

6106.0070 PREPARATION, REVIEW, AND APPROVAL OF PLANS AND ORDINANCES.

Subpart 1. **Purpose.** The purpose of this part is to establish the process, responsibilities, time frames, content requirements, and evaluation criteria for preparation, review, and approval of plans and ordinances, in order to ensure an efficient process aligned with other regional and local planning processes.

Subp. 2. Adoption of plans and ordinances.

A. The commissioner, in consultation with the Metropolitan Council, shall notify local governments of the schedule for preparing or amending plans and ordinances consistent with this chapter. The schedule must align as closely as possible with the comprehensive plan update schedule under Minnesota Statutes, section 473.864.

B. All plans and ordinances adopted by local governments pursuant to Executive Order 79-19 that are in existence on January 4, 2017, remain in effect and must be enforced until plans and ordinances are amended consistent with this chapter, approved by the commissioner, and adopted by the local government as provided under subpart 3.

C. Where a local government has not adopted plans and ordinances pursuant to Executive Order 79-19, development must be governed by this chapter until such time as plans and ordinances consistent with this chapter are approved by the commissioner and adopted by the local government as provided under subpart 3.

D. The adoption of plans and ordinances consistent with this chapter does not limit or modify the rights of a person to complete a development that has previously been authorized as provided under Minnesota Statutes, section 116G.13.

Subp. 3. Plan and ordinance review.

A. Within one year of notification from the commissioner according to subpart 2, local governments must prepare or amend plans and ordinances consistent with this chapter. The commissioner shall grant extensions to local governments if requested in writing and if the local government demonstrates it has made a good-faith effort to meet the deadline specified in this subpart. The extension, if granted, must include a timetable and plan for completion of the ordinance.

B. Local governments must formally submit drafts of plans and ordinances to the Metropolitan Council and the commissioner for review, in a format prescribed by the commissioner.

C. If ordinances prepared under item B refer to standards in underlying zoning, then the underlying zoning documents must be submitted and considered in combination with the ordinance. Both the ordinance and underlying zoning standards must be consistent

with this chapter. Ordinances not consistent with this chapter must be submitted as part of a flexibility request according to subpart 6.

D. The commissioner and the Metropolitan Council must review the plan or ordinance and communicate a decision to the local government as follows:

(1) within 45 days after receipt from the local government, the Metropolitan Council must review and comment on draft plans and ordinances for consistency with:

- (a) this chapter;
- (b) regional systems and policies, as specified in Minnesota Statutes, section 473.859; and
- (c) the council's comprehensive development guide for the metropolitan area, as specified in Minnesota Statutes, section 473.145; and

(2) within 45 days after receipt of the plan and ordinance from the Metropolitan Council, the commissioner must review the draft plan and ordinance to determine their consistency with this chapter, with Minnesota Statutes, chapter 116G, and with the comprehensive plan adopted by a local government. The commissioner shall consider the comments submitted by the Metropolitan Council.

E. Upon completing the review, the commissioner must take an action under subitem (1) or (2) and provide a copy of the decision to the Metropolitan Council and the National Park Service:

- (1) approve the draft plan and ordinance by written decision; or
- (2) return the draft plan and ordinance to the local government for modifications, with a written explanation of the need for modification.

F. When the commissioner returns a draft plan and ordinance to the local government for modification, the local government must revise the draft plan and ordinance within 60 days after receipt of the commissioner's written explanation and must resubmit the revised draft plan and ordinance to the commissioner. Upon receiving the revised draft plan and ordinance from the local government, the Metropolitan Council and the commissioner must conduct the review as provided under item D.

(1) If a meeting is requested by the local government or the Metropolitan Council, a final revision need not be made until a formal meeting has been held with the commissioner on the draft plan and ordinance. The request extends the 60-day time limit specified in this item until after the meeting has been held.

(2) The commissioner must grant extensions to local governments if the local government requests an extension in writing and if the local government is making a

good-faith effort to meet the submittal deadline. The extension, if granted, must include a timetable and plan for completion of the plan and ordinance.

G. Within 60 days after receiving the commissioner's approval of a draft plan or ordinance, the local government must adopt the commissioner-approved draft plan and ordinance. The local government must submit a copy of the final adopted plan and ordinance, with evidence of adoption, to the commissioner, the Metropolitan Council, and the National Park Service within ten days after the adoption.

H. Only those plans and ordinances approved by the commissioner have the force and effect of law.

I. Once in effect, the local government must implement and enforce the commissioner-approved plan and ordinance.

J. If a local government fails to prepare and submit a draft plan and ordinance within one year of notification as provided under item A, fails to incorporate necessary modifications as provided under item E, subitem (2), or fails to adopt the commissioner-approved plan or ordinance as provided under item G, the commissioner must:

(1) prepare a plan and ordinance consistent with this chapter within 90 days of the deadline for preparation or adoption of plans and ordinances as provided under items A to E or G or the end date of an extension of time approved by the commissioner as provided under item F;

(2) conduct a public hearing as provided by Minnesota Statutes, section 14.58, and other statutes as applicable;

(3) within 60 days after the conclusion of the public hearing, adopt by written order the plan and ordinance for the local government's portion of the Mississippi River Corridor Critical Area; and

(4) give notice of the adopted plan and ordinance to the affected local government, the Metropolitan Council, and the National Park Service.

