

CHAPTER 103F

PROTECTION OF WATER RESOURCES

103F.205 DEFINITIONS.
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EXISTING RESORTS.

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103F.205 DEFINITIONS.

Subdivision 1. **Applicability.** The definitions in this section apply to sections 103F.201 to 103F.227.

[For text of subs 2 to 4, see M.S.2006]

History: 2007 c 92 s 1

103F.227 SHORELAND DEVELOPMENT; EXISTING RESORTS.

Subdivision 1. **Applicability.** This section applies statewide and preempts local ordinances that are inconsistent with its terms. A county or municipality may by ordinance impose upon resorts reasonable regulations to prevent and abate nuisances and to protect the public health, welfare, safety, and environment.

Subd. 2. **Resort defined.** For purposes of this section, "resort" means a shoreland commercial establishment, existing on or before August 1, 2007, that includes buildings, lodges, structures, dwelling units, camping or recreational vehicle sites, or enclosures, or any part thereof kept, used, maintained, or advertised as or held out to the public to be a place where sleeping accommodations are furnished to the public, primarily to persons seeking recreation, for periods of one day or longer, and having for rent three or more cabins, rooms, campsites, or enclosures. A shoreland commercial establishment must be primarily service oriented for transient lodging of guests. All cabins, rooms, dwelling units, camping or recreational vehicle sites, or enclosures must be included in the resort rental business. Resorts must not allow residential use of a dwelling unit or site, except dwellings used as residences for the service providers. To qualify as a resort under this section, a resort must be fully licensed and permitted under appropriate state and local regulations. The entire parcel of land must be controlled and managed by the licensee.

Subd. 3. **Maintenance and replacement.** (a) So long as the establishment continues to operate as a resort, a county or municipality must allow a resort owner to:

- (1) maintain structures, including the replacement of aging or outdated components or systems of the structure, while not increasing the structure's footprint on the land; and
- (2) replace structures damaged or lost to fire or natural disaster.

(b) Paragraph (a), clause (2), applies only when an application for a building permit is made within 180 days of the damage or loss.

Subd. 4. **Expansion.** A county or municipality must allow a resort owner to increase a structure footprint to minimally meet federal, state, or local dwelling standards or codes. To "minimally meet" the standards or codes means that the replacement structure does not add new architectural elements, such as more bedrooms, that did not exist in the original structure. Structural expansion under this subdivision must not result in a structure that is any larger than required to meet standards or codes or a structure or any portion that is any closer to the shoreline than prior to the expansion.

Subd. 5. **Change in ownership.** A change in ownership of a resort shall not be construed as a conversion to a different use so long as the new owner continues to use the property as a resort.

History: 2007 c 92 s 2

103F.518 REINVEST IN MINNESOTA CLEAN ENERGY PROGRAM.

Subdivision 1. **Establishment of program.** (a) The board, in consultation with the technical committee established in subdivision 11, shall establish and administer a reinvest

in Minnesota (RIM) clean energy program that is in addition to the program under section 103F.515. Selection of land for the clean energy program must be based on its potential benefits for bioenergy crop production, water quality, soil health, reduction of chemical inputs, soil carbon storage, biodiversity, and wildlife habitat.

(b) For the purposes of this section, “diverse native prairie” means a prairie planted from a mix of local Minnesota native prairie species. A selection from all available native prairie species may be made so as to match species appropriate to local site conditions.

Subd. 2. Eligible land. Eligible land under this section must:

(1) be owned by the landowner, or a parent or other blood relative of the landowner, for at least one year before the date of application;

(2) be at least five acres in size;

(3) not be currently set aside, enrolled, or diverted under another federal or state government program; and

(4) have been in agricultural use, as defined in section 17.81, subdivision 4, or have been set aside, enrolled, or diverted under another federal or state program for at least two of the last five years before the date of application.

Subd. 3. Designation of project areas. The board shall develop a process to designate defined project areas. The designation process shall prioritize projects that include coordinated cooperation of a cellulosic biofuel facility or a bioenergy production facility, target impaired waters, or support other state or local natural resource plans, goals, or objectives.

