

FRIDLEY CITY CODE
SECTION 205.27. 0-1 CREEK AND RIVER PRESERVATION
DISTRICT REGULATIONS
(Ref Ord 1056)

1. PURPOSE

The purpose of this district is to

- A. Regulate and ensure orderly development of Fridley's flood plain and fringe lands.
- B. Preserve and protect the natural state of creeks and rivers in Fridley.
- C. Protect surface and ground water quality and quantity.
- D. Minimize the losses due to periodic flooding and eliminate obstructions of flood flow that would cause hazards to life and property.

2. LANDS SUBJECT TO THIS DISTRICT

- A. Establishment Of Boundaries.

The boundaries of the Creek and River Preservation District are hereby established as shown on the official zoning map of the City of Fridley. This boundary is made up of two (2) protection zones (CRP-1 "Floodway" and CRP-2 "Flood Fringe") which contain all lands within the jurisdiction of the City which are subject to periodic flooding by a regional flood and which lie below the regulatory flood protection elevation on the Official Creek and River Profile (hereinafter called the Profile) contained within the Flood Insurance Study prepared for the City of Fridley. The Flood Insurance Study for the City of Fridley prepared by the Federal Insurance Administration dated September 2, 1980, and the Flood Boundary and Floodway Maps and Flood Insurance Rate Maps therein are adopted by reference.

- B. Location Of Boundaries.

The elevations as shown on the Profile and other available technical data contained in the Flood Insurance Study shall be the governing factor in locating creek and river protection boundaries.

3. DEFINITIONS

For the purpose of this district the following definitions shall apply:

- A. Accessory Building.

A subordinate building or use which is located on the same lot as the principal building or use and is necessary or incidental to the conduct of the principal building or use.

B. Channel.

A natural or artificial depression with definite beds and banks to confine and conduct either continuously or periodically the water in creeks and rivers.

C. Commission.

The City of Fridley Planning Commission.

D. Commissioner.

The Commissioner of the Department of Natural Resources of the State of Minnesota.

E. Council.

The Fridley City Council.

F. CRP-1.

Creek and River Protection Zone 1. This zone is synonymous with the term "Floodway", 100 year flood.

G. CRP-2.

Creek and River Protection Zone 2. This zone is synonymous with the term "Flood Fringe", 500 year flood.

H. Equal Degree Of Encroachment.

A method of determining the location of floodway boundaries so that flood plain land on both sides of a stream are capable of conveying a proportionate share of flood flows.

I. Flood Or Flooding.

A temporary rise in creek and river flow or stage that results in inundation of the areas adjacent to the channel.

J. Flood Fringe.

That portion of the flood plain outside of the floodway. Flood fringe is synonymous with the term "Floodway Fringe" used in the Flood Insurance Study.

K. Flood Plain.

The areas adjoining a channel which have been or hereafter may be covered by regional flood.

L. Flood Profile.

A graph or longitudinal plot of water surface elevations of a flood event along a creek or a river.

M. Flood Proofing.

Any combination of provisions, changes or adjustments to properties and structures subject to flooding that are required for the reduction or elimination of flood damage.

N. Floodway.

The channel and those portions of the adjoining flood plain which is required to carry and discharge a regional flood.

O. Obstruction.

Any dam, wall, wharf, embankment, levee, road, dike, pile, abutment, projection, excavation, channel rectification, culvert, building, wire, fence, stockpile, storage of material or equipment, refuse, fill, deposit, clearing of trees or vegetation or structure in, along, across or projecting, in whole or in part, into any flood plain.

P. Preservation District.

The Creek and River Preservation District boundaries shall be contiguous with the regional flood boundaries identified as a part of the Flood Insurance Study.

Q. Profile.

Official Creek and River Profile.

R. Regulatory Flood Protection Datum.

A point of not less than one (1) foot above the regional flood level.

S. Regional Flood.

A flood which is representative of large floods known to have occurred 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.

T. Structure.

Anything constructed or erected which requires location on or underground or attachment to something having location on or underground. This includes an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner, whether of a temporary or permanent character.

