

FLOODPLAIN MANAGEMENT

Chapter 113

FLOODPLAIN MANAGEMENT

ARTICLE I. IN GENERAL

Sec. 113-1. Findings of Fact and Purpose.

- (a) **Statutory Authorization:** The legislature of the State of Minnesota has, in Minnesota Statutes Chapter 103F and Chapter 462 delegated the responsibility to local government units to adopt regulations designed to minimize flood losses. Therefore, the City Council of Mound, Minnesota, does ordain as follows.

(1) **Purpose:**

a. This Chapter regulates development in the flood hazard areas of the City of Mound. These flood hazard areas are subject to periodic inundation, which may result in loss of life and 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. It is the purpose of this Chapter to promote the public health, safety, and general welfare by minimizing these losses and disruptions.

b. National Flood Insurance Program Compliance. This Chapter 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.

c. This Chapter is also intended to preserve the natural characteristics and functions of watercourses and floodplains in order to moderate flood and stormwater impacts, improve water quality, reduce soil erosion, protect aquatic and riparian habitat, provide recreational opportunities, provide aesthetic benefits and enhance community and economic development.

(Ord. No. 13-2016, 10-23-2016)

Sec. 113-2. General Provisions.

- (a) **How to Use This Chapter:** This Chapter adopts the floodplain maps applicable to the City of Mound and includes three floodplain areas: Floodway, Flood Fringe, and General Floodplain.

- (1) Where Floodway and Flood Fringe are delineated on the floodplain maps, the standards in Sections 4 or 5 will apply, depending on the location of a property.

a. Locations where Floodway and Flood Fringe are not delineated on the floodplain maps are considered to fall within General Floodplain. Within General Floodplain, the Floodway standards in Section 4 apply unless the floodway boundary is determined, according to the process outlined in Section 6. Once the floodway boundary is determined, the Flood Fringe standards in Section 5 may apply outside the floodway.

- (b) **Lands to Which Chapter Applies:** This Chapter applies to all lands within the jurisdiction of Mound shown on the Flood Insurance Rate Maps (FIRM) and the attachments

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to the maps as being located within the boundaries of Floodway, Flood Fringe, or General Floodplain.

- (c) **Incorporation of Maps by Reference:** The following maps together with all attached material are hereby adopted by reference and declared to be a part of this Chapter. The attached material includes the Flood Insurance Study for Hennepin County, Minnesota, and Incorporated Areas, dated November 4, 2016, and the Flood Insurance Rate Map panels enumerated below, dated November 4, 2016, all prepared by the Federal Emergency Management Agency. These materials are on file in the City Clerk's Office.

Effective Flood Insurance Rate Map panels:

27053C0283F
27053C0284F
27053C0287F
27053C0291F
27053C0292F

- (d) **Interpretation:** The boundaries of Floodway, Flood Fringe, and General Floodplain are determined by scaling distances on the Flood Insurance Rate Map.
- (1) Where a conflict exists between the floodplain limits illustrated on the Flood Insurance Rate Map and actual field conditions, the flood elevations shall be the governing factor. The City Manager or designee must interpret the boundary location based on the ground elevations that existed on the site on the date of the first National Flood Insurance Program map showing the area within the regulatory floodplain, and other available technical data.
- (e) **Abrogation and Greater Restrictions:** It is not intended by this Chapter to repeal, abrogate, or impair any existing easements, covenants, or other private agreements. However, where this Chapter imposes greater restrictions, the provisions of this Chapter prevail. All other Chapters inconsistent with this Chapter are hereby repealed to the extent of the inconsistency only.
- (f) **Warning and Disclaimer of Liability:** This Chapter does not imply that areas outside the floodplain or land uses permitted will be free from flooding or flood damages. This Chapter does not create liability on the part of the City of Mound or its officers or employees for any flood damages that result from reliance on this Chapter or any administrative decision lawfully made hereunder.
- (g) **Severability:** If any section, clause, provision, or portion of this Chapter is adjudged unconstitutional or invalid by a court of law, the remainder of this Chapter shall not be affected and shall remain in full force.
- (h) **Definitions:** Unless specifically defined below, words or phrases used in this Chapter must be interpreted according to common usage and so as to give this Chapter its most reasonable application.

