

Chapter NR 118

STANDARDS AND CRITERIA FOR THE LOWER ST. CROIX NATIONAL SCENIC RIVERWAY

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NR 118.01 Statement of policy. The following rules are necessary to reduce the adverse effects of overcrowding and poorly planned shoreland development, to prevent pollution and contamination of surface and groundwaters and soil erosion, to provide sufficient space on lots for sanitary facilities, to minimize flood damage, to maintain property values, to preserve and maintain the exceptional scenic and natural characteristics of the waters and related lands of the Lower St. Croix River Valley in a manner consistent with the National Wild and Scenic Rivers Act (P.L. 90-542), the Federal Lower St. Croix River Act of 1972 (P.L. 92-560) and the Wisconsin Lower St. Croix River Act (chapter 197, Laws of Wisconsin, 1973).

History: Cr. Register, December, 1975, No. 240, eff. 1-1-76.

NR 118.02 Jurisdiction. (1) Lower St. Croix River District Boundaries. These rules shall apply within the boundaries of the Lower St. Croix National Scenic Riverway as set forth in the master plan jointly prepared by the states of Minnesota and Wisconsin and the National Park Service pursuant to P.L. 92-560, with the following exceptions:

(a) The incorporated areas of Hudson, North Hudson, Osceola, and Prescott shall be included in their entirety.

(b) The incorporated area of the city of St. Croix Falls lying in section 30, T34N, R18W shall be included.

(2) Lower St. Croix River District. Each ordinance enacted or amended by a city, village or county shall designate a Lower St. Croix River District in accordance with the previously described boundaries.

(3) Local regulations adopted pursuant to s. 30.27, Stats., may be more, but not less, restrictive than the standards contained in these administrative rules. In no case shall a use or activity allowed by these rules be permitted contrary to local zoning regulations.

History: Cr. Register, December, 1975, No. 240, eff. 1-1-76.

NR 118.03 Definitions. For the purpose of these rules, certain terms or words used herein shall be interpreted as follows:

(1) "Accessory building" means a building on the same premises and subordinate to the principal use customarily incidental thereto.

(2) "Agriculture" means general farming, including dairying, livestock and poultry raising, nurseries, greenhouses and other similar enterprises.

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(3) "Bluffline" means a line along the top of a slope, connecting the points at which the slope, proceeding away from the river, becomes less than 12%. The location of the bluffline shall be certified by a registered land surveyor, soil scientist or certified soil tester.

(4) "Building line" means a line measured across the width of the lot at that point where the main structure is placed in accordance with setback provisions.

(5) "Department" means the Wisconsin department of natural resources.

(6) "Dock" means a temporary structure extending into the water to facilitate the launching or mooring of watercraft or for fishing during the open water season.

(7) "Dwelling unit" means a building or portion thereof with rooms arranged, designed, used or intended for one family.

(8) "Land division" means any division of a lot, parcel or tract by the owner thereof or his agent, for the purpose of transfer of ownership or building development which creates one or more parcels or building sites of 10 acres or less.

(9) "Local ordinance" means any county, town or municipal ordinance, portion of an ordinance, or amendments thereto, adopted by a local unit of government, with authority from state enabling legislation, which regulates the use of land within the Lower St. Croix River District.

(10) "Lot" means a parcel, piece or portion of land, defined by metes and bounds, certified survey, recorded land subdivision plat or other means and separated from other lots, parcels or similar units by such description.

(11) "Net project area" means lands intended for building development within identified project boundaries lying within the Lower St. Croix River District less:

(a) Land slopes in excess of 12% toward the river.

(b) Area of stream floodways.

(c) Area of road right-of-way.

(12) "Ordinary high watermark" means the point on the bank or shore up to which the presence and action of water is so continuous as to leave a distinct mark either by erosion, destruction of terrestrial vegetation or other easily recognized characteristics.

(13) "Selective cutting" means the removal of single scattered trees or shrubs.

(14) "Setback" means the minimum horizontal distance between a structure and:

(a) The ordinary high watermark;

(b) The bluffline; or

(c) Lot lines.