U. Unnumbered A-Zone.

A special flood hazard area inundated by the 100-year flood, determined by approximate methods; no base flood elevations are shown or flood hazard factor determined by the Flood Insurance Study.

4. DISTRICT USES, PERMITS AND STANDARDS

A. District Use.

The intent of this Section is to provide a supplementary overlay district which is made up of two (2) protection zones; CRP-1 and CRP-2 within any of the existing zoning districts. Development of this district will follow the requirements of the original zoning district in addition to the requirements of this Section.

B. Permitted Uses In CRP-1 District (Floodway).

(1) No structure or any portion thereof shall be constructed or placed within the CRP-1 District, nor shall there be any grading, filling or excavating of land or any use established on any property within this district with the following exceptions:

(a) Any use having a low flood damage potential, including recreational uses, parking lots, residential yards, loading areas, storage yards, water control structures and other open space uses.

(b) Accessory structures to the above use may be permitted if:

((1)) Structures are not for human habitation.

((2)) Structures have a low flood damage potential.

((3)) Structures are firmly anchored to prevent floatation.

((4)) Accessory buildings are flood-proofed in accordance with the State Building Code.

- (2) Any use, structures, grading, filling and excavating permitted in this Section, with the exception of public uses, require a Special Use Permit.
- (3) Any removal of existing trees over three (3) inches in diameter shall require City approval.
- (4) No structure (temporary or permanent), fill (including fill for roads and levees), deposit, obstruction, storage of materials or equipment, or other uses may be allowed as a Special Use which, acting alone or in combination with existing or reasonably anticipated future uses, adversely affects the capacity of the floodway or increases flood heights.

C. Public Utilities, Railroads, Roads And Bridges.

(1) Public Utilities:

All public utilities and facilities, such as gas, electrical, sewer and water supply systems located in the flood plain shall be flood-proofed in accordance with the State Building Code or elevated to above the Regulatory Flood Protection Elevation.

(2) Public Transportation Facilities:

Railroad tracks, roads and bridges located within the Floodway District shall comply with the Sections of this Chapter. Elevation to the Regulatory Flood Protection Datum shall be provided where failure or interruption of these transportation 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.

D. Permitted Uses In CRP-2 District (Flood Fringe).

No building or structure or any portion thereof, shall be placed within the CRP-2 District, nor shall there be any grading, filling or excavating of land or any use established on any property within the District unless a Special Use Permit is granted. A Special Use Permit may be granted within the CRP-2 zone with the following exceptions:

- (1) No Special Use Permit shall be authorized which would result in incompatible land uses or which would be detrimental to the protection of surface and ground water supplies.
- (2) No Special Use Permit shall be authorized for structures which will increase the financial burdens imposed on the community and its individuals through increasing floods and overflow of water onto land areas adjacent to the creeks and rivers.

- (3) No Special Use Permit shall be issued unless the proposal is in keeping with land use plans and planning objectives for the City of Fridley and which will not increase or cause danger to life or property.
- (4) No Special Use Permit shall be issued in those cases which are inconsistent with the objectives and encourage land use that is incompatible with the preservation of the natural land forms and vegetation.
- (5) No Special Use Permit shall be issued for any fill unless shown to have some beneficial purpose to the property and the amount thereof must not exceed that necessary to achieve the intended purpose. A plan shall be submitted by the owner showing the uses to which the filled land will be put, the kind of fill, and the final dimensions of the proposed fill or other materials. Such fill shall be protected against erosion by rip-rap, vegetative cover or bulkheading if deemed necessary.
- (6) No Special Use Permit shall be issued for garbage or waste disposal sites or systems.
- (7) No Special Use Permit shall be issued unless the applicant submits engineering data, site plans and other plans and information, as the City may require, in order to determine the regulatory flood protection elevation in unnumbered A zones, and the effects of such development on the bed, bank, channel, floodway or flood plain in the District. The applicant shall submit four (4) complete copies of the application.
- (8) No Special Use Permit shall be issued unless the proposed use or obstruction has been reviewed by all governmental bodies having jurisdiction over such use or obstruction. Even if the review is required by statutes, ordinances, rules or regulations applicable to other governmental bodies, the City of Fridley retains the right to make the final determination.

