

**ORDINANCE NO. 772**

CITY OF CHAMPLIN  
COUNTY OF HENNEPIN  
STATE OF MINNESOTA

**AN ORDINANCE AMENDING CHAPTER 114 OF THE CITY CODE  
REGARDING FLOOD PLAIN REGULATIONS**

The City Council of the City of Champlin does hereby ordain the following amendments:

Chapter 114 - FLOODPLAIN REGULATIONS

Sec. 114-1. - Statutory authorization; findings of fact; purpose.

- (a) Statutory authorization. The legislature of the state has, in Minn. Stats. ch. 103F and Minn. Stats. § 462.357, delegated the responsibility to local government units to adopt regulations designed to minimize flood losses.
- (b) Findings of fact.
  - (1) The flood hazard areas of the city are subject to periodic inundation which results in potential 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.
  - (2) This chapter is based upon a reasonable method of analyzing flood hazards that is consistent with the standards established by the state department of natural resources.
  - (3) This chapter is adopted to comply with the rules and regulations of the National Flood Insurance Program codified as 44 CFR 59—78, as amended, so as to maintain the community's eligibility in the National Flood Insurance Program.
- (c) Statement of purpose. It is the purpose of this chapter to promote the public health, safety, and general welfare and to minimize those losses described in subsection (b)(1) of this section.

(Code 1977, § 13-113.1; Ord. No. 600, 8-23-2004)

Sec. 114-2. - General provisions.

- (a) Lands to which this chapter applies. This chapter shall apply to all lands within the jurisdiction of the city shown on the official zoning map and/or the attachments thereto as being located within the boundaries of the Floodway, Flood Fringe, or General Floodplain districts.

- (1) Where Floodway and Flood Fringe districts are delineated on the floodplain maps, the standards in Sections 114-5 or 114-6 will apply, depending on the location of a property.
- (2) Locations where Floodway and Flood Fringe districts are not delineated on the floodplain maps are considered to fall within the General Floodplain district. Within the General Floodplain district, the Floodway District standards in Section 114-5 apply unless the floodway boundary is determined, the Flood Fringe district standards in Section 114-6 may apply outside the floodway.

(3) The Floodway, Flood Fringe and General Floodplain Districts are overlay districts that are superimposed on all existing zoning districts. The standards imposed in the overlay districts are in addition to any other requirements. In the case of a conflict, the more restrictive standards apply.

**Commented [SS1]:** Clarifies that flood zones are overlay districts.

(b) Incorporation of Maps by Reference. The following maps together with all attached material are hereby adopted by reference and declared to be a part of the Official Zoning Map and this ordinance. The attached material includes the Flood Insurance Study for Hennepin County, Minnesota, and Incorporated Areas, dated November 4, 2016 and the Flood Insurance Rate Map panels enumerated below, dated November 4, 2016, all prepared by the Federal Emergency Management Agency. These materials are on file in the office of the community development department and city clerk.

Effective Flood Insurance Rate Map panels:

<u>27053C0058F</u>	<u>27053C0069F</u>
<u>27053C0059F</u>	<u>27053C0086F</u>
<u>27053C0066F</u>	<u>27053C0087F</u>
<u>27053C0067F</u>	<u>27053C0088F</u>
<u>27053C0068F</u>	<u>27053C0089F</u>

**Commented [SS2]:** New Flood Panel numbers

~~Establishment of official zoning map. The official zoning map together with all materials attached thereto is hereby adopted by reference and declared to be a part of this chapter. The attached material shall include the Flood Insurance Study Volume 1 of 2 and Volume 2 of 2, Hennepin County, Minnesota, all jurisdictions and the flood insurance rate map panels numbered 27053C0058 E, 27053C0059 E, 27053C0066 E, 27053C0067 E, 27053C0068 E, 27053C0069 E, 27053C0086 E, 27053C0087 E, 27053C0088 E, and 27053C0089 E for the city, dated September 2, 2004, as developed by the Federal Emergency Management Agency (FEMA). The official zoning map shall be on file in the office of the community development department and the city clerk.~~

(c) Regulatory flood protection elevation. The regulatory flood protection elevation shall be an elevation no lower than two feet above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the floodplain that result from designation of a floodway.

(d) Interpretation.

- (1) In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements and shall be liberally construed in favor of the city council and shall not be deemed a limitation or repeal of any other powers granted by state statutes.
- (2) The boundaries of the zoning districts shall be determined by scaling distance on the official zoning map. Where interpretation is needed as to the exact location of the boundaries of the district as shown on the official zoning map, as for example where there appears to be conflict between a mapped boundary and actual field conditions and there is a formal appeal of the decision of the zoning administrator, the board of adjustments (planning commission) shall make a recommendation to the city council regarding the interpretation. The city council shall make the final ruling on the interpretation. All decisions will be based on elevations on the regional (100-year) flood profile, the ground elevations that existed on the site at the time the community adopted its initial floodplain ordinance, and other available technical data. Persons contesting the location of the district boundaries shall be given a reasonable opportunity to present their case and to submit technical evidence.

- (e) Abrogation and greater restrictions. It is not intended by this chapter to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter imposes greater restrictions, the provisions of this chapter shall prevail. All other ordinances inconsistent with this chapter are hereby repealed to the extent of the inconsistency only.
- (f) Warning and disclaimer of liability. This chapter does not imply that areas outside the floodplain districts or land uses permitted within such districts will be free from flooding or flood damages. This chapter 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 chapter or any administrative decision lawfully made thereunder.

(g) Severability. If any section, clause, provision, or portion of this ordinance is adjudged unconstitutional or invalid by a court of law, the remainder of this ordinance shall not be affected and shall remain in full force.

(Code 1977, § 13-113.2; Ord. No. 600, 8-23-2004)

**Commented [SS3]:** Recommended by City Attorney

Sec. 114-3. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Accessory use or structure means a use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.

Basement means any area of a structure, including crawl spaces, having its floor or base subgrade (below ground level) on all four sides, regardless of the depth of excavation below ground level.

