

## **SECTION 17B FLOODPLAIN MANAGEMENT OVERLAY DISTRICT**

Subd. 1. Purpose. The Legislature of the State of Minnesota has, in Minnesota Statutes Chapters 103F and Chapter 462 delegated the authority to local governmental units to adopt regulations designed to minimize flood losses. Minnesota Statute, Chapter 103F further stipulates that communities subject to recurrent flooding must participate and maintain eligibility in the National Flood Insurance Program. Therefore the City of Long Lake, Minnesota does ordain as follows:

- A. **Statement of Purpose.** The purpose of this Section is to maintain the Community's eligibility in the National Flood Insurance Program and to minimize potential losses due to periodic flooding including loss of life, loss of property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.
- B. **Warning of Disclaimer of Liability.** This Section does not imply that areas outside of the flood plain district or land uses permitted within such districts will be free from flooding and flood damages. This Section shall not create liability on the part of the City of Long Lake or any officer or employee thereof for any flood damages that result from reliance on this Section or any administrative decisions lawfully made thereunder.
- C. **National Flood Insurance Program Compliance.** This Section 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.

### Subd. 2. General Provisions.

- A. **Adoption of Flood Insurance Study and Flood Insurance Rate Map.** 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 27053C0302E and 27053C0306E for the City of Long Lake, dated September 2, 2004, as developed by the Federal Emergency Management Agency, are hereby adopted by reference as the Official Flood Plain Zoning District Map and made a part of this Section.
- B. **Lands to Which Section Applies.** This Section shall apply to all lands designated as flood plain within the jurisdiction of Long Lake. Flood plain areas within Long Lake shall encompass all areas designated as Zone A, Zone AE, Zone AO, or Zone AH as shown on the Flood Insurance Rate Map adopted in Section 2.1 of this Section.
- C. **Interpretation.** The boundaries of the flood plain district shall be determined by scaling distances on the Official Flood Plain Zoning District Map. Where interpretation is needed as to the exact location of the boundaries of the flood plain

district, the City Planner shall make the necessary interpretation based on the ground elevations that existed on the site at the time the community adopted its initial floodplain Section and the regional (100-year) flood profile, if available. If 100-year flood elevations are not available, the community shall: 1) Require a flood plain evaluation consistent with Section 4.3 of this Section to determine a 100-year flood elevation for the site; or 2) base its decision on available hydraulic/hydrologic or site elevation survey data which demonstrates the likelihood the site is within or outside of the flood plain.

Subd. 3. Conflict With Pre-existing Zoning Regulations and General Compliance.

- A. The Flood Plain District as Overlay Zoning District. The flood plain zoning district shall be considered an overlay zoning district to all existing land use regulations of the Community. The uses permitted in this Section shall be permitted only if not prohibited by any established, underlying zoning district. The requirements of this Section shall apply in addition to other legally established regulations of the Community and where this Section imposes greater restrictions, the provisions of this Section shall apply.
- B. Compliance: No new structure or land shall hereafter be used and no structure shall be constructed, located, extended, converted, repaired, maintained, or structurally altered without full compliance with the terms of this Section and other applicable regulations which apply to uses within the jurisdiction of this Section. Within the Floodway and Flood Fringe, all uses not listed as permitted uses shall be prohibited. In addition, a caution is provided here that:
  - 1. New manufactured homes, replacement manufactured homes and certain recreational vehicles are subject to the general provisions of this Section;
  - 2. Modifications, repair and maintenance, 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 Section; and
  - 3. As-built elevations for elevated structures must be certified by elevation surveys as stated in this Section.

Subd. 4. Permitted Uses, Standards, and Flood Plain Elevation Criteria

- A. Permitted Uses in the Flood Plain. The following uses of land are permitted uses in the flood plain district:
  - 1. Any use of land which does not involve a structure, a fence, an addition to the outside dimensions to an existing structure (including a fence) or an obstruction to flood flows such as fill, excavation, or storage of materials or equipment.
  - 2. Any use of land involving the construction of new structures, a fence, the placement or replacement of manufactured homes, the addition to the outside dimensions of an existing structure (including a fence) or obstructions such as fill

or storage of materials or equipment, provided these activities are located in the flood fringe portion of the flood plain. These uses shall be subject to the development standards of this Section and the flood plain evaluation criteria of this Section for determining floodway and flood fringe boundaries.

3. Recreational vehicles are regulated by this Section.

B. Standards for Flood Plain Permitted Uses.

1. Fill shall be properly compacted and the slopes shall be properly protected by the use of riprap, vegetative cover or other acceptable method. 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.
2. 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 or if placed on fill to the regulatory flood protection elevation.
3. No use shall be permitted which will adversely affect the capacity of the channels or floodways of any tributary to the main stream, or of any drainage ditch, or any other drainage facility or system.
4. All structures, including accessory structures, additions to existing structures and manufactured homes, shall be constructed on fill so that the lowest floor, including basement floor, is at or above the regulatory flood protection elevation. The finished fill elevation must be no lower than one foot below the regulatory flood protection elevation and shall extend at such elevation at least 15' beyond the limits of the structure constructed thereon.
5. All Uses. Uses that do not have vehicular access at or above an elevation not more than two feet below the regulatory flood protection elevation to lands outside of the flood plain shall not be permitted unless granted a variance by the Board of Adjustment. In granting a variance, the Board of Adjustment shall specify limitations on the period of use or occupancy of the use and only after determining that adequate flood warning time and local emergency response and recovery procedures exist.

