

ORDINANCE NUMBER #106 - 2013
RESTRICTIVE FLOODPLAIN MANAGEMENT ORDINANCE

1) Floodplains should be currently undeveloped (or include provisions for nonconformities);

2) Floodplains should not have areas proposed for development (e.g., subdivided parcels, access roads and utilities, etc.); and

3) There should be building sites outside of the floodplain on each parcel of developable land along the lake/wetland, stream or river.)

1.0 STATUTORY AUTHORIZATION:

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

2.0 STATEMENT OF PURPOSE:

The development of the flood hazard areas of the City of Rose Creek could result in the potential loss of life and property, create health and safety hazards, and lead to extraordinary public expenditures for flood protection and relief. Since development of these areas is not essential to the orderly growth of the community, and since these lands are suitable for open space uses that do not require structures, fill, obstructions, or any other form of development as defined in Section 7.0 of this Ordinance, the City Council of the City of Rose Creek does ordain as follows.

3.0 DESIGNATION OF THE FLOODPLAIN DISTRICT:

The Flood Insurance Study Mower County, Minnesota and Incorporated Areas and Flood Insurance Rate Map, Mower County, Minnesota and Incorporated Areas, with map number 27099C0352D; all of these documents being prepared by the Federal Emergency Management Agency and dated September 4, 2013. These materials are on file in the office of the City Clerk. The Floodplain District for the City of Rose Creek includes those 1 percent chance flood areas designated as Zone AE on the aforementioned maps.

4.0 PERMITTED USES IN THE FLOODPLAIN DISTRICT:

The following uses have a low flood damage potential and do not obstruct flood flows. These uses shall be permitted within the Floodplain District without a permit to the extent that they are not prohibited by any other ordinance and provided they do not require structures, fill, obstructions, excavations, drilling operations, storage of materials or equipment or any other form of development as defined herein in Section 7.0 of this Ordinance.

4.11 Agricultural uses such as general farming, pasture, grazing, forestry, sod farming, and wild crop harvesting.

4.12 Industrial-commercial uses such as parking areas and airport landing strips.

4.13 Private and public recreational uses such as golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, shooting preserves, target ranges, trap and skeet ranges, hunting and fishing areas, and single or multiple purpose recreational trails.

4.14 Residential uses such as lawns, gardens, parking areas, and play areas.

All other uses and all uses that require structures, fill, obstructions, excavations, drilling operations, storage of material or equipment or any other form of development as defined herein in Section 7.0 of this Ordinance are prohibited.

5.0 ADMINISTRATION:

5.1 Zoning Administrator.

A Zoning Administrator or other official designated by the City Council shall administer and enforce this ordinance. If the Zoning Administrator finds a violation of the provisions of this ordinance, the Zoning Administrator shall notify the person responsible for such violation in accordance with the procedures stated in Section 8.0 of the ordinance.

5.2 Development Approvals.

No person shall erect, construct, enlarge, alter, repair, improve, move, or demolish any building or structure. No mining, dredging, filling, grading, paving, excavation, obstruction, drilling operation or other form of development as defined in Section 7.0 of this Ordinance shall be allowed. These activities are currently not allowed within the Floodplain District and would only be allowed if this Ordinance is amended to allow such activities in the future with appropriate specified flood protection performance standards and the issuance of development permits.

5.3 Interpretation of District Boundaries.

Where interpretation is needed as to the exact location of the boundaries of the Floodplain District as shown on the Flood Insurance Rate Map panel adopted in Section 3.0 of this Ordinance, as for example where there is a conflict between a mapped boundary and actual field conditions, the *Zoning Administrator* shall make the necessary interpretation based on the regional flood elevation, if available, or by using other available technical data.

5.4 Variances.

The Board of Adjustment shall submit by mail or electronic mail to the Commissioner of Natural Resources a copy of the application for proposed variances sufficiently in advance so that the Commissioner will receive at least ten (10) days' notice of the hearing. A copy of all decisions granting variances shall be forwarded by mail or e-mail to the Commissioner of the Department of Natural Resources within ten (10) days of such action. No variance shall have the effect of allowing any use prohibited in the Floodplain District. The community shall maintain a record of all variance actions, including justification for their issuance. The following additional variance criteria of the Federal Emergency Management Agency must be satisfied:

(a) Variances shall not be issued by a community within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.

(b) Variances shall only be issued by a community 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 not result 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.

(c) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

The Zoning Administrator must notify the applicant for a variance that: 1) The issuance of a variance to construct a structure below the base 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 base or regional flood level increases risks to life and property.

5.5 Amendments.

All amendments to this Ordinance must be submitted to and approved by the Commissioner of the Department of Natural Resources prior to adoption.

5.6 Annexations.

The Flood Insurance Rate Map panel adopted by reference into Section 3.0 of this Ordinance includes floodplain areas that lie outside of the corporate boundaries of the City of Rose Creek on the date of adoption of this Ordinance. If any of these floodplain land areas are annexed into the City of Rose Creek after the date of adoption of this Ordinance, the newly annexed floodplain lands shall be subject to the provisions of this Ordinance immediately upon the date of annexation into the City of Rose Creek.

6.0 WARNING OF DISCLAIMER OF LIABILITY:

This Ordinance does not imply that areas outside the Floodplain District or land uses permitted within such districts will be free from flooding or damages. This ordinance shall not create liability on the part of the City of Rose Creek or any officer or employee thereof for any flood damages that result from reliance on this Ordinance or any administrative decision lawfully made there under.

7.0 DEFINITIONS:

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

7.1 Development – any man-made change to improved or unimproved real estate including, but not limited to, buildings, manufactured homes, and other structures, recreational vehicles, mining, dredging, filling, grading, paving, excavation, drilling operations, or storage of materials or equipment.

7.2 Floodplain – the areas adjoining a watercourse which have been or hereafter may be covered by the regional flood.

7.3 Manufactured Home – 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.”

7.4 Obstruction – 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 flood plain 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.

7.5 Recreational Vehicle – 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 Ordinance, the term recreational vehicle shall be synonymous with the term "travel trailer/travel vehicle."

7.6 Regional Flood – a flood which is representative of large floods known to have occurred generally in Minnesota and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of the one percent chance recurrence interval. Regional flood is synonymous with the term "base flood" used in the Flood Insurance Study.

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

8.0 ENFORCEMENT:

Violation of the provisions of this Ordinance or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances) shall constitute a misdemeanor and shall be punishable as defined by law. Each additional day that elapses shall constitute an additional violation of this Ordinance and shall be prosecuted accordingly.

9.0 SEVERABILITY:

If any section, clause, provision, or portion of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby.

10.0 EFFECTIVE DATE:

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

Adopted by the Rose Creek City Council

City of Rose Creek

This 8th day of July, 2013.

Attest: Peter Kuhlmann Mayor

Peter Kuhlmann

Attest: Janet Nelsen City Clerk

Janet Nelsen

City of Rose Creek Seal