Subd. 4. Easements. The board may acquire, or accept by gift or donation, easements on eligible land. An easement may be permanent or of limited duration. An easement of limited duration may not be acquired if it is for a period less than 20 years. The negotiation and acquisition of easements authorized by this section are exempt from the contractual provisions of chapters 16B and 16C.

Subd. 5. Nature of property rights acquired. (a) An easement must prohibit:

(1) agricultural crop production, unless approved by the board for energy production purposes; and

(2) spraying with chemicals, except as necessary to comply with noxious weed control laws, emergency pest control necessary to protect public health, or as needed to establish a productive planting as determined by the technical committee under subdivision 11.

(b) An easement is subject to the terms of the agreement provided in subdivision 6.

(c) Agricultural crop production and harvest are limited to native, perennial bioenergy crops. Harvest shall occur outside of bird nesting season.

(d) An easement must allow repairs, improvements, and inspections necessary to maintain public drainage systems provided the easement area is restored to the condition required by the terms of the easement.

(e) An easement may allow nonnative perennial prairie or pasture established by September 1, 2007, that meet the other objectives outlined in subdivision 7.

(f) An easement may allow grazing of livestock only if practiced under a plan, approved by the board, that protects water quality, wildlife habitat, and biodiversity.

Subd. 6. Agreements by landowner. The board may enroll eligible land in the reinvest in Minnesota clean energy program by signing an agreement in recordable form with a landowner in which the landowner agrees:

(1) to convey to the state an easement that is not subject to any prior title, lien, or encumbrance;

(2) to seed the land subject to the easement, as specified in the agreement, at seeding rates determined by the board, or carry out other long-term capital improvements approved by the board; and

(3) that the easement duration may be lengthened through mutual agreement with the board.

Subd. 7. **Payments for easements.** The board must develop a tiered payment system for easements partially based on the benefits of the bioenergy crop production for water quality, soil health, reduction in chemical inputs, soil carbon storage, biodiversity, and wildlife habitat using cash rent or a similar system as may be determined by the board. The payment system must provide that the highest per-acre payment is for diverse native prairie and perennials.

Subd. 8. **Easement renewal.** When an easement of limited duration expires, a new easement and agreement for an additional period of not less than 20 years may be acquired by agreement of the board and the landowner under the terms of this section. The board may adjust payment rates as a result of renewing an agreement and easement only after examining the condition of the established plantings, conservation practices, and land values.

Subd. 9. **Correction of easement boundary lines.** To correct errors in legal descriptions for easements that affect the ownership interest in the state and adjacent landowners, the board may, in the name of the state, with the approval of the attorney general, convey, without consideration, interests of the state necessary to correct legal descriptions of boundaries. The conveyance must be by quitclaim deed or release in a form approved by the attorney general.

Subd. 10. **Enforcement and damages.** (a) A landowner who violates the term of an easement or agreement under this section, or induces, assists, or allows another to do so, is liable to the state for treble damages if the trespass is willful, but liable for double damages only if the trespass is not willful. The amount of damages is the amount needed to make the state whole or the amount the landowner has gained due to the violation, whichever is greater.

(b) Upon the request of the board, the attorney general may commence an action for specific performances, injunctive relief, damages, including attorney fees, and any other appropriate relief to enforce this section in district court in the county where all or part of the violation is alleged to have been committed, or where the landowner resides or has a principal place of business.

Subd. 11. **Technical committee.** To ensure that public benefits, including water quality, soil health, reduction of chemical inputs, soil carbon storage, biodiversity, and wildlife habitat are secured along with bioenergy crop production, the Board of Water and Soil Resources shall appoint a technical committee consisting of one representative from the Departments of Agriculture, Natural Resources, and Commerce and the Pollution Control Agency; two farm organizations; one sustainable agriculture farmer organization; three rural economic development organizations; three environmental organizations; and three conservation or wildlife organizations. The board and technical committee shall consult with private sector organizations and University of Minnesota researchers involved in biomass establishment and bioenergy or biofuel conversion. The technical committee is to develop program guidelines and standards, as appropriate to ensure that reinvest in Minnesota clean energy program contracts provide public benefits commensurate with the public investment. The technical committee shall review and make recommendations on the guidelines and standards every five years.

History: 2007 c 57 art 1 s 119