

DIVISION 11. FLOODPLAIN DISTRICTS

Sec. 36-291. Statutory Authorization. The legislature of the State of Minnesota has, in Minnesota Statutes Chapter 103F and Chapter 462 delegated the responsibility to local government units to adopt regulations designed to minimize flood losses. Therefore, the City Council of St. Louis Park, Minnesota does ordain as follows:

Sec. 36-292. Purpose.

- (a) This ordinance regulates development in the flood hazard areas of St. Louis Park. These flood hazard areas are subject to periodic inundation, which may result in loss of life and 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. It is the purpose of this ordinance to promote the public health, safety, and general welfare by minimizing these losses and disruptions.
- (b) National Flood Insurance Program Compliance. This ordinance is adopted to comply with the rules and regulations of the National Flood Insurance Program codified as 44 Code of Federal Regulations Parts 59 -78, as amended, so as to maintain the community's eligibility in the National Flood Insurance Program.

(Code 1976, § 14:5-9.1, Ord. No. 2276-04, 8-16-2004, Ord. No. 2509-16, 9-19-16)

Sec. 36-293. General Provisions.

- (a) **How to Use this Ordinance.** This ordinance adopts the floodplain maps applicable to the City of St. Louis Park includes three floodplain districts: Floodway, Flood Fringe, and General Floodplain.
 - (1) Where Floodway and Flood Fringe districts are delineated on the floodplain maps, the standards in Sections 4 or 5 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 36-296 apply unless the floodway boundary is determined, according to the process outlined in Section 36-298. Once the floodway boundary is determined, the Flood Fringe District standards in Section 36-297 may apply outside the floodway.
- (b) **Lands to Which Ordinance Applies.** This ordinance applies to all lands within the jurisdiction of St. Louis Park shown on the Official Zoning Map and/or the attachments to the map as being located within the boundaries of the Floodway, Flood Fringe, or General Floodplain Districts.
 - (1) 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 this ordinance. In case of a conflict, the more restrictive standards will apply.
- (c) **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 Zoning Administrator.

Effective Flood Insurance Rate Map panels:

27053C0331F	27053C0342F	27053C0353F	27053C0362F
27053C0332F	27053C0351F	27053C0354F	
27053C0334F	27053C0352F	27053C0361F	

- (d) **Regulatory Flood Protection Elevation.** The regulatory flood protection elevation (RFPE) is 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.
- (e) **Interpretation.** The boundaries of the zoning districts are determined by scaling distances on the Flood Insurance Rate Map.
 - (1) Where a conflict exists between the floodplain limits illustrated on the official zoning map and actual field conditions, the flood elevations shall be the governing factor. The Zoning Administrator must interpret the boundary location based on the ground elevations that existed on the site on the date of the first National Flood Insurance Program map showing the area within the regulatory floodplain, and other available technical data.
 - (2) Persons contesting the location of the district boundaries will be given a reasonable opportunity to present their case to the Board of Zoning Appeals and City Council and to submit technical evidence.
- (f) **Abrogation and Greater Restrictions.** It is not intended by this ordinance to repeal, abrogate, or impair any existing easements, covenants, or other private agreements. However, where this ordinance imposes greater restrictions, the provisions of this ordinance prevail. All other ordinances inconsistent with this ordinance are hereby repealed to the extent of the inconsistency only.
- (g) **Warning and Disclaimer of Liability.** This ordinance 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 ordinance does not create liability on the part of the City of St. Louis Park or its officers or employees for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.
- (h) **No stage increase permitted.** No structure, fill, deposit, obstruction or storage of materials or equipment shall be allowed in any floodway, or general floodplain district which will cause any increase in the stage of the 100-year flood or will cause an increase in flood damages in the reaches affected.
- (i) **Compensating storage.** The city may approve such structure, fill, deposit, obstruction or storage of materials or equipment if it otherwise complies with the provisions of this chapter and provision is made for compensating storage of floodwaters displaced by the activity listed in this subsection (f). Such compensating storage shall be located where it will achieve the goal of eliminating a stage increase.
(Ord. No. 2496-16, 8-1-16; Ord. No. 2509-16, 9-19-16)

Sec. 36-294. Definitions.

Unless specifically defined below, words or phrases used in this ordinance must be interpreted according to common usage and so as to give this ordinance its most reasonable application. If any of the words defined are used elsewhere in this chapter, their meaning shall be those assigned by section 36-4.