(15) "Sewage disposal system" means any system for the collection, treatment, and disposal of sewage including, but not limited to septic tanks, soil absorption systems, holding tanks and drainfields.

(16) "Single family dwelling" means a detached building containing one dwelling unit.

(17) "Slope" means all lands between the ordinary high watermark and the bluffline having an angle of ascent, proceeding landward of more than 12% from the horizontal.

(18) "Structure" means any building or appurtenance thereto, including stairways and lifts located between the bluffline to the water.

(19) "Substandard lot" means a lot created and recorded prior to the effective date of ordinances implementing these rules which does not meet the dimensional requirements of these rules.

(20) "Transmission services" means electric power, telephone and telegraph lines, cables or conduits that are used to transport large blocks of power, convey information or transport material between 2 points. In the case of electrical power, this will generally apply to transmission lines operating at 69,000 volts or more. For main pipeline crossings for gas, liquids or solids in suspension, this means those used to transport such materials between 2 points.

(21) "Wetlands" means lands which are periodically subject to inundation by water and commonly referred to as a bog, swamp or marsh.

Note: All distances unless otherwise specified shall be measured horizontally.

History: Cr. Register, December, 1975, No. 240, eff. 1-1-76.

NR 118.04 Land uses and activities in the Lower St. Croix River District. The following classifications, uses, structures and services shall be subject to the general provisions as contained in NR 118.05, Wis. Adm. Code.

(1) UNINCORPORATED AREAS. (a) *Permitted uses.* 1. Single family dwellings.

2. Nonstructural open space uses associated with maintaining the value of certain lands for natural areas, scenic, recreation, wildlife management, water and soil conservation and other such purposes.

3. Agriculture (nonstructural).

4. Highway waysides, rest areas and scenic overlooks.

5. Governmental structures used as information centers or for resource management to improve the fish and wildlife habitat.

6. Signs as approved by state or local governments which are necessary for public health and safety; signs indicating areas that are available or not available for public use; and signs that are otherwise lawful, provided they are not visible from the river.

7. Accessory buildings, provided they are not located closer to the bluffline than the principal structure.

(b) *Conditionally permitted uses and activities.* 1. The following uses are subject to approval after class 2 notice and public hearing:

- a. Land divisions.
- b. Transmission services.
- c. Filling and grading.

2. Application requirements for conditionally permitted activities. The applicant shall submit sufficient copies of the following information to the county 30 days prior to the hearing on the application for a conditionally permitted activity. Such information shall be certified by a professional engineer registered in Wisconsin.

a. Plat of survey showing the property location, boundaries, dimensions, elevations, blufflines, utility and roadway corridors, and the ordinary high watermark or regional flood elevation (if applicable).

b. Location of existing and proposed structures.

c. Location of existing and proposed alterations of vegetation and topography including filling and grading.

d. Adjoining land water uses, including natural values in terms of spawning grounds and fish and game habitat.

e. Suitability of area for onsite waste disposal. Size and location of system shall be indicated. If a municipal wastewater collection and treatment system is to be utilized, the developer must submit a written agreement from the municipality or sanitary district indicating that the system has the capacity to handle the development.

f. Water supply system.

g. Availability of solid waste disposal facilities and the effect of the proposed development on such facilities.

h. The anticipated demand for police, fire, medical and school services and facilities.

i. An estimate of permanent and transient residents.

3. Review of conditionally permitted uses and activities. No less than 20 days prior to the hearing, the county shall send a copy of the above information to the following agencies for review and comment:

- a. County planning department.
- b. Department of natural resources.
- c. Regional planning commission.
- d. Town board.
- e. Minnesota-Wisconsin boundary area commission.