Accessory Use or Structure means a use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.

Base Flood Elevation means the elevation of the "regional flood." The term "base flood elevation" is used in the flood insurance survey.

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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, to include a walkout, at ground level.

Development means any manmade change to improved or unimproved real estate, including buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

Equal Degree of Encroachment means a method of determining the location of floodway boundaries so that floodplain lands on both sides of a stream are capable of conveying a proportionate share of flood flows.

Flood – a temporary increase in the flow or stage of a stream or in the stage of a wetland or lake that results in the inundation of normally dry areas.

Flood Frequency means the frequency for which it is expected that a specific flood stage or discharge may be equaled or exceeded.

Flood Fringe is synonymous with the term “floodway fringe” used in the Flood Insurance Study for Hennepin County, Minnesota.

Flood Prone Area means any land susceptible to being inundated by water from any source (see “Flood”).

Flood Insurance Rate Map means the official map on which the Federal Insurance Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community. A FIRM that has been made available digitally is called a Digital Flood Insurance Rate Map (DFIRM).

Floodplain means the beds proper and the areas adjoining a wetland, lake or watercourse which have been or hereafter may be covered by the regional flood.

Floodproofing means a combination of structural provisions, changes, or adjustments to properties and structures subject to flooding, primarily for the reduction or elimination of flood damages.

Floodway means 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.

Lowest Floor means the lowest floor of the lowest enclosed area (including basement and crawl space).

Manufactured Home means 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.”

New Construction means structures, including additions and improvements, and placement of manufactured homes, for which the start of construction commenced on or after the effective date of this Chapter.

One Hundred Year Floodplain means lands inundated by the “Regional Flood” (see definition).

Recreational Vehicle means 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

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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 Chapter, the term recreational vehicle is synonymous with the term “travel trailer/travel vehicle.”

Regional Flood means 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 1% chance or 100-year recurrence interval. Regional flood is synonymous with the term "base flood" used in a flood insurance study.

Regulatory Flood Protection Elevation (RFPE) means an elevation not less 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. The regulatory flood protection elevation (in feet) for the following lakes are:

- (1) Lake Minnetonka – 933.0 feet
- (2) Dutch Lake – 942.0 feet
- (3) Lake Langdon – 937.0 feet

Special Flood Hazard Area means a term used for flood insurance purposes synonymous with “One Hundred Year Floodplain.”

Start of Construction includes substantial improvement, and means the actual start of construction, repair, reconstruction, rehabilitation, addition, placement or other improvement that occurred before the permit’s expiration date. The actual start is either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, foundations, or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Structure means anything constructed or erected on the ground or attached to the ground or on-site utilities, 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 means 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 a “historic structure,” provided that the alteration will not preclude the structure’s continued designation as a “historic structure.” For the purpose of this Chapter, “historic structure” is as defined in 44 Code of Federal Regulations, Part 59.1.

(i) **Annexations:** The Flood Insurance Rate Map panels adopted by reference into Section 2.3 above may include floodplain areas that lie outside of the corporate boundaries of the City of Mound at the time of adoption of this Chapter. If any of these floodplain land areas are annexed into the City of Mound after the date of adoption of this Chapter, the newly annexed floodplain lands will be subject to the provisions of this Chapter immediately upon the date of annexation.

(j) **Detachments.** The Flood Insurance Rate Map panels adopted by reference into Section 2.3 above will include floodplain areas that lie inside the corporate boundaries of municipalities at the time of adoption of this Chapter. If any of these floodplain land areas are detached from a municipality and come under the jurisdiction of Mound after the date of adoption of this Chapter, the newly detached floodplain lands will be subject to the provisions of this Chapter immediately upon the date of detachment.

(Ord. No. 13-2016, 10-23-2016)

Sec. 113-3. Establishment of Floodway, Flood Fringe, and General Floodplain.

