

APPENDIX I

FLOODPLAIN DISTRICT ORDINANCE

Sec. 74-832. Application.

All permitted, permitted accessory, or conditional uses contained in sections 74-421 et seq. and 74-791 et seq., shall be treated as permitted uses within a PUD district to eliminate the overlapping procedural requirements of individual conditional use provisions.
(Code 1982, § 15.311)

Sec. 74-833. Special procedures.

The establishment of a PUD, planned unit development district shall be subject to the amendment and procedural requirements as outlined in section 74-91 et seq., plus the procedures and conditions imposed by section 74-66 et seq.
(Code 1982, § 15.312)

Secs. 74-834—74-860. Reserved.**DIVISION 17. FP FLOODPLAIN DISTRICT****Sec. 74-861. Purpose.**

The purpose of this district is to provide for the protection and preservation of water channels and those portions of adjoining floodplains which are reasonably required to carry and discharge a regional flood and are subject to inundation by regional floods. "Regional flood" shall be defined according to standards established by the state department of natural resources. It is the intent of this district to be applied to those areas which if left unrestricted would result in loss of life and property, health and safety hazards, disruption of commerce, utilities and governmental services, extraordinary public expenditures for floodplain protection and relief and impairment of the tax base, all of which adversely affect the public health, safety and general welfare. This district is furthermore created and applied in compliance with requirements of M.S.A. chs. 104 and 315, as amended. In addition, Minnesota Regulations N.R. 85, as amended, shall be consulted in administering and applying the regulations for this district.

(Code 1982, § 15.320)

Sec. 74-862. Warning and disclaimer of liability.

This article does not imply that areas outside the FP, floodplain district boundaries or land uses allowed within this district will be free from flooding or flood damages. This article shall not create liability on the part of the city or any officer or employee thereof for any flood damages which result from reliance on this chapter or any administrative decision lawfully made thereunder.

(Code 1982, § 15.321)

(3) *Certificate of occupancy.* All cases requiring a use permit shall also require a certificate of occupancy and shall be subject to the provisions of section 74-151 et seq.

(4) *Performance bond.*

- a. Upon approval of a use permit, the city shall be provided with a surety bond prior to the issuing of building permits or initiation of work on the proposed improvements or development. Such bond shall guarantee conformance and compliance with the conditions of the use permit and the codes and ordinances of the city.
- b. The surety bond shall be in the amount of the city administrator's estimated costs of labor and materials for the proposed improvements or development.
- c. The city shall hold the surety bond until completion of the proposed improvements or development and until a certificate of occupancy indicating compliance with the use permit and codes and ordinances of the city has been issued by the city building official.

(Code 1982, § 15.325)

Sec. 74-867. Variances and amendments.

(a) In addition to the procedures and requirements for variances and amendments as established in section 74-91 et seq., the commissioner of natural resources shall be given at minimum a ten-day notice of any public hearing, and a review and written report must be obtained from the state department of natural resources and any other governmental body or commission having jurisdiction for such changes, additions or modifications affecting an FP, floodplain district. The commissioner of natural resources shall be advised in writing of all decisions made regarding variances and amendments.

(b) No variance or amendment shall have the effect of allowing a prohibited use within an FP district, permit a lesser degree of flood protection than the established flood protection elevation, and/or permit standards lower than those required under applicable state law.

(Code 1982, § 15.326)

Sec. 74-868. Permitted uses.

Uses having a low flood damage potential and not obstructing flood flows shall be permitted within the FP, floodplain district to the extent that they are not prohibited by any other ordinance and are allowed within all districts which jointly apply, and provided they do not require structure, fill, or storage of materials or equipment. In addition, no use shall adversely affect the capacity of the channels or floodway of any tributary to the main stream, drainage ditch or any other drainage facility or system. Permitted uses are limited to the following:

- (1) Residential: Lawns, gardens, parking areas, and play areas.
- (2) Industrial, business: Loading areas and parking areas.
- (3) Public and private recreational uses.

(Code 1982, § 15.327)