4. Hearing record and decision. The hearing record shall contain the comments of the agencies listed in NR 118.04(1)(a) 3., Wis. Adm. Code, when such comments have been submitted. The decision shall address the following points:

a. The scenic and recreational qualities of the Lower St. Croix National Scenic Riverway.

b. The maintenance of safe and healthful conditions.

c. The prevention and control of water pollution including sedimentation.

d. The location of the site with respect to flood plains and floodways of rivers and streams.

e. The erosion potential of the site based upon degree and direction of slope, soil type and vegetative covers.

f. Location of site with respect to existing or future access roads.

g. The amount of liquid wastes to be generated and the adequacy of the proposed disposal system.

h. The compatibility of the project with uses on adjacent land.

i. The use of common corridors for locating proposed facilities within or adjacent to existing public service facilities such as roads, bridges and transmission services.

5. The county shall submit a copy of the written decision including a summary of the hearing, to the department within 5 work days of the date of hearing for department approval, modification or rejection within 20 days. No response within 20 days shall be deemed an approval.

(2) INCORPORATED AREAS. (a) Zoning and subdivision regulations existing on the effective date of these rules shall prevail with these qualifications:

1. The incorporated areas shall provide a timely copy of the notice of hearing and a copy of the decision on applications including but not limited to annexations, variances, amendments and conditional uses to:

a. County planning agency.

b. Regional planning commission.

c. Minnesota-Wisconsin boundary area commission.

d. Department of natural resources.

2. The general provisions contained in section NR 118.05, Wis. Adm. Code shall be contained within municipal zoning ordinances, with the exception that provisions in such municipal ordinances setting height, lot area or density standards shall prevail and substitute for height and density standards set forth in NR 118.05, Wis. Adm. Code. The general provisions of NR 118.05, Wis. Adm. Code, shall apply if comparable provisions are absent from municipal ordinances.

3. The zoning of unincorporated lands in the Lower St. Croix River District proposed to be annexed to incorporated areas shall be subject to the approval by the department after consultation with the annexing incorporated area and the county.

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NR 118.05 **General provisions.** The following general provisions shall be contained in local ordinances:

(1) **DENSITY STANDARDS.** (a) *Detached single family dwellings.* One dwelling unit per acre of net project area may be allowed. There shall be no more than one principal structure on each parcel.

(b) *Multiple family dwellings.* Where multiple family dwelling units are proposed, the number permitted shall not exceed by more than 50% the number of units allowed if the proposal was based on single family dwelling units.

(2) **SETBACK FOR STRUCTURES, PARKING FACILITIES, PRIVATE ROADS, PUBLIC STREETS AND TRANSMISSION SERVICES.** (a) The minimum setback shall be 200 feet from the ordinary high watermark or 100 feet from the bluffline, whichever distance is greater from the ordinary high watermark.

(b) As an alternative to the above paragraph, the applicant, the county or incorporated area and the department may agree on a lesser setback line, no less than 40 feet from the bluffline, which will not result in a significant change in the natural appearance of the shoreline, slope or bluffline as viewed from the river during the summer. It is the responsibility of the applicant to justify the need for such a reduced setback line and display how the proposed structure will be visually inconspicuous from the river in the summer. The setback line shall be delineated on the application and staked out, by the enforcement official prior to any construction.

(c) Justification for a reduced setback shall be based on limitations imposed by the physical characteristics of the property, not on the economic or other conditions of the applicant.

(3) **PLACEMENT OF STRUCTURES.** Structures shall not be located on slopes facing the Lower St. Croix River of greater than 12%. Alterations of such slopes to overcome this limitation are not permitted.

(4) **HEIGHT.** The height of any structure shall not exceed 35 feet above ground level.

(5) **LOT WIDTH.** Parcels or lots created for single family dwellings shall be no less than 200 feet in width at the building line.

(6) **LOT LINE SETBACK.** All structures or portions thereof shall be located at least 25 feet from all property lines.

(7) **DOCKS AND PIERS.** Docks and piers shall be allowed only during the open water season and shall only extend into the water the minimum distance necessary to allow the launching and mooring of watercraft and shall be parallel with the shoreline wherever possible.

(8) **VEGETATIVE CUTTING PROVISIONS.** The vegetation shall be managed to preserve the essential character, quality and density of existing growth. Compatible species of vegetation as replacement or new planting is encouraged.

