

SEC. 11.82. "F" FLOODPLAIN MANAGEMENT OVERLAY DISTRICT.

Subd. 1. Statutory Authorization.

A. Statutory Authorization.

The Legislature of the State of Minnesota has, in Minnesota Statutes, Chapter 103F and Chapter 462, delegated the authority to local governmental units to adopt regulations designed to minimize flood losses. Minnesota Statutes, Chapter 103F further stipulates that communities subject to recurrent flooding must participate and maintain eligibility in the National Flood Insurance Program.

B. Statement of Purpose.

The purpose of this Section is to maintain the City's eligibility in the National Flood Insurance Program and to minimize potential losses due to periodic flooding including loss of life, loss of property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

C. Warning of Disclaimer of Liability.

This Section does not imply that areas outside of the Floodplain Overlay District or land uses permitted within such districts will be free from flooding and flood damages. This Section shall not create liability on the part of the City or any officer or employee thereof for any flood damages that result from reliance on this Section or any administrative decisions lawfully made there under.

Subd. 2. General Provisions.

A. Adoption of Flood Insurance Rate Map. The Flood Insurance Studies developed by the Federal Emergency Management Agency for the City of Buffalo dated 15 May 1985 and for Wright County dated August 18, 1992, and the Flood Insurance Rate Maps for the City of Buffalo, dated 15 May 1985, and for Panels 27 and 28 of the Wright County dated August 18, 1992, developed by the Federal Emergency Management Agency, is hereby adopted by reference as the Official Floodplain Zoning District Map and made a part of this Chapter. This Official Zoning Map shall be on file in the Office of the City Clerk.

Source: Ordinance 61, Series V

Effective Date: 12-23-2004

B. Lands to Which Section Applies. This Section shall apply to all lands designated as floodplain within the jurisdiction of the City.

C. Interpretation.

The boundaries of the Floodplain Overlay District shall be determined by scaling distances on the Official Floodplain Zoning District Map. Where interpretation is needed as to the exact location of the boundaries of the Floodplain Overlay District, the Zoning Administrator shall make the necessary interpretation based on elevations on the regional (100-year) flood profile, if available. If 100-year flood elevations are not available, the City shall: (1) Require a floodplain evaluation consistent with Subd. 4, C, of this Section to determine a 100-year flood elevation for the site; or (2) base its decision on available hydraulic/hydrologic or site elevation survey data which demonstrates the likelihood the site is within or outside of the floodplain.

D. Definitions.

Unless specifically defined in Section 11.02, words or phrases used in this Section shall be

interpreted so as to give them the same meaning as they have in common usage and so as to give this Section its most reasonable application.

Subd. 3. Conflict with Pre-Existing Zoning Regulations and General Compliance.

A. The Floodplain District as Overlay Zoning District. The Floodplain Zoning District shall be considered an overlay zoning district to all existing land use regulations of the City. The uses permitted in Subd. 4 and Subd. 5 herein shall be permitted only if not prohibited by any established, underlying zoning district. The requirements of this Section shall apply in addition to other legally established regulations of the City and where this Section imposes greater restrictions, the provisions of this Section shall apply.

B. Compliance.

No new structure or land shall hereafter be used and no structure shall be located, extended, converted, or structurally altered without full compliance with the terms of this Section and other applicable regulations which apply to uses within the jurisdiction of this Section. Within the Floodway and Flood Fringe, all uses not listed as permitted uses in Subd. 4 shall be prohibited. In addition, a caution is provided here that:

- 1.**
New manufactured homes, replacement manufactured homes and certain travel trailers and travel vehicles are subject to the general provisions of this Section and specifically Subd. 4 and Subd. 12.
- 2.**
Modifications, additions, structural alterations or repair after damage to existing non-conforming structures and non-conforming uses of structures or land are regulated by the general provisions of this Section and specifically Subd. 9.
- 3.**
As-built elevations for elevated structures must be certified by ground surveys as stated in Subd. 7.