Base Flood Elevation means the elevation of the “regional flood.” The term “base flood elevation” is used in the flood insurance survey.

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.

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 the portion of the Special Flood Hazard Area (one percent annual chance flood) located 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 Rate Map (FIRM) means an official map of a community, on which the Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community.

Flood Prone Area means any land susceptible to being inundated by water from any source (see “Flood”).

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

Flood proofing 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, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of 44 Code of Federal Regulations, Part 60.3.

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.

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.

One Hundred Year Floodplain means lands inundated by the “Regional Flood” (see definition).

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

Regional flood means a flood which is representative of large floods known to have occurred generally in Minnesota and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of the 1% chance or 100-year recurrence interval. Regional flood is synonymous with the term "base flood" used in a flood insurance study.

Regulatory Flood Protection Elevation (RFPE) means an elevation not less 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.

Repetitive Loss means flood related damages sustained by a structure on two separate occasions during a ten year period for which the cost of repairs at the time of each such flood event on the average equals or exceeds 25% of the market value of the structure before the damage occurred.

Special Flood Hazard Area means a term used for flood insurance purposes synonymous with "One Hundred Year Floodplain."

Start of Construction means 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.

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, recreational vehicles not meeting the exemption criteria specified in Section 36-295(b)(1) of this ordinance 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 assure safe living conditions.
- (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 ordinance, "historic structure" is as defined in 44 Code of Federal Regulations, Part 59.1.

(Code 1976, § 14:5-9.3, Ord. No. 2276-04, 8-16-2004, Ord. No. 2509-16, 9-19-16)

Cross reference(s) -- Definitions generally, § 1-2.

Sec. 36-295. Establishment of zoning districts.**(a) Districts.**

(1) *Floodway district (FW)*. The Floodway District includes those areas within Zones AE that have a floodway delineated as shown on the Flood Insurance Rate Map adopted in Section 36-293(c). 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 (FF)*. The Flood Fringe District includes areas within Zones AE that have a floodway delineated on the Flood Insurance Rate Map adopted in Section 36-293(c), 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 1% annual chance (100-year) flood elevation but above the ordinary high water level as defined in Minnesota Statutes, Section 103G.005, subdivision 14.

(3) *General floodplain district (FP)*. The General Floodplain District includes those areas within Zones A and AH that do not have a delineated floodway as shown on the Flood Insurance Rate Map adopted in Section 36-293(c).

(b) Applicability. 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 unduly restrict the capacity of the channels or floodways of any tributaries to the main stream, drainage ditches, or any other drainage facilities or systems.

(c) Compliance. Provisions for compliance are as follows:

(1) Recreational vehicles that do not meet the exemption criteria specified in Section 36-295(c)(1)a below shall be subject to the provisions of this Ordinance and as specifically spelled out in Sections 36-295(c)(1)c below.

a. Exemption - Recreational vehicles are exempt from the provisions of this Ordinance if they are placed in any of the areas listed in Section 36-295(c)(1)b below and further they meet the following criteria:

1. Have current licenses required for highway use.
2. Are highway ready meaning on wheels or the internal jacking system, are attached to the site only by quick disconnect type utilities commonly used in campgrounds and recreational vehicle parks and the recreational vehicle has no permanent structural type additions attached to it.
3. The recreational vehicle and associated use must be permissible in any preexisting, underlying zoning use district.

b. Areas Exempted For Placement of Recreational Vehicles:

1. Individual lots or parcels of record.
2. Existing commercial recreational vehicle parks or campgrounds.
3. Existing condominium type associations.

c. Recreational vehicles exempted in Section 36-295(c)(1)b lose this exemption when development occurs on the parcel exceeding \$500 for a structural addition to the recreational vehicle or exceeding \$500 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/flood proofing requirements and the use of land restrictions specified in Section 36-295(c) & Section 36-295(d) of this Ordinance. 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.

- (2) Modifications, additions, structural alterations normal maintenance and repair, or repair after damage to existing nonconforming structures and nonconforming uses of structures or land are regulated by the general provisions of this chapter.

