

Drainage and Waters

CHAPTER 104

FLOOD PLAIN MANAGEMENT

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104.01 TITLE; LEGISLATIVE FINDINGS; POLICY AND PURPOSE. Subdivision 1. Sections 104.01 to 104.07 may be cited as the flood plain management act.

Subd. 2. The legislature finds and declares that: (a) A large portion of the state's land resources is subject to recurrent flooding by overflow of streams and other watercourses causing loss of life and property, disruption of commerce and governmental services, unsanitary conditions, and interruption of transportation and communications, all of which are detrimental to the health, safety, welfare, and property of the occupants of flooded lands and the people of this state; and (b) The public interest necessitates sound land use development as land is a limited and irreplaceable resource, and the flood plains of this state are a land resource to be developed in a manner which will result in minimum loss of life and threat to health, and reduction of private and public economic loss caused by flooding.

Subd. 3. It is the policy of this state and the purpose of sections 104.01 to 104.07 not to prohibit but to guide development of the flood plains of this state consistent with the enumerated legislative findings to provide state coordination and assistance to local governmental units in flood plain management, to encourage local governmental units to adopt, enforce and administer sound flood plain management ordinances, and to provide the commissioner of natural resources with authority necessary to carry out a flood plain management program for the state and to coordinate federal, state, and local flood plain management activities in this state.

[1969 c 590 s 1; 1969 c 1129 art 10 s 2]

104.02 DEFINITIONS. Subdivision 1. For the purposes of sections 104.01 to 104.07 the terms defined in this section have the meanings given them.

Subd. 2. "Regional flood" means a flood which is representative of large floods known to have occurred generally in Minnesota and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of the 100 year recurrence interval.

Subd. 3. "Flood plain" means the areas adjoining a watercourse which has been or hereafter may be covered by the regional flood.

Subd. 4. "Floodway" means the channel of the watercourse and those portions of the adjoining flood plains which are reasonably required to carry and discharge the regional flood.

Subd. 5. "Flood fringe" means that portion of the flood plain outside of the floodway.

Subd. 6. "Local governmental unit" means a county, city, village, or borough.

Subd. 7. "Commissioner" means the commissioner of natural resources.

[1969 c 590 s 2; 1969 c 1129 art 3 s 1]

104.03 FLOOD PLAINS; COMMISSIONER'S DUTIES; USES OF FLOOD PLAINS. Subdivision 1. The commissioner shall (a) collect and distribute information relating to flooding and flood plain management; (b) coordinate local, state, and federal flood plain management activities to the greatest extent possible; (c) assist local governmental units in their flood plain management activities within the limits of available appropriations and personnel in cooperation with the office of local and urban affairs and the state planning officer; (d) do all other things, within his lawful authority, which are necessary or desirable to manage the flood plains for beneficial uses compatible with the preservation of the capacity of the flood plain to

carry and discharge the regional flood. In cooperation with local governmental units, the commissioner shall conduct, whenever possible, periodic inspections to determine the effectiveness of local flood plain management programs, including an evaluation of the enforcement of and compliance with local flood plain management ordinances.

Subd. 2. In places where the flood plain has been delineated by ordinance in the manner required by sections 104.01 to 104.07, no major alteration to a structure in existence on the effective date of the ordinance, and no new fill, structure, deposit, or other flood plain use that is unreasonably hazardous to the public or that unduly restricts the capacity of the flood plain to carry and discharge the regional flood shall be permitted after the effective date of the ordinance delineating the flood plains. As used in this subdivision, major alterations of existing structures shall not include repair or maintenance and shall not include repairs, maintenance or alterations to structures made pursuant to the authority of any other authorized agency of the state or federal government and provided further that this subdivision shall not apply to alterations, repair or maintenance reasonably done under emergency circumstances to preserve or protect life or property. This subdivision applies to alterations to existing structures and to new fill, structures, deposits, or other flood plain uses by the state and its agencies.