5. ADDITIONAL RESTRICTIONS IN CRP-2 DISTRICTS

Any Special Use Permit issued for an obstruction in the CRP-2 district shall meet the following provisions:

A. Structures.

Structures for habitation constructed on fill shall be constructed on fill so the basement floor or first floor, if there is no basement, is above the regulatory flood protection elevation with the fill at that elevation at least fifteen (15) feet beyond the limits of any structure or building erected thereon. Where existing streets or utilities are at elevations which make compliance impractical, or in other special circumstances, the Planning Commission may authorize other techniques of elevating the first floor (including basements) above the Regulatory Flood Protection Datum under the Special Use Permit, that conform with the flood-proofing requirements of the State Building Code.

B. Other Uses.

Accessory land uses, such as accessory buildings, yards and parking lots may be at elevations lower than the Regulatory Flood Protection Datum if a Special Use Permit is first granted pursuant to this district. Accessory structures must also comply with Section 205.24.4B(1)(b)(1-4) of this district.

C. Storage.

Any storage or processing of materials that in time of flooding may be buoyant, flammable, explosive or could be injurious to human, animal or plant life is prohibited.

D. Nonresidential Structures.

Commercial, manufacturing and industrial structures shall be elevated on fill so that their first floor (including basement) is above the Regulatory Flood Protection Datum but may in special circumstances be flood-proofed in accordance with the State Building Code. Structures that are not elevated to above the Regulatory Flood Protection Datum shall be flood-proofed to FP-1 or FP-2 classification as defined by the State Building Code. Structures flood-proofed to FP-3 or FP-4 classification shall not be permitted.

E. Residences.

Residences that do not have vehicular access above an elevation not more than two (2) feet below the Regulatory Flood Protection Datum shall not be permitted unless granted a Variance by the City. In granting a Variance the City shall specify limitations on the period of use or occupancy of the residence.

F. Commercial Use.

Accessory land uses, such as yards, railroad tracks and parking lots may be at elevations lower than the Regulatory Flood Protection Datum. However, a permit for such facilities to be used by the employees or the general public shall not be granted in the absence of a flood warning system that provides adequate time for evacuation if the area would inundate to a depth greater than two (2) feet or be subject to flood velocities greater than four (4) feet per second during a regional flood.

G. Manufacturing And Industrial Uses.

Measures shall be taken to minimize interference with normal plant operations especially along creeks having protracted flood durations. Certain accessory land uses such as yards and parking lots may be at lower elevations subject to requirements set out above. In considering permit applications, due consideration shall be given to the needs of an industry whose business requires that it be located in a flood plain.

6. ADMINISTRATION

A. The City shall administer and enforce these district regulations and shall maintain a record of the elevation of the first floor (including basement) of all new structures or additions to existing structures in the flood plain districts. The City shall also maintain a record of the elevations to which structures are flood-proofed.

B. Special Use Permit.

A Special Use Permit shall be applied for and obtained prior to the construction, erection, addition or alteration of any obstruction wholly or partly in the Creek and River Preservation District.

C. Application For Permit.

(1) Application for Special Use Permits under this district shall be made to the City in duplicate, by the owner or owners on forms furnished by the City and shall be accompanied by the following information, data and plans as is deemed necessary by the Zoning Administrator for determining compliance with this district and for determining the effects of the proposed activity in the Creek and River Preservation District and the buildability of the particular site for the proposed improvement, use or obstruction.

(2) The City Council may attach any conditions to the granting of the Special Use Permit it deems necessary to fulfill the purposes of the Chapter. Such conditions may include, but are not limited to, the following:

(a) Modification of waste disposal and water supply facilities.

(b) Limitations on period of use, occupancy 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) Flood-proofing measures, in accordance with the State Building Code. The applicant shall submit a plan or document certified by a registered professional engineer or architect that the flood-proofing measures are consistent with the Regulatory Flood Protection Datum and associated flood factors for the particular area.

