

SECTION 1105.16 FP FLOOD PLAIN DISTRICT

1105.16 SUBD. 1. PURPOSE.

It is the purpose of the FP Flood Plain District to promote the public health, safety and general welfare and to minimize those losses by provisions designed to:

1. Restrict or prohibit uses which are dangerous to health, safety or property in times of flood or cause excessive increases in flood heights or velocities.
2. Require that uses vulnerable to floods, including public facilities which serve such uses, shall be protected against flood damage at the time of initial construction.
3. Protect individuals from buying lands which are unsuited for intended purposes because of flood hazard.

1105.16 SUBD. 2. LANDS TO WHICH ORDINANCE APPLIES.

This Ordinance shall apply to all lands within the jurisdiction of City of Belle Plaine shown on the Official Zoning Map and attached flood insurance rate map (FIRM) as being located within the boundaries of the Floodway and Floodway Fringe Districts.

1105.16 SUBD. 3. ESTABLISHMENT OF OFFICIAL ZONING MAP.

The Official Zoning 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 for the City of Belle Plaine prepared by the Federal Emergency Management Agency dated December 18, 1986, and the Flood Boundary and Floodway Maps and Flood Insurance Rate maps therein. The Official Zoning Map shall be on file in the Office of the Zoning Administrator.

1105.16 SUBD. 4. REGULATORY FLOOD PROTECTION ELEVATION.

The Regulatory Flood Protection Elevation shall be an elevation no lower than one (1) foot above the elevation of the regional flood (100-year flood) plus any increases in flood elevation caused by encroachments on the flood plain that result from designation of a floodway.

1105.16. SUBD. 5. WARNING AND DISCLAIMER OF LIABILITY.

The degree of flood protection required by this Ordinance is considered reasonable for regulatory purposes and is based on engineering and scientific methods of study. Larger floods may occur on rare occasions. Flood heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This Ordinance does not imply that areas outside the flood plain districts or land uses permitted within such districts will be free from flooding or flood damages. This Ordinance shall not create liability on the part of the City of Belle Plaine or any officer or employee thereof for any flood damages that result from reliance on this Ordinance or any administrative decision lawfully made thereunder.

1105.16 SUBD. 6. ESTABLISHMENT OF ZONING OVERLAY DISTRICTS.

The flood plain areas within the jurisdiction of this Ordinance are hereby divided into the two districts: Floodway Districts (FW) and Flood Fringe Districts (FF). The boundaries of these districts shall be shown on the Official Zoning Map. Within these districts, all uses not allowed as Permitted Uses or permissible as Conditional Uses shall be prohibited.

1105.16 SUBD. 7. FLOODWAY DISTRICT (FW).

1. PERMITTED USES.

The following uses having a low flood damage potential and not obstructing flood flows shall be permitted within the Floodway District to the extent that they are not prohibited by any other ordinance and provided they do not require structures, fill or storage of materials or equipment. No use shall adversely affect the capacity of the channels or floodways or any tributary to the main stream, drainage ditch or any other drainage facility or system.

- A. Agricultural uses such as general farming, pasture, grazing, outdoor plant nurseries, horticulture, viticulture, truck farming, forestry, sod farming and wild crop harvesting.
- B. Industrial-commercial uses such as loading areas, parking area or airport landing strips.
- C. Private and public recreational uses such as golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting preserves, target ranges, trap and skeet ranges, hunting and fishing areas, hiking and horseback riding trails.
- D. Residential uses such as lawns, gardens, parking areas and play areas.

2. CONDITIONAL USES.

- A. The following uses which involve structures (temporary or permanent), fill or storage of materials or equipment may be permitted only upon application to the Zoning Administrator and the issuance of a Conditional Use Permit by the City Council, as provided in Section 1103.08 Conditional Uses, of this Ordinance. These uses are also subject to the provisions of Section 1105.16 Subd. 7 (3) which apply to all floodway Conditional Uses.
1. Uses or structures accessory to open space or Permitted Uses.
 2. Extraction of sand, gravel, and other materials.
 3. Marinas, boat rentals, docks, piers or wharves.
 4. Railroads, streets, bridges, utility transmission lines and pipelines.
 5. Storage yards for equipment, machinery or materials.
 6. Other uses similar in nature to uses described in Section 1105.16 Subd 7 (1) which are consistent with the provisions of this Section.
- B. Conditional Use Permits shall be approved by the Minnesota Department of Natural Resources Area Hydrologist prior to Council approval.

