

LAKE IMPROVEMENT DISTRICTS

6115.0900 PURPOSE.

In order to provide for the orderly establishment of lake improvement districts in a manner that will preserve and protect the lakes of Minnesota and increase and enhance the use and enjoyment of these lakes, the commissioner of the Department of Natural Resources does hereby provide guidelines, criteria, and standards for establishment of lake improvement districts by counties, cities, and towns, as authorized by Minnesota Statutes, sections 103B.511 to 103B.581, 103G.605, 103G.621, and 459.20, in furtherance of the policies declared in Minnesota Statutes.

These rules establish minimum guidelines, criteria, and requirements relating to:

A. procedures by which proposed lake improvement districts shall be reviewed prior to establishment;

B. standards and criteria which all proposed lake improvement districts shall meet before establishment, modification, or termination.

Statutory Authority: MS s 103B.511; 378.41

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6115.0910 SCOPE.

These parts shall apply to all existing and proposed lake improvement districts. These parts shall not apply to lake conservation districts established by special legislation of the Minnesota state legislature.

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6115.0920 DEFINITIONS.

Subpart 1. Shall. For the purpose of these parts, certain terms or words used herein shall be interpreted as follows: the word "shall" is mandatory, not permissive.

Subp. 2. Agency. "Agency" means the Minnesota Pollution Control Agency.

Subp. 3. Commissioner. "Commissioner" means the commissioner of the Department of Natural Resources or authorized representative.

Subp. 4. Direct drainage basin. "Direct drainage basin" means that portion of a lake's total watershed which is not drained to an upstream water basin, as defined herein. The determination of size and physical limits of a lake's direct drainage basin shall be made by the commissioner.

Subp. 5. District boundaries. "District boundaries" means, for the purpose of these parts, the territorial boundaries of a lake improvement district. All lands and waters within the direct drainage basin, as defined herein, shall be included within the district boundaries, except those exclusions for which written approval is obtained from the commissioner. The boundaries shall include a sufficient amount of the lake's watershed and related land to develop and implement feasible solutions to the problems the district intends to address. The boundaries shall also include all lands and waters which can reasonably

be considered adversely affected by the proposed programs, plans, or actions of the lake improvement district.

Subp. 6.Lake. "Lake" means, for the purpose of these parts, any public water basin identified and classified in the shoreland management ordinances of the local county or municipal unit of government.

Subp. 7.Lake improvement district. "Lake improvement district" means a district formed around a lake in accordance with Minnesota Statutes, sections 103B.501 to 103B.581. A lake improvement district is a local unit of government established by resolution of appropriate county boards and/or city governing bodies, or by the commissioner, for the implementation of defined lake management projects and for the assessment of the costs thereof.

Subp. 8.Natural hydrologic boundaries. "Natural hydrologic boundaries" means the boundaries of a lake's direct drainage basin, as defined herein.

Subp. 9.Resident. "Resident" means a person 18 years of age or older who meets the residency requirements of Minnesota Statutes, section 200.031.

Subp. 10.Resident owner. "Resident owner" means a Minnesota resident who is the owner of land or the contract purchaser of land within the boundaries of a lake improvement district.

Subp. 11.Water basin. "Water basin" means an enclosed basin normally partly or completely filled with water. The water basin may have inlet and outlet streams, it may have only an inlet or outlet, or it may be completely enclosed.

Subp. 12.Watershed. "Watershed" means the entire surface drainage area that contributes water to a lake.

Statutory Authority: MS s 103B.511; 378.41

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6115.0930 SEVERABILITY.

The provision of these rules shall be severable, and the invalidity of any paragraph, subparagraph, or subdivision thereof shall not make void any other paragraph, subparagraph, subdivision, or any other part.

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6115.0940 GOALS FOR LAKE IMPROVEMENT DISTRICTS.

Proposals for the establishment of lake improvement districts shall be evaluated according to the degree to which they promote the following goals:

A.lake protection and rehabilitation;

B.protection and enhancement of environmental values by preventing degradation of fish and wildlife habitat, surface and ground water quality, natural beauty and unique scientific values, recreational values, and the quality of life generally;

C.preservation of the public rights in the public waters of the state and to provide the public use of the lake consistent with the preservation of environmental values;

D.ensuring local involvement in the project and a commitment to future lake management;

E.conformity with federal, state, regional, and local laws, rules, and water and related land management policies; and

F.fair and objective resolution of conflicts between competing lake related interests in and around the district.