Conditional use means a specific type of structure or land use listed in the official control that may be allowed but only after an in-depth review procedure and with appropriate conditions or restrictions as provided in the official zoning controls or building codes and upon a finding that:

- (1) Certain conditions as detailed in chapter 126, pertaining to zoning regulations, exist; and
- (2) The structure and/or land use conform to the comprehensive land use plan and are compatible with the existing neighborhood.

Development – any manmade change to improved or unimproved real estate, including buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

Equal degree of encroachment means a method of determining the location of floodway boundaries so that floodplain lands on both sides of a stream are capable of conveying a proportionate share of flood flows.

Flood means a temporary increase in the flow or stage of a stream or in the stage of a wetland or lake that results in the inundation of normally dry areas.

Flood frequency means the frequency for which it is expected that a specific flood stage or discharge may be equaled or exceeded.

Flood fringe means that portion of the floodplain outside of the floodway. Flood fringe is synonymous with the term "floodway fringe" used in the Flood Insurance Study for Hennepin County, Minnesota flood insurance study.

Floodplain means the beds proper and the areas adjoining a wetland, lake or watercourse that has been or hereafter may be covered by the regional flood.

**Commented [SS4]:** For cities mapped as part of a county-wide flood study, the county name is recommended.

Floodproofing means 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 means the bed of a wetland or lake and the channel of a watercourse and those portions of the adjoining floodplain, which are reasonably required to carry or store the regional flood discharge.

Lowest floor means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, used solely for parking of vehicles, building access, or storage in an area other than a basement area, is not considered a building's lowest floor; provided .

Manufactured home means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include the term "recreational vehicle."

New Construction means structures, including additions and improvements, and placement of manufactured homes, for which the start of construction commenced on or after the effective date of this ordinance.

**Commented [SS5]:** New definition needed to clarify what is considered new construction.

Obstruction means any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel modification, culvert, building, wire, fence, stockpile, refuse, fill, structure, or matter in, along, across, or projecting into any channel, watercourse, or regulatory floodplain which may impede, retard, or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water.

Principal use or structure means all uses or structures that are not accessory uses or structures.

Reach means the hydraulic engineering term used to describe a longitudinal segment of a stream or river influenced by a natural or manmade obstruction. In an urban area, the segment of a stream or river between two consecutive bridge crossings would most typically constitute a reach.

Recreational vehicle means a vehicle that is built on a single chassis, is 400 square feet or less when measured at the largest horizontal projection, is designed to be self-propelled or permanently towable by a light duty truck, and is designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use. For the purposes of this chapter, the term "recreational vehicle" shall be synonymous with the term "travel trailer/travel vehicle."

Regional flood means a flood which is representative of large floods known to have occurred generally in the state and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of the 100-year recurrence interval. The term "regional flood" is synonymous with the term "base flood" used in a flood insurance study.

Regulatory flood protection elevation means an elevation no lower than two feet above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the floodplain that result from designation of a floodway.

Special Flood Hazard Area – a term used for flood insurance purposes synonymous with “One Hundred Year Floodplain.”

Start of construction includes substantial improvement, and means the actual start of construction, repair, reconstruction, rehabilitation, addition, placement or other improvement that occurred before the permit’s expiration date. The actual start is either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such

as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, foundations, or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Commented [SS6]: New definition .

Structure means anything constructed or erected on the ground or attached to the ground or on-site utilities, including, but not limited to, buildings, factories, sheds, detached garages, cabins, manufactured homes and other similar items.

Substantial damage means damage of any origin sustained by a structure where the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial improvement means, within any consecutive 365-day period, any reconstruction, rehabilitation (including normal maintenance and repair), repair after damage, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures that have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include either:

- (1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to ensure 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. For the purpose of this chapter, the term "historic structure" shall be as defined in 44 CFR 59.1.

Variance means a modification of a specific permitted development standard required in an official control including this chapter 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 and elaborated upon in a community's respective planning and zoning enabling legislation.

(Ord. No. 600, 8-23-2004)

#### Sec. 114-4. - Establishment of zoning districts.

##### (a) Districts.

- (1) Floodway district. The floodway district shall include those areas within Zones AE designated as floodway on the flood insurance rate map adopted in section 114-2(b). For lakes, wetlands and other basins within Zones AE that do not have a floodway delineated, the Floodway District also includes those areas that are at or below the ordinary high water level as defined in Minnesota Statutes, Section 103G.005, subdivision 14.
- (2) Flood fringe district. The flood fringe district shall include those areas within Zones AE that have a floodway delineated on the Flood Insurance Rate Map, but are located outside of the floodway. For lakes, wetlands and other basins within Zones AE that do not have a floodway delineated, the flood fringe district also includes those areas below the one percent change (100-year) flood elevation but above the ordinary high water level as defined in Minnesota Statutes, Section 103G.005, subdivision 14. designated as floodway fringe. The flood fringe district shall include those areas shown on the

~~flood insurance rate map as adopted in section 114-2(b) as being within zone AE, zone A0, or zone AH but being located outside of the floodway general floodplain district.~~

- (3) General floodplain district. The general floodplain district shall include those areas designated as Zone A, ~~zones AE, zone A0,~~ or zone AH without a floodway on the flood insurance rate map adopted in section 114-2(b).
- (b) Compliance. Within the floodplain districts established in this ordinance, the use, size, type and location of development must comply with the terms of this ordinance and other applicable regulations. In no cases shall floodplain development adversely affect the efficiency or restrict the capacity of the channels or floodways of any tributaries to the main stream, drainage ditches, or any other drainage facilities or systems. 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 chapter and other applicable regulations which apply to uses within the jurisdiction of this chapter. Within the floodway, flood fringe and general floodplain districts, all uses not listed as permitted uses or conditional uses in sections 114-5 and 114-6 that follow, respectively, 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 chapter and specifically section 114-10;
  - (2) Modifications, additions, structural alterations or repair after damage to existing nonconforming structures and nonconforming uses of structures or land are regulated by the general provisions of this chapter and specifically section 114-12; and
  - (3) As-built elevations for elevated or floodproofed structures must be certified by ground surveys and floodproofing techniques must be designed and certified by a registered professional engineer or architect as specified in the general provisions of this chapter and specifically as stated in section 114-11(d)(6)e.