K. Plans and ordinances that have been adopted by the commissioner under this subpart have the same effect as if adopted by the local government and must be administered and enforced by the local government.

L. Local governments may amend plans and ordinances at any time following the procedures under items C to I.

M. Plans must be updated regularly on the same schedule as other comprehensive plan elements according to Minnesota Statutes, section 473.864, and in a manner consistent with items C to I.

Subp. 4. Contents of plans.

A. The plan must be a component of the local government's comprehensive plan prepared according to Minnesota Statutes, section 473.859, and must be consistent with the purposes and scope of this chapter.

B. Plans must contain maps, policies, and implementation provisions to:

- (1) identify and protect primary conservation areas;
- (2) identify and protect those public river corridor views and other scenic views deemed important by the community;
- (3) identify areas that are priorities for restoration of natural vegetation, erosion prevention, bank and slope stabilization, or other restoration activities;
- (4) minimize potential conflict of water surface uses as authorized under Minnesota Statutes, chapter 86B;
- (5) provide for commercial barge terminals, barge fleeting, and recreational marinas, if applicable;
- (6) provide for future commercial and industrial uses that require water access;
- (7) provide for and encourage creation, connection, and maintenance of open space and recreation facilities, such as parks, scenic overlooks, natural areas, islands, and wildlife areas;
- (8) identify potential public access points and trail locations; and
- (9) provide for transportation and public utility development in a manner consistent with this chapter.

Subp. 5. Contents of ordinances.

A. Local ordinances must be consistent with the standards in this chapter and must include:

- (1) definitions consistent with part 6106.0050;
- (2) administrative provisions consistent with part 6106.0080;
- (3) districts consistent with part 6106.0100;
- (4) minimum standards and criteria consistent with parts 6106.0110 to 6106.0180; and
- (5) alternative design methods consistent with part 6106.0170.

B. The local ordinance must be structured as an overlay district. If a conflict exists with underlying zoning, the provisions of the overlay district govern. Where specific

numeric thresholds or standards are listed in this chapter, those numeric thresholds or standards must be included in the overlay district.

Subp. 6. Flexibility requests for ordinances.

A. Local governments may, under special circumstances and with the commissioner's prior approval, adopt ordinances that are not consistent with this chapter, provided that the purposes of Minnesota Statutes, section 116G.15, are met and the ordinance is consistent with the plan prepared by the local government and approved according to this chapter. Special circumstances include the following situations:

(1) areas where existing urban, residential, commercial, or industrial development patterns have been in place since before the designation of the Mississippi River Corridor Critical Area and where the majority of the development does not meet the minimum state standards;

(2) areas managed under other water and related land resource management programs authorized by state or federal legislation with goals compatible with this chapter;

(3) existing or planned wastewater, storm water, water supply, or utility facilities and similar physical or infrastructural constraints make the use of particular minimum standards impractical; and

(4) areas where detailed modeling of visual, physical, or other resource impacts has been completed as part of a public planning process.

B. A local government requesting ordinance flexibility must submit a written request to the commissioner as part of the ordinance submittal required under subpart 3. The request must:

(1) be approved by the governing body with authority to approve the request;

(2) include the proposed ordinance and any associated maps;

(3) include a detailed description of the proposed alternative standards that are not consistent with this chapter, together with documentation that the alternative standards are consistent with the purposes and scope of this chapter;

(4) describe the special circumstances that justify the use of alternative standards;

(5) describe the potential impacts to primary conservation areas and mitigation actions proposed to address the impacts;

(6) include documentation of any input from adjoining local governments, including those with overlapping jurisdiction and those across the river, and from other potentially affected interests, including community members; and

(7) include any other supporting information, maps, and documents that the local government considers necessary to explain the request to the commissioner.

C. Within 60 days after receiving a complete request for ordinance flexibility as provided in item B, the commissioner must:

(1) make the request publicly available;

(2) evaluate the request based on:

(a) the extent to which the proposed alternative standards satisfy the purposes of Minnesota Statutes, section 116G.15, subdivision 1, and the purposes and scope of this chapter;

(b) the likely impact of the proposed alternative standards on primary conservation areas and public river corridor views;

(c) comments from adjoining local governments and other potentially affected interests; and

(d) the local government's identification of mitigation measures and its commitment to mitigate any adverse impacts resulting from the proposed alternative standards; and

(3) approve or deny the request, state in writing to the local government the reasons for the approval or denial, and suggest any alternative solutions or regulatory approaches that would be granted ordinance flexibility.

Subp. 7. Plans and projects for parks and other public lands. State or regional agencies, local park agencies, special purpose units of government, and local governments with parks or other public lands within their jurisdiction must comply with the standards and criteria in this chapter. The agencies and government entities must include the following elements in plans and project designs for parks and other public lands they own or manage within the Mississippi River Corridor Critical Area:

A. documentation of the location of the park or other owned or managed land within the Mississippi River Corridor Critical Area and recognition of the purposes of the Mississippi River Corridor Critical Area designation and this chapter;

B. standards for public utilities and facilities consistent with those in part 6106.0130; and

C. provisions for protection of primary conservation areas and public river corridor views.

Statutory Authority: *MS s 116G.15*

History: *41 SR 799*

Published Electronically: *January 19, 2017*