(3) Plans (surface view) including a survey by a Minnesota registered land surveyor showing elevations of contours of the ground, pertinent obstruction elevations, size, location and special arrangement of all proposed and existing

obstructions on the site, in relation to existing and proposed obstructions to the channel location, location and elevation of streets, water supply and sanitary facilities, photographs showing existing land uses, vegetation, upstream and downstream and soil types shall be required.

- (4) Specifications for building construction and material, flood-proofing, filling, dredging, grading, channel improvement, storage of materials, water supply (including withdrawal and discharge of ground and surface water) and sanitary facilities.

D. Issuance Of Permits.

A Special Use Permit shall be issued upon approval of the application by the City Council. The applicant shall be required to submit certification by a registered professional engineer, registered architect or registered land surveyor that the finished fill and building elevations were accomplished in compliance with the provisions of this Chapter. Flood-proofing measures shall be certified by a registered professional engineer or registered architect.

E. Application For Variance.

Application for Variances under this district shall be made in duplicate to the City by the owner of the land, on forms furnished by the City. Variances to the Creek and River Preservation District must only be for reasons of exceptional circumstances when the strict enforcement of these regulations would cause undue hardship and strict conformity with the standards would be unreasonable, impractical and not feasible under the circumstances. Variances granted under this District must be consistent with the general purpose of these standards. Although Variances may be used to modify permissible methods of flood protection, no Variance shall provide for a lesser degree of flood protection than stated in this district.

7. POWERS, DUTIES AND TECHNICAL ASSISTANCE

A. Powers And Duties

The City shall hear all requests for Special Use Permits and Variances under this district. Requests for Special Use Permits and Variances shall be subject to Section 205.05.4 and 205.05.5 respectively, of the City Code. The City shall submit to the Commissioner a copy of any application for a Special Use Permit or Variance where a hearing is to be held to consider such application. The Commissioner shall receive at least ten (10) days notice of the hearing. Such notice shall specify the time, place and subject matter of the hearing and shall be accompanied by such supporting information as is necessary to indicate the nature and effect of the proposed use. A copy of all decisions granting a Special Use Permit or Variance to the provisions of the Creek and River Preservation District shall be forwarded to the Commissioner within ten (10) days of such action.

B. Technical Assistance.

The City may transmit the information received by it to the appropriate Watershed District or the Commissioner for technical assistance to evaluate the proposed project in relation to flood heights and velocities, for determination of the Regulatory Flood Protection Datum within unnumbered A zones, and to determine seriousness of flood damage to the use, the adequacy of the plans for protection, compliance with the provisions of this district and compliance with Statewide Standards and Criteria for Management of Flood Plain Areas of Minnesota (Minnesota Regulations NR 85-93) and other technical matters.

8. EXISTING NONCONFORMING USES

An obstruction, structure or use which was lawful before adoption of this Chapter, but which is not in conformity with the provisions of this district, may be continued subject to the following conditions.

- A. No such use shall be expanded, changed, enlarged, or altered in a way which increases its nonconformity.
- B. No structural alteration or addition to any nonconforming structure over the life of the structure shall exceed fifty percent (50%) of its assessed value at the time of its becoming a nonconforming use, unless the entire structure is permanently changed to a conforming use or unless the alteration or addition would substantially reduce potential flood damages for the entire structure.
- C. Any alteration or addition to a nonconforming use which would result in substantially increasing the flood damage potential of that use shall be flood-proofed in accordance with the State Building Code.
- D. If any use of an obstruction or structure or the use is discontinued for twelve (12) consecutive months, any subsequent use of the obstruction, structure or use shall comply in all respects with the provisions of this district including, but not limited to, the obtaining of all required permits and variances.
- E. If any nonconforming obstruction or structure is destroyed or damaged by any means, including floods to the extent that the cost of repairing or restoring such destruction or damage would be fifty percent (50%) or more of its value, then it shall not be reconstructed except in full compliance with the provisions of this district, including the obtaining of all required permits and variances.
- F. The Creek and River Preservation District regulations shall in no way prohibit routine maintenance of existing properties. Routine maintenance is considered to be the work property owners could do previous to the adoption of this district without first obtaining a building permit.