(Ord. No. 2276-04, 8-16-04; Ord. No. 2509-16, 9-19-16)

- (d) **Annexations.** The Flood Insurance Rate Map panels adopted by reference into Section 36-293(c) above may include floodplain areas that lie outside of the corporate boundaries of the City of St. Louis Park at the time of adoption of this ordinance. If any of these floodplain land areas are annexed into the City of St. Louis Park after the date of adoption of this ordinance, the newly annexed floodplain lands will be subject to the provisions of this ordinance immediately upon the date of annexation.

(Ord. No. 2509-16, 9-9-16)

Sec. 36-296. Floodway district (FW). Within the floodway district, all uses not listed as permitted uses or conditional uses shall be prohibited. 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.

- (a) **Permitted uses.** The following uses, subject to the standards set forth in Section 36-296(b), are permitted uses if otherwise allowed in the underlying zoning district or any applicable overlay district:

- (1) Outdoor plant nurseries, horticulture, forestry, sod farming, and wild crop harvesting.
- (2) Industrial-commercial loading areas, and parking areas.
- (3) Open space uses and public golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, fish hatcheries, fishing areas, and single or multiple purpose recreational trails.
- (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) **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.
- (3) The use shall not obstruct flood flows or increase flood elevations and must not involve structures, obstructions, or storage of materials or equipment.
- (4) Any facility that will be used by employees or the general public must be designed with a flood warning system that provides adequate time for evacuation if the area is inundated to a depth and velocity such that the depth (in feet) multiplied by the velocity (in feet per second) would exceed a product of four upon occurrence of the regional (1% chance) flood.

- (c) **Conditional Uses.** The following uses shall require a conditional use permit following the standards and procedures set forth in Section 36-301(c) of this ordinance and further subject to the standards set forth in Section 36-296(d), if otherwise allowed in the underlying zoning district or any applicable overlay district.

- (1) Structures and parking lots accessory to the uses listed in Section 36-296(a)(1) - Section 36-296(a)(3), above and the uses listed in Section 36-296(c)(2) - Section 36-296(c)(3) below.
 - (2) Docks, piers, wharves, and water control structures.
 - (3) Placement of fill or construction of fences that obstruct flood flows.
 - (4) Structural works for flood control such as levees, dikes and floodwalls, constructed to any height where the intent is to protect individual structures for a frequency flood event equal to or less than the 10-year frequency flood event.
- (d) Standards for Floodway Conditional Uses.** The standards for floodway conditional uses are as follows:
- (1) All Uses. A conditional use must not cause any increase in the state of the 1% chance or regional flood or cause an increase in flood damages in the reach or reaches affected.
 - (2) The conditional use shall be permissible in the underlying zoning district.
 - (3) Fill; Storage of Materials and Equipment:
 - a. The storage or processing of materials that are, in time of flooding, flammable, explosive, or potentially injurious to human, animal, or plant life is prohibited.
 - b. Fill, dredge spoil, and other similar materials deposited or stored in the floodplain must be protected from erosion by vegetative cover, mulching, riprap or other acceptable method. Permanent sand and gravel operations and similar uses must be covered by a long-term site development plan.
 - c. Temporary placement of fill, other materials, or equipment which would cause an increase to the stage of the 1% percent chance or regional flood may only be allowed if the City Council has approved a plan that assures removal of the materials from the floodway based upon the flood warning time available.
 - (4) *Accessory Structures.* Accessory structures, as identified in Section 36-296(c)(1), may be permitted, provided that:
 - a. Structures are not intended for human habitation;
 - b. Structures will have a low flood damage potential;
 - c. Structures will be constructed and placed so as to offer a minimal obstruction to the flow of flood waters;
 - d. Service utilities, such as electrical and heating equipment, within these structures must be elevated to or above the regulatory flood protection elevation or properly floodproofed;
 - e. Structures must be elevated on fill or structurally dry floodproofed in accordance with the FP1 or FP2 floodproofing classifications in the State Building Code. All floodproofed structures must be adequately anchored to prevent flotation, collapse or lateral movement and designed to equalize hydrostatic flood forces on exterior walls.
 - f. As an alternative, an accessory structure may be internally/wet floodproofed to the FP3 or FP4 floodproofing classifications in the State Building Code, provided the accessory structure constitutes a minimal investment and does not exceed 576 square feet in size. Designs for meeting this requirement must either be certified by a registered professional engineer or meet or exceed the following criteria:

1. To allow for the equalization of hydrostatic pressure, there must be a minimum of two “automatic” openings in the outside walls of the structure, with a total net area of not less than one square inch for every square foot of enclosed area subject to flooding; and
 2. 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.4.44. Structural works for flood control that will change the course, current or cross section of protected wetlands or public waters are subject to the provisions of Minnesota Statutes, Section 103G.245.
- (5) A levee, dike or floodwall constructed in the floodway must not cause an increase to the 1% chance or regional flood. The technical analysis must assume equal conveyance or storage loss on both sides of a stream.
- (6) Floodway developments must not adversely affect the hydraulic capacity of the channel and adjoining floodplain of any tributary watercourse or drainage system.