(a) **Areas:**

- (1) **Floodway.** Floodway includes those areas within Zones AE that have a floodway delineated as shown on the Flood Insurance Rate Map adopted in Section 2.3, as well as portions of other lakes, wetlands, and basins within Zones AE (that do not have a floodway delineated) that are located at or below the ordinary high water level as defined in Minnesota Statutes, Section 103G.005, subdivision 14.
- (2) **Flood Fringe.** Flood Fringe includes areas within Zones AE that have a floodway delineated on the Flood Insurance Rate Map adopted in Section 2.3, but are located outside of the floodway. For lakes, wetlands and other basins within Zones AE that do not have a floodway delineated, Flood Fringe also includes those areas below the 1% annual chance (100-year) flood elevation but above the ordinary high water level as defined in Minnesota Statutes, Section 103G.005, subdivision 14.
- (3) **General Floodplain.** General Floodplain includes those areas within Zones A as shown on the Flood Insurance Rate Map adopted in Section 2.3.

(b) **Applicability:** Within the floodplain established in this Chapter, the use, size, type and location of development must comply with the terms of this Chapter and other applicable regulations. In no cases shall floodplain development adversely affect the efficiency or unduly restrict the capacity of the channels or floodways of any tributaries

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to the main stream, drainage ditches, or any other drainage facilities or systems. All uses not listed as permitted uses Sections 4.0, 5.0 and 6.0 are prohibited. Floodproofing of structures in the Floodway, Flood Fringe and General Floodplain areas, as an alternative to elevating to the RFPE, is not allowed, except for utilities.

(Ord. No. 13-2016, 10-23-2016)

Sec. 113-4. Floodway.

(a) **Permitted Uses:** The following uses, subject to the standards set forth in Section 4.2, are permitted uses if otherwise allowed in the underlying zoning district or any applicable overlay district:

- (1) Industrial-commercial loading areas and parking areas.
- (2) Open space uses, including but not limited to, tennis courts, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, and single or multiple purpose recreational trails.
- (3) Residential lawns, gardens, parking areas, and play areas.
- (4) Railroads, streets, bridges, utility transmission lines and pipelines, provided that the Department of Natural Resources' Area Hydrologist is notified at least ten days prior to issuance of any permit.

(b) **Standards for Floodway Permitted Uses:**

- (1) The use must have a low flood damage potential.
- (2) The use must not obstruct flood flows or cause any increase in flood elevations and must not involve structures, obstructions, or storage of materials or equipment.
- (3) Any facility that will be used by employees or the general public must be designed with a flood warning system that provides adequate time for evacuation if the area is inundated to a depth and velocity such that the depth (in feet) multiplied by the velocity (in feet per second) would exceed a product of four upon occurrence of the regional (1% chance) flood.

(Ord. No. 13-2016, 10-23-2016)

Sec. 113-5. Flood Fringe.

(a) **Permitted Uses:** Permitted uses are those uses of land or structures allowed in the Flood Fringe that comply with the standards in Sections 5.2.

(b) **Standards for Flood Fringe Permitted Uses:**

- (1) All structures, including accessory structures, must be elevated on fill so that the lowest floor, as defined, is at or above the regulatory flood protection elevation. The finished fill elevation for structures must be no lower than one foot below the regulatory flood protection elevation and the fill must extend at the same elevation at least 15 feet beyond the outside limits of the structure. Activities such as the construction of structures and placement of fill within Flood Fringe shall result in a no net decrease in 100-year flood storage.
- (2) The storage of any materials or equipment must be elevated on fill to the regulatory flood protection elevation.
- (3) All service utilities, including ductwork, must be elevated or water-tight to prevent infiltration of floodwaters.

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- (4) 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.
- (5) All fill must be properly compacted and the slopes must be properly protected by the use of riprap, vegetative cover or other acceptable method.
- (6) Accessory uses such as yards, railroad tracks, and parking lots may be at an elevation lower than the regulatory flood protection elevation. However, any facilities used by employees or the general public must be designed with a flood warning system that provides adequate time for evacuation if the area is inundated to a depth and velocity such that the depth (in feet) multiplied by the velocity (in feet per second) would exceed a product of four upon occurrence of the regional (1% chance) flood.
- (7) Interference with normal manufacturing/industrial plant operations must be minimized, especially along streams having protracted flood durations. In considering permit applications, due consideration must be given to the needs of industries with operations that require a floodplain location.
- (8) Manufactured homes and recreational vehicles must meet the standards of Section 9 of this Chapter.