3. STANDARDS FOR FLOODWAY CONDITIONAL USES.

No structure (temporary or permanent), fill (including fill for roads and levees), deposit, obstruction, storage of materials or equipment, or other use may be allowed as a Conditional Use which, acting alone or in combination with existing or future uses, unduly affects the capacity of the floodway or unduly increases flood heights. Consideration of the effects of a proposed use shall be based on a reasonable assumption that there will be an equal degree of encroachment extending for a significant reach on both sides of the stream. In addition all floodway conditional uses shall be subject to the standards contained in Section 1105.16 Subd. 11 and the following standards:

- A. Fill.
1. Any fill proposed to be deposited in the floodway must be shown to have some beneficial purpose and the amount thereof not greater than is necessary to achieve that purpose, as demonstrated by a plan submitted by the owner showing the uses to which the filled land will be put and the final dimensions of the proposed fill or other materials.
 2. Such fill or other materials shall be protected against erosion by rip-rap, vegetative cover or bulkheading.
- C. Structures (temporary or permanent).
1. Structures shall not be designed for human habitation.
 2. Structures shall have a low flood damage potential.
 3. The structure or structures, if permitted, shall be constructed and placed on the building site so as to offer the minimum obstruction to the flow of floodwaters.
 - a. Whenever possible, structures shall be constructed with the longitudinal axis parallel to the direction of floodflow.

- b. So far as practicable, structures shall be placed approximately on the same floodflow lines as those of adjoining structures.
 - c. Structures shall be firmly anchored to prevent flotation which may result in damage to other structures, restriction of bridge openings and other narrow sections of the stream or river.
 - d. Service facilities such as electrical and heating equipment shall be constructed or floodproofed in accordance with applicable building codes.
- D. Storage of Material and Equipment.
- 1. The storage or processing of materials that are, in time of flooding, buoyant, flammable, explosive or could be injurious to human, animal or plant life is prohibited.
 - 2. Storage of other material or equipment may be allowed if not subject to major damage by floods and firmly anchored to prevent flotation or readily removable from the area within the time available after flood warning.

1105.16 SUBD. 8. FLOOD FRINGE DISTRICT (FF).

1. PERMITTED USES.

- A. The following uses having a low flood damage potential and not obstructing flood flows shall be permitted within the Flood Fringe District to the extent that they are not prohibited by any other ordinance. No use shall adversely affect the capacity of the channels or floodways or any tributary to the main stream, drainage ditch, or any other drainage facility or system.
1. Agricultural uses such as general farming, pasture, grazing, outdoor plant nurseries, horticulture, viticulture, truck farming, forestry, sod farming and wild crop harvesting.
 2. Industrial-commercial uses such as loading areas, parking areas or airport landing strips.
 3. 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, fish hatcheries, shooting preserves, target ranges, trap and skeet ranges, hunting and fishing areas, hiking and horseback riding trails.
 4. Residential uses such as lawns, gardens, parking areas and play areas.
- B. Structures constructed on fill so that the first floor and basement floor are at or above the regulatory flood protection elevation. The fill shall be at a point no lower than one (1) foot below the regulatory flood protection elevation for the particular area and shall extend at such elevation at least fifteen (15) feet beyond the limits of any structure or building erected thereon. Such fill or other materials shall be protected against erosion by rip-rap, vegetative cover or bulkheading.

However, no use shall be constructed which will adversely affect the capacity of channels or floodways of any tributary to the main stream, drainage ditch or any other drainage facility or system.