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6115.0950 ELIGIBILITY FOR LAKE IMPROVEMENT DISTRICTS.

The types of lake improvements in items A to H are eligible for the creation of a lake improvement district:

A.studying the sources of and solutions to lake problems;

B.preserving and improving water quality by means of water and related land management, excluding land use zoning authority; and in-lake water treatment;

C.sedimentation and siltation control;

D.shoreline erosion control;

E.aquatic nuisance control;

F.preserving and improving fish and wildlife habitat;

G.preserving and improving recreational potential of the lake; and

H.any other purposes approved by the county board pursuant to Minnesota Statutes, sections 103B.551, subdivision 3; 103G.605; and 103G.621.

Statutory Authority: MS s 103B.511; 378.41

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6115.0960 CRITERIA AND STANDARDS FOR ESTABLISHMENT OF LAKE IMPROVEMENT DISTRICTS.

Subpart 1. In general. Proposals for the establishment of lake improvement districts shall be evaluated based on the extent to which they demonstrate the following.

Subp. 2. Local need for district. The proposal shall demonstrate the need for the district and why another unit of government with similar powers, or a voluntary lake association, cannot or will not satisfactorily accomplish the district's proposed purposes.

Subp. 3. Appropriateness of proposed boundaries. The proposed boundaries shall be consistent with district boundaries as defined in part 6115.0920. The proposed boundaries shall include all lands and waters within the lake's direct drainage basin, unless justification is provided for including a lesser area and approved in writing by the commissioner. The proposed boundaries shall include a sufficient amount of the lake's watershed and related land to develop and implement feasible solutions to the identified problems. The proposed boundaries shall include those lands and waters which can reasonably be considered adversely affected by the proposed actions of the district. The proposed boundaries shall be delineated so as to provide appropriate public representation and the equitable distribution of benefits and levying of costs.

Subp. 4. Appropriateness of proposed purposes. The proposed purposes shall be consistent with existing state, federal, regional, and local laws, policies, objectives, and plans pertaining to water and related land management, fish and wildlife habitat, surface and ground water quality, natural beauty and unique scientific values, economic and recreation values, and the quality of life. The proposed purposes shall be consistent with the public rights in the public waters of the state. When a district is proposed for the purpose of conducting a feasibility study of the sources of and solutions to lake problems, the proposal shall demonstrate an understanding that subsequent lake restoration measures may require modification of the district's boundaries and statement of purposes, pursuant to part 6115.0980, subpart 1, and Minnesota Statutes, section 103B.575.

Subp. 5. Technical feasibility of proposed plans and programs. The proposal shall demonstrate the technical feasibility of the proposed plans and programs, or provide for the determination of technical feasibility.

Subp. 6. Adequacy of proposed means of financing. The proposal shall demonstrate capability of raising sufficient funds to meet district purposes, to ensure continuity of district operations, and to meet the requirements of these parts.

Subp. 7. Adequacy of procedures for planning, decision-making, and public involvement. The proposal shall assure consideration of the interests of concerned citizens both within and outside the boundaries of the proposed district. The proposal shall include the identification of varying and often conflicting interests regarding water and related land management in and around the proposed district, and procedures to assure the consideration of such diverse interests so that decisions are made in the best overall interests of fairness and public health, safety, and welfare.

Subp. 8. Public access. The proposed plan shall provide for public access when adequate public access consistent with size of the lake, the extent of public interest in using the lake, and the combined uses of the lake is unavailable. Service charges may not be imposed on the use of a public access if other units of government cost share the acquisition, development, or maintenance of the public access.

Subp. 9. Adequacy of long-range monitoring of environmental effects of district programs. The proposed plan shall demonstrate an understanding of potential environmental effects of the proposed district plans and programs, and provide for a long-range monitoring of such effects.

Subp. 10. Coordination with other special purpose districts. The proposal shall demonstrate how the proposed district programs will be coordinated with existing special purpose districts formed for water and related land management. Examples of such units of government are watershed districts, sanitary districts, drainage and conservancy districts, lake conservation districts, and soil and water conservation districts. Lake improvement districts shall not be established where a special purpose unit of government for water and related land management exists which can implement the purposes of the proposed lake improvement district, unless written approval is acquired from such unit of government or from the commissioner. The proposal should demonstrate efforts in good faith to resolve at the local level any conflicts between an existing special purpose district and the proposed lake improvement district.

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6115.0970 CREATION OF LAKE IMPROVEMENT DISTRICT.

