



# CHISAGO COUNTY FLOOD PLAIN ORDINANCE

ADOPTED MARCH 21, 2012  
MAPS EFFECTIVE APRIL 17, 2012

**RESOLUTION NO. 12/0321-2**  
**ORDINANCE NO. 12-1**  
**CHISAGO COUNTY**  
**FLOODPLAIN MANAGEMENT ORDINANCE**

**1.0 STATUTORY AUTHORIZATION**

The legislature of the State of Minnesota in Minnesota Statutes, Chapter 103 and Chapter 394 has delegated the responsibility to local government units to adopt regulations designed to minimize flood losses. This Ordinance is being 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 Chisago County's eligibility in the National Flood Insurance Program.

**2.0 STATEMENT OF PURPOSE**

The development of the flood hazard areas of the unincorporated areas of Chisago County 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 unincorporated areas of Chisago County, and since these lands are suitable for open space uses that do not require structures, fill, obstructions, or most other forms of development as defined in Section 7.0 of this Ordinance, the Chisago County Board of Commissioners does ordain as follows:

**3.0 ESTABLISHMENT OF FLOOD DISTRICT MAP**

The Official Flood District Map, together with all materials attached thereto, is hereby adopted by reference and declared to be a part of this Ordinance. The attached material shall include the Flood Insurance Study, Chisago County, Minnesota and Incorporated Areas, the Flood Insurance Rate Map Index (Map Number 27025CIND0A), and all Flood Insurance Rate Map panels therein indicated on the Flood Insurance Rate Map Index that apply to the unincorporated areas of Chisago County, all of these documents being dated April 17, 2012 and prepared by the Federal Emergency Management Agency. The Official Flood District Map shall be on file in the Office of the Chisago County Auditor and the Director of Environmental Services and Zoning. The Official Flood District Map shall be considered a separate overlay map and as such, not part of the Official Zoning Map contained in the Chisago County Zoning Ordinance. The Flood Plain District jurisdiction of this Ordinance shall include those 100-year flood areas designated as Zone AE and Zone A on the aforementioned maps.

## **4.0 PERMITTED USES IN THE FLOOD PLAIN DISTRICT**

The following uses have a low flood damage potential and do not obstruct flood flows. These uses shall be permitted within the Flood Plain 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 (except for recreational vehicles as permitted in Section 4.15).

- 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 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.
- 4.15 Recreational vehicles. There shall be no new recreational vehicle parks or campgrounds located within the Flood Plain District. Recreational vehicles will be allowed on existing lots or parcels of record if they meet the following standards:
  - (a) They have current licenses for highway use;
  - (b) They are highway ready, meaning on wheels or the internal jacking system, are attached to the site only by quick disconnect utilities commonly used in campgrounds and recreation vehicle parks;
  - (c) Except for at-grade patios, there shall be no new development on the lot or parcel associated with the recreational vehicle including, but not limited to, such activities as decks, storage buildings, garages, gazebos, fuel storage tanks, and room additions.
  - (d) There shall be no development allowed on the lot or parcel that would hinder the removal of the recreational vehicle to a flood free location should flooding occur.
  - (e) They conform with Section 4.12 of the Chisago County Zoning Ordinance.

Notwithstanding the provisions of Section 10.0 of this Ordinance for nonconformities, 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 shall be prohibited.

## 5.0 ADMINISTRATION

### 5.1 Development Approvals.

Notwithstanding the provisions of Section 10.0 of this Ordinance for nonconformities, 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 herein in Section 7.0 of this Ordinance shall be allowed. These activities are currently not allowed within the Flood Plain 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.