2. CONDITIONAL USES.

The following uses which involve structures (temporary or permanent), fill or storage of materials or equipment may be permitted only upon application to the Zoning Administrator and the issuance of a Conditional Use by the City Council, as provided in Section 1103.08, Conditional Uses, of this Ordinance.

- A. Where existing streets or utilities are at elevations which make compliance with Section 1105.16 Subd. 8 (1) impractical or in other special circumstances, the City Council may authorize other techniques for elevation of residences. Structures other than residences shall ordinarily be elevated on fill as provided in Section 1105.16 Subd. 8 (1) but may, in special circumstances, be otherwise elevated or protected as provided in Section 1105.16 Subd. 11 to a point above the regulatory flood protection elevation.

- B. The City Council may authorize the location of uses listed in Section 1105.16 Subd. 7 of this Ordinance and other similar uses at an elevation below the regulatory flood elevation if such uses will not be subject to substantial flood damage and which will not cause flood damage to other lands.

1105.16 SUBD. 9. BUILDING PERMIT.

1. BUILDING PERMIT REQUIRED.

A building permit issued by the Zoning Administrator in conformity with the provisions of this Ordinance shall be secured prior to the erection, addition or alteration of any building or structure or portion thereof, prior to the use or extension of a nonconforming use.

2. APPLICATION FOR BUILDING PERMITS.

Application for a building permit shall be made in duplicate to the Zoning Administrator on forms furnished by her/him 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, storage of materials, and the location of the foregoing in relation to the channel, the floodway and the flood protection elevation.

3. CERTIFICATE OF ZONING COMPLIANCE FOR NEW ALTERED, OR NONCONFORMING USES.

- A. It shall be unlawful to use or occupy or permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted, or wholly or partly altered or enlarged in its use or structure until a Certificate of Occupancy has been issued therefore by the Zoning Administrator stating that the use of the building or land conforms to the requirements of this Ordinance.
- B. No nonconforming structure or use shall be used after extension or substantial alteration until a Certificate of Zoning Compliance has been issued by the Zoning Administrator. The Certificate of Zoning Compliance shall state specifically the particulars, if any, in which the nonconforming structure or use differs from the provisions of this Ordinance.

4. CONSTRUCTION AND USE TO BE AS PROVIDED IN APPLICATIONS, PLANS, PERMITS, AND CERTIFICATES OF ZONING COMPLIANCE.

Building permits, Conditional Uses or Certificates of Zoning Compliance issued on the basis of approved plans and applications authorize only the use, arrangement, and construction set forth in such approved plans and applications, and no other use, arrangement, or construction. Use, arrangement, or construction at variance with that authorized shall be deemed violation of this Ordinance, and punishable as provided by Section 1108. The applicant shall ordinarily be required to submit certification by a registered professional engineer, registered architect, or registered land surveyor designated by the governing body that the finished fill and building floor elevations, floodproofing, or other flood protection measures were accomplished in compliance with the provisions of this Ordinance.

1105.16 SUBD. 10. NOTIFICATION AND CERTIFICATION REQUIREMENTS.

The Zoning Administrator shall send copies of all notices of hearings or meetings relating to variances, conditional uses and ordinance amendments to the appropriate DNR area office ten (10) days prior to such hearings, and shall send copies of the final decisions relating to such variances, conditional uses and amendments within ten (10) days of the final action.

1105.16 SUBD. 11. CONDITIONAL USES.

1. PROCEDURE.

Upon receiving an application for a conditional use permit involving the use of fill, construction of structures or storage of materials, the Council shall, prior to rendering a decision thereon:

- A. Require the applicant to furnish such of the following information as is deemed necessary by the Council for determining the suitability of the particular site for the proposed use.
 1. Plans drawn to scale showing the nature, location, dimensions and elevation of the lot, existing or proposed structures, fill, storage of materials, floodproofing measures and the relationship of the above to the location of the channel floodway and regulatory flood protection elevation.
 2. A typical valley cross-section 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, size, location and spatial arrangement of all proposed and existing structures on the site, location and elevations of streets, water supply, sanitary facilities, photographs showing existing land uses and vegetation upstream and downstream, soil types and other pertinent information.
 4. Profile showing the slope of the bottom of the channel or flow line of the stream.
 5. Specifications for building construction and materials, floodproofing, filling, dredging, grading, channel improvement, storage of materials, water supply and sanitary facilities.
- B. Transmit one (1) copy of the information described (in Subsection A above) to a designated engineer or other expert person or agency for technical assistance, where necessary, in evaluating the proposed project in relation to flood heights and velocities; the seriousness of flood damage to the use, the adequacy of the plans for protection and other technical matters.