[1969 c 590 s 3]

104.04 FLOOD PLAIN MANAGEMENT ORDINANCES. Subdivision 1. In accordance with the provisions of sections 104.01 to 104.07, the rules and regulations which the commissioner may promulgate pursuant to sections 104.01 to 104.07, and applicable laws authorizing local governmental units to adopt flood plain management ordinances, local governmental units shall adopt, administer, and enforce flood plain management ordinances, which shall include but not be limited to the delineation of flood plains and floodways, the preservation of the capacity of the flood plain to carry and discharge regional floods, the minimization of flood hazards, and the regulation of the use of land in the flood plain. The ordinances shall be based on adequate technical data and competent engineering advice and shall be consistent with local and regional comprehensive planning.

Subd. 2. No later than June 30, 1970, every local governmental unit shall submit a letter of intent to comply with sections 104.01 to 104.07, on a form provided by the commissioner including any existing flood plain management ordinances, to the commissioner for his review. The letter of intent shall list the watercourses within the boundaries of the local governmental unit in the order of the degree of flood damage potential associated with each watercourse and shall include a description of the type of information that is available for each, such as high water-marks and topographic maps.

Subd. 3. When the commissioner determines that sufficient technical information is available for the delineation of flood plains and floodways on a watercourse, he shall notify affected local governmental units that this technical information is available. As soon as practicable after receiving this notice, each local governmental unit shall prepare or amend its flood plain management ordinance in conformance with the provisions of sections 104.01 to 104.07, and shall submit the ordinance to the commissioner for his review and approval before adoption. The commissioner shall approve or disapprove the proposed ordinance within 120 days after receiving it. If the commissioner disapproves the proposed ordinance he shall return it to the local governmental unit with a written statement of his reasons for disapproval. Thereafter, the local governmental unit shall resubmit an amended proposed ordinance for his further review and approval before adoption. A flood plain management ordinance adopted by a local governmental unit after June 30, 1970, is invalid unless it is approved by the commissioner. A local governmental unit may adopt a flood plain management ordinance in the absence of notification by the commissioner that the required technical data is available, provided that any such ordinance is submitted to the commissioner prior to its adoption for his approval. Nothing in sections 104.01 to 104.07 limits the power of a local governmental unit or town to adopt or continue in force a flood plain management ordinance which is more restrictive than that which may be required pursuant to sections 104.01 to 104.07.

Subd. 4. Flood plain management ordinances may be amended by a local governmental unit upon the approval of the commissioner.

[1969 c 590 s 4]

104.05 RULES AND REGULATIONS. In the manner provided by Minnesota Statutes 1967, Chapter 15, the commissioner shall promulgate rules and regulations necessary to carry out the purposes of sections 104.01 to 104.07, including but not limited to the following: (a) criteria for determining the flood plain uses which may be permitted without creating an unreasonable public hazard or unduly restricting the capacity of the flood plain to carry and discharge the regional flood; (b) variance procedures; (c) the establishment of criteria for alternative or supplemental flood plain management measures such as flood proofing, subdivision regulations, building codes, sanitary regulations, and flood warning systems.

[1969 c 590 s 5]

104.06 NECESSARY USE. The commissioner in promulgating guidelines pursuant to section 104.05 and local governmental units in preparing flood plain management ordinances shall give due consideration to the needs of an industry whose business requires that it be located within a flood plain.

[1969 c 590 s 6]

104.07 ENFORCEMENT AND PENALTIES. Every structure, fill, deposit, or other flood plain use placed or maintained in the flood plain in violation of a flood plain management ordinance adopted under or in compliance with the provisions of sections 104.01 to 104.07 is a public nuisance and the creation thereof may be enjoined and the maintenance thereof abated by an action brought by the commissioner of natural resources or a local governmental unit. A person who violates any of the provisions of sections 104.01 to 104.07 is guilty of a misdemeanor. Each day during which such violation exists is a separate offense.

[1969 c 590 s 7; 1969 c 1129 art 3 s 1]