(Ord. No. 13-2016, 10-23-2016)

Sec. 116-6. General Floodplain.

(a) Permitted Uses:

- (1) The uses listed in Section 4.1 of this Chapter, Floodway Permitted Uses, are permitted uses.
- (2) All other uses are subject to the floodway/flood fringe evaluation criteria specified in Section 6.2 below. Section 4.0 applies if the proposed use is determined to be in Floodway. Section 5.0 applies if the proposed use is determined to be in Flood Fringe.

(b) Procedures for Floodway and Flood Fringe Determinations:

- (1) Upon receipt of an application for a permit or other approval within General Floodplain, the City Manager or designee must obtain, review and reasonably utilize any regional flood elevation and floodway data available from a federal, state, or other source.
- (2) If regional flood elevation and floodway data are not readily available, the applicant must furnish additional information, as needed, to determine the regulatory flood protection elevation and whether the proposed use would fall within Floodway or Flood Fringe. Information must be consistent with accepted hydrological and hydraulic engineering standards and the standards in 6.23 below.
- (3) The determination of floodway and flood fringe must include the following components, as applicable:
 - a Estimate the peak discharge of the regional (1% chance) flood.
 - b Calculate the water surface profile of the regional flood based upon a hydraulic analysis of the stream channel and overbank areas.
 - c Compute the floodway necessary to convey or store the regional flood without increasing flood stages more than one-half (0.5) foot. A lesser

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stage increase than 0.5 foot is required if, as a result of the stage increase, increased flood damages would result. An equal degree of encroachment on both sides of the stream within the reach must be assumed in computing floodway boundaries.

- (4) The City Manager or designee will review the submitted information and assess the technical evaluation and the recommended Floodway and/or Flood Fringe. The assessment must include the cumulative effects of previous floodway encroachments. The City Manager or designee may seek technical assistance from a designated engineer or other expert person or agency, including the Department of Natural Resources. Based on this assessment, the City Manager or designee may approve or deny the application.
- (5) Once the Floodway and Flood Fringe boundaries have been determined, the City Manager or designee must process the permit application consistent with the applicable provisions of Section 4.0 and 5.0 of this Chapter.

(Ord. No. 13-2016, 10-23-2016)

Sec. 113-7. Land Development Standards.

- (a) **Subdivisions:** No land may be subdivided which is unsuitable for reasons of flooding or inadequate drainage, water supply or sewage treatment facilities. Manufactured home parks are considered subdivisions under this Chapter.
 - (1) All lots within the floodplain must be able to contain a building site outside of the Floodway at or above the regulatory flood protection elevation.
 - (2) All subdivisions must have road access both to the subdivision and to the individual building sites no lower than two feet below the regulatory flood protection elevation, unless a flood warning emergency plan for the safe evacuation of all vehicles and people during the regional (1% chance) flood has been approved by the City Council. The plan must be prepared by a registered engineer or other qualified individual, and must demonstrate that adequate time and personnel exist to carry out the evacuation.
 - (3) For all subdivisions in the floodplain, the Floodway and Flood Fringe boundaries, the regulatory flood protection elevation and the required elevation of all access roads must be clearly labeled on all required subdivision drawings and platting documents.
 - (4) In General Floodplain, applicants must provide the information required in Section 6.2 of this Chapter to determine the regional flood elevation, the Floodway and Flood Fringe boundaries and the regulatory flood protection elevation for the subdivision site.
 - (5) If a subdivision proposal or other proposed new development is in a flood prone area, any such proposal must be reviewed to assure that:
 - a All such proposals are consistent with the need to minimize flood damage within the flood prone area,
 - b All public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage, and
 - c Adequate drainage is provided to reduce exposure of flood hazard.

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- (b) **Building Sites:** If a proposed building site is in a flood prone area, all new construction and substantial improvements (including the placement of manufactured homes) must be:
- (1) 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;
 - (2) Constructed with materials and utility equipment resistant to flood damage;
 - (3) Constructed by methods and practices that minimize flood damage; and
 - (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.

(Ord. No. 13-2016, 10-23-2016)

Sec. 113-8. Public Utilities, Railroads, Roads and Bridges.