(Code 1977, § 13-113.3; Ord. No. 600, 8-23-2004)

Sec. 114-5. - Floodway district (FW).

- (a) The following are permitted uses in the floodway district:
- (1) General farming, pasture, grazing, outdoor plant nurseries, horticulture, truck farming, forestry, sod farming, and wild crop harvesting;
  - (2) Industrial-commercial loading areas, parking areas, and airport landing strips;
  - (3) Private and public golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting preserves, target ranges, trap and skeet ranges, hunting and fishing areas, and single or multiple purpose recreational trails; and
  - (4) Residential lawns, gardens, parking areas, and play areas.
  - (5) Railroads, streets, bridges, utility transmission lines and pipelines, provided that the Department of Natural Resources' Area Hydrologist is notified at least ten days prior to issuance of any permit.
- (b) The following are standards for floodway permitted uses:
- (1) The use shall have a low flood damage potential;
  - (2) The use shall be permissible in the underlying zoning district if one exists; and

**Commented [SS7]:** Amended to allow utility and transportation uses with DNR notification. Formerly allowed as conditional uses.

- (3) The use shall not obstruct flood flows or increase flood elevations and shall not involve structures, fill, obstructions, excavations or storage of materials or equipment.
- (c) The following are conditional uses within the floodway district:
- (1) Structures accessory to the uses listed in subsection (a) of this section and the uses listed in subsections (c)(2)—(c)(98) of this section;
  - (2) Extraction and storage of sand, gravel, and other materials;
  - (3) Marinas, boat rentals, docks, piers, wharves, and water control structures;
  - ~~(4) Railroads, streets, bridges, utility transmission lines, and pipelines;~~
  - (45) Storage yards for equipment, machinery, or materials;
  - ~~(56)~~ Placement of fill or construction of fences;
  - ~~(67)~~ Travel trailers and travel vehicles either on individual lots of record or in existing or new subdivisions or commercial or condominium type campgrounds, subject to the exemptions and provisions of section 114-10(c);
  - ~~(78)~~ Recreational vehicles either on individual lots of record or in existing or new subdivisions or commercial or condominium type campgrounds, subject to the exemptions and provisions of section 114-10; and
  - ~~(89)~~ Structural works for flood control such as levees, dikes and floodwalls constructed to any height where the intent is to protect individual structures and levees or dikes where the intent is to protect agricultural crops for a frequent flood event equal to or less than the ten-year frequency flood event.
- (d) The following are standards for floodway conditional uses:
- (1) No structure (temporary or permanent), fill (including fill for roads and levees), deposit, obstruction, storage of materials or equipment, or other uses may be allowed as a conditional use that will cause any increase in the stage of the 100-year or regional flood or cause an increase in flood damages in the reach or reaches affected;
  - (2) All floodway conditional uses shall be subject to the procedures and standards contained in section 114-11(d);
  - (3) The conditional use shall be permissible in the underlying zoning district if one exists;
  - (4) The following provisions relating to fill:
    - a. Fill, dredge spoil and all other similar materials deposited or stored in the floodplain shall be protected from erosion by vegetative cover, mulching, riprap or other acceptable methods;
    - b. Dredge spoil sites and sand and gravel operations shall not be allowed in the floodway unless a long-term site development plan is submitted which includes an erosion/sedimentation prevention element to the plan; and
    - c. As an alternative, and consistent with subsection (d)(4)b of this section, dredge spoil disposal and sand and gravel operations may allow temporary, on-site storage of fill or other materials which would have caused an increase to the stage of the 100-year or regional flood but only after the city council has received an appropriate plan which ensures the removal of the materials from the floodway based upon the flood warning time available. The conditional use permit must be title registered with the property in the office of the county recorder.
  - (5) The following provisions relating to accessory structures:

- a. Accessory structures shall not be designed for human habitation;
- b. Accessory structures, if permitted, shall be constructed and placed on the building site so as to offer the minimum obstruction to the flow of floodwaters.
  - 1. 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 lines as those of adjoining structures.

- c. Accessory structures shall be elevated on fill or structurally dry floodproofed in accordance with the FP-1 or FP-2 floodproofing classifications in the state building code. As an alternative, an accessory structure may be floodproofed to the FP-3 or FP-4 floodproofing classification in the state building code; provided the accessory structure constitutes a minimal investment, does not exceed 57600 square feet in size, and for a detached garage, the detached garage must be used solely for parking of vehicles and limited storage. All floodproofed accessory structures must meet the following additional standards, as appropriate:

- 1. The structure must be adequately anchored to prevent flotation, collapse or lateral movement of the structure and shall be designed to equalize hydrostatic flood forces on exterior walls;  
 Any mechanical and utility equipment in a structure must be elevated to or above the regulatory flood protection elevation or properly floodproofed; and
- 3. To allow for the equalization of hydrostatic pressure, there must be a minimum of two "automatic" openings in the outside walls of the structure having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding. There must be openings on at least two sides of the structure and the bottom of all openings must be no higher than one foot above the lowest adjacent grade to the structure. Using human intervention to open a garage door prior to flooding will not satisfy this requirement for automatic openings.

(6) The following provisions relating to the 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; and
- b. Storage of other materials or equipment may be allowed if readily removable from the area within the time available after a flood warning and in accordance with a plan approved by the city council.

(7) Structural works for flood control that will change the course, current or cross section of protected wetlands or public waters shall be subject to the provisions of Minn. Stats. ch. 103G. Community-wide structural works for flood control intended to remove areas from the regulatory floodplain shall not be allowed in the floodway; and

(8) A levee, dike or floodwall constructed in the floodway shall not cause an increase to the 100-year or regional flood and the technical analysis must assume equal conveyance or storage loss on both sides of a stream.