Subd. 4. Permitted Uses, Standards, and Floodplain Elevation Criteria.

A. Permitted Uses in the Floodplain. The following uses of land are permitted uses in the Floodplain Overlay District:

- 1.**
Any use of land which does not involve a structure, an addition to the outside dimensions to an existing structure or an obstruction to flood flows such as fill, excavation, or storage of materials or equipment.
- 2.**
Any use of land involving the construction of new structures, the placement or replacement of manufactured homes, the addition to the outside dimensions of an existing structure or obstructions such as fill or storage of materials or equipment, provided these activities are located in the flood fringe portion of the floodplain. These uses shall be subject to the development standards in Subparagraph B, below, and the floodplain evaluation criteria in Subparagraph C, below, for determining floodway and flood fringe boundaries.
- 3.** Travel trailers and travel vehicles as regulated by Subd. 12 of this Section.

B. Standards for Floodplain Permitted Uses.

- 1.**

Fill shall be properly compacted and the slopes shall be properly protected by the use of rip rap, vegetative cover or other acceptable method. The Federal Emergency Management Agency (FEMA) has established criteria for removing the special flood hazard area designation for certain structures properly elevated on fill above the 100 year flood elevation - FEMA's requirements incorporate specific fill compaction and side slope protection standards for multi-structure or multi-lot developments. These standards should be investigated prior to the initiation of site preparation if a change of special flood hazard area designation will be requested.

2. Grading and Filling Requirements. Any grading or filling done within a floodplain area shall require a grading and filling permit pursuant to Sections 11.23 and 11.24 of this Chapter prior to the commencement of such activities, and in addition, shall be subject to the following requirements, as applicable:

(a)

All grading and filling permits shall be subject to the following requirements:

- (1) The smallest amount of bare ground is exposed for as short a time as feasible.
- (2) Temporary ground cover, such as mulch, is used and permanent ground cover, such as sod, is established.
- (3) Methods to prevent erosion and trap sediment are employed.
- (4) Fill is stabilized to accepted engineering standards.

(b)

Filling for the purpose of meeting the structure elevation requirements of the floodplains of Lake Pulaski and Buffalo Lake shall be subject to the following additional requirements:

- (1) The finished fill elevation shall be no lower than an elevation of 971.0 feet within the floodplain of Lake Pulaski and no lower than an elevation of 921.7 feet within the floodplain of Buffalo Lake and the fill shall extend at such elevation at least fifteen (15) feet beyond the limits of any structure erected thereon.
- (2) The fill shall be compacted and the slopes of the fill protected by riprap or vegetative covering.
- (3) The applicant for the grading and filling permit shall be required to submit certification by a registered professional engineer, registered architect, or registered land surveyor that the finished fill and building elevations were accomplished in compliance with this Section. The finished elevation shall be listed on the certification and shall be in sea level (NGVD) - 1929) datum to the nearest tenth of a foot.

(c)

Filling within the floodplain (Zone "A") of the Unnamed Tributary to Buffalo Lake shall be subject to the following additional requirements:

- (1) The finished fill elevation shall be no lower than an elevation of one (1) foot above the elevation of the regional (100-year) flood if a structure is to be placed on top of the fill.
- (2) The fill shall be compacted and the slopes of the fill protected by riprap or vegetative covering.
- (3) The finished fill elevation shall be certified and listed by a registered professional engineer, registered architect or registered surveyor.
- (4) The applicant shall be required to obtain all information necessary to determine what effects the proposed fill will have on flood stages and to determine the elevation of the regional flood. No permit shall be issued which results in an increase in the regional flood elevation of more than 0.5 feet.
- (5) The City Engineer shall verify the applicant's information and to determine whether the proposed filling complies with this Section and State Floodplain Regulations (6 MCAR SS 1.0085 - 1.0092).
- (6) Fill to be placed for a purpose other than elevation of a structure or to remove lands from the floodplain shall be shown to have a beneficial purpose and to be the minimum amount necessary for the intended purpose.

