

MODEL FLOODPLAIN ORDINANCE

For A Community Without An Official Flood Hazard Boundary Map As Issued By The Federal Emergency Management Agency (FEMA)

WHEREAS the City of _____ wishes to establish eligibility in the National Flood Insurance Program and in order to do so must meet the requirements of 44 CFR Part 60.3(a).

WHEREAS the City of _____ wishes 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.

WHEREAS the legislature of the State of Minnesota has in Minnesota Statutes Chapter 103F and Minnesota Statutes Chapter 462 delegated the responsibility to local government units to adopt regulations designed to minimize flood losses.

THEREFORE, the City Council of _____, Minnesota, in order to determine which developments would increase the flood hazard or be damaged by flooding, does ordain the following measures within the jurisdictional limits of this community.

Section 1: Permit Requirements

- A. No person may erect, construct, enlarge, alter, repair, improve, move, or demolish any building or structure without first obtaining a separate permit for each building or structure from the designated responsible person.
- B. No man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, fences, mining, dredging, filling, grading, paving, excavation or drilling operations, may be commenced until a separate permit has been obtained from the designated responsible person for each change.
- C. No manufactured home may be placed on improved or unimproved real estate without first obtaining a separate permit for each manufactured home from the designated responsible person.

Section 2: Permit Application

To obtain a permit, the applicant must first file a permit application on a form furnished for that purpose. The form must be completed and submitted to the designated responsible person [*optional - with a fee of \$_____*] before a permit will be issued.

Section 3: Duties of the City Clerk

- A. The City Clerk, hereinafter referred to as the responsible person, is appointed as the “person” responsible for receiving applications and examining the plans and specifications for the proposed construction or development.
- B. After reviewing the application, the responsible person may require any additional measures which are necessary to meet the minimum requirements of this ordinance.
- C. The responsible person must review proposed development to assure that all necessary permits have been received from those governmental agencies from which approval is required by Federal or State law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.

Section 4: Review of Permit Application

The responsible person must review all permit applications to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is in a flood prone area, all new construction and substantial improvements (including the placement of manufactured homes) must be:

- A. Designed (or modified) and adequately anchored to prevent floatation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy,
- B. Constructed with materials and utility equipment resistant to flood damage,
- C. Constructed by methods and practices that minimize flood damage, and
- D. Constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

Section 5: Review of Subdivision Proposals

The responsible person must review subdivision proposals and other proposed new development to determine whether such proposals will be reasonably safe from flooding. If a subdivision proposal or other proposed new development is in a flood prone area, any such proposal must be reviewed to assure that:

- A. All such proposals are consistent with the need to minimize flood damage within the flood prone area,
- B. All public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage, and

- C. Adequate drainage is provided to reduce exposure of flood hazard.

Section 6: Water Supply System

The responsible person must require within flood prone areas, new and replacement water supply systems to be designed to minimize or eliminate infiltration of flood waters into the systems.

Section 7: Sanitary Sewage and Waste Disposal Systems

The responsible person must require within flood prone areas:

- A. New and replacement sanitary sewage systems to be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, and
- B. On-site waste disposal systems to be located to avoid impairment to them or contamination from them during flooding.

Section 8: Annexations and Extraterritorial Jurisdiction

The City of _____ may not approve any development located in a Special Flood Hazard Area (SFHA) outside the corporate limits unless such development or plat is in accordance with the following:

- A. A floodplain ordinance legally adopted by the City of _____ that meets the minimum federal (44 CFR 60.3), state (Minnesota Regulation Parts 6120.5000 through 6120.6200), and local requirements for development within a Special Flood Hazard Area.
- B. The SFHA's of those parts of unincorporated _____ County that are within the extraterritorial jurisdiction of the City of _____ or that may be annexed into the City of _____ are generally identified as such on the Flood Insurance Rate Map (FIRM) dated _____ and prepared by the Federal Emergency Management Agency (FEMA);

Section 9: Definitions

"Development" Any man-made change to real estate, including but not limited to construction or reconstruction of buildings, installing manufactured homes or travel trailers, installing utilities, construction of roads or bridges, erection of levees, walls, or fences, drilling, mining, filling, dredging, and storage of materials.

"Flood" A general and temporary condition of partial or complete inundation of normally dry land areas from overflow of inland or tidal waves, or the unusual and rapid accumulation or runoff of surface waters from any source.

"Floodplain" or "Flood Prone Area" Any land area susceptible to being inundated by water from any source (see Flood).

"Floodproofing" Any combination of structural and non-structural additions, changes or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

"Manufactured Home" A structure, transportable in one or more sections, which is built on a permanent chassis and is designated for use with or without a permanent foundation when attached to the required utilities.

"New Construction" means, for the purposes of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, new construction means structures for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

"Person" includes any individuals, corporation, partnership, association, or any other entity, including State and local governments and agencies

"Special Flood Hazard Area" is the land in the floodplain within a community subject to a 1 percent or greater chance of flooding in any given year. The area may be designated as Zone A on the FHBM. After detailed ratemaking has been completed in preparation for publication of the flood insurance rate map, Zone A usually is refined into Zones A, AO, AH, A1-30, AE, A99, AR, AR/A1-30, AR/AE, AR/AO, AR/AH, AR/A, VO, or V1-30, VE, or V. For purposes of these regulations, the term "special flood hazard area" is synonymous in meaning with the phrase "area of special flood hazard."

"Structure" For floodplain management purposes, a walled and roofed building, including gas or liquid storage tanks, that is principally above ground. The term includes recreational vehicles and travel trailers on site for more than 180 days.

"Substantial Improvement" Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either, (a) before the improvement or repair is started, or (b) if the structure has been damaged, and is being restored, before the damage occurred. For the purposes of this definition "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure regardless of the actual work performed. The term does not, however, include either (1) any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions or (2) any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a historic structure.

Section 10: Penalty

Any person who violates this ordinance shall upon conviction thereof be fined not less than twenty-five dollars (\$25.00) nor more than two-hundred dollars (\$200.00). A separate offense will be deemed committed upon each day during or on which a violation occurs or continues.

Section 11: Abrogation and Greater Restriction

- A. This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants or deed restriction.
- B. Where this Ordinance and other ordinances, easements, covenants, or deed restrictions conflict or overlap, whichever imposes the more stringent restrictions will prevail.

Section 12: Separability

The provisions and sections of this ordinance shall be deemed separable and the invalidity of any portion of this Ordinance will not affect the validity of the remainder.

Section 13: Effective Date

This Ordinance shall be in full force and effect from and after its passage and approval and publication, as required by law.

PASSED by the City Council of the City of ____, Minnesota, this (*date) day of (*month), (*year).

(Clerk's signature)

(Mayor's Signature)