(Code 1977, § 13-113.4; Ord. No. 600, 8-23-2004)

**Commented [SS8]:** DNR sets this at 576. If an accessory structure exceeds 576 square feet, then FEMA will not allow internal floodproofing and the structure must be elevated in fill or dry floodproofed.

Sec. 114-6. - Flood fringe district (FF).

- (a) Permitted uses. Permitted uses shall be those uses of land or structures listed as permitted uses in the underlying zoning use district. If no pre-existing, underlying zoning use districts exist, then any residential or nonresidential structure or use of a structure or land shall be a permitted use in the flood fringe; provided such use does not constitute a public nuisance. All permitted uses shall comply with the standards for flood fringe permitted uses listed in subsection (b) of this section and the standards for all flood fringe uses listed in subsection (e) of this section.
- (b) Standards for flood fringe permitted uses.
  - (1) All structures, including accessory structures, must be elevated on fill so that the lowest floor including the basement floor is at or above the regulatory flood protection elevation. The finished fill elevation for structures shall be no lower than two feet below the regulatory flood protection elevation and the fill shall extend at such elevation at least 15 feet beyond the outside limits of the structure erected thereon.
  - (2) As an alternative to elevation on fill, accessory structures that constitute a minimal investment and that do not exceed ~~57600~~ square feet for the outside dimension at ground level may be internally floodproofed in accordance with section 114-6(d)(5)c.
  - (3) The cumulative placement of fill where at any one time in excess of 1,000 cubic yards of fill is located on the parcel shall be allowable only as a conditional use, unless said fill is specifically intended to elevate a structure in accordance with subsection (b)(1) of this section.
  - (4) The storage of any materials or equipment shall be elevated on fill to the regulatory flood protection elevation.
  - (5) The provisions of subsection (e) of this section shall apply.
- (c) Conditional uses. Any structure that is not elevated on fill or floodproofed in accordance with subsections (b)(1) and (b)(2) of this section or any use of land that does not comply with the standards in subsections (b)(3) and (b)(4) of this section shall only be allowable as a conditional use. An application for a conditional use shall be subject to the standards and criteria and evaluation procedures specified in subsections (d) and (e) of this section and section 114-11(d)
- (d) Standards for flood fringe conditional uses.
  - (1) Alternative elevation methods other than the use of fill may be utilized to elevate a structure's lowest floor above the regulatory flood protection elevation. These alternative methods may include the use of stilts, pilings, parallel walls, etc., or above-grade, enclosed areas such as crawl spaces or truck under garages. The base or floor of an enclosed area shall be considered above-grade and not a structure's basement or lowest floor if:
    - a. The enclosed area is above-grade on at least one side of the structure;
    - b. It is designed to internally flood and is constructed with flood resistant materials; and
    - c. It is used solely for parking of vehicles, building access or storage.The above-noted alternative elevation methods are subject to the following additional standards:
    - 1. Design and certification. The structure's design and as-built condition must be certified by a registered professional engineer or architect as being in compliance with the general design standards of the state

Commented [SS9]: See comment above.

building code and, specifically, that all electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities must be at or above the regulatory flood protection elevation or be designed to prevent flood water from entering or accumulating within these components during times of flooding; and

2. Specific standards for above-grade, enclosed areas. Above-grade, fully enclosed areas such as crawl spaces or truck under garages must be designed to internally flood and the design plans must stipulate:
  - (i) The minimum area of openings in the walls where internal flooding is to be used as a floodproofing technique. When openings are placed in a structure's walls to provide for entry of floodwaters to equalize pressures, the bottom of all openings shall not be higher than one-foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices; provided that they permit the automatic entry and exit of flood waters without any form of human intervention; and
  - (ii) The enclosed area will be designed of flood resistant materials in accordance with the FP-3 or FP-4 classifications in the state building code and shall be used solely for building access, parking of vehicles or storage.
- (2) Basements, as defined by section 114-3, shall be subject to the following:
  - a. Residential basement construction shall not be allowed below the regulatory flood protection elevation; and
  - b. Nonresidential basements may be allowed below the regulatory flood protection elevation; provided the basement is structurally dry floodproofed in accordance with this chapter.
- (3) All areas of nonresidential structures including basements to be placed below the regulatory flood protection elevation shall be floodproofed in accordance with the structurally dry floodproofing classifications in the state building code. Structurally dry floodproofing must meet the FP-1 or FP-2 floodproofing classification in the state building code and this shall require making the structure watertight with the walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. Structures floodproofed to the FP-3 or FP-4 classification shall not be permitted.
- (4) When at any one time more than 150 cubic yards of soil or other similar material is excavated or filled on a parcel for such activities as on-site storage, landscaping, sand and gravel operations, landfills, roads, dredge spoil disposal or construction of flood control works, an erosion/sedimentation control plan must be submitted unless the community is enforcing a state approved shoreland management ordinance. In the absence of a state approved shoreland ordinance, the plan must clearly specify methods to be used to stabilize the fill on site for a flood event at a minimum of the 100-year or regional flood event. The plan must be prepared and certified by a registered professional engineer or other qualified individual acceptable to the city council. The plan may incorporate alternative procedures for removal of the material from the floodplain if adequate flood warning time exists.
- (5) Regulation of the storage of materials and equipment shall be as follows:

- 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; and
- b. Storage of other materials or equipment may be allowed if readily removable from the area within the time available after a flood warning and in accordance with a plan approved by the city council.

(6) The provisions of subsection (e) of this section shall also apply.

(e)

All new principal structures must have vehicular access at or above an elevation not more than two feet below the regulatory flood protection elevation. If a variance to this requirement is granted, the board of adjustment must specify limitations on the period of use or occupancy of the structure for times of flooding and only after determining that adequate flood warning time and local flood emergency response procedures exist.