Subpart 1. Petition or county board document. A county board document proposing the creation of, or a petition to create, a lake improvement district shall contain the following elements:

A. A written statement of lake problems and objectives.

B. The proposed type or types of water and related land resource management programs to be undertaken by the proposed district. This shall include a detailed statement of intended studies, management programs, remedial actions, and construction projects.

C. A statement of the means by which the programs will be financed.

D. A map showing the boundaries of the proposed lake improvement district. The map shall show the number and location of permanent homes and seasonal dwellings in the district. The scale of the map, and basic geographical information, such as range, township, and section numbers, shall be clearly indicated on the map.

E. The number of directors proposed for the district.

F. Copies of local ordinances which regulate use of the lake or any public access.

G. Any information indicating the degree of local interest and commitment to future management.

H. The identification of any lands and waters which may be adversely affected by the implementation of district purposes, and a preliminary assessment of these adverse effects.

I. A statement outlining the adequacy and ownership of public accesses, including public lands and beaches.

J. An estimate of the total equalized valuation of the property within the district.

K. Any other information demonstrating accordance with the criteria and standards for establishment as contained in part 6115.0960.

Subp. 2. Submission of petition or resolution. Initial submittal of petition or resolution to county board, the commissioner, and the agency for:

A. Creation by petition. No later than five days after the official filing of a petition for the establishment of a lake improvement district with the county board, the citizens or organization sponsoring the petition shall provide a certified copy of the petition to the commissioner and the agency. This is necessary in order to facilitate preliminary review of the proposed district boundaries prior to the notification of the public hearing.

B. Creation by resolution. At least 40 days prior to the public hearing, the county board shall provide a certified copy of the document containing the information required by this part to the commissioner and the agency. This is necessary to facilitate preliminary review of the proposed district boundaries prior to notification of the public hearing.

Subp. 3. Notification of public hearing. At least 21 days prior to the public hearing, the county board shall give notice of the public hearing to the commissioner and the agency, and make a reasonable attempt to notify every resident and every resident owner within the proposed district of the pending resolution or petition and the public hearing. A reasonable attempt to notify shall consist of mailing notice to the last known address of each landowner within the proposed district, publication of notice in two successive issues of a newspaper widely circulated in the proposed district, and posting notice in public buildings and several leading commercial establishments in or near the proposed district, as appropriate and reasonable. All local and regional units of government, special purpose districts, and development commissions within and adjacent to the boundaries of the proposed district shall be given notice of the public hearing. All corporations and utilities owning real estate or corporate property within the proposed district shall be given notice of the public hearing.

As part of the notification procedure, a statement shall accompany the notice setting forth the following:

A. a description of the proposed purposes, programs, funding, and boundaries of the proposed district, and the name proposed for the district;

B. the time and place of the public hearing; and

C. the following paragraph shall be included:

"The establishment of the proposed lake improvement district requires review by the commissioner of natural resources and the approval of the (as appropriate) county board(s) (and/or city governing body). Concerned citizens may submit evidence at a public hearing to be held prior to the passage of any resolution establishing the proposed lake improvement district. Concerned citizens may also submit evidence and opinions to the commissioner of natural resources. A copy of the petition (or document, as appropriate) for the establishment of the lake improvement district is available for public review at the

(as appropriate) county courthouse (or other appropriate public building; give address and telephone number where interested citizens can review the document)."

If the establishment of the lake improvement district is proposed by the county board pursuant to subpart 2, item B and Minnesota Statutes, section 103B.515, the following paragraph shall be included in the notice of the public hearing:

"Citizens may call for a referendum on the question of whether or not to establish a lake improvement district by filing a petition requesting such a referendum. The petition shall be signed by 25 percent of the land owners within the territory of the proposed district, who are Minnesota residents. Upon receipt of such a petition prior to the effective date of creation of the district, the county board shall hold the creation in abeyance pending the referendum vote of all qualified voters residing within the boundaries of the proposed district."

Subp. 4. Public review of petition or resolution. The county board shall make the petition or document containing the information required by this part available for review by concerned citizens, at the county courthouse or other appropriate public building.

Subp. 5. Review by commissioner and agency. Upon receipt of a copy of the petition or document, the commissioner shall:

A. Review the petition or document and any evidence presented by the agency or concerned citizens pertaining to the establishment of the proposed district. This review shall include an evaluation of the statement of district purposes and its relation to existing laws, rules, and regulations, units of government, water and related land management programs and policies. The proposed district boundaries shall be examined to assess their consistency with these parts. When one or more of the stated purposes of the proposed district relate to pollution control, this review shall be conducted with the assistance of the agency.

