



MEMORANDUM

DATE: November 14, 2016
TO: Chairperson Hvidsten, Members of the Planning Commission, and Administrator Votca
FROM: Cynthia Smith Strack, Community Development Director
RE: Item 5.2 Code Amendment – Bluff Preservation

REQUEST SUMMARY:

PZ Task: Public hearing on Ordinance 16-12, An Ordinance Repealing and Replacing Section 1109.06 of the City Code Relating to Bluff Preservation.

Discussion Overview : In August the PC initiated an update of Section 1109.06 of the City Code after determining a need for more precise definitions of several terms and standards. The PC reviewed sample language from other communities, consulted the Scott County Watershed Management Organization, and reviewed proposed language drafted by City staff.

The Commission called for a public hearing on Ordinance 16-12 at the October 10th regular meeting. The hearing notice has been published and posted as required by law.

As of the drafting of this memo no comments in favor of or opposed to the update have been filed.

The PC is to hold the hearing and, following review, consider a recommendation to the Council.

Attachments:

1. Ordinance 16-12, An Ordinance Repealing and Replacing Section 1109.06 of the City Code Relating to Bluff Preservation.
2. Resolution 16-023 recommending the City Council approve Ordinance 16-12.

**BELLE PLAINE PLANNING COMMISSION
RESOLUTION PZ-16-023**

**RECOMMENDING APPROVAL OF ORDINANCE 16-12, AN ORDINANCE REPEALING AND
REPLACING SECTION 1109.06 OF THE CITY CODE
PERTAINING TO BLUFF PRESERVATION**

WHEREAS, the Planning Commission from time to time reviews existing code standards to ensure consistency with current laws and to promote clarity and ease of use; and,

WHEREAS, the Planning Commission reviewed Section 1109.06 of the City Code relating to bluff preservation and found additional clarity needed to define certain terms and clarify where standards applied; and,

WHEREAS, the Planning Commission studied the existing language, researched language from other communities, consulted the Scott County Watershed Management Organization Staff, and drafted a code revision; and,

WHEREAS, the Planning Commission conducted a public hearing on November 14, 2016 following duly published notice to accept public comment on proposed Ordinance 16-12, An Ordinance Repealing and Replacing Section 1109.06 of the City Code Relating to Bluff Preservation; and,

WHEREAS, the Planning Commission has reviewed proposed Ordinance 16-12, An Ordinance Repealing and Replacing Section 1109.06 of the City Code Relating to Bluff Preservation.

NOW, THEREFORE BE IT RESOLVED BY THE PLANNING COMMISSION OF THE CITY OF BELLE PLAINE, SCOTT COUNTY, MINNESOTA, THAT: It recommends approval of Ordinance 16-12, An Ordinance Repealing and Replacing Section 1109.06 of the City Code Relating to Bluff Preservation.

The adoption of the foregoing resolution was duly moved by Commissioner _____, and seconded by Commissioner _____, and after full discussion thereof and upon a vote being taken thereon, the following Commissioners voted in favor thereof: _____.

and the following voted against the same: None.

Whereupon said resolution was declared duly passed and adopted. Dated this 14th day of November, 2016.

Nathaniel Hvidsten
Chairperson

Cynthia Smith Strack
Community Development Director

CITY OF BELLE PLAINE
ORDINANCE 16-12

AN ORDINANCE REPEALING AND REPLACING SECTION 1109.06 OF THE CITY CODE
PERTAINING TO BLUFF PRESERVATION

THE CITY COUNCIL OF THE CITY OF BELLE PLAINE ORDAINS:

Section 1. Section 1109.06 of the City Code is hereby repealed in its entirety and replaced with the following (bold/underlined text):

1109.06 BLUFF PRESERVATION.

1109.06 SUBD. 1. FINDINGS.

The City Council finds:

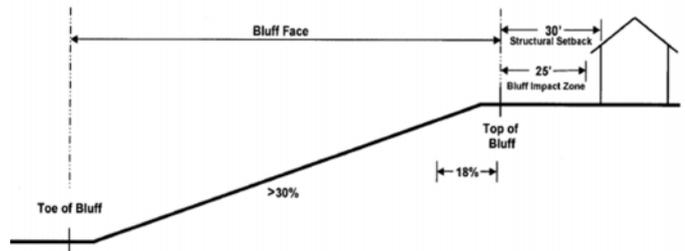
1. **Bluffs along the Minnesota River Valley are a defining feature in the Belle Plaine landscape which provide scenic vistas and open spaces.**
2. **Bluffs are part of the ecology of the river corridor impacting water quality and providing upland wildlife habitat, feeding, and resting areas for species that migrate along the Minnesota River Corridor.**
3. **Bluff soils are sandy and prone to erosion.**
4. **Management, stabilization, and conservation of bluffs promotes the public health, safety, and welfare.**

1109.06 SUBD. 2. PURPOSE.

The purpose of this section is to protect bluffs and steep slopes within the City of Belle Plaine from degradation and development impacts. This section is further intended to help protect property, structures, and landowners from potential adverse impacts of bluff destabilization.

1109.06 SUBD. 3. DEFINITIONS.

1. **“Bluff” means a topographic feature such as a hill, cliff, or embankment in which the average grade of any portion of the slope is thirty (30) percent or greater and there is at least a 25-foot rise in elevation.**
2. **“Bluff Impact Zone” means a twenty-five-foot zone from the top of a bluff.**
3. **“Bluff Face” means the area between the toe of the bluff and the top of the bluff.**
4. **“Bluff Overlay District” means the area identified within the corporate limits of the City of Belle Plaine contained within the “Bluff Overlay District” as included in the Scott County WMO Water Resource Management Plan, as may be amended.**
5. **“Bluff, Toe” means a point at the lower part of a bluff where the average slope levels off to eighteen (18) percent or less.**
6. **“Bluff, Top” means the point where there is a clearly identifiable break in the land from steeper land below the break to a gentler slope above the break. If a break is not apparent, the top of the bluff is determined to be the higher point of a 50-foot segment with an average slope exceeding eighteen (18) percent.**
7. **“Clear Cutting” means the complete or nearly complete removal of understory and overstory vegetation within a given swath of land.**



8. "Land-Disturbing Activity" means a human-made or caused change to the natural land surface cover or topography that potentially changes its runoff characteristics or its potential for erosion through action by water or wind. Land disturbing activities include, but are not limited to, removing of vegetative cover, grading, filling, or excavation.
9. "Steep Slope" means a slope of 12-18 percent over a run of 50 feet but not including very steep slopes or bluffs.
10. "Very Steep Slope" means a slope of equal to or greater than 18 percent over a run of 50 feet but not including bluffs.

1109.06 SUBD. 4. CRITERIA

Minimum Bluff Standards: Any land disturbing activity, development or redevelopment of land in an area identified as a potential bluff shall require a topographic survey to determine if a bluff is present. At its discretion, the City may waive the topographic survey requirement where a review of the available contour information clearly indicates a bluff is not present.

1. Where bluffs are deemed present, the following rules shall apply:

- (1) All grading, clear cutting, removal of native vegetation and/or other land disturbing activities are prohibited in the Bluff Impact Zone and Bluff Face; except that removal of noxious, exotic or invasive vegetation or the pruning of trees or vegetation that is dead, diseased, or posing a similar hazard is allowed.
- (2) Access to buildings shall not be placed within the Bluff Impact Zone.
- (3) The setback from top or toe of bluff to any structure in any district shall be no less than thirty (30) feet, except if a written bluff encroachment permit has been granted by the City, and the structure is easily moved or removed as determined by City staff, and, the structure is:
 - a) A total of 120 square feet or less in area (without a permanent foundation), or
 - b) A retaining wall for landscaping (provided drainage patterns are not affected), or
 - c) A fence (provided drainage patterns are not affected), or
 - d) An above ground, non-permanent swimming pool.
- (4) All storm water ponds, swales, infiltration basins, or other soil saturation-type features shall be set back a minimum of 50 feet from the top of bluff.

