

SECTION 550 – ZONING: FLOODPLAIN MANAGEMENT REGULATIONS
(ADDED, BILL NO. 2008-4)

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550.01. Purpose. Subdivision 1. It is the purpose of this section to guide and regulate the orderly development of land within the floodplain by establishing a floodplain overlay district. The floodplain within the City of Richfield, Minnesota is subject to periodic inundation, which adversely affects the public health, safety, and general welfare.

Subd. 2. It is the intent of this section to promote a uniform floodplain management program consistent with the surface water management plan of the Minnehaha Creek Watershed District, Nine Mile Creek Watershed District, and the Richfield-Bloomington Watershed District and to maintain eligibility in the National Flood Insurance Program. (Amended, Bill No. 2005-9)

550.03. Administration. The Director of Public Works, hereinafter referred to as the responsible person, is appointed as the “person” responsible for receiving applications and examining the plans and specifications for the proposed construction or development. (Amended, Bill No. 2005-9)

550.05. Application and interpretation of provisions. Subdivision 1. Provisions of this section shall apply to the floodplain of the City, which shall include those areas designated or otherwise defined by the City as being within the 100-year floodplain. The boundaries of the floodplain shall be that area that could be inundated by a flood that has a one percent chance of being equaled or exceeded in any given year. All decisions will be based on elevations of the 100-year floodplain and other available technical data. Persons contesting the location of the floodplain boundaries shall be given a reasonable opportunity to present their case to the Board of Adjustments and Appeals in accordance with the provisions of subsection 546.03.

Subd. 2. It is not intended by this section to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this section imposes greater restrictions, the provisions of this section shall prevail.

Subd. 3. Warning and disclaimer of liability. This regulation does not imply that areas outside the floodplain or land uses or obstructions permitted within the floodplain will be free from flooding or flood damages. The City is not responsible for any flood damages that result from reliance on this section or any administrative action lawfully taken as a result of reliance on this section.

Subd. 4. The provisions and sections of this Ordinance shall be deemed separable and the invalidity of any portion of this Ordinance shall not affect the validity of the remainder. (Added, Bill No. 2005-9)

550.07. Definitions. Subdivision 1. **Basement.** For floodplain management purposes, any area of a structure, including crawl spaces, having its floor or base sub-grade below ground level.

Subd. 2. Development. Any man-made change to real estate, including but not limited to construction or reconstruction of buildings, installing manufactured homes or travel trailers, installing utilities, construction of roads or bridges, erection of levees, walls, or fences, drilling, mining, filling, dredging, and storage of materials. (Amended, Bill No. 2005-9)

Subd. 3. Flood. A general and temporary condition of partial or complete inundation of normally dry land areas from overflow of inland or tidal waves, or the unusual and rapid accumulation or runoff of surface waters from any source. (Amended, Bill No. 2005-9)

Subd. 4. Flood frequency. The frequency for which it is expected that a specific flood stage or discharge may be equaled or exceeded.

Subd. 5. Floodplain or Flood Prone Area. Any land area susceptible to being inundated by water from any source (see Flood) as determined by the City in Section 538.05. (Amended, Bill No. 2005-9)

Subd. 6. Flood proofing. Any combination of structural and nonstructural additions, changes or adjustments to structures that reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents. Flood proofing requirements are contained in the State Building Code.

Subd. 7. Flood stage. Peak flood elevation of an area for a given return frequency event.

Subd. 8. Floodway. The channel of the watercourse, the bed of water basins, and those portions of the adjoining floodplain that are reasonably required to carry the discharge floodwater and provide storage during a flood.

Subd. 9. Manufactured Home. A structure, transportable in one or more sections, which is built on a permanent chassis and is designated for use with or without a permanent foundation when attached to the required utilities. (Added, Bill No. 2005-9)

Subd. 10. New Construction. For the purposes of determining insurance rates, structures for which the “start of construction” commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, new construction means structures for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures. (Added, Bill No. 2005-9)

Subd. 11. Person. Includes any individuals, corporation, partnership, association, or any other entity, including State and local governments and agencies. (Added, Bill No. 2005-9)

Subd. 12. 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, water course, or regulatory floodplain that 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. (Amended, Bill No. 2005-9)

Subd. 13. Reach. A hydraulic engineering term to describe a longitudinal segment of a drainage system influenced by a natural or man-made obstruction. In an urban area, the segment of a drainage system between two consecutive bridge crossings or culverts would most typically constitute a reach. (Amended, Bill No. 2005-9)

