold and therefore have no authority under the Act.

Relationships with other local governments are important to understanding county authority in this area. Counties have no land use authority within cities, except when requested by the city. Townships also may adopt and enforce zoning regulations; however, townships are prohibited from adopting official controls which are "inconsistent with or less restrictive than the standards" adopted by the county board.

County Planning Act

The County Planning Act provides authority for a county board to hire a planning director and other staff to administer the land use program. Counties may develop a comprehensive plan and adopt official controls to further the purpose and objectives of the comprehensive plan. Comprehensive plans or land use plans discuss the existing governmental, social, economic, demographic, environmental and cultural situation in the county. Plans also discuss trends on these factors and establish goals and objectives in how the county can react to and influence these trends.

Generally, official controls or zoning ordinances consist of zoning text and a zoning map. The text describes the geographic districts and type of land uses allowed or prohibited in each district. The zoning map delineates the geographic districts within the county.

Several other terms and procedures must be understood when discussing planning and zoning. A zoning amendment (rezoning) is a way to change the zoning ordinance or map as requested by a landowner or by the county itself to address changing circumstances. A variance is a modification of the zoning ordinance to provide relief to a property owner when the ordinance imposes undue hardship or practical difficulties in the use of land. A conditional or special use permit is provided to allow a land development to be more closely regulated by requiring compliance with specified conditions.

Implementation of a land use planning and management program involves the establishment of a Planning Commission and Board of Adjustment. The Planning Commission generally advises the county in developing the comprehensive plan and reviews development proposals.

The Board of Adjustment (also known as the board of appeals) is responsible for:

1. Hearing and deciding appeals from an order or decision made by the zoning administrator;
2. Hearing and deciding on requests for variances from the zoning ordinance; and
3. Reviewing applications for special use permits.

The law provides additional detail on the membership and function of these two committees.

60-Day Rule

Since 1995, counties have been required to act on certain land use applications within a statutory time period that is referred to as the 60-day rule. M.S. 15.99 requires state and local governments to approve or deny applications for requests related to zoning, septic systems, or expansion of the metropolitan urban service area within a statutory time frame. Decisions must be made within 60 days, although one 60-day extension is allowed by notifying the applicant. Failure to issue a specific denial of the application with written findings of fact issued at the time of the decision is deemed an approval.

Shoreland Management

The Shoreland Management Program mandates that all counties and cities enforce land use regulations within 1,000 feet of all lakes and 300 feet of all rivers in the state. The regulations address issues such as lot sizes suitable for development, septic system placement, and types of land uses appropriate for shoreland areas. This program was enacted in 1972 and the Department of Natural Resources' rules were revised in 1990. Since 1991, the Legislature has been providing a small amount of financial assistance to counties for program administration.

Wild and Scenic Rivers

This program supplements the Shoreland Management Program by providing additional protection for rivers. No minimum standards are set under this Act. Instead, a management plan is prepared by the Minnesota Department of Natural Resources for each river proposed to be included within the system. County plans and ordinances are required to comply with this management plan.

The following rivers and counties are participating in this program:

- Cannon River from the City of Faribault to the Mississippi River (counties of Goodhue and Rive)
- North Fork of the Crow River (Meeker County)
- Kettle River (Pine County)
- Minnesota River from Lac qui Parle Dam to Franklin (counties of Chippewa, Lac qui Parle, Redwood, Renville, and Yellow Medicine)
- Mississippi River from St. Cloud to Anoka (counties of Anoka, Hennepin, Sherburne, Stearns, and Wright)
- Rum River (counties of Anoka, Isanti, Mille Lacs, and Sherburne)
- Upper St. Croix River (counties of Chisago and Pine)
- Lower St. Croix River (counties of Chisago and Washington)

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Floodplain Regulation

Counties and other local governmental units are required to adopt ordinances that cover floodways and floodplains. The focus is on regulating land uses in these areas to minimize flood damage. This program mandate was established in 1970.

Local Water Planning

Since 1985, Greater Minnesota counties have been authorized to prepare and implement comprehensive local water management plans to address issues regarding surface water, ground water and related land resources. This program is optional, but all Greater Minnesota counties are participating and have plans approved by the Board of Water and Soil Resources. The State annually provides approximately \$2.5 million in financial assistance for plan development and implementation.