9. SUBDIVISIONS

- A. No land shall be subdivided which is held unsuitable by the City of Fridley for reason of flooding, inadequate drainage, water supply or sewage treatment facilities.
- B. All lots within the flood plain districts shall contain a building site at or above the Regulatory Flood Protection Datum.
- C. All subdivisions shall have water and sewage disposal facilities that comply with the provisions of this Chapter and have road access both to the subdivision and to the individual building sites no lower than two (2) feet below the Regulatory Flood Protection Datum.
- D. All subdivisions in the flood plain district shall satisfy the requirements of this Chapter. The City shall evaluate the subdivision in accordance with procedures established in this district.

10. MANUFACTURED HOMES AND MOBILE HOME PARKS

- A. New mobile home parks and expansions to existing mobile home parks shall be subject to the provisions placed on subdivisions by the above Section.
- B. Manufactured homes in existing mobile home parks that are located in flood plain districts are nonconforming uses and may be replaced only if in compliance with the following conditions:
 - (1) The manufactured home lies in the CRP-2 District.
 - (2) The manufactured home is anchored with tiedowns that comply with requirements of Minnesota Regulations Mobile Home 450.
 - (3) The manufactured home owner or renter is notified that the manufactured home site lies in the flood plain and may be subject to flooding.
 - (4) The mobile home park owner develops a flood emergency plan consistent with the time available after a flood warning. The plan shall be filed with and approved by the City.
- C. Individual manufactured homes not located in mobile home parks may be permitted if allowed by other applicable ordinances and if they comply with the provisions of Section 205.24.4D(7) of this Chapter.

11. PUBLIC NUISANCE: PENALTY

- A. Any person who violates any provisions of this district or fails to comply with any of its terms or requirements shall be guilty of a misdemeanor punishable by a fine of not more than \$500 or imprisoned for not more than ninety (90) days, or both, and in addition shall pay all costs of prosecution and expenses involved in the case. Each day such violation continues shall be considered a separate offense.
- B. Every obstruction or use placed or maintained in the Preservation District in violation of this Chapter is hereby declared to be a public nuisance and creation thereof may be enjoined and the maintenance thereof abated by appropriate judicial action.
- C. Nothing herein contained shall prevent the City from taking such other lawful action as is necessary to prevent, remedy or remove any violation.

12. AMENDMENTS

- A. The Creek and River Preservation District elevations on the Profile may be changed by amendment to this district and such change when made shall be shown on the Profile. If future conditions make it necessary to re-evaluate the district boundaries because of increased flooding potential which would affect the health, safety and general welfare of the citizens, the elevation will be corrected by the Council by amendment to this district.
- B. All amendments shall be submitted to the appropriate Watershed Districts and the Commissioner and shall be approved by the Commissioner prior to adoption by the Council.

13. INTERPRETATION

In interpreting and applying the provisions of this district, they shall be held to be the minimum requirements for the promotion of the public health, safety and general welfare. It is not the intention of the Creek and River Preservation District to interfere with, abrogate or annul any covenant or other agreement between parties, nor the provisions of any ordinance of the City; provided, however, where this Creek and River Preservation District imposes a greater restriction upon the use or improvement of any premises than those imposed or required by other statutes, ordinances, rules, regulations or permits of the City, State or appropriate Watershed District, or by covenants or agreements, the provisions of this district shall govern.

14. WARNING AND DISCLAIMER OF LIABILITY

This Section does not imply that areas outside the Creek and River Preservation District or land uses or obstructions permitted within the Creek and River Preservation District will be free from flooding or flood damages. This Creek and River Preservation District shall not create liability on the part of the City or any official or employee thereof, for any flood damages that result from reliance on this Chapter or any City action taken or administration or Council decision lawfully made hereunder.