### 5.2 Interpretation of District Boundaries.

The boundaries of the zoning districts shall be determined by scaling distances on the Official Flood District Map and the attachments thereto. Where interpretation is needed as to the exact location of the boundaries of the district as shown on the Official Flood District Map and the attachments thereto, as for example where there appears to be a conflict between a mapped boundary and actual field conditions and there is a formal appeal of the decision of the Zoning Administrator, the Board of Adjustment shall make the necessary interpretation. All decisions will be based on elevations on the regional (100-year) flood profile, the ground elevations that existed on the site at the time the Chisago County adopted its initial floodplain ordinance or on the date of the first National Flood Insurance Program map showing the area within the 100-year floodplain if earlier, and other available technical data. Persons contesting the location of the district boundaries shall be given a reasonable opportunity to present their case to the Board of Adjustment and to submit technical evidence for determining the 100-year flood elevation the floodway and flood fringe boundaries pursuant to Section 8.07 of the Chisago County Zoning Ordinance, No. 08-3 and consistent with the definitions of floodway and flood fringe in Section 7.0 of this Ordinance.

### 5.3 Variances.

The Board of Adjustment shall submit by 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 days notice of the hearing. A copy of all decisions granting variances shall be forwarded by mail to the Commissioner of Natural Resources within ten (10) days of such action. No variance shall have the effect of allowing any use prohibited in the Flood Plain District, permit a lower degree of protection than the regulatory flood protection elevation or permit standards lower than those required by state law. The Zoning Administrator shall notify the applicant for a variance that: 1) The issuance of a variance to construct a structure below the 100-year flood elevation will result in increased insurance premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage; and 2) such construction below the 100-year flood elevation increases risk to life and property. The 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. 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.

5.4 Amendments.

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

5.5 Detachments.

The Official Flood District Map and Flood Insurance Rate Map panels adopted by reference into Section 3.0 of this Ordinance will include floodplain areas that lie inside of the incorporated boundaries of municipalities at the time of adoption of this ordinance. If any of these floodplain land areas are detached from an incorporated municipality and placed under the jurisdiction of Chisago County after the date of adoption of this ordinance, the newly detached floodplain lands shall be subject to the provisions of this ordinance immediately upon the date of the detachment.

## **6.0 WARNING OF DISCLAIMER OF LIABILITY**

This Ordinance does not imply that areas outside the Flood Plain District or land uses permitted within the district will be free from flooding or damages. This ordinance shall not create liability on the part of Chisago County or any officer or employee thereof for any flood damages that result from reliance on this Ordinance or any administrative decision lawfully made thereunder.

## **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.

**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.

**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.

**Flood Fringe** – the portion of the floodplain located outside of the floodway. The flood fringe shall comprise those Zone AE areas shown on the Flood Insurance Rate Map Panels adopted in Section 3.0 of this Ordinance that are located outside of the delineated floodway. The flood fringe boundary and the regulatory flood protection elevation for Zone A and Zone AE areas without a delineated floodway on the Flood Insurance Rate Map Panels adopted in Section 3.0 of this Ordinance shall be determined on a case-by-case basis by Chisago County in accordance with the criteria spelled out in Minnesota Regulations, Parts 6120.5000 – 6120.6200 and 44 Code of Federal Regulations, Part 65. When determining the flood fringe boundaries for lakes, wetlands, and other basins, Chisago County can determine the area below the 100-year flood elevation and the area above the ordinary high water level as defined in Minnesota Statutes, Section 103G.005, subdivision 14 to be flood fringe.

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

**Floodway** – 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. The floodway shall include those areas delineated as floodway on the Flood Insurance Rate Map Panels adopted in Section 3.0 of this Ordinance. Floodway boundaries and the regulatory flood protection elevation for Zone A and Zone AE areas without a delineated floodway on the Flood Insurance Rate Map Panels adopted in Section 3.0 of this Ordinance shall be determined on a case-by-case basis by Chisago County in accordance with the criteria spelled out in Minnesota Regulations, Parts 6120.5000 – 6120.6200 and 44 Code of Federal Regulations, Part 65. When determining the floodway boundaries for lakes, wetlands, and other basins, Chisago County can determine the area at or below the ordinary high water level as defined in Minnesota Statutes, Section 103G.005, subdivision 14 to be floodway.