- (2) Commercial uses and 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 and velocity such that when multiplying the depth (in feet) times velocity (in feet per second) the product number exceeds four upon occurrence of the regional flood.
- (3) For manufacturing and industrial uses measures shall be taken to minimize interference with normal plant operations especially along streams having protracted flood durations. Certain accessory land uses such as yards and parking lots may be at lower elevations subject to requirements set out in subsection (e)(2) of this section. In considering permit applications, due consideration shall be given to needs of an industry whose business requires that it be located in floodplain areas.
- (4) Fill shall be properly compacted and the slopes shall be properly protected by the use of riprap, vegetative cover or other acceptable methods. 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.
- (5) Floodplain developments shall not adversely affect the hydraulic capacity of the channel and adjoining floodplain of any tributary watercourse or drainage system where a floodway or other encroachment limit has not been specified on the official zoning map.
- (6) Standards for travel trailers and travel vehicles are contained in section 114-10(c).
- (7) 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, the 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.

(Code 1977, § 13-113.5; Ord. No. 600, 8-23-2004)

Sec. 114-7. - General floodplain district.

- (a) Permitted uses.
  - (1) The uses listed in section 114-5(a) shall be permitted uses.
  - (2) All other uses shall be subject to the floodway/flood fringe evaluation criteria pursuant to subsection (b) of this section. Section 114-5 shall apply if the proposed use is in the floodway district and section 114-6 shall apply if the proposed use in the flood fringe district.
- (b) Procedures for floodway and flood fringe determinations within the general floodplain district. Upon receipt of an application for a permit or other approval within the general floodplain district, the applicant shall be required to furnish such of the following information as is deemed necessary by the zoning administrator for the determination of the regulatory flood protection elevation and whether the proposed use is within the floodway or flood fringe district:
  - (1) A typical valley cross-section showing the channel of the stream, elevation of land areas adjoining each side of the channel, cross sectional areas to be occupied by the proposed development, and high water information;
  - (2) Plan (surface view) showing elevations or contours of the ground, pertinent structure, fill, or storage elevations, the size, location, and spatial arrangement of all proposed and existing structures on the site, and the location and elevations of streets;
  - (3) Photographs showing existing land uses, vegetation upstream and downstream, and soil types; and
  - (4) Profile showing the slope of the bottom of the channel or flow line of the stream for at least 500 feet in either direction from the proposed development.
- (c) Determination by designated engineer or expert. The applicant shall be responsible to submit one copy of the above information to a designated engineer or other expert person or agency for technical assistance in determining whether the proposed use is in the floodway or flood fringe district and to determine the regulatory flood protection elevation. Procedures consistent with Minnesota Regulations 1983, parts 6120.5000 — 6120.6200 and 44 CFR 65 shall be followed in this expert evaluation. The designated engineer or expert is strongly encouraged to discuss the proposed technical evaluation methodology with the respective department of natural resources' area hydrologist prior to commencing the analysis. The designated engineer or expert shall:
  - (1) Estimate the peak discharge of the regional flood;
  - (2) Calculate the water surface profile of the regional flood based upon a hydraulic analysis of the stream channel and overbank areas; and
  - (3) Compute the floodway necessary to convey or store the regional flood without increasing flood stages more than 0.5 feet. A lesser stage increase than 0.5 feet shall be required if, as a result of the additional stage increase, increase flood damages would result. An equal degree of encroachment on both sides of the stream within the reach shall be assumed in computing floodway boundaries.
- (d) Presentation of technical evaluation by zoning administrator; acceptance or denial by city council. The zoning administrator shall present the technical evaluation and findings of the designated engineer or expert to the city council. The city council must formally accept the technical evaluation and the recommended floodway and/or flood fringe district boundary or deny the permit application. The city council, prior to official action, may submit the application and all supporting data and analyses to the Federal Emergency Management Agency, the department of natural resources or the planning commission for review and comment. Once

the floodway and flood fringe district boundaries have been determined, the city council shall refer the matter back to the zoning administrator who shall process the permit application consistent with the applicable provisions of sections 114-5 and 114-6.

(Ord. No. 600, 8-23-2004)

Sec. 114-8. – Land Development Standards ~~Subdivisions~~.

- (a) Subdivisions Review criteria. No land shall be subdivided which is unsuitable for the reason of flooding, inadequate drainage, water supply or sewage treatment facilities. All lots within the floodplain districts shall contain a building site at or above the regulatory flood protection elevation. All subdivisions shall have water and sewage treatment facilities that comply with the provisions of this chapter 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. 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.
- (b) Floodway/flood fringe determinations in the general floodplain district. In the general floodplain district, applicants shall provide the information required in section 114-7 to determine the 100-year flood elevation, the floodway and flood fringe district boundaries and the regulatory flood protection elevation for the subdivision site.
- (c) Removal of special flood hazard area designation. 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.

(d) Building sites. If a proposed building site is in a flood prone area, all new construction and substantial improvements must be:

- (1) Designed (or modified) and adequately anchored to prevent floatation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads;
- (2) Constructed with materials and utility equipment resistant to flood damage;
- (3) Constructed by methods and practices that minimize flood damage; and
- (4) 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.

(Code 1977, § 13-113.6; Ord. No. 600, 8-23-2004)

Sec. 114-9. - Public utilities, railroads, roads, and bridges.

- (a) Public utilities. All public utilities and facilities 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 to above the regulatory flood protection elevation.
- (b) Public transportation facilities. Railroad tracks, roads, and bridges to be located within the floodplain shall comply with sections 114-5 and 114-6. Elevation to the regulatory flood protection elevation shall be provided where failure or interruption of these transportation

**Commented [SS10]:** This is optional language recommended by DNR.

facilities would result in danger to the public health or safety or where such facilities are essential to the orderly functioning of the area. Minor or auxiliary roads or railroads may be constructed at a lower elevation where failure or interruption of transportation services would not endanger the public health or safety.

- (c) On-site sewage treatment and water supply systems.
  - (1) 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.
  - (2) Any sewage treatment system designed in accordance with the state's current statewide standards for on-site sewage treatment systems shall be determined to be in compliance with this section.

(Code 1977, § 13-113.7; Ord. No. 600, 8-23-2004)

Sec. 114-10. - Manufactured homes and manufactured home parks and placement of recreational vehicles.