(Ord. No. 2509-16, 9-19-16)

Sec. 36-297. Flood fringe district (FF).

(a) Permitted Uses. Permitted uses are those uses of land or structures allowed in the underlying zoning district(s) that comply with the standards in Section 36-297(b).

(b) Standards for Flood Fringe Permitted Uses.

- (1) All structures, including accessory structures, must be elevated on fill so that the lowest floor including basement floor, is at or above the regulatory flood protection elevation. The finished fill elevation for structures shall be no lower than 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) For all structures constructed after June 15, 1998, the lowest floor elevations shall be no lower than the regulatory flood protection elevation. For all structures existing on June 15, 1998, and additions to structures existing on June 15, 1998, the lowest floor shall be no lower than one foot below the regulatory flood protection elevation.
- (3) *Accessory Structures.* As an alternative to the fill requirements of Section 36-297(b)(1), structures accessory to the uses identified in Section 36-297(a) may be permitted to be internally/wet floodproofed to the FP3 or FP4 floodproofing classifications in the State Building Code, provided that:
 - a. The accessory structure constitutes a minimal investment, does not exceed 576 square feet in size, and is only used for parking and storage.
 - b. All portions of floodproofed accessory structures below the Regulatory Flood Protection Elevation must be:
 1. Adequately anchored to prevent flotation, collapse or lateral movement and designed to equalize hydrostatic flood forces on exterior walls, and
 2. Constructed with materials resistant to flood damage, and
 3. Must have all service utilities be water-tight or elevated to above the regulatory flood protection elevation.
 - c. Designs for meeting this requirement must either be certified by a registered professional engineer or meet or exceed the following criteria:

1. To allow for the equalization of hydrostatic pressure, there must be a minimum of two “automatic” openings in the outside walls of the structure, with a total net area of not less than one square inch for every square foot of enclosed area subject to flooding; and
 2. 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.
- (4) The cumulative placement of fill or similar material on a parcel must not exceed 400 cubic yards, unless the fill is specifically intended to elevate a structure in accordance with Section 36-297(b)(1) of this ordinance, or if allowed as a conditional use under Section 36-297(c)(3) below.
 - (5) The storage of any materials or equipment must be elevated on fill to the regulatory flood protection elevation.
 - (6) All service utilities, including ductwork, must be elevated or water-tight to prevent infiltration of floodwaters.
 - (7) 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.
 - (8) Compacted fill; protected slopes. Fill shall be properly compacted and the slopes shall be properly protected by the use of rip rap, 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 multistructure or multilot 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.
 - (9) Vehicular access. All new principal structures must have vehicular access at or above an elevation not more than two feet below the regulatory flood protection elevation.
 - (10) Commercial uses. Accessory uses such as yards, railroad tracks, and parking lots may be at an elevation lower than the regulatory flood protection elevation. However, any facilities used by employees or the general public must be designed with a flood warning system that provides adequate time for evacuation if the area is inundated to a depth and velocity such that the depth (in feet) multiplied by the velocity (in feet per second) would exceed a product of four upon occurrence of the regional (1% chance) flood.
 - (11) Hydraulic capacity. 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.
 - (12) Manufacturing and industrial uses. Certain accessory land uses such as yards and parking lots may be at lower elevations subject to requirements set out in subsection (b)(10) of this section. In considering permit applications, consideration shall be given to needs of an industry whose business requires that it be located in floodplain areas.
 - (13) Anchoring. 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 limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state or local anchoring requirements for resisting wind forces.

(c) **Conditional Uses.** The following uses and activities may be allowed as conditional uses, if allowed in the underlying zoning district(s) or any applicable overlay district, following the procedures in Section 36-301(c) of this ordinance.