2. For Very Steep Slopes and Steep Slopes not meeting the definition of a bluff, the following rules shall apply:

- (1) The City discourages the siting of new structures and land disturbing activities on slopes of 18 percent or greater.
- (2) Placement of structures and/or grading, clear cutting, removal of native vegetation and/or other land disturbing activities may be allowed on Very Steep Slopes and Steep Slopes not meeting the definition of a bluff provided a written plan with illustrations and other information as required by the City Engineer, Zoning Official, or Building Official is filed with the City. The proposed activity shall comply with the City Storm Water

Management Plan's minimum performance standards. The written plan shall, at a minimum, require the following:

(a) Identification of:

- (1) Any bluff(s). Where a bluff is present the requirements of Section 1109.06, Subd. 4(1) apply.
- (2) Slopes with grades of eighteen percent or greater.
- (3) Slopes with grades equal to or greater than twelve (12) percent but less than eighteen percent.

(b) At a minimum, identification of Erosion and Sediment Control Best Management Practices related to site stabilization and slope restoration needed to ensure the proposed activity shall not result in:

- (1) Adverse impact to adjacent and/or downstream properties or water bodies.
- (2) Unstable slope conditions.
- (3) Degradation of water quality due to erosion, sedimentation, flooding.
- (4) Soil erosion by wind or rain, or
- (5) Other damage as stated in this Ordinance.

(c) Prohibit all activities that would result in disturbances or destabilization of a Bluff Face.

(d) Preservation of existing hydrology and drainage patterns. Land disturbing activities shall not result in any new water discharge points along the bluff.

(e) In addition to the written plan with illustrations required above, new structures proposed on Very Steep Slopes shall require a custom grading plan signed by an appropriately credentialed professional engineer.

(2) The following activities shall be permitted within the Bluff Face, and shall not constitute prohibited activities under 1109.06 Subd. 4 (1)(1):

(a) Maintenance, repair or replacement of existing public roads, and utility and drainage systems.

(b) Disturbances that are part of a City-approved plan to repair, grade or re-slope existing Bluff Faces that are eroding or unstable as necessary to establish stable slopes and vegetation.

(c) Plantings that enhance the natural vegetation or the selective clearing of noxious, exotic or invasive vegetation, or the pruning of trees or vegetation that are dead, diseased or pose similar hazards.

1109.06 SUBD. 5. STANDARDS FOR CITY-SPONSORED PROJECTS

The City must demonstrate that any City-proposed activity in the bluff does not: 1) impact adjacent properties, 2) result in unstable slope conditions and, 3) result in the degradation of

water bodies from erosion, sedimentation, flooding and other damage as stated in Section 1109.02 (1) (6, 7, 8, 9, 12, and 13).

1109.06 SUBD. 6. EXCEPTIONS

1. Where the City has determined mining is appropriate, mining activities shall be exempt from Paragraph 1109.06 (4) provided that:

- (1) an extractive use site development and restoration plan is developed, approved by the City, and followed over the course of the project;**
- (2) the mining operation is conducted in such a manner as to minimize interference with the surface water drainage outside of the boundaries of the mining operation;**
- (3) that erosion and sediment control is provided in a manner consistent with Section 1109.02 (1) of this Ordinance; and**
- (4) the landowner complies with all other applicable state and local regulations governing mining.**

2. Disturbances, grading or re-grading of abandoned mine slopes necessary to establish stable slopes and vegetation are exempt from Paragraph 1109.06 (1).

3. For the purposes of constructing Public Improvement Projects, as defined under these Ordinances, land disturbances in the Bluff Impact Zone and Bluff Face may be permitted providing the project proposer demonstrates to the City an appropriate need for these activities to occur and that avoidance and minimization sequencing was followed.

Section 2. This Ordinance shall become effective upon publication in the official newspaper of the City.

Passed and duly adopted by the City Council of the City of Belle Plaine this 21st day of November, 2016.

BY: _____
Michael Pingalore, Mayor

ATTEST:

Michael Votca, City Administrator

Published in the Herald on November 30, 2016.