

ORDINANCE 49

FLOOD PLAIN ORDINANCE

Section 1. STATUTORY AUTHORIZATION FINDINGS OF FACT AND PURPOSE

1.1 Statutory Authorization. The Legislature of the State of Minnesota, has, in Minnesota Statutes Chapter 104 and Chapter 462, delegated the responsibility to local governmental units to adopt regulations designed to minimize flood losses. Therefore, the Council of the City of Minnesota City, Minnesota do ordain as follows:

1.2 Statement of Purpose. The purpose of this ordinance is to minimize potential loss 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.

Section 2. GENERAL PROVISIONS

2.1 Lands to Which Ordinance Applies. This ordinance shall apply to all lands designated as Floodway District, or Flood Fringe District within the jurisdiction of the City of Minnesota City.

2.2 Adoption of Flood Insurance Study. The Flood Insurance Study for the City of Minnesota City dated January 19, 1982, developed by the Office of Federal Insurance and Hazard Mitigation and the Floodway and Flood Boundary and Flood Insurance Rate Maps date July 19, 1982, contained therein are hereby adopted by reference and made part of this ordinance.

2.3 Regulatory Flood Protection Elevation. The Regulatory Flood Protection Elevation shall be an elevation no lower than one foot above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the flood plain that result from designation of a floodway.

2.4 Interpretation. The boundaries of the zoning districts shall be determined by scaling distances on the Flood Insurance Study Maps. Where interpretation is needed as to the exact location of the boundaries of a district, the Board of Adjustments shall make the necessary interpretation based on elevations on the regional (100—year) flood profile and other available technical data.

2.5 Compliance. No 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 ordinance and other applicable regulations which apply to uses within the jurisdiction of this Ordinance.

2.6 Definitions. Unless specifically defined below, words or phrases used in this Ordinance shall be interpreted so as to give them the same meaning as they have in common usage and so as to give this Ordinance its most reasonable applicable.

Accessory Use or Structure - a use or structure on the same lot with, a nature customarily incidental and subordinate to, the principal use or structure.

Flood Fringe — that portion of the flood plain outside of the floodway. Flood fringe is synonymous with the term " floodway fringe" used in the Flood Insurance Study for Minnesota City.

Flood Plain — the areas adjoining a watercourse which have been or hereafter may be covered by the regional flood.

Flood Proofing - a combination of structural provisions, changes, or adjustments to

properties and structures subject to flooding, primarily for the reduction or elimination of flood damages.

Floodway — the channel of the watercourse and those portions of the adjoining flood plain which are reasonably required to carry and discharge the regional flood.

Regional Flood — 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 magnitude of the 100-year recurrence interval. Regional flood is synonymous with the term "base flood" used in the Flood Insurance Study.

Structure — anything constructed or erected on the ground or attached to the ground, including, but not limited to, buildings, factories, sheds, detached garages, cabins, mobile homes, and other similar items.

Section 3. ESTABLISHMENT OF ZONING DISTRICTS

The flood plain areas within the jurisdiction of this ordinance are hereby divided into two districts: Floodway District (FW) and Flood Fringe District (FF) .

3.1 Floodway District. The Floodway District shall include those areas designated as floodway in the Flood Insurance Study.

3.2 Flood Fringe District. The Flood Fringe District shall include those areas designated as floodway fringe in the Flood Insurance Study.

Section 4. FLOODWAY DISTRICT (FW)

4.1 Permitted Uses. The following uses have a low flood damage potential and do not obstruct flood flows. These uses shall be permitted within the Floodway District as long as they are not prohibited by any other ordinance and provided they do not require structures, fill, or storage of materials or equipment.

4.1(1) Agricultural uses such as general farming, nursery, and sod farming.

4.1 (2) Private and public recreational uses such as a golf course or ball fields.

4.1 (3) Residential uses such as lawns, and gardens.

Section 5. FLOOD FRINGE DISTRICT (FF)

5.1 Permitted Uses. The following uses shall be permitted uses within the Flood Fringe District to the extent that they are not prohibited by any other ordinance:

5.1(1) Any use permitted in Section 4.1

5.1(2) Residences, including mobile homes, and other structures constructed on fill so that the basement floor or first floor, if there is no basement, is at or above the Regulatory Flood Protection Elevation. The finished fill elevation shall be no lower than one (1) foot below the Regulatory Flood Protection Elevation and shall extend at such elevation at least fifteen (15) feet beyond the limits of any structure or building erected thereon. Fill shall be compacted and the slopes shall be protected by riprap or vegetative covering. Residences constructed on fill shall generally be provided with vehicular access no lower than 2 feet below the regulatory flood protection elevation.