B. Prepare an advisory report stating findings as to whether the proposed lake improvement district should be established. The commissioner shall set forth in the report any matters pertaining to the district which should be further investigated and evaluated. On determining that the establishment of the proposed district is not in the public interest, the commissioner shall so report the specific reasons and inadequacies. The commissioner may request additional time for review of the proposed district in such cases where additional time can be shown to be necessary for proper evaluation. The commissioner's report may contain reports by the agency.

Subp. 6. Request for continuance or postponement of hearing. The county board may grant requests by citizens, the commissioner, or the agency for postponement or continuance of the public hearing to a time more than 30 days after receipt of the petition and verification of the signatures thereon. Such requests may be granted if the county board determines that the additional time requested is appropriate and reasonable in order for the requesting organization or citizens to adequately prepare for the public hearing, and consistent with the goals of promptness and fairness in the proceedings.

Subp. 7. Advisory report. The commissioner's advisory report shall be publicly read into the record at the public hearing.

Subp. 8.Modification of findings. The commissioner may modify findings based on evidence presented during and subsequent to the public hearing.

Subp. 9.Formal meeting to approve or disapprove district. No sooner than ten days but within 30 days following the holding of the public hearing, the county board shall formally convene to approve or disapprove the establishment of the proposed lake improvement district. At least ten working days' notice shall be given to the commissioner of the time and place where the board will formally convene for this purpose. If the commissioner or the commissioner's representative does not appear, any modifications of the commissioner's advisory report shall be publicly read into the record.

Statutory Authority: MS s 103B.511; 378.41

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6115.0980 ADMINISTRATION OF LAKE IMPROVEMENT DISTRICTS.

Subpart 1.Modification. No program, remedial action, project, or change of district boundaries which is not specified in the resolution creating a lake improvement district may be undertaken, except by modifying the appropriate items listed in part 6115.0970, subpart 1, items A to E.

For an established district, any of the items listed in part 6115.0970, subpart 1, items A to E may be modified by petition to or resolution by the county board, in the same manner that a district is created.

Subp. 2.Legal responsibilities and liabilities of lake improvement districts. Nothing in these parts shall be construed to relieve a lake improvement district of the legal duties, obligations, or liabilities incident to the programs, plans, or actions of the district.

The lake improvement district shall assume all legal risks and liabilities, including those for damages or any injury to persons or property, arising from the construction, operation, maintenance, alteration, or abandonment of its programs, plans, or actions.

In the event of termination of the district, or failure of the district to meet its obligations, these responsibilities and liabilities shall fall upon the unit or units of government which established the lake improvement district.

Subp. 3.Limited state liabilities. The establishment of a lake improvement district shall not impose any liability upon the state of Minnesota, its officers, employees, agents, or consultants, for any damage or injury to any persons or property resulting from the activities of the lake improvement district.

Subp. 4.Rights of lake improvement districts. Nothing in these parts shall be construed to deprive any lake improvement district of such recourse to the courts as it may be entitled to under the laws of this state.

Subp. 5.Inspections. The commissioner shall be given prompt access to and inspection of all records, structures, facilities, and operations at all reasonable times as may be necessary to monitor compliance with the terms of existing permit and to ensure protection of the public health, safety, and welfare. The

commissioner's inspections shall not relieve the lake improvement district from the full responsibility of providing adequate inspection and supervision for all programs and projects undertaken by the district.

Subp. 6. Compliance with other laws and water management policies. Lake improvement districts shall conform to federal, state, regional, and local laws, rules, and fish and wildlife, water, and related land management policies. Lake improvement districts shall obtain all necessary permits, as required by law, prior to implementing district purposes and programs.

Subp. 7. Compliance by preexisting lake improvement districts. Within one year following promulgation of these parts, lake improvement districts in existence prior to the promulgation of these rules shall submit to their county board and to the commissioner a certified copy of a document containing the information required by part 6115.0970. This document shall also contain a report on the past and current activities and financial condition of the district.

The commissioner shall review the document and prepare an advisory report stating findings as to whether the district is consistent with these parts. The report may contain such recommendations as the commissioner determines is necessary to bring the district into compliance with these parts.

Within 60 days following the official filing of the commissioner's report with the county board, the board shall formally convene to consider the report. The county board shall give ten working days' notice to the commissioner of the time and place where it will convene to consider the commissioner's report. If the commissioner or the commissioner's representative does not appear, the report shall be publicly read into the record.

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