6. Commercial and Manufacturing Uses. 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 (4) upon occurrence of the regional flood.
7. On-site Sewage Treatment and Water Supply 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 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 and they shall not be subject to impairment or contamination during times of flooding. 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.
8. 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 to ground anchors. This requirement is in addition to applicable state or local anchoring requirements for resisting wind forces.

#### C. Flood Plain Evaluation

1. Upon receipt of an application for a permit for a use or other approval within the Flood Plain District, the applicant shall be required to furnish such of the following information as is deemed necessary by the City Planner for the determination of the regulatory flood protection elevation and whether the proposed use is within the floodway or flood fringe.
2. 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.
3. 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.
4. Photographs showing existing land uses, vegetation upstream and downstream, and soil types.

5. 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.
6. 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 and to determine the regulatory flood protection elevation. Procedures consistent with Minnesota Regulations 1983, Parts 6120.5000 - 6120.6200 and 44 Code of Federal Regulations Part 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:
  - a. Estimate the peak discharge of the regional flood.
  - b. Calculate the water surface profile of the regional flood based upon a hydraulic analysis of the stream channel and overbank areas.
7. Compute the floodway necessary to convey or store the regional flood without increasing flood stages more than 0.5 foot. A lesser stage increase than .5' shall be required if, as a result of the additional stage increase, increased 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.
8. The City Planner shall present the technical evaluation and findings of the designated engineer or expert to the Governing Body. The Governing Body must formally accept the technical evaluation and the recommended Floodway and/or Flood Fringe District boundary or deny the permit application. The Governing Body, 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 Governing Body shall refer the matter back to the City Planner who shall process the permit application consistent with the applicable provisions of this Section.

Subd. 5. Utilities, Railroads, and Bridges in the Flood Plain District

- A. All utilities and transportation facilities, including railroad tracks, roads and bridges, shall be constructed in accordance with state flood plain management standards contained in Minnesota Rules 1983 Parts 6120.5000 - 6120.6200.

Subd. 6. Subdivisions

- A. No land shall be subdivided and no manufactured home park shall be developed or expanded where the site is determined to be unsuitable by the City Council for reason of flooding, inadequate drainage, water supply or sewage treatment facilities. The

Planning Commission shall review the subdivision/development proposal to insure that each lot or parcel contains sufficient area outside of the floodway for fill placement for elevating structures, sewage systems and related activities.

- B. In the flood plain district, applicants for subdivision approval or development of a manufactured home park or manufactured home park expansion shall provide the information required in this Section. The Planning Commission shall evaluate the proposed subdivision or mobile home park development in accordance with the standards established in this Section.
- C. For all subdivisions in the flood plain, 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.
- D. 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.

Subd. 7. Administration

- A. Permit Required. A Permit issued by the Building Official shall be secured prior to the erection, addition, modification, rehabilitation (including normal maintenance and repair), or alteration of any building or structure or portion thereof; prior to the use or change of use of a building, structure, or land; prior to the construction of a dam, fence, or on-site septic system, prior to the change or extension of a nonconforming use, prior to the repair of a structure that has been damaged by flood, fire, tornado, or any other source, and prior to the placement of fill, excavation of materials or the storage of materials or equipment within the flood plain.
- B. State and Federal Permits. Prior to granting a permit or processing an application for a variance, the City Planner shall determine that the applicant has obtained all necessary state and federal permits.
- C. Certification of Lowest Floor Elevations. 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 Section. The Building Official shall maintain a record of the elevation of the lowest floor (including basement) for all new structures and alterations or additions to existing structures in the flood plain district.

- D. Notifications for Watercourse Alterations. The City Planner shall notify, in riverine situations, adjacent communities and the Commissioner of 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 Minnesota Statute, Chapter 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).
- E. Notification to FEMA When Physical Changes Increase or Decrease the 100-year Flood Elevation. As soon as is practicable, but not later than six (6) months after the date such supporting information becomes available, the City Planner shall notify the Chicago Regional Office of FEMA of the changes by submitting a copy of said technical or scientific data.

Subd. 8. Variances

- A. A variance means a modification of a specific permitted development standard required in an official control including this Section 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 and this Section.
- B. The Board of Adjustment may authorize upon appeal in specific cases such relief or variance from the terms of this Section as will not be contrary to the public interest and only for those circumstances such as hardship, practical difficulties or circumstances unique to the property under consideration, as provided for in the respective enabling legislation for planning and zoning for cities or counties as appropriate. In the granting of such variance, the Board of Adjustment shall clearly identify in writing the specific conditions that existed consistent with the criteria specified in this Section, any other zoning regulations of the Community, and the criteria specified in the respective enabling legislation which justified the granting of the variance. The following additional variance criteria of the Federal Emergency Management Agency must be satisfied:
  - 1. 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.
  - 2. 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 Sections.

3. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- C. Variances from the provisions of this Section may be authorized where the Board of Adjustment has determined the variance will not be contrary to the public interest and the spirit and intent of this Section. No variance shall allow in any district a use prohibited in that district or permit a lower degree of flood protection than the regulatory flood protection elevation. Variances may be used to modify permissible methods of flood protection.
- D. The Board of Adjustment shall submit by mail to the Commissioner of Natural Resources a copy of the application for proposed variance sufficiently in advance so that the Commissioner will receive at least ten days notice of the hearing. A copy of all decisions granting a variance shall be forwarded by mail to the Commissioner of Natural Resources within ten (10) days of such action.
- E. Appeals. Appeals from any decision of the Board of Adjustment may be made, and as specified in this Community's Official Controls and also Minnesota Statutes.
- F. Flood Insurance Notice and Record Keeping. The City Planner shall 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 and 2) Such construction below the 100-year or regional flood level increases risks to life and property. Such notification shall be maintained with a record of all variance actions. This Community shall maintain a record of all variance actions, including justification for their issuance, and report such variances issued in its annual or biennial report submitted to the Administrator of the National Flood Insurance Program.

Subd. 9. Nonconformities. A structure or the use of a structure or premises which was lawful before the passage or amendment of this Section but which is not in conformity with the provisions of this Section may be continued subject to the following conditions. Historic structures shall be subject to the provisions of this Section.

- A. No such use shall be expanded, changed, enlarged, or altered in a way which increases its nonconformity.
- B. A structural alteration within the inside dimensions of a nonconforming use or structure is permissible provided it utilizes flood resistant materials so as not to result in increasing the flood damage potential of that use or structure. A structural addition to a structure must be elevated to the regulatory flood protection elevation in accordance with this Section.



- C. The cost of all structural alterations or additions both inside and outside of a structure 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 flood plain 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 this Section for new structures.
- D. If any nonconforming use of a structure or land or nonconforming structure is substantially damaged it shall not be reconstructed except in conformity with the provisions of this Section. The City Council may issue a permit for reconstruction if the use is located outside the floodway and, upon reconstruction, is adequately elevated on fill in conformity with the provisions of this Section.
- E. If a substantial improvement occurs 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 and the existing nonconforming building must meet the requirements of this Section for new structures, depending upon whether the structure is in the floodway or flood fringe, respectively.

Subd. 10. Penalties for Violation. A violation of the provisions of this Section or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variance) shall constitute a misdemeanor.

- A. In responding to a suspected Section violation, the City Planner and the Community 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 Section violations to the extent possible so as not to jeopardize its eligibility in the National Flood Insurance Program.
- B. When a Section violation is either discovered by or brought to the attention of the City Planner, the City Planner 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.
- C. The City Planner shall notify the suspected party of the requirements of this Section 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 City Planner 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 City Planner 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.

- D. If the responsible party does not appropriately respond to the City Planner within the specified period of time, each additional day that lapses shall constitute an additional violation of this Section and shall be prosecuted accordingly. The City Planner 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 Section.

Subd. 11. Amendments. All amendments to this Section, including revisions to the Official Flood Plain Zoning District Map, shall be submitted to and approved by the Commissioner of Natural Resources prior to adoption. The flood plain designation on the Official Flood Plain Zoning District Map shall not be removed unless the area is filled to an elevation at or above the regulatory flood protection elevation and is contiguous to lands outside of the flood plain. 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 10-days written notice of all hearings to consider an amendment to this Section and said notice shall include a draft of the Section amendment or technical study under consideration.

Subd. 12. Travel Trailers and Travel Vehicles. Recreational vehicles that do not meet the exemption criteria specified below shall be subject to the provisions of this Section and as specifically spelled out below.

- A. Exemption - Recreational vehicles are exempt from the provisions of this Section if they are placed in any of the areas listed 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 pre-existing, 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 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 requirements and the use of land restrictions specified in this Section. There shall be no development or improvement on the parcel or attachment to the recreation vehicle that hinders the removal of the recreational vehicle to a flood free location should flooding occur.
- D. 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 (5) units or dwelling sites shall be subject to the following:
1. 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 determined in accordance with the provisions of this Section and proper elevated road access to the site exists in accordance with this Section. No fill placed in the floodway to meet the requirements of this Section shall increase flood stages of the 100-year or regional flood.
  2. All new or replacement recreational vehicles not meeting the criteria above may, as an alternative, be allowed if in accordance with the following provisions. The applicant must submit an emergency plan for the safe evacuation 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 evacuation, and shall demonstrate that the provisions 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 this Section.