- (1) Any structure that is not elevated on fill or floodproofed in accordance with Section 36-297(b)(1) and Section 36-297(b)(3) of this ordinance.
- (2) Storage of any material or equipment below the regulatory flood protection elevation.
- (3) The cumulative placement of more than 400 cubic yards of fill when the fill is not being used to elevate a structure in accordance with Section 36-297(b)(1) of this ordinance.
- (4) The use of methods to elevate structures above the regulatory flood protection elevation, including stilts, pilings, parallel walls, or above-grade, enclosed areas such as crawl spaces or tuck under garages, shall meet the standards in Section 36-297(d)(6).

(d) **Standards for Flood Fringe Conditional Uses.**

- (1) The standards listed in Section 36-297(b)(5) through Section 36-297(b)(13) apply to all conditional uses.
- (2) Basements, as defined by Section 36-297 of this ordinance, are subject to the following:
 - a. Residential basement construction is not allowed below the regulatory flood protection elevation.
 - b. Non-residential basements may be allowed below the regulatory flood protection elevation provided the basement is structurally dry floodproofed in accordance with Section 36-297(d)(3).
- (3) All areas of nonresidential structures, including basements, to be placed below the regulatory flood protection elevation must be floodproofed in accordance with the structurally dry floodproofing classifications in the State Building Code. Structurally dry floodproofing must meet the FP1 or FP2 floodproofing classification in the State Building Code, which requires making the structure watertight with the walls substantially impermeable to the passage of water and with structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.
- (4) The placement of more than 400 cubic yards of fill or other similar material on a parcel (other than for the purpose of elevating a structure to the regulatory flood protection elevation) must comply with an approved erosion/sedimentation control plan.
 - a. The plan must clearly specify methods to be used to stabilize the fill on site for a flood event at a minimum of the regional (1% chance) flood event.
 - b. The plan must be prepared and certified by a registered professional engineer or other qualified individual acceptable to the City Council.
 - c. The plan may incorporate alternative procedures for removal of the material from the floodplain if adequate flood warning time exists.
- (5) Storage of materials and equipment.
 - a. The storage or processing of materials that are, in time of flooding, flammable, explosive or potentially injurious to human, animal or plant life is prohibited.
 - b. Storage of other materials or equipment may be allowed if readily removable from the area within the time available after a flood warning and in a manner required by a plan approved by the city.

- (6) 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. The base or floor of an enclosed area shall be considered above-grade and not a structure's basement or lowest floor if: 1) the enclosed area is above-grade on at least one side of the structure; 2) it is designed to internally flood and is constructed with flood resistant materials; and 3) 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:
- a. *Design and Certification* - The structure's design and as-built condition must be certified by a registered professional engineer as being in compliance with the general design standards of the State 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.
 - b. *Specific Standards for Above-grade, Enclosed Areas* - Above-grade, fully enclosed areas such as crawl spaces or tuck under garages must be designed to internally flood and the design plans must stipulate:
 1. The minimum area of openings in the walls where internal flooding is to be used as a floodproofing technique. There shall be a minimum of two openings on at least two sides of the structure and the bottom of all openings shall be no higher than one foot above grade. The automatic openings shall have a minimum net area of not less than one square inch for every square foot of enclosed area subject to flooding unless a registered professional engineer or architect certifies that a smaller net area would suffice. The automatic 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
 2. That the enclosed area will be designed of flood resistant materials in accordance with the FP3 or FP4 classifications in the State Building Code and shall be used solely for building access, parking of vehicles or storage.

(Ord. No. 2509-16, 9-19-16)

36-298. General floodplain district (GF).

(a) Permitted Uses.

- (1) The uses listed in Section 36-296(a) of this ordinance, Floodway District Permitted Uses, are permitted uses.
- (2) All other uses are subject to the floodway/flood fringe evaluation criteria specified in Section 36-298(b) below. Section 36-296 applies if the proposed use is determined to be in the Floodway District. Section 36-297 applies if the proposed use is determined to be in the Flood Fringe District.

(b) Procedures for Floodway and Flood Fringe Determinations.