3. Public Utility, Railroad, Road, and Bridge Requirements in Floodplains.

All public utilities such as gas, electrical, sewer, and water supply systems to be located in the floodplain shall be flood proofed in accordance with the State Building Code or elevated above the elevation of the regional flood. Railroad tracks, roads and bridges to be located in the floodplain which involve the deposit of fill, shall require a grading and filling permit and be subject to the requirements of Subparagraph B, 2, of this Subdivision. Such facilities shall be constructed above the regional flood elevation where failure or interruption of such services would result in danger to public health or safety.

4. Storage of Materials and Equipment.

- (a) The storage or processing of materials that are, in time of flooding, flammable, explosive, or potentially injurious to human, animal, or plant life is prohibited.

(b) Storage of other materials or equipment may be allowed if readily removable from the area within the time available after a flood warning or if placed on fill to the Regulatory Flood Protection Elevation.

5. No use shall be permitted which will adversely affect the capacity of the

channels or floodways of any tributary to the main stream, or of any drainage ditch, or any other drainage facility or system.

Source: Ordinance No. 33, Series III, Effective Date: 2-7-92

6.

All structures, including accessory structures, additions to existing structures and manufactured homes, shall be constructed on fill so that the lowest floor, including basements, crawl spaces or cellars, is at or above the Regulatory Flood Protection Elevation (RFPE) except as specified below:

(a)

Within the floodplain of Lake Pulaski (86-53), the RFPE shall be elevation 971.0 feet (NGVD - 1929 datum).

(b)

Within the floodplain of Buffalo Lake (86-90), the RFPE shall be elevation 921.7 feet (NGVD - 1929 datum).

(c)

Within the floodplain of the Unnamed Tributary of Buffalo Lake, the RFPE shall be an elevation that is one foot above the 100 year flood elevation, as determined in accordance with Subparagraph B, 2, (c) of this Subdivision.

Source: Ordinance No. 1, Series IV, Effective Date: 5-8-92

7. All Uses.

Uses that do not have vehicular access at or above an elevation not more than two (2) feet below the Regulatory Flood Protection Elevation to lands outside of the floodplain shall not be permitted unless granted a variance by the Board of Adjustment. In granting a variance, the Board shall specify limitations on the period of use or occupancy of the use and only after determining that adequate flood warning time and local emergency response and recovery procedures exist.

8. Commercial and Manufacturing Uses. Accessory land uses, such as yards, railroad tracks, and parking lots may be at elevations lower than the Regulatory Flood Protection Elevation. However, a permit for such facilities to be used by the employees or the general public shall not be granted in the absence of a flood warning system that provides adequate time for evacuation if the area would be inundated to a depth greater than two (2) feet or be subject to flood velocities greater than four (4) feet per second upon occurrence of the regional flood.

9. On-Site Sewage Treatment and Water Supply Systems. Where public utilities are not provided: (a) on-site water supply systems must be designed to minimize or eliminate infiltration of flood waters into the systems; and (b) new or replacement on-site sewage treatment systems must be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters and they shall not be subject to impairment or contamination during times of flooding. Any sewage treatment system designed in accordance with the State's current State-wide standards for on-site sewage treatment systems shall be determined to be in compliance with this Section.

10.

All manufactured homes must be securely anchored to an adequately anchored foundation system that resists flotation, collapse and lateral movement.

Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State or local anchoring requirements for resisting wind forces.

C. Floodplain Evaluation.

1.