**Lowest Floor** – Lowest Floor - the lowest floor of the lowest enclosed area (including basement).

**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.”

**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.

**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

**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 100 year recurrence interval. Regional flood is synonymous with the term “base flood” used in the Flood Insurance Study.

**Regulatory Flood Protection Elevation** – Regulatory Flood Protection Elevation - The regulatory flood protection elevation shall be an elevation no lower than one foot 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.

**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.

**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** – 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:

- (a) 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.
- (b) Any alteration of an “historic structure,” provided that the alteration will not preclude the structure’s continued designation as an “historic structure.” For the purpose of this Ordinance, “historic structure” shall be as defined in 44 Code of Federal Regulations, Part 59.1.

## **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 lapses 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 NONCONFORMITIES**

A structure or the use of a structure or premises 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.

- 10.1 No such use shall be expanded, changed, enlarged, or altered in a way that increases its nonconformity. There shall be no expansion to the outside dimension of a nonconforming structure in the floodplain.
- 10.2 Any structural alteration to a nonconforming structure or nonconforming use in the floodplain which would result in increasing the flood damage potential of that structure or use shall be protected to the Regulatory Flood Protection Elevation in accordance with any of the flood proofing techniques ( i.e. , FP-1 thru FP-4 floodproofing classifications) allowable in the State Building Code, except as further restricted in 10.4 below.
- 10.3 If any nonconforming use or structure is substantially damaged, as defined in Section 7.0 of this Ordinance, it shall not be reconstructed unless it is located in the flood fringe portion of the floodplain and it is reconstructed in accordance with the standards found in Section 10.5 of this Ordinance.
- 10.4 If a substantial improvement occurs, as defined in Section 7.0 of this Ordinance, from any rehabilitation, reconstruction, alteration, or other improvement to the inside dimensions of an existing nonconforming structure, then the existing nonconforming structure must be located in the flood fringe portion of the floodplain and meet the requirements of Section 10.5 of this Ordinance . A nonconforming structure shall not be substantially improved if said structure is located in the floodway.

- 10.5 The following standards and procedures apply to nonconforming structures that have been substantially damaged or substantially improved in the flood fringe portion of the floodplain:
- (a) All structures, including manufactured homes, 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 one (1) foot below the regulatory flood protection elevation and the fill shall extend at such elevation at least fifteen (15) feet beyond the outside limits of the structure erected thereon.
  - (b) Fill shall be properly compacted and the slopes shall be properly protected by the use of riprap, vegetative cover or other acceptable method.
  - (c) 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 Flood Insurance Rate Map Panels adopted in Section 3.0 of this Ordinance.
  - (d) 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.
  - (e) 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.
  - (f) A permit issued by the Zoning Administrator in conformity with the provisions of this Ordinance shall be secured prior to the commencement of construction.
  - (g) Application for a permit shall be made in duplicate to the Zoning Administrator on forms furnished by Chisago County and shall include the following where applicable: plans in duplicate drawn to scale, showing the nature, location, dimensions, and elevations of the lot; existing or

proposed structures, fill, or storage of materials; and the location of the foregoing in relation to the stream channel.

- (h) Prior to granting a permit, the Zoning Administrator shall determine that the applicant has obtained all necessary state and federal permits.
- (i) Certification. The applicant shall be required to submit certification by a registered professional engineer, registered architect, or registered land surveyor that the finished fill, building elevations or flood proofing measures were accomplished in compliance with the provisions of this Ordinance.
- (j) Record of First Floor Elevation. The Zoning Administrator shall maintain a record of the elevation of the lowest floor (including basement) of all new structures and alterations to existing structures in the floodplain. The Zoning Administrator shall also maintain a record of the elevation to which structures or alterations to structures are flood proofed.

## **11.0 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 Board of Commissioners of Chisago County  
this 21<sup>st</sup> day of March, 2012.

Attest: \_\_\_\_\_, Chair of the County Board

Attest: \_\_\_\_\_, Clerk to the Board