- (1) Upon receipt of an application for a permit or other approval within the General Floodplain District, the applicant shall be required to furnish such information 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. This information may include the following:

- a. A plan (surface view) showing elevations or contours of the ground; pertinent structure, fill or storage elevations; size, location and spatial arrangement of all proposed and existing structures on the site; and the location and elevations of streets.
 - b. The drainage area contributing to the waterbody and existing type and level of development in the drainage area.
 - c. A typical valley cross-section(s) 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.
 - d. Photographs showing existing land uses, vegetation upstream and downstream, and soil types.
 - e. 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.
- (2) If regional flood elevation and floodway data are not readily available, the applicant must furnish additional information, as needed, to determine the regulatory flood protection elevation and whether the proposed use would fall within the Floodway or Flood Fringe District. Information must be consistent with accepted hydrological and hydraulic engineering standards and the standards in Section 36-298(b)(3) below.
 - (3) The determination of floodway and flood fringe must include the following components, as applicable:
 - a. Estimate the peak discharge of the regional (1% chance) flood.
 - b. Calculate the water surface profile of the regional flood based upon a hydraulic analysis of the stream channel and overbank areas.
 - c. Compute the floodway necessary to convey or store the regional flood without increasing flood stages more than one-half (0.5) foot. A lesser stage increase than 0.5 foot is required if, as a result of the stage increase, increased flood damages would result. An equal degree of encroachment on both sides of the stream within the reach must be assumed in computing floodway boundaries.
 - (4) The Zoning Administrator will review the submitted information and assess the technical evaluation and the recommended Floodway and/or Flood Fringe District boundary. The assessment must include the cumulative effects of previous floodway encroachments. The Zoning Administrator may seek technical assistance from a designated engineer or other expert person or agency, including the Department of Natural Resources. Based on this assessment, the Zoning Administrator may approve or deny the application.
 - (5) Once the Floodway and Flood Fringe District boundaries have been determined, the Zoning Administrator must process the permit application consistent with the applicable provisions of Section 36-296 and Section 36-297 of this ordinance.

(Code 1976, § 14:5-9.4, Ord. No. 2276-04, 8-16-2004; Ord. No. 2509-16, 9-9-16)

Sec. 36-299. Land development standards.

- (a) **In General.** Recognizing that flood prone areas may exist outside of the designated floodplain districts, the requirements of this section apply to all land within the City of St. Louis Park.
- (b) **Subdivisions.** No land may be subdivided which is unsuitable for reasons of flooding or inadequate drainage, water supply or sewage treatment facilities.
 - (1) All lots within the floodplain districts must be able to contain a building site outside of the Floodway District at or above the regulatory flood protection elevation.

- (2) All subdivisions must have road access both to the subdivision and to the individual building sites no lower than two feet below the regulatory flood protection elevation.
 - (3) For all subdivisions in the floodplain, the Floodway and Flood Fringe District boundaries, the regulatory flood protection elevation and the required elevation of all access roads must be clearly labeled on all required subdivision drawings and platting documents.
 - (4) In the General Floodplain District, applicants must provide the information required in Section 36-296 of this ordinance to determine the regional flood elevation, the Floodway and Flood Fringe District boundaries and the regulatory flood protection elevation for the subdivision site.
 - (5) 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, and
 - 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.
- (c) **Building Sites.** 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:
- (1) 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;
 - (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 1976, § 14:5-9.5; Ord. No. 2276-04, 8-16-2004; Ord. No. 2509-16, 9-19-16)

Sec. 36-300. 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 must be floodproofed in accordance with the State Building Code or elevated to the regulatory flood protection elevation.
- (b) **Public Transportation Facilities.** Railroad tracks, roads, and bridges to be located within the floodplain must comply with Section 36-296 and Section 36-297 of this ordinance. These transportation facilities must be elevated to the regulatory flood protection elevation where failure or interruption of these 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 Water Supply and Sewage Treatment Systems:** Where public utilities are not provided:
 - (1) On-site water supply systems must be designed to minimize or eliminate infiltration of flood waters into the systems and are subject to the provisions in Minnesota Rules Chapter 4725.4350, as amended; and

- (2) 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, they must not be subject to impairment or contamination during times of flooding, and are subject to the provisions in Minnesota Rules Chapter 7080.2270, as amended.

(Code 1976, § 14:5-9.6; Ord. No. 2276-04, 8-16-2004; Ord. No. 2509-16, 9-19-16)

Sec. 36-301. Administration.

- (a) **Zoning Administrator.** A Zoning Administrator or other official designated by the City Council must administer and enforce this ordinance.