- (a) New manufactured home parks and expansions to existing manufactured home parks shall be subject to the provisions placed on subdivisions by section 114-8.
- (b) The placement of new or replacement manufactured homes on existing individual lots of record that are located in floodplain districts will be treated as a new structure and may be placed only if elevated in compliance with section 114-6. If vehicular road access for pre-existing manufactured home parks is not provided in accordance with section 114-6(e)(1), the replacement manufactured homes will not be allowed until the property owner develops a flood warning emergency plan acceptable to the city council. 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 and ground anchors. This requirement is in addition to applicable state or local anchoring requirements for resisting wind forces.
- (c) Recreational vehicles that do not meet the exemption criteria specified in subsection (c)(1) of this section shall be subject to the provisions of this chapter and as specifically spelled out in section (c)(3) of this section.
  - (1) Recreational vehicles are exempt from the provisions of this chapter if they are placed in any of the areas listed in subsection (c)(2) of this section and further they meet the following criteria:
    - a. Have current licenses required for highway use;
    - b. 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 no permanent structural type additions attached to it; and
    - c. The recreational vehicle and associated use must be permissible in any pre-existing, underlying zoning use district.
  - (2) Areas exempted for placement of recreational vehicles include:

- a. Individual lots or parcels of record; and
  - b. Existing condominium type associations.
- (3) Recreational vehicles exempted in subsection (c)(1) of this section lose this exemption when development occurs on the parcel exceeding \$500.00 for a structural addition to the recreational vehicle or exceeding \$500.00 for an accessory structure such as a garage or storage building. The recreational vehicle and all additions and accessory structures will then be treated as a new structure and shall be subject to the elevation/floodproofing requirements and the use of land restrictions specified in sections 114-5 and 114-6. There shall be no development or improvement on the parcel or attachment to the recreational vehicle that hinders the removal of the recreational vehicle to a flood free location should flooding occur.
- (4) New commercial recreational vehicle parks or campgrounds and new residential type subdivisions and condominium associations and the expansion of any existing similar use exceeding five units or dwelling sites shall be subject to the following:
- a. Any new or replacement recreational vehicle will be allowed in the floodway or flood fringe districts; provided said recreational vehicle and its contents are placed on fill above the regulatory flood protection elevation and proper elevated road access to the site exists in accordance with section 114-6(e). No fill placed in the floodway to meet the requirements of this section shall increase flood stages of the 100-year or regional flood; and
  - b. All new or replacement recreational vehicles not meeting the criteria of subsection (c)(4)a of this section may, as an alternative, be allowed as a conditional use if in accordance with the following provisions and the provisions of section 114-11(d). The applicant must submit an emergency plan for the safe evaluation of all vehicles and people during the 100-year flood. Said plan shall be prepared by a registered engineer or other qualified individual, shall demonstrate that adequate time and personnel exist to carry out the evaluation, and shall demonstrate the provisions of subsection (b) and (c) of this section will be met. All attendant sewage and water facilities for new or replacement recreational vehicles must be protected or constructed so as to not be impaired or contaminated during times of flooding in accordance with section 114-9(c).

(Code 1977, § 13-113.8; Ord. No. 600, 8-23-2004)

Sec. 114-11. - Administration.

- (a) Zoning administrator. The zoning administrator or other official designated by the city council shall administer and enforce this chapter. If the zoning administrator finds a violation of any provision of this chapter, the zoning administrator shall notify the person responsible for such violation in accordance with the procedures stated in section 114-13.
- (b) Permit requirements.
  - (1) Required. A permit issued by the zoning administrator in conformity with the provisions of this chapter shall be secured prior to:
    - a. The erection, addition, modification, rehabilitation (including normal maintenance and repair) or alteration of any building, structure, or portion thereof;
    - b. The use or change of use of a building, structure or land;
    - c. The construction of a dam, fence, or on-site septic system;

- d. The change or extension of a nonconforming use;
  - e. The repair of a structure that has been damaged by flood, fire, tornado, or any other source; and
  - f. The placement of fill, excavation of materials, or the storage of materials or equipment within the floodplain.
- (2) Application. Application for a permit shall be made to the zoning administrator and shall include the following where applicable:
- a. Plans drawn to scale, showing the nature, location, dimensions, and elevations of the lot;
  - b. Existing or proposed structures, fill, or storage of materials; and
  - c. The location of the foregoing in relation to the stream channel.
  - d. Other relevant information required by the Zoning Administrator as necessary to properly evaluate the permit application.
- (3) State and federal permits. Prior to granting a permit or processing an application for a conditional use permit or variance, the zoning administrator shall determine that the applicant has obtained all necessary state and federal permits.
- (4) Certificate of zoning compliance for a new, altered, or nonconforming use. It shall be unlawful to use, occupy, or permit the use or occupancy of any building or premises or part thereof hereafter created, erected, changed, converted, altered, or enlarged in its use or structure until a certificate of zoning compliance shall have been issued by the zoning administrator stating that the use of the building or land conforms to the requirements of this chapter.
- (5) Construction and use to be as provided on applications, plans, permits, variances and certificates of zoning compliance. Permits, conditional use permits, or certificates of zoning compliance issued on the basis of approved plans and applications authorize only the use, arrangement, and construction set forth in such approved plans and applications, and no other use, arrangement, or construction. Any use, arrangement, or construction at variance with that authorized shall be deemed a violation of this chapter, and punishable as provided by section 114-13.
- (6) Certification. 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 chapter. Floodproofing measures shall be certified by a registered professional engineer or registered architect.
- (7) Record of first floor elevation. The zoning administrator shall maintain a record of the elevation of the lowest floor (including the basement) of all new structures and alterations or additions to existing structures in the floodplain. The zoning administrator shall also maintain a record of the elevation to which structures and alterations or additions to structures are floodproofed.
- (8) Notification for watercourse alterations. The zoning administrator shall notify, in riverine situations, adjacent communities and the department of natural resources prior to the community authorizing any alteration or relocation of a watercourse. If the applicant has applied for a permit to work in the beds of public waters pursuant to Minn. Stats. ch. 103G, this shall suffice as adequate notice to the commissioner of natural resources. A copy of said notification shall also be submitted to the Chicago regional office of the Federal Emergency Management Agency (FEMA).