- C. Based upon the technical evaluation of the designated engineer or expert, the Council shall determine the specific flood hazard at the site and shall evaluate the suitability of the proposed use in relation to the flood hazard.

2. DETERMINING FACTORS.

In passing upon such applications, the Planning Commission and City Council shall consider all relevant factors specified in other sections of this Ordinance, and:

- A. The danger to life and property due to increased flood heights or velocities caused by encroachments.
- B. The danger that materials may be swept on to other lands or downstream to the injury of others.
- C. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination and unsanitary conditions.
- D. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
- E. The importance of the services provided by the proposed facility to the community.
- F. The requirements of the facility for a waterfront location.
- G. The availability of alternative locations not subject to flooding for the proposed use.
- H. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
- I. The relationship of the proposed use to the comprehensive plan and flood plain management program for the area.
- J. The safety of access to the property in times of flood for ordinary and emergency vehicles.
- K. The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters expected at the site.
- L. Such other factors which are relevant to the purposes of this Ordinance.

3. CONDITIONS.

Upon consideration of the factors listed above and the purposes of this Ordinance, the Planning Commission and City Council may attach such conditions to the granting of conditional uses or variances as it deems necessary to further the purposes of this Ordinance. Among such conditions without limitation because of specific enumeration may be included:

- A. Modification of waste disposal and water supply facilities.
- B. Limitations on periods of use and operation.
- C. Imposition of operational controls, sureties and deed restrictions.
- D. Requirements for construction of channel modifications, dikes, levees and other protective measures.
- E. Floodproofing measures such as the following shall be designed consistent with the flood protection elevation for the particular area, flood velocities, duration, rate of rise, hydrostatic and hydrodynamic forces and other factors associated

with the regulatory flood. The City Council shall require that the applicant submit a plan or document certified by a registered professional engineer that the floodproofing measures are consistent with regulatory flood protection elevation and associated flood factors for the particular area. The following floodproofing measures may be required without limitation because of specific enumeration.

1. Anchorage to resist flotation and lateral movement.
2. Installation of watertight doors, bulkheads and shutters, or similar methods of construction.
3. Reinforcement of walls to resist water pressures.
4. Use of paints, membranes or mortars to reduce seepage of water through walls.
5. Addition of mass or weight to structures to resist flotation.
6. Installation of pumps to lower water levels in structures.
7. Construction of water supply and waste treatment systems so as to prevent the entrance of floodwaters.
8. Pumping facilities or comparable practices for subsurface drainage systems for buildings to relieve external foundation wall and basement flood pressures.
9. Construction to resist rupture or collapse caused by water pressure or floating debris.
10. Installation of valves or, controls on sanitary and storm drains which will permit the drains to be closed to prevent backup of sewage and storm waters into the buildings or structures. Gravity draining of basements may be eliminated by mechanical devices.
11. Location of all electrical equipment, circuits and installed electrical appliances in a manner which will assure they are not subject to flooding to provide protection from inundation by the regional flood.
12. Location of any structural storage facilities for chemicals, explosives, buoyant materials, flammable liquids or other toxic materials which could be hazardous to public health, safety and welfare in a manner which will assure that the facilities are situated at elevations above the height associated with the regulatory flood protection elevation or are adequately floodproofed to prevent flotation of storage containers, or damage to storage containers which could result in the escape of toxic materials into floodwaters.

Ord. 09-03, Sections 1101.01, 1105.04, 1106.01, Adopted July 20, 2009.