Upon receipt of an application for a permit, manufactured home park development, or subdivision approval within the Floodplain Overlay District, the Zoning Administrator shall require the applicant to furnish sufficient site development plans and a hydrologic/hydraulic analysis by a qualified engineer or hydrologist specifying the nature of the development and whether the proposed use is located in the floodway or flood fringe and the Regulatory Flood Protection Elevation for the site. Procedures consistent with Minnesota Rules 1983 Parts 6120.5600 (Technical Standards and Requirements for Floodplain Evaluation) and 6120.5700 (Minimum Floodplain Management Standards for Local Ordinances) shall be followed during the technical evaluation and review of the development proposal.

2.

The Zoning Administrator shall submit one copy of all information required by Item 1, above, to the respective Department of Natural Resources' Area Hydrologist for review and comment at least twenty (20) days prior to the granting of a permit or manufactured home park development/subdivision approval by the City. The Zoning Administrator shall notify the respective Department of Natural Resources' Area Hydrologist within ten (10) days after a permit or manufactured home park development/subdivision approval is granted.

Subd. 5. Utilities, Railroads, Roads, and Bridges in the Floodplain Overlay District. All utilities and transportation facilities, including railroad tracks, roads and bridges, shall be constructed in accordance with State floodplain management standards contained in Minnesota Rules 1983 Parts 6120.5000 - 6120.6200.

Subd. 6. Subdivisions.

A.

No land shall be subdivided and no manufactured home park shall be developed or expanded where the site is determined to be unsuitable by the City for reason of flooding or inadequate drainage, water supply or sewage treatment facilities. The Planning Commission shall review the subdivision/development proposal to insure that each lot or parcel contains sufficient area outside of the floodway for fill placement for elevating structures, sewage systems and related activities.

B.

In the Floodplain Overlay District, applicants for subdivision approval or development of a manufactured home park or manufactured home park expansion shall provide the information required in Subd. 4, C, 1, of this Section. The City shall evaluate the proposed subdivision or mobile home park development in accordance with the standards established in Subd. 4, B; Subd. 4, C and Subd. 5 of this Section.

C.

For all subdivisions in the floodplain, the Floodway and Flood Fringe boundaries, the Regulatory Flood Protection Elevation and the required elevation of all access roads shall be clearly labeled on all required subdivision drawings and platting documents.

D. Removal of Special Flood Hazard Area Designation. FEMA has established criteria

for removing the special flood hazard area designation for certain structures properly elevated on fill above the 100-year flood elevation. FEMA's requirements incorporate specific fill compaction and side slope protection standards for multi-structure or multi-lot developments. These standards should be investigated prior to the initiation of site preparation if a change of special flood hazard area designation will be requested.

Subd. 7. Administration.

A. Permit Required.

A permit issued by the Zoning Administrator shall be secured prior to the construction, addition, or alteration of any building or structure; prior to the use or change of use of a building, structure, or land; prior to the change or extension of a non-conforming use; and prior to excavation or the placement of an obstruction within the floodplain.

B. State and Federal Permits.

Prior to granting a permit or processing an application for a variance, the Zoning Administrator shall determine that the applicant has obtained all necessary State and Federal permits.

C. Certification of Lowest Floor Elevations. The applicant shall be required to submit certification by a registered professional engineer, registered architect, or registered land surveyor that the finished fill and building elevations were accomplished in compliance with the provisions of this Section. The Zoning Administrator shall maintain a record of the elevation of the lowest floor (including basement) for all new structures and alterations or additions to existing structures in the Floodplain Overlay District.

Subd. 8. Variances.

A.

A variance means a modification of a specific permitted development standard required in an official control included in this Section to allow an alternative development standard not stated as acceptable in the official control, but only as applied to a particular property for the purpose of alleviating a hardship, practical difficulty or unique circumstance as defined in Section 11.08.

B.

The Board may authorize, upon appeal in specific cases, such relief or variance from the terms of this Section as will not be contrary to the public interest and only for those circumstances such as hardship, practical difficulties or circumstances unique to the property under consideration, as provided for in Section 11.08. In the granting of such variance, the Board of Adjustment shall clearly identify in writing the specific conditions that existed consistent with the criteria specified in the respective enabling legislation which justified the granting of the variance.