(b) **Permit Requirements.**

- (1) *Permit Required.* A permit must be obtained from the Zoning Administrator prior to conducting the following activities:
- a. The erection, addition, modification, rehabilitation, 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, fences, 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.
 - f. The placement of fill, excavation of materials, or the storage of materials or equipment within the floodplain.
 - g. Relocation or alteration of a watercourse (including new or replacement culverts and bridges), unless a public waters work permit has been applied for.
- (2) *Application for permit.* Permit applications must be submitted to the Zoning Administrator on forms provided by the Zoning Administrator. The permit application must include the following as applicable:
- a. A site plan showing all pertinent dimensions, existing or proposed buildings, structures, and significant natural features having an influence on the permit.
 - b. Location of fill or storage of materials in relation to the stream channel.
 - c. Copies of any required municipal, county, state or federal permits or approvals.
 - d. Other relevant information requested by the Zoning Administrator as necessary to properly evaluate the permit application.
- (3) *Certificate of Zoning Compliance for a New, Altered or Nonconforming Use.* No building, land or structure may be occupied or used in any manner until a certificate of zoning compliance has been issued by the Zoning Administrator stating that the use of the building or land conforms to the requirements of this ordinance.
- (4) *Certification.* The applicant is 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 ordinance. Floodproofing measures must be certified by a registered professional engineer or registered architect.
- (5) *Record of First Floor Elevation.* The Zoning Administrator must maintain a record of the elevation of the lowest floor (including basement) of all new structures and alterations or additions to existing structures in the floodplain. The Zoning Administrator must also maintain a record of the elevation to which structures and alterations or additions to structures are floodproofed.

- (6) *Notifications for Watercourse Alterations.* Before authorizing any alteration or relocation of a river or stream, the Zoning Administrator must notify adjacent communities. If the applicant has applied for a permit to work in public waters pursuant to Minnesota Statutes, Section 103G.245, this will suffice as adequate notice. A copy of the notification must also be submitted to the Chicago Regional Office of the Federal Emergency Management Agency (FEMA).
- (7) *Notification to FEMA When Physical Changes Increase or Decrease the Base Flood Elevations.* As soon as is practicable, but not later than six months after the date such supporting information becomes available, the Zoning Administrator must notify the Chicago Regional Office of FEMA of the changes by submitting a copy of the relevant technical or scientific data.

(c) Factors for Conditional Use Approval.

- (1) *Administrative Review.* An application for a conditional use permit under the provisions of this ordinance will be processed and reviewed in accordance with Section(s) 36-33 Conditional Use Permits (CUP) of the zoning ordinance.
- (2) The factors upon which the decision of the city council shall be based when considering conditional use applications are as follows:
 - a. All relevant factors specified in other sections of this chapter.
 - b. The danger to life and property due to increased flood heights or velocities caused by encroachments.
 - c. 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.
 - d. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination and unsanitary conditions.
 - e. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
 - f. The importance of the services provided by the proposed facility to the community.
 - g. The requirements of the facility for a waterfront location.
 - h. The availability of alternative locations not subject to flooding for the proposed use.
 - i. The compatibility of the proposed use with existing development and the development anticipated in the foreseeable future.
 - j. The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.
 - k. The safety of access to the property in times of flood for ordinary and emergency vehicles.
 - l. The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters expected at the site.
 - m. Such other factors which are relevant to the purposes of this division.
- (3) *Conditions Attached to Conditional Use Permits.* Upon consideration of the factors listed above and the purpose of this Ordinance, the city council shall attach such conditions to the granting of conditional use permits as it deems necessary to fulfill the purposes of this Ordinance. 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.
 - e. Flood proofing measures, in accordance with the State Building Code and this Ordinance. 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.
- (4) *Submittal of Hearing Notices to the Department of Natural Resources (DNR).* The Zoning Administrator must submit hearing notices for proposed conditional uses to the DNR sufficiently in advance to provide 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.
- (5) *Submittal of Final Decisions to the DNR.* A copy of all decisions granting conditional uses must be forwarded to the DNR within ten days of such action. The notice may be sent by electronic mail or U.S. Mail to the respective DNR area hydrologist.

(Code 1976, § 14:5-9.7; Ord. No. 2276-04, 8-16-2004; Ord. No. 2509-16, 9-19-16)

Sec. 36-302. Nonconformities.