(a) On lands within 200 feet of the ordinary high watermark and 40 feet landward of the bluffline, the following standards shall apply:

1. Removal of trees and shrubs is not permitted.

2. The above cutting provisions shall not be deemed to prevent:

- a. The removal of diseased or insect infested trees, or of rotten or damaged trees that present safety hazards.
- b. Pruning of trees, shrubs, understory vegetation bushes, grasses or from harvesting crops.

3. Other cutting of vegetation may be allowed upon the approval of a cutting plan by the zoning administrator.

(b) Vegetative cutting elsewhere in the Lower St. Croix River District may be conducted only where it is accessory to a permitted or conditionally permitted activity.

(9) GRADING AND FILLING PROVISIONS. (a) Any grading or filling of the natural topography in excess of that normally required for the construction of a structure or for normal yard maintenance shall be subject to all applicable state laws, the provisions for conditionally permitted activities and in addition:

1. The application for a permit shall include a detailed plan and schedule of the earth moving activities.

2. Approval of the plan shall be conditioned upon the following:

- a. No filling or grading shall be allowed on slopes greater than 12%.
- b. Temporary ground cover, such as mulch, shall be used and permanent ground cover, such as sod shall be planted as soon as possible.
- c. Diversions, silting basins, terraces and other methods to trap sediments shall be used where deemed necessary.
- d. Fill shall be stabilized according to accepted engineering standards.

3. A site inspection by the zoning administrator shall be made prior to issuance of a permit and after completion of grading or filling activities.

(b) Lagooning and dredging is prohibited unless authorized by permit from the department. Protection against erosion, sedimentation and impairment of fish and aquatic life must be assured.

(c) The drainage or filling of wetlands is prohibited.

(10) COLOR OF STRUCTURES. The exterior color of structures, including roofs, and stairways shall be in earth or summer vegetation tones, unless adequately screened from view by vegetation or design.

(11) SUBSTANDARD LOTS. Lots of record in the register of deeds office on the effective date of these rules or an enactment of amendment of the local ordinance, which do not meet the requirements of NR 118.05, Wis. Adm. Code, may be allowed by the county as building sites provided that:

- (a) The lot is in separate ownership from abutting lands, and
- (b) The proposed use conforms to the requirements of these rules and any underlying zoning or sanitary code requirements.

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NR 118.06 Administrative provisions. (1) ADOPTION AND REVIEW OF ORDINANCES. (a) Ordinances implementing the provisions of this chapter shall be adopted within 30 days of the promulgation of these rules.

(b) Upon adoption of an ordinance implementing these rules, the governmental unit shall submit 2 copies of the ordinance to the department of natural resources. The department shall review such ordinance and respond as to its adequacy in meeting the rules.

(2) REVIEW OF APPEALS IN UNINCORPORATED AREAS. (a) All appeals for conditionally permitted activities, amendments and variances shall be reviewed by the department and comments submitted to the appropriate governmental unit for inclusion into the hearing record.

(b) In objecting to an appeal, the department shall fully state, in writing, the basis for its opposition and appear at the hearing to explain its position.

(c) Permits, amendments and variances shall not be approved over the objection of the department.

(d) A permit for a conditionally permitted activity in an unincorporated area shall not be issued over the written objection of a town board.

1. Such objection shall be presented in writing and in person at the public hearing for the conditionally permitted activity and;

2. Such objections shall explain where the proposed project is inconsistent with these rules, the Lower St. Croix River Protection Act, or town zoning regulations.

(e) Where additional information is introduced at the hearing by the applicant or where the applicant may wish to review the department's or town's opposition the hearing may, at the discretion of the county, be held open for review of such information or position.

1. This action by the county shall stay any construction by the applicant.

2. If, at the end of 30 days from the date of the hearing, the department or the town have not changed their position, the hearing shall be closed.

3. The department shall provide all possible assistance to the governmental units under the jurisdiction of this act to implement and enforce ordinances adopted pursuant to these rules.

History: Cr. Register, December, 1975, No. 240, eff. 1-1-76.