Counties in the seven-county metropolitan area have been authorized since 1987 to prepare and implement groundwater protection plans. As with the Greater Minnesota program, assuming ground water planning responsibilities is optional, but all seven metropolitan counties are currently developing these plans.

Individual Sewage Treatment Systems

Legislation enacted in 1997 requires all counties by January 1, 1999, to adopt an ordinance that complies with Minnesota Pollution Control Agency (MPCA) Individual Sewage Treatment System (ISTS) rules. With this mandate, counties have been granted a degree of flexibility in modifying the standards found in the MPCA rules to address local circumstances. Prior to 1997, all counties were mandated to enforce MPCA rules in shoreland areas, and all persons involved in the design, maintenance and installation of ISTS's must be licensed by the PCA. The purpose of septic system regulation is to safeguard surface and groundwater quality and public health through the use of design, construction and maintenance standards.

Community-Based Planning Act

The Community-Based Planning Act was enacted in 1997 to provide counties and cities with a land use management alternative and to establish a state role in local government land use management activities. The Community-Based Planning Act encouraged counties to engage in land use management through state financial and technical assistance and through increased coordination and cooperation between counties, cities and townships.

While provisions of the Community-Based Planning Act remain in the County Planning Act (Mn. Stat. 394) and Municipal Planning Act (Mn. Stat. 462) significant portions of the Act were repealed in 2001. Specific sections of the law repealed are the 11 goals of Community –Based Planning, the requirement for Minnesota Planning to provide assistance to

local governments planning under this law, and the process under which Minnesota Planning would review and comment on Community-Based Plans.

Remaining portions of the law encourage counties to join with other local governments to cooperatively plan. In addition, coordination with other counties, cities and townships is a required element of community-based planning. Counties will also be involved in negotiating orderly annexation agreements after cities have identified urban growth areas. Furthermore, counties have approval authority over city plans that call for growth beyond current boundaries.

Feedlot Regulation

County administration of feedlot regulations is optional under state law. The Pollution Control Agency (PCA) has an established permitting program which is intended to ensure that animal feedlots are constructed, located or operated and manure is managed to avoid a potential pollution hazard. The PCA has authority to delegate regulation authority for feedlots and proposed feedlots of less than 1,000 animal units to counties. Currently, 56 counties administer feedlot regulations.

The changing nature of animal agriculture throughout Minnesota has become increasingly controversial in recent years. The national trend in animal agriculture, which is being mirrored in Minnesota, is from fewer farmers individually producing animals to farmers joining together and developing large operations. These large operations can include thousands of animals on one site or scattered among several sites in an integrated operation. This trend has led the Legislature to debate the environmental, economic and social issues associated with these changes.

Building Code

The state building code is a series of uniform rules and regulations designed to promote the safe construction, reconstruction, alteration, and repair of buildings and other structures, excluding most agricultural buildings. These rules and regulations are written, adopted, and enforced by the Minnesota Department of Administration. The code is mandatory in the seven county metropolitan area, generally applies in Greater Minnesota in cities with a population of more than 2,500, and other jurisdictions that have voluntarily chosen to enforce the code. Some codes apply statewide as a matter of state law; these are codes regarding accessibility, electricity, elevators, industrialized/modular buildings, manufactured homes, plumbing, and prefabricated buildings.

Sustainable Development

Sustainable development is a relatively new movement in trying to influence land and natural resource management. "Sustainable Development" has many definitions. In Minnesota, sustainable development most frequently means meeting the needs of the present without compromising the ability of future generations to meet their own needs. Sustainable development initiatives may affect county land use management.

Smart Growth

Smart Growth is another relatively new national movement that is intended to combat "sprawl". Sprawl is often defined as low-density development. Similar to sustainable development, smart growth has many definitions. One definition is that Smart Growth seeks to promote development patterns that are economically sound, environmentally responsible and socially just. Another definition is: Smart Growth is a series of strategies and initiatives designed to help communities plan for and accommodate growth in ways that help secure their economic prosperity and environmental safety, while preserving the unique aspects of their communities that make them special places live, work, and raise a family.

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