Section 6. SUBDIVISIONS

No land shall be subdivided which is held unsuitable by the City Council for reason of flooding, inadequate drainage, water supply or sewage treatment facilities. All lots within the flood plain districts shall contain a building site at or above the Regulatory Flood Protection Elevation. All subdivisions shall have water and sewage disposal facilities that comply with the provisions of this Ordinance and have road access both to the subdivision and to the individual building sites no lower than two feet below the Regulatory Flood Protection Elevation.

Section 7. UTILITIES, RAILROADS, ROADS, AND BRIDGES

7.1 Public Utilities All public utilities and facilities such as gas, electrical, sewer, and water supply systems to be located in the flood plain shall be elevated to at or above the Regulatory Flood Protection Elevation or flood-proofed and certified by a registered engineer or architect that the flood-proofing means are equal or exceed the provisions for flood-proofing set forth in the State Building Code.

7.2 Public Transportation Facilities. Roads, railroad tracks and bridges within the flood plain shall be designed to minimize increases in flood elevations.

7.2(1) Bridges, culverts, and approach fills shall comply with provisions of Minnesota Regulations 6 MCAR Sec 1.5025.

7.2(2) Roads, railroad tracks, and bridges shall be elevated above the regulatory flood protection elevation if failure or interruption of transportation services would endanger the public health or safety.

7.3 Individual sewage treatment systems. Individual sewage treatment systems shall be designed and located so that they will not be damaged or contaminate surface waters if flooded as set forth in Mn. Regulations 6 MCAR Sec 4.8040 and as certified by a registered sanitarian or engineer.

Section 8. ADMINISTRATION

8.1 Use permit

8.1(1) Use Permit Required. A Use Permit issued by the City Council shall be secured prior to the construction, addition, or alteration of any building, structure; prior to the use or change of use of a building, structure, or land; prior to the change or extension of a nonconforming use; and prior to the placement of fill or excavation materials within the flood plain.

8.1(2) Application for Use Permit. Application for a Use Permit shall be made in duplicate to the City Council and shall include plans drawn to scale showing where applicable: the nature, location, dimensions, and elevations of the lot; existing or proposed structures, fill, or storage of materials; and the location of the foregoing in relation to the stream channel.

8.1(3) State and Federal Permits. Prior to granting a Use Permit or processing an application for a variance, the City Council shall determine that the applicant has obtained all necessary State and Federal Permits.

8.1(4) Certification of First Floor Elevations and Flood-Proofing. The applicant shall submit certification by a registered professional engineer, registered architect, or registered land surveyor that the finished fill and building elevations or flood-proofing were accomplished in compliance with the provisions of this ordinance. The City Clerk shall maintain a record of these elevations or flood-proofing certifications for all new structures in the flood plain districts.

8.2 Board of Adjustment. A Board of Adjustment is hereby established and shall consist of all members of the City Council.

8.2(1) Variances. The Board may authorize upon appeal, variances from the provisions of this Ordinance as long as they will not be contrary to the public interest, and if the spirit of the ordinance will be observed. Variances may only be granted where due to special conditions, literal enforcement of the provisions of the ordinance will result in unnecessary hardship. No variance shall have the effect of allowing in any district uses prohibited in that district, permit a lower degree of flood protection than the Regulatory Flood Protection Elevation for the particular area, or permit standards lower than those required by State law.

8.2(2) Hearings. The Board of Adjustment shall fix a reasonable time for a hearing and give notice to all interested parties. The Board shall submit by mail to the

Commissioner of Natural Resources a copy of the application for proposed variances sufficiently in advance so that the Commissioner will receive at least ten-day's notice of the hearing. A copy of all decisions granting Variances shall be forwarded by mail to the Commissioner of Natural Resources within ten (10) days of such action.

Section 9. NONCONFORMING USES

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

9.1(1) No structural alteration or addition to any nonconforming structure over the life of the structure shall exceed 50 percent of its market value, unless the entire structure is permanently changed to a conforming use or unless the alteration or addition would substantially reduce potential flood damages for the entire structure.

9.1(2) Any alteration or addition to a nonconforming use which would result in substantially increasing the flood damage potential of that use shall be elevated or flood-proofed. Flood-proofing shall be certified by a registered engineer or architect that the flood-proofing measures equal or exceed the provisions for flood-proofing set forth in the State Building Code.

9.1(3) If any nonconforming use is destroyed by any means, including floods, to an extent of 50 percent or more of its market value, it shall not be reconstructed except in conformity with the provisions of this Ordinance.

Section 10. PENALTIES FOR VIOLATION

Violation of the provisions of this Ordinance or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of Variances) shall constitute a misdemeanor.

Section 11. AMENDMENTS

All amendments to this ordinance shall be submitted to and approved by the Commissioner of Natural Resources prior to adoption. Changes in the boundaries of the Floodway or Flood Fringe Districts also require prior approval by the Office of Federal Insurance and Hazard Mitigation.

This ordinance adopted and passed by the Council of the City of Minnesota City this 6th day of July 1982.

James J. King, Mayor

Attest: J. A. Kaslo, City Clerk