Subd. 14. Regulatory flood protection elevation. The regulatory flood protection elevation shall be an elevation no lower than two-feet above the elevation of the floodplain plus any increase in flood elevation caused by encroachments on the floodplain. (Amended, Bill No. 2005-9)

Subd. 15. Structure. For floodplain management purposes, a walled and roofed building, including gas or liquid storage tanks, that is principally above ground. The term includes recreational vehicles and travel trailers on site for more than 180 days. (Added, Bill No. 2005-9)

Subd. 16. Substantial Improvement. Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either, (a) before the improvement or repair is started, or (b) if the structure has been damaged, and is being restored, before the damage occurred. For the purposes of this definition "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure regardless of the actual work performed. The term does not, however, include either (1) any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions or (2) any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a historic structure. (Added, Bill No. 2005-9)

550.09. Flood insurance study. A Federal Emergency Management Agency (FEMA) Flood Insurance Study (FIS) has been completed for areas within the City of Richfield. This FIS is titled "Flood Insurance Study, Hennepin County, Minnesota, All Jurisdictions, Volume 1 of 2 and Volume 2 of 2," dated September 2, 2004. The foregoing FIS, and the respective Flood Insurance Rate Map Panels contained therein for the City of Richfield, show all areas of the City as an Unshaded Zone X. An Unshaded Zone X is an area where FEMA did not have sufficient supporting hydrologic and/or hydraulic data to designate 100-year or 500-year floodplains. Therefore, to administer this Ordinance consistent with the provisions of Section 549.05, the City will use, at a minimum, the reports titled Watershed Management Plan, Richfield-Bloomington Watershed, Nine Mile Creek Watershed, and Minnehaha Creek Watershed to determine floodplain boundaries. A copy of the foregoing reports are hereby adopted by reference and declared to be a part of this Ordinance.

Subd. 1. No person shall erect, construct, enlarge, alter, repair, improve, move, or demolish any building or structure without first obtaining a separate permit for each building or structure from the designated responsible person.

Subd. 2. No man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, fences, mining, dredging, filling, grading, paving, excavation or drilling operations, shall be commenced until a separate permit has been obtained from the designated responsible person for each change.

Subd. 3. No manufactured home shall be placed on improved or unimproved real estate without first obtaining a separate permit for each manufactured home from the designated responsible person.(Added, Bill No. 2005-9)

550.11. Permitted uses in the floodplain overlay district. Any use of land that does not involve a structure, a habitation, addition to the outside dimensions of an existing structure, an obstruction, or the storage of materials, supplies, so long as such use is permitted in the underlying zoning district is permitted within the floodplain. The use must not increase any stage of the 100-year flood, cause an increase in flood damages in the reach or reaches affected, or reduce the existing storage capacity of the floodplain.

550.13. Floodplain uses in the floodplain overlay district. Any permitted, accessory, or conditional use or structure allowed in the underlying zoning district may be allowed as a floodplain use in the floodplain upon the issuance of a special permit in accordance with the provisions of this section. Subdivision 1. The use or structure will not cause a net decrease in storage capacity of the floodplain. Compensatory storage will be required if the use or structure decreases the floodplain capacity, and

Subd. 2. The use or structure will not cause high water or aggravate flooding on other properties, and

Subd. 3. The use or structure will not restrict flood flows, or

Subd. 4. The use is for railroads, essential government facilities, accessory structures for public and private recreational facilities, essential utilities, marinas, docks, other water oriented accessory structures, or reasonable plan to reduce flooding.

550.15. Applications for floodplain use permits. Applications for floodplain use permits shall be made to the administrator. A fee as specified in Appendix D shall be charged for floodplain use permits. The application shall be prepared by a registered engineer and shall include the following. Subdivision 1. A report detailing the results of the computer modeling of the impact of the proposed structure, obstruction, or use on the floodplain, and

Subd. 2. A site plan showing property lines, work area, existing and proposed contours of the work area, and existing and proposed floodplain elevations, and

Subd. 3. Computation of the change in water storage capacity resulting from the project.

550.17. Application review. The administrator shall review applications for floodplain use permits and make a determination.

Subd. 1. After reviewing the application, the responsible person may require any additional measures, which are necessary to meet the minimum requirements of this Ordinance. (Added, Bill No. 2005-9).