- necessary to achieve the intended purpose, as demonstrated by a plan submitted by the owner showing the uses to which the filled land will be put and the final dimensions of the proposed fill or other materials.
- ii. Such fill or other materials shall be protected against erosion by riprap, vegetative cover, or bulkheading.
3. *Structures (temporary and permanent).*
 - i. Structures shall not be designated for human habitation.
 - ii. Structures shall have a low flood damage potential.
 - iii. The structure or structures, if allowed, shall be constructed and placed on the building site so as to offer the minimum obstruction to the flow of floodwaters. Whenever possible, structures shall be constructed with the longitudinal axis parallel to the direction of flood flow and, so far as practicable, structures shall be placed approximately on the same flood flow as the adjoining structures.
 - iv. Structures shall be firmly anchored to prevent flotation which may result in damage to other structures and/or restriction of bridge openings and other narrow sections of the stream or river.
 - v. Service facilities such as electrical and heating equipment shall be installed at or above the regulatory flood protection elevation for the particular area, or floodproofed.
 4. *Storage of material and equipment.*
 - i. The storage or processing of materials that are in time of flooding buoyant, flammable, explosive, or could be injurious to human, animal or plant life is prohibited.
 - ii. Storage of other material or equipment may be allowed if not subject to major damage by floods and firmly anchored to prevent flotation or shall be readily removable from the area within the time available after flood warning.
 5. *Garbage and solid waste disposal.*
 - i. No conditional use permits for garbage and waste disposal sites shall be issued for floodway areas.
 - ii. Provided, further, there shall be no further encroachment upon the floodway at existing sites.
 6. *Structural works for flood control.* Structural works for flood control such as dams, levees, dikes, and floodwalls shall be allowed only upon issuance of a conditional use permit. In addition, any proposed work in the beds of public waters which will change the course, current or cross section of the waters shall be subject to the provisions of M.S.A. ch. 105 and other applicable statutes.

(2) *Flood fringe.*

- a. Uses allowed within the floodway.

6. *Waste treatment and waste disposal.*
- i. No new construction, addition, or modification to existing waste treatment facilities shall be permitted within the floodplain unless emergency plans and procedures for action to be taken in the event of flooding are prepared, filed with and approved by the state pollution control agency. The emergency plans and procedures must provide for measures to prevent introduction of any pollutant or toxic material into the floodwaters.
 - ii. There shall be no disposal of garbage or solid waste materials within floodplain areas except upon issuance of a conditional use permit at sites approved by the state pollution control agency and subject to the requirements of section 74-91 et seq.
7. *Flood control works.* Flood control works shall be subject to the provisions of subsection (1)b.6 of this section.
- i. The minimum height and design of any dikes, levees, floodwalls, or similar structural works shall be based upon the flood profile of the regional flood defined between the structures, subject to the following:
For urban areas, the minimum height and design of structural works shall be at least three feet above the elevation of the regional flood or at the elevation of the standard project flood, whichever is greater.
Modifications and additions to existing structural works shall assure that the work will provide a means of decreasing the flood damage potential in the area. Any existing structural work which potentially threatens public health or safety shall be modified or reconstructed in order to meet the standards contained in this section within a period of one year of the effective date of the ordinance from which this chapter derives.
 - ii. Flood protection elevations and floodway limits which reflect proposed measures for flood control shall not be effective until such measures are constructed and operative unless the proposed measures will increase flood heights, in which event the regulatory flood protection elevations and floodplain limits shall reflect the anticipated increases.
 - iii. Detailed plans shall be submitted to the city administrator for any new developments placed on the floodplain landward from dikes and levees. The plans must provide for ponding areas or other measures to protect against flooding from internal drainage.

(Code 1982, § 15.329)

Sec. 74-871. Procedures and standards for evaluating proposed conditional uses.

(a) *Information required.* Upon receipt of an application for a conditional use permit for a use within the floodplain district, the applicant shall be required to furnish such of the

chapter and recommend to the planning commission and city council to deny, grant, or conditionally grant the application for the proposed use, based upon established administrative procedures of this chapter as may be applicable.

(c) *Supplementary considerations.* In acting upon the conditional use application, the city council shall consider all relevant factors specified in section 74-91 et seq., in addition to the following:

- (1) The danger to life and property due to increased flood heights or velocities caused by encroachments.
- (2) The danger that materials may be swept onto other lands or downstream to the injury of others.
- (3) The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.
- (4) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
- (5) The importance of the services provided by the proposed facility to the community.
- (6) The requirements of the facility for a waterfront location.
- (7) The availability of alternative locations not subject to flooding for the proposed use.
- (8) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
- (9) The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.
- (10) The safety of access to the property in times of flood for ordinary and emergency vehicles.
- (11) The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters expected at the site.
- (12) Such other factors which are relevant to the purposes of this chapter.

(d) *Conditions attached to conditional use permits.* Upon consideration of the factors listed in this section and the purposes of this chapter, the city council may attach such conditions to the granting of conditional use permits as it deems necessary to fulfill the purposes of this chapter. Such conditions may include, but are not limited to, the following:

- (1) Modification of waste disposal and water supply facilities.
- (2) Limitations on periods of use, occupancy, and operation.
- (3) Imposition of operational controls, sureties, and deed restrictions.
- (4) Requirements for construction of channel modifications, dikes, levees, and other protective measures.