

103F.121 FLOODPLAIN MANAGEMENT ORDINANCES.

Subdivision 1. **Adoption.** (a) In accordance with sections 103F.101 to 103F.155, the rules of the commissioner and applicable laws authorizing local governmental units to adopt floodplain management ordinances, local governmental units shall adopt, administer, and enforce floodplain management ordinances, which must include:

- (1) the delineation of floodplains and floodways;
- (2) the preservation of the capacity of the floodplain to carry and discharge regional floods;
- (3) the minimization of flood hazards; and
- (4) the regulation of the use of land in the floodplain.

(b) 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. **Adoption procedure.** (a) The commissioner, upon determining that sufficient technical information is available for the delineation of floodplains and floodways on a watercourse, shall notify affected local governmental units that technical information is available. Within six months after receiving this notice, the local governmental units shall prepare or amend their floodplain management ordinances in conformance with the provisions of sections 103F.101 to 103F.155 and shall submit the ordinance to the commissioner for review and approval before adoption.

(b) The commissioner shall approve or disapprove the proposed ordinance within 120 days after receiving it.

(c) If the proposed ordinance is disapproved, the commissioner shall return it to the local governmental unit with a written statement of reasons for disapproval. Within 90 days after disapproval, the local governmental unit shall resubmit an amended proposed ordinance for further review and approval before adoption. The local governmental unit shall adopt a floodplain management ordinance within 90 days after approval by the commissioner.

(d) A floodplain management ordinance adopted by a local governmental unit is invalid unless it is approved by the commissioner.

(e) A local governmental unit may adopt a floodplain 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 approval.

(f) A local governmental unit may adopt a floodplain management ordinance that is more restrictive than required under sections 103F.101 to 103F.155.

(g) Floodplain management ordinances may be amended by a local governmental unit upon the approval of the commissioner.

Subd. 3. **Commissioner's adoption of ordinance.** (a) If a local governmental unit fails to adopt a floodplain management ordinance, the commissioner shall adopt an ordinance that meets the minimum standards established under section 103F.141 for the local governmental unit.

(b) The commissioner shall hold at least one public hearing on the proposed ordinance in the manner provided in section 394.26 or 462.357, as applicable, after giving notice as provided in section 394.26 or 462.357.

(c) The ordinance is effective for the local governmental unit on the date and in accordance with rules prescribed by the commissioner.

(d) The ordinance shall be enforced as provided in section 394.37 or 462.362, as applicable. The penalties provided in section 394.37 or 462.362 apply to violations of an ordinance adopted by the commissioner.

Subd. 4. **Cost of commissioner's ordinance.** (a) The cost incurred by the commissioner in adopting a floodplain management ordinance for the local governmental unit shall be paid by the local governmental unit upon submission to the local governmental unit of an itemized statement of these costs by the commissioner.

(b) If the local governmental unit fails to pay the costs within 90 days after the commissioner's statement is received, the commissioner shall file a copy of the statement of the costs for collection by special tax levy with the county auditor of the county where the local governmental unit is located. The county auditor, upon receiving a statement from the commissioner, shall include the amount of the state's claim in the tax levy for general revenue purposes of the local governmental unit. Upon completion of the tax settlement following this levy, the county treasurer shall remit the amount due to the state to the commissioner for deposit in the state treasury.

Subd. 5. **Major alterations and hazardous uses prohibited.** (a) If a floodplain has been delineated by a floodplain management ordinance under sections 103F.101 to 103F.155, a major alteration to a structure in existence on the effective date of the ordinance or a new fill, structure, deposit, or other floodplain use that is unreasonably hazardous to the public or that unduly restricts the capacity of the floodplain to carry and discharge a regional flood may not be permitted after the effective date of the ordinance delineating the floodplain.

(b) As used in this subdivision, major alterations of existing structures do not include repair or maintenance and do not include repairs, maintenance, or alterations to structures made under the authority of another authorized agency of the state or federal government.

(c) This subdivision does not apply to alterations, repair, or maintenance reasonably done under emergency circumstances to preserve or protect life or property.

(d) This subdivision applies to alterations to existing structures and to new fill, structures, deposits, or other floodplain uses by the state and state agencies.

History: *1990 c 391 art 6 s 6; 1991 c 199 art 2 s 1*