C.

Variances from the provisions of this Section may be authorized where the Board of Adjustment has determined the variance will not be contrary to the public interest and the spirit and intent of this Section. No variance shall allow in any district a use prohibited in that district or permit a lower degree of flood protection than the Regulatory Flood Protection Elevation. Variances may be used to modify permissible methods of flood protection.

D.

The Board shall submit by mail to the Commissioner of Natural Resources a copy of the application for proposed variance sufficiently in advance so that the Commissioner will receive at least ten (10) days notice of the hearing. A copy of all decisions granting a

variance shall be forwarded by mail to the Commissioner of Natural Resources within ten (10) days of such action.

E. Appeals.

Appeals from any decision of the Board may be made, and as specified in Section 11.09.

F. Flood Insurance Notice and Record Keeping. The Zoning Administrator shall notify the applicant for a variance that: (1) the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25.00 for \$100.00 of insurance coverage and (2) such construction below the 100-year or regional flood level increases risks to life and property. Such notification shall be maintained with a record of all variance actions. The City shall maintain a record of all variance actions, including justification for their issuance, and report such variances issued in its annual or biannual report submitted to the Administrator of the National Flood Insurance Program.

Subd. 9. Non-Conformities.

A structure or the use of a structure or premises which was lawful before the effective date of this Section but which is not in conformity with the provisions of this Section may be continued subject to the following conditions:

A.

No such use shall be expanded, changed, enlarged, or altered in a way which increased its non-conformity.

B.

An alteration within the inside dimensions of a non-conforming use or structure is permissible provided it will not result in increasing the flood damage potential of that use or structure.

C.

The cost of all structural alterations or additions both inside and outside of a structure to any non-conforming structure over the life of the structure shall not exceed fifty (50) percent of the market value of the structure unless the conditions of this Section are satisfied. The cost of all structural alterations and additions constructed since the adoption of Buffalo's initial floodplain controls must be calculated into today's current cost which will include all costs such as construction materials and a reasonable cost placed on all man power or labor. If the current cost of all previous and proposed alterations and additions exceeds fifty (50) percent of the current market value of the structure, then the structure must meet the standards of Subd. 4 of this Section for new structures.

D.

If any non-conforming use of a structure or land or non-conforming structure is destroyed by any means, including floods, to an extent of fifty (50) percent or more of its market value at the time of destruction, it shall not be reconstructed except in conformance with the provisions of this Section. The City may issue a permit for reconstruction if the use is located outside the floodway and, upon reconstruction, is adequately elevated on fill in conformity with the provisions of this Section.

Subd. 10. Unlawful Acts.

It is unlawful for any person to violate the provisions of this Section or fail to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances).

A.

In responding to a suspected City Code violation, the Zoning Administrator may utilize the full array of enforcement actions available to its including, but not limited to, prosecution and fines, injunctions, after-the-fact permits, orders for corrective measures or a request to

the National Flood Insurance Program for denial of flood insurance availability to the guilty party. The City must act in good faith to enforce these official controls and to correct City Code violations to the extent possible so as not to jeopardize its eligibility in the National Flood Insurance Program.

B.

When a City Code violation is either discovered by or brought to the attention of the Zoning Administrator, the Zoning Administrator shall immediately investigate the situation and document the nature and extent of the violation of the official control. As soon as is reasonably possible, this information will be submitted to the appropriate Department of Natural Resources and FEMA regional office along with the City's plan of action to correct the violation to the degree possible.

C.

The Zoning Administrator shall notify the suspected party of the requirements of this Section and all other official controls and the nature and extent of the suspected violation of these controls. If the structure and/or use is under construction or development, the Zoning Administrator may order the construction or development immediately halted until a proper permit or approval is granted by the City. If the construction or development is already completed, then the Zoning Administrator may either (1) issue an order identifying the corrective actions that must be made within a specified time period to bring the use or structure into compliance with the official controls, or (2) notify the responsible party to apply for an after-the-fact permit/development approval within a specified period of time not to exceed thirty (30) days.