Subd. 2. The responsible person shall review proposed development to assure that all necessary permits have been received from those governmental agencies from which approval is required by Federal or State law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334. (Added, Bill No. 2005-9)

550.19. Variance. A variance to the standards outlined in this section may be requested under City zoning code section 547.11.

550.21. Review of Subdivision Proposals. The responsible person shall review subdivision proposals and other proposed new development to determine whether such proposals will be reasonably safe from flooding. If a subdivision proposal or other proposed new development is in a flood prone area, any such proposal shall be reviewed to assure that:

Subd. 1. All such proposals are consistent with the need to minimize flood damage within the flood prone area,

Subd. 2. All public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage, and

Subd. 3. Adequate drainage is provided to reduce exposure of flood hazard.

(Added, Bill No. 2005-9)

550.23. Construction standards near or in floodplain overlay district. The building official administers this section. If a use or structure is either permitted or a special use, the following construction standards apply. Subdivision 1. All permanent structures, including accessory structures and additions to existing structures shall be constructed on fill so that the low building opening elevation shall be at least two-feet above the floodplain elevation.

Subd. 2. As an alternative to construction on fill, accessory structures that do not exceed 500-square feet may be internally flood proofed in accordance with FP-1 or FP-2 flood proofing classifications in the State Building Code.

Subd. 3. Structures shall be 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. (Amended, Bill No. 2005-9)

Subd. 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. (Amended, Bill No. 2005-9)

Subd. 5. Structural works for flood control that will change the course, current, or cross section of protected wetlands or public waters shall not be allowed to encroach on a floodway, and are subject to the provisions of Minnesota Statutes, chapter 105.

Subd. 6. Parking lots must be at or above the floodplain unless it can be demonstrated by the applicant that the lot will be used infrequently and/or vehicles or other stored items could be moved in a short period of time.

Subd. 7. Constructed with materials and utility equipment resistant to flood damage, and methods and practices that minimize flood damage. (Added, Bill No. 2005-9)

Subd. 8. Constructed by methods and practices that minimize flood damages. (Added, Bill No. 2005-9)

550.25. Utility standards. Subdivision 1. The responsible person shall require within flood prone areas, new and replacement water supply systems to be designed to minimize or eliminate infiltration of flood waters into the systems. (Amended, Bill No. 2005-9)

Subd. 2. New and replacement sanitary sewage systems to be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters. (Amended, Bill No. 2005-9)

550.27. Amendments. The floodplain overlay designation shall not be removed from a floodplain area unless it can be shown that the designation is in error or that the area has been lawfully filled to or above the elevation of the 100-year floodplain and is contiguous to lands outside the floodplain.

550.29. Building elevation information. The applicant shall provide to the Building Official the elevation of the first floor and basement of all new structures or additions to existing structures in the floodplain. The Building Official shall maintain a record of these elevations.

550.31. Certificate of compliance. No structure in the floodplain that is hereafter erected, altered or moved shall be occupied until the applicant submits a certification by a registered Engineer, Surveyor, or Architect to the City Engineer that the finished fill elevations or other flood-proofing measures are in compliance with this Section.

550.33. Penalties for violation. Subdivision 1. Violation of the provisions of this Section or failure to comply with any of its requirements shall constitute a misdemeanor and shall be punishable as defined by law.

Subd. 2. Nothing herein contained shall prevent the City of Richfield from taking such other lawful action as is necessary to prevent or remedy any violation. Such actions may include but are not limited to:

- a) In responding to a suspected violation, the Administrator and/or Building Official may utilize the full array of enforcement actions available. Richfield must act in good faith to enforce these official controls and to correct violations to the extent possible so as not to jeopardize its eligibility in the National Flood Insurance Program.
- b) When a violation is either discovered by or brought to the attention of the Administrator or Building Official, the situation shall immediately be investigated. Documentation of the nature and extent of the violation shall be provided.

- c) The Administrator 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. If the structure or use is under construction or development, the Administrator may order the construction or development immediately halted until a proper permit is granted by the City. If the construction or development is already completed, then the Administrator may either a) 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 b) notify the responsible party to apply for an after-the-fact permit within a specified period of time not to exceed 30 days.
- d) If the responsible party does not appropriately respond to the Administrator or Building Official 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 Administrator shall also, upon the lapse of the specified response period, notify the landowner to restore the land to the condition that existed prior to the violation of this regulation.