Commented [SS11]: Added as a "catch-all."

- (9) Notification to FEMA when physical changes increase or decrease the 100-year flood elevation. As soon as practicable, but not later than six months after the date such supporting information becomes available, the zoning administrator shall notify the Chicago regional office of FEMA of the changes by submitting a copy of said technical and scientific data.
- (c) Board of adjustment (planning commission).
- (1) Review. The board shall hear appeals and make recommendations to the city council where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement or administration of this chapter. The city council shall decide such appeals.
- (2) Variances. The board may recommend to the city council upon appeal in specific cases such relief or variance from the terms of this chapter as will not be contrary to the public interest and only for those circumstances such as practical difficulties or circumstances unique to the property under consideration, as provided for in section 126-136(d). 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. The following additional variance criteria of the Federal Emergency Management Agency must be satisfied:
- a. Variances shall not be issued by the community within any designated regulatory floodway if any increase in flood levels during the regional base flood discharge would result;
- b. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- c. Variances may only be issued by the City upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of a variance will in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
- (3) Flood insurance notice. The Zoning Administrator must notify the applicant for a variance that: 1) The issuance of a variance to construct a structure below the regional flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage; and 2) such construction below the regional flood level increase risks to life and property. Such notification must be maintained with a record of all variance actions.
- (43) Public hearings. A public hearing is required for variances. 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 DNR will receive at least ten days' notice of the hearing. The notice may be sent by electronic mail or U.S. Mail to the respective DNR area hydrologist.
- (54) Appeals. Appeals from any decision of the board may be made, and as specified in this community's official controls and also state statutes.
- (d) Conditional uses. The city council upon recommendation by the planning commission shall hear and decide applications for conditional uses permissible under this chapter. Applications shall be submitted to the zoning administrator who shall forward the application to the planning commission for consideration.

**Commented [SS12]:** Language required by FEMA. Note specifically that the reference to "exceptional hardship" must remain the ordinance, even though it has been replaced by the term "practical difficulties" in state zoning enabling statutes.

**Commented [SS13]:** Language required by FEMA.

- (1) Hearings. Upon filing with the zoning administrator an application for a conditional use permit, the zoning administrator shall submit to the DNR a copy of the application for proposed conditional use sufficiently in advance so that the DNR will receive at least ten days' notice of the hearing. The notice may be sent by electronic mail or U.S. mail to the respective DNR area hydrologist.
- (2) Decisions. The city council shall arrive at a decision on a conditional use within 90 days. In granting a conditional use permit, the city council shall prescribe appropriate conditions and safeguards, in addition to those specified in subsection (d)(6) of this section, which are in conformity with the purposes of this chapter. Violations of such conditions and safeguards, when made a part of the terms under which the conditional use permit is granted, shall be deemed a violation of this chapter punishable under section 114-13. A copy of all decisions granting conditional use permits shall be forwarded by mail to the commissioner of natural resources within ten days of such action.
- (3) Procedures to be followed by the city council in passing on conditional use permit applications within all floodplain districts.
  - a. The city council shall require the applicant to furnish the following information and additional information as deemed necessary by the city council for determining the suitability of the particular site for the proposed use:
    1. Plans in triplicate drawn to scale showing the nature, location, dimensions, and elevation of the lot, existing or proposed structures, fill, storage of materials, flood-proofing measures, and the relationship of the above to the location of the stream channel; and  
Specifications for building construction and materials, floodproofing, filling, dredging, grading, channel improvement, storage of materials, water supply and sanitary facilities.
  - b. The city council shall transmit one copy of the information described in subsection (d)(3)a of this section to a designated engineer or other expert person or agency for technical assistance, where necessary, in evaluating the proposed project in relation to flood heights and velocities, the seriousness of flood damage to the use, the adequacy of the plans for protection, and other technical matters.
  - c. Based upon the technical evaluation of the designated engineer or expert, the city council shall determine the specific flood hazard at the site and evaluate the suitability of the proposed use in relation to the flood hazard.
- (4) Factors upon which the decision of the city council shall be based. In passing upon conditional use applications, the city council shall consider all relevant factors specified in other sections of this chapter, and the following:
  - a. The danger to life and property due to increased flood heights or velocities caused by encroachments;
  - b. The danger that materials may be swept onto other lands or downstream to the injury of others or they may block bridges, culverts or other hydraulic structures;
  - c. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions;
  - d. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

- e. The importance of the services provided by the proposed facility to the community;
  - f. The requirements of the facility for a waterfront location;
  - g. The availability of alternative locations not subject to flooding for the proposed use;
  - h. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future;
  - i. The relationship of the proposed use to the comprehensive plan and floodplain management program for the area;
  - j. The safety of access to the property in times of flood for ordinary and emergency vehicles;
  - k. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site; and
  - l. Such other factors which are relevant to the purposes of this chapter.
- (5) Time for acting on application. The city council shall act on an application in the manner described above within ~~90~~ days from receiving the application, except that where additional information is required pursuant to subsection (d)(4) of this section. The city council shall render a written decision within 60 days from the receipt of such additional information.
- (6) Conditions attached to conditional use permits. Upon consideration of the factors listed above and the purpose of this chapter, the city council shall 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:
- a. Modification of waste treatment and water supply facilities;
  - b. Limitations on period of use, occupancy, and operation;
  - c. Imposition of operational controls, sureties, and deed restrictions;
  - d. Requirements for construction of channel modifications, compensatory storage, dikes, levees, and other protective measures; and
  - e. Floodproofing measures in accordance with the state building code and this chapter. The applicant shall submit a plan or document certified by a registered professional engineer or architect that the flood-proofing measures are consistent with the regulatory flood protection elevation and associated flood factors for the particular area.