D.

If the responsible party does not appropriately respond to the Zoning Administrator within the specified period of time, each additional day that lapses shall constitute an additional violation of this Section and shall be prosecuted accordingly. The Zoning Administrator shall also upon the lapse of the specified response period notify the landowner to restore the land to the condition which existed prior to the violation of this Section.

Subd. 11. Amendments.

All amendments to this Section, including revisions to the Official Floodplain Zoning District Map, shall be submitted to and approved by the Commissioner of Natural Resources prior to adoption. The floodplain designation on the Official Floodplain Zoning District Map shall not be removed unless the area is filled to an elevation at or above the Regulatory Flood Protection Elevation and is contiguous to lands outside of the floodplain. Changes in the Official Zoning Map must meet the FEMA's technical conditions and criteria and must receive prior FEMA approval before adoption. The Commissioner of Natural Resources must be given ten (10) days written notice of all hearings to coincide an amendment to this Section and said notice shall include a draft of the amendment or technical study under consideration.

Subd. 12. Travel Trailers and Travel Vehicles.

Travel trailers and travel vehicles that do not meet the exemption criteria specified in Subparagraph A, below, shall be subject to the provisions of this Section and as specifically spelled out in Subparagraphs C and D, below.

A. Exemption.

Travel trailers and travel vehicles are exempt from the provisions of this Section if they are placed in any of the areas listed in Subparagraph B, below, and further they meet the following criteria:

1. Have current licenses required for highway use.

2.

Are highway ready, meaning on wheels or the internal jacking system are attached to the site only by quick disconnect type utilities commonly used in

campgrounds and trailer parks and the travel trailer/travel vehicle has not permanent structural type additions.

3.

The travel trailer or travel vehicle and associated use must be permissible in any pre-existing, underlying zoning use district.

B. Areas Exempted for Placement of Travel/Recreational Vehicles.

1. Individual lots or parcels of record.

2. Existing commercial recreational vehicle parks or campgrounds.

3. Existing condominium type associations.

C.

Travel trailers and travel vehicles exempted in Subparagraph A, above, lose this exemption when development occurs on the parcel exceeding \$500.00 for a structural addition to the travel trailer/travel vehicle or an accessory structure such as a garage or storage building. The travel trailer/travel vehicle and all additions and accessory structures will then be treated as a new structure and shall be subject to the elevation requirements and the use of land restrictions specified in Subd. 4 of this Section.

D.

New commercial travel trailer or travel vehicle parks or campgrounds and new residential type subdivisions and condominium associations and the expansion of any existing similar use exceeding five (5) units or dwelling sites shall be subject to the following:

1.

Any new or replacement travel trailer or travel vehicle will be allowed in the Floodway or Flood Fringe Districts provided said trailer or vehicle and its contents are placed on fill above the Regulatory Flood Protection Elevation determined in accordance with the provisions of Subd. 4, C, and proper elevated road access to the site exists in accordance with Subd. 4 of this Section. No fill placed in the floodway to meet the requirements of this Section shall increase flood stages of the 100-year or regional flood.

2.

All new or replacement travel trailers or travel vehicles not meeting the criteria of Item 1, above, may as an alternative, be allowed if in accordance with the following provisions. The applicant must submit an emergency plan for the safe evacuation of all vehicles and people during the 100-year flood. Said plan shall be prepared by a registered engineer or other qualified individual and shall demonstrate that adequate time and personnel exist to carry out the evacuation. All attendant sewage and water facilities for new or replacement travel trailers or other recreational vehicles must be protected or constructed so as to not be impaired or contaminated during times of flooding in accordance with Subd. 4, B, 8, of this Section.

Source: Ordinance No. 33, Series III, Effective Date: 2-7-92