- (a) **Continuance of Nonconformities.** A use, structure, or occupancy of land which was lawful before the passage or amendment of this ordinance but which is not in conformity with the provisions of this ordinance may be continued subject to the following conditions. Historic structures, as defined in Section 36-294 of this ordinance, are subject to the provisions of Section 36-302(1) through Section 36-302(6) of this ordinance.
- (1) A nonconforming use, structure, or occupancy must not be expanded, changed, enlarged, or altered in a way that increases its nonconformity, its flood damage potential or degree of obstruction to flood flows except as provided in Section 36-302(2) below. Expansion or enlargement of uses, structures or occupancies within the Floodway District is prohibited.
 - (2) Any addition or structural alteration to a nonconforming structure or nonconforming use that would result in increasing its flood damage potential must be protected to the regulatory flood protection elevation in accordance with any of the elevation on fill or floodproofing techniques (i.e., FP1 thru FP4 floodproofing classifications) allowable in the State Building Code, except as further restricted in Section 36-302(3) and Section 36-302(7) below.
 - (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 city'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 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 this chapter for new structure.
 - (4) If any nonconforming use, or any use of a nonconforming structure, is discontinued for more than one year, any future use of the premises must conform to this ordinance. The Assessor must notify the Zoning Administrator in writing of

instances of nonconformities that have been discontinued for a period of more than one year.

- (5) If any nonconformity is substantially damaged, as defined in Section 36-294 of this ordinance, it may not be reconstructed except in conformity with the provisions of this ordinance. The applicable provisions for establishing new uses or new structures in Section 36-296 or Section 36-297 will apply depending upon whether the use or structure is in the Floodway or Flood Fringe, respectively.
- (6) If any nonconforming use or structure experiences a repetitive loss, as defined in Section 36-294 of this ordinance, it must not be reconstructed except in conformity with the provisions of this ordinance.
- (7) Any substantial improvement, as defined in Section 36-294 of this ordinance, to a nonconforming structure requires that the existing structure and any additions must meet the requirements of Section 36-296 or Section 36-297 of this ordinance for new structures, depending upon whether the structure is in the Floodway or Flood Fringe District.

(Code 1976, § 14:5-9.8, Ord. No. 2276-04, 8-16-2004; Ord. No. 2509-16, 9-19-16)

Sec. 36-303. Penalties and Enforcement.

- (a) **Violation Constitutes a Misdemeanor.** Violation of the provisions of this ordinance or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or conditional uses) constitute a misdemeanor and will 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 Zoning Administrator and Local Government 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 an Ordinance violation is either discovered by or brought to the attention of the Zoning Administrator, the Zoning Administrator shall immediately investigate the situation and document the nature and extent of the violation of the official control. As soon as is reasonably possible, this information will be submitted to the appropriate Department of Natural Resources' and 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 Ordinance 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: (1) issue an order identifying the corrective actions that must be made within a specified time period to bring the use or structure into compliance with the official controls; or (2) notify the responsible party to apply for an after-the-fact permit/development approval within a specified period of time not to exceed 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 Ordinance and shall be prosecuted accordingly. The Zoning Administrator shall also upon the lapse of the specified response period notify the landowner to restore the land to the condition which existed prior to the violation of this Ordinance.

(Ord. No. 2276-04, 8-16-2004; Ord No. 2462-15, 2-2-2015; Ord. No. 2509-16, 9-19-16)

Sec. 36-304. Amendments.

- (a) **Floodplain Designation – Restrictions on Removal.** The floodplain designation on the Official Zoning Map must 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 regulatory flood protection elevation and is contiguous to lands outside the floodplain. Special exceptions to this rule may be permitted by the Commissioner of the Department of Natural Resources (DNR) if the Commissioner determines that, through other measures, lands are adequately protected for the intended use.
- (b) **Amendments Require DNR Approval.** All amendments to this ordinance must be submitted to and approved by the Commissioner of the Department of Natural Resources (DNR) prior to adoption. The Commissioner must approve the amendment prior to community approval.
- (c) **Map Revisions Require Ordinance Amendments.** The floodplain district regulations must be amended to incorporate any revisions by the Federal Emergency Management Agency to the floodplain maps adopted in Section 36-293(c) of this ordinance.

(Code 1976, § 14:5-9.9, Ord. No. 2276-04, 8-16-2004; Ord. No. 2509-16, 9-19-16)

Secs. 36-305--36-320. Reserved.

(Ord. No. 2462-15, 2-2-2015; Ord. No. 2509-16, 9-19-16)