- (a) **Public Utilities:** All public utilities and facilities such as gas, electrical, sewer, and water supply systems to be located in the floodplain must be floodproofed in accordance with the State Building Code or elevated to the regulatory flood protection elevation.
- (b) **Public Transportation Facilities:** Railroad tracks, roads, and bridges to be located within the floodplain must comply with Sections 4.0 and 5.0 of this Chapter. These transportation facilities must be elevated to the regulatory flood protection elevation where failure or interruption of these facilities would result in danger to the public health or safety or where such facilities are essential to the orderly functioning of the area. Minor or auxiliary roads or railroads may be constructed at a lower elevation where failure or interruption of transportation services would not endanger the public health or safety.

(Ord. No. 13-2016, 10-23-2016)

Sec. 113-9. Manufactured Home Parks.

- (a) **Manufactured Homes Parks:** New manufactured home parks are prohibited in any floodplain.

(Ord. No. 13-2016, 10-23-2016)

Sec. 113-10. Administration.

- (a) **City Manager:** The City Manager or designee designated by the City Council must administer and enforce this Chapter.
- (b) **Permit Requirements:**
- (1) Permit Required. A permit must be obtained from the City Manager or his designee prior to conducting the following activities:
 - a The erection, addition, modification, rehabilitation, or alteration of any building, structure, or portion thereof. Normal maintenance and repair also requires a permit if such work, separately or in conjunction with other planned work, constitutes a substantial improvement as defined in this Chapter.

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- b The use or change of use of a building, structure, or land.
 - c The construction of a fence.
 - d The change or extension of a nonconforming use.
 - e The repair of a structure that has been damaged by flood, fire, tornado, or any other source.
 - f The placement of fill, excavation of materials, or the storage of materials or equipment within the floodplain.
 - g Relocation or alteration of a watercourse (including new or replacement culverts and bridges), unless a public waters work permit has been applied for.
 - h Any other type of “development” as defined in this Chapter.
- (2) Application for Permit. Permit applications must be submitted to the City Manager or designee on forms provided by the City Manager or designee. The permit application must include the following as applicable:
 - a A site plan showing all pertinent dimensions, existing or proposed buildings, structures, and significant natural features having an influence on the permit.
 - b Copies of any required municipal, county, state or federal permits or approvals.
 - c Other relevant information requested by the City Manager or designee as necessary to properly evaluate the permit application.
 - (3) Certification. The applicant is required to submit certification by a registered professional engineer, registered architect, or registered land surveyor that the finished building elevations were accomplished in compliance with the provisions of this Chapter.
 - (4) Record of First Floor Elevation. The City Manager or designee must maintain a record of the elevation of the lowest floor (including basement) of all new structures and alterations or additions to existing structures in the floodplain.
 - (5) Notification to FEMA When Physical Changes Increase or Decrease Base Flood Elevations. As soon as is practicable, but not later than six months after the date such supporting information becomes available, the City Manager or designee must notify the Chicago Regional Office of FEMA of the changes by submitting a copy of the relevant technical or scientific data.
- (c) **Variances:**
- (1) Variance Applications. An application for a variance to the provisions of this Chapter will be processed and reviewed in accordance with applicable state statutes and Section(s) 129-139 of the zoning code.
 - (2) Adherence to State Floodplain Management Standards. A variance must not allow a use that is not allowed in Floodway, Flood Fringe or General Floodplain, permit a lower degree of flood protection than the regulatory flood protection elevation for the particular area, or permit standards lower than those required by state law.

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- (3) Additional Variance Criteria. The following additional variance criteria of the Federal Emergency Management Agency must be satisfied:
 - a Variances must 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 may 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 Chapters.
 - c Variances may only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (4) Flood Insurance Notice. The City Manager or designee must 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 up to amounts as high as \$25 for \$100 of insurance coverage; and 2) Such construction below the base or regional flood level increases risks to life and property. Such notification must be maintained with a record of all variance actions.
- (5) Submittal of Meeting Notices to the Department of Natural Resources (DNR). The City Manager or designee must submit meeting notices for proposed variances to the DNR sufficiently in advance to provide at least ten days' notice of the meeting. The notice may be sent by electronic mail or U.S. Mail to the respective DNR area hydrologist.
- (7) Submittal of Final Decisions to the DNR. A copy of all decisions granting variances must be forwarded to the DNR within ten days of such action. The notice may be sent by electronic mail or U.S. Mail to the respective DNR area hydrologist.
- (8) Record-Keeping. The City Manager or designee must maintain a record of all variance actions, including justification for their issuance, and must report such variances in an annual or biennial report to the Administrator of the National Flood Insurance Program, when requested by the Federal Emergency Management Agency.