(Code 1977, § 13-113.9; Ord. No. 600, 8-23-2004; [Ord. No. 716, 9-26-2011](#))

Sec. 114-12. - Nonconforming uses.

- (a) A structure or the use of a structure or premises which was lawful before the passage or amendment of the ordinance from which this section is derived but which is not in conformity with the provisions of this chapter may be continued subject to the following conditions:
- (1) No such use shall be expanded, changed, enlarged, or altered in a way that increases its nonconformity;
  - (2) Any alteration or addition to a nonconforming structure or nonconforming use which would result in increasing the flood damage potential of that structure or use shall be protected to the regulatory flood protection elevation in accordance with any of the

elevation on fill or floodproofing techniques (i.e., FP-1 through FP-4 floodproofing classifications) allowable in the state building code, except as further restricted in subsection (a)(3) of this section;

- (3) The cost of any structural alterations or additions to any nonconforming structure over the life of the structure shall not exceed 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 the community'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 manpower or labor. If the current cost of all previous and proposed alterations and additions exceeds 50 percent of the current market value of the structure, then the structure must meet the standards of section 114-5 or 114-6 for new structures depending upon whether the structure is in the floodway or flood fringe, respectively;
  - (4) If any nonconforming use is discontinued for 12 consecutive months, any future use of the building premises shall conform to this chapter. If any portion of any nonconforming use is discontinued for 12 consecutive months, any future use of that portion shall conform to this chapter. The assessor shall notify the community development director in writing in instances of nonconforming uses, which have been discontinued for a period of 12 months;
  - (5) If any nonconforming use or structure is substantially damaged, as defined in section 114-3, it shall not be reconstructed except in conformity with the provisions of this chapter. The applicable provisions for establishing new uses or new structures in section 114-5, 114-6 or 114-7 will apply depending upon whether the use or structure is in the floodway, flood fringe or general floodplain district, respectively; and
  - (6) If a substantial improvement occurs, as defined in section 114-3, from any combination of a building addition to the outside dimensions of the existing building or a rehabilitation, reconstruction, alteration, or other improvement to the inside dimensions of an existing nonconforming building, then the building addition (as required by subsection (a)(2) of this section and the existing nonconforming building must meet the requirements of section 114-5 or 114-6 for new structures, depending upon whether the structure is in the floodway or flood fringe district, respectively.
- (b) Historic structures, as defined in section 114-3, shall be subject to the provisions of subsections (a)(1)—(a)(6) of this section.

(Code 1977, § 13-113.10; Ord. No. 600, 8-23-2004)

#### Sec. 114-13. - Penalties for violation.

- (a) Violation of the provisions of this chapter or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or conditional uses) shall constitute a misdemeanor and shall be punishable as defined by law.
- (b) Nothing herein contained shall prevent the city from taking such other lawful action as is necessary to prevent or remedy any violation. Such actions may include, but are not limited to:
  - (1) In responding to a suspected ordinance violation, the city may utilize the full array of enforcement actions available to it 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 community must act in good faith to enforce these official controls and to

correct ordinance violations to the extent possible so as not to jeopardize its eligibility in the National Flood Insurance Program;

- (2) When a violation of this chapter 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 Federal Emergency Management Agency regional office along with the community's plan of action to correct the violation to the degree possible;
- (3) The zoning administrator shall notify the suspected party of the requirements of this chapter 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 community. If the construction or development is already completed, then the zoning administrator may either:
  - a. Issue an order identifying the correction actions that must be made within a specified time period to bring the use or structure into compliance with the official controls; or
  - b. Notify the responsible party to apply for an after-the-fact permit/development approval within a specified period of time not to exceed 30 days.
- (4) 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 chapter 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 that existed prior to the violation of this chapter.

(Code 1977, § 13-113.11; Ord. No. 600, 8-23-2004)

#### Sec. 114-14. - Amendments.

- (a) The floodplain designation on the official zoning map shall not be removed from floodplain areas unless it can be shown that the designation is in error or that the area has been filled to or above the elevation of the regional flood and is contiguous to lands outside the floodplain. The commissioner of natural resources may permit special exceptions to this rule if he determines that, through other measures, lands are adequately protected for the intended use.
- (b) All amendments to this chapter, including amendments to the official zoning map, must be submitted to and approved by the commissioner of natural resources prior to adoption. Changes in the official zoning map must meet the Federal Emergency Management Agency's (FEMA) technical conditions and criteria and must receive prior FEMA approval before adoption. The commissioner of natural resources must be given ten days' written notice of all hearings to consider an amendment to this chapter and said notice shall include a draft of the ordinance amendment or technical study under consideration.

(Code 1977, § 13-113.12; Ord. No. 600, 8-23-2004)

This ordinance shall become effective following its passage and publication as required by law.

Additions: Add  
Deletions: ~~Delete~~

Public Hearing by Planning Commission: September 19, 2016  
First Reading: October 11, 2016  
Second Reading: October 24, 2016  
Adoption: October 24, 2016

\_\_\_\_\_  
ArMand Nelson, Mayor

ATTEST:

\_\_\_\_\_  
Roberta Colotti, CMC, City Clerk

*Published in The Press (F.K.A. the Champlin Dayton Press) on October 27, 2016.*

**City of Champlin  
Publication Summary**

**AN ORDINANCE AMENDING CHAPTER 114 OF THE CITY CODE  
REGARDING FLOODPLAIN REGULATIONS**

The full and complete Floodplain Ordinance for the City of Champlin is hereby amended. The amendments include the following: 1) adopt the November 2, 2016 Hennepin County Flood Insurance Study text by reference, along with all the new flood map panels and 2) include language changes as required by the Federal Emergency Management Agency (FEMA).

First Reading:           October 11, 2016  
Second Reading:       October 24, 2016  
Adoption:               October 24, 2016

---

ArMand Nelson, Mayor

Attest:

---

Roberta Colotti, CMC, City Clerk

Published in The Press (F.K.A. the Champlin Dayton Press) on October 27, 2016  
The full ordinance shall be posted at the public library and available for inspection at City Hall.