(Ord. No. 13-2016, 10-23-2016)

Sec. 113-11. Nonconformities.

- (a) **Continuance of Nonconformities:** A use, structure, or occupancy of land which was lawful before the passage or amendment of this Chapter but which is not in conformity with the provisions of this Chapter may be continued subject to the following conditions. Historic structures, as defined in Section 2.835(b) of this Chapter, are subject to the provisions of Sections 11.11 – 11.16 of this Chapter.
 - (1) A nonconforming use, structure, or occupancy must not be expanded, changed, enlarged, or altered in a way that increases its flood damage potential or degree of obstruction to flood flows except as provided in 11.12 below. Expansion or enlargement of uses, structures or occupancies within the Floodway is prohibited.

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- (2) Any addition or structural alteration to a nonconforming structure or nonconforming use that would result in increasing its flood damage potential must be protected to the regulatory flood protection elevation.
- (3) If any nonconforming use, or any use of a nonconforming structure, is discontinued for more than one year, any future use of the premises must conform to this Chapter.
- (4) If any nonconformity is substantially damaged, as defined in Section 2.835 of this Chapter, it may not be reconstructed except in conformity with the provisions of this Chapter. The applicable provisions for establishing new uses or new structures in Sections 4.0 or 5.0 will apply depending upon whether the use or structure is in the Floodway or Flood Fringe, respectively.
- (5) Any substantial improvement, as defined in Section 2.835 of this Chapter, to a nonconforming structure requires that the existing structure and any additions must meet the requirements of Section 4.0 or 5.0 of this Chapter for new structures, depending upon whether the structure is in Floodway or Flood Fringe.

(Ord. No. 13-2016, 10-23-2016)

Sec. 113-12. Penalties and Enforcement.

- (a) **Violation Constitutes a Misdemeanor:** Violation of the provisions of this Chapter or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or conditional uses) constitute a misdemeanor and will be punishable as defined by law.
- (b) **Other Lawful Action:** Nothing in this Chapter restricts the City of Mound from taking such other lawful action as is necessary to prevent or remedy any violation. If the responsible party does not appropriately respond to the City Manager or designee within the specified period of time, each additional day that lapses will constitute an additional violation of this Chapter and will be prosecuted accordingly.
- (c) **Enforcement:** Violations of the provisions of this Chapter will be investigated and resolved in accordance with the provisions of Chapter 1 of the Mound City Code. In responding to a suspected Chapter violation, the City Manager or designee and City Council 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 City of Mound must act in good faith to enforce these official controls and to correct Chapter violations to the extent possible so as not to jeopardize its eligibility in the National Flood Insurance Program.

(Ord. No. 13-2016, 10-23-2016)

Sec. 113-13. Amendments.

- (a) **Floodplain Designation – Restrictions on Removal:** The floodplain designation on the Flood Insurance Rate Map must not be removed from floodplain areas unless it can be shown that the designation is in error or that the area has been filled to or above the elevation of the regulatory flood protection elevation and is contiguous to lands outside the floodplain. Special exceptions to this rule may be permitted by the Commissioner of the Department of Natural Resources (DNR) if the Commissioner determines that, through other measures, lands are adequately protected for the intended use.

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- (b) **Amendments Require DNR Approval:** All amendments to this Chapter must be submitted to and approved by the Commissioner of the Department of Natural Resources (DNR) prior to adoption. The Commissioner must approve the amendment prior to community approval.
- (c) **Map Revisions Require Chapter Amendments:** The floodplain regulations must be amended to incorporate any revisions by the Federal Emergency Management Agency to the floodplain maps adopted in Section 2.3 of this Chapter.

(Ord. No. 13-2016, 10-23-2016)