

12.29 FLOODPLAIN.

Subd. 1. STATUTORY AUTHORIZATION. The legislature of the State of Minnesota has, in Minnesota Statutes Chapter 103F Chapter 462 delegated the responsibility to local government units to adopt regulations designed to minimize flood losses.

Subd. 2. FINDINGS OF FACT.

- A. The flood hazard areas of La Crescent, Minnesota, are subject to periodic inundation which results in potential loss of life, loss of 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, all of which adversely affect the public health, safety, and general welfare.
- B. Methods Used to Analyze Flood Hazards. This Section is based upon a reasonable method of analyzing flood hazards which is consistent with the standards established by the Minnesota Department of Natural Resources.

Subd. 3. STATEMENT OF PURPOSE. It is the purpose of this Section to promote the public health, safety, and general welfare and to minimize those losses described in 12.29, Subd, 2.A by provisions contained herein.

- A. This ordinance regulates development in the flood hazard areas of the City of La Crescent. 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 ordinance to promote the public health, safety, and general welfare by minimizing these losses and disruptions.
- B. National Flood Insurance Program Compliance. This ordinance 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 ordinance 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.

Subd. 4. GENERAL PROVISIONS.

- A. Lands to Which Section Applies: This section shall apply to all lands within the jurisdiction of the City of La Crescent shown on the Official Zoning Map and/or the attachments thereto as being located within the boundaries of the Floodway, Flood Fringe or General Floodplain Districts, or as modified below.
 - 1. The Floodway, Flood Fringe and General Floodplain Districts are overlay districts that are superimposed on all existing zoning districts. The standards imposed in the overlay districts are in addition to any other requirements in this ordinance. In case of a conflict, the more restrictive standards will apply.
 - 2. Where a conflict exists between the floodplain limits illustrated on the official floodplain maps and actual field conditions, the flood elevations shall be the governing factor in locating the regulatory floodplain limits.

3. Persons contesting the location of the district boundaries will be given a reasonable opportunity to present their case to the Planning Commission to submit technical evidence.
- B. 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 the Official Zoning Map and this ordinance:
1. Flood Insurance Studies:
 - a. Houston County, Minnesota (unincorporated areas), dated 12/7/2018
 - b. Winona County, Minnesota (unincorporated areas), dated 7/18/1983
 2. Currently effective Flood Insurance Rate Map panels enumerated below:
 - a. Houston County Panel 27055C0077E, dated 12/7/2018
 - b. Houston County Panel 27055C0079E, dated 12/7/2018
 - c. Houston County Panel 27055C0081E, dated 12/7/2018
 - d. Houston County Panel 27055C0083E, dated 12/7/2018
 - e. Houston County Panel 27055C0084E, dated 12/7/2018
 - f. Houston County Panel 27055C0087E, dated 12/7/2018
 - g. Houston County Panel 27055C0091E, dated 12/7/2018
 - h. Winona County Panel 2705250225C, effective 1/18/1984
- C. The Official Zoning Map shall be on file in the Office of the Building Official, of La Crescent. For any instance where the effective and preliminary maps conflict, the more restrictive map shall apply. These materials are on file in the office of the City Building Official.
- D. Regulatory Flood Protection Elevation: The Regulatory Flood Protection Elevation shall be an elevation no lower than two foot above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the flood plain that result from designation of a floodway.
- E. Interpretation:
1. In their interpretation and application, the provisions of this Section shall be held to be minimum requirements and shall be liberally construed in favor of the Governing Body and shall not be deemed a limitation or repeal of any other powers granted by State Statutes.
 2. The boundaries of the zoning districts shall be determined by scaling distances on the Official Zoning Map. Where interpretation is needed as to the exact location of the boundaries of the district as shown on the Official Zoning Map, as for example where there appears to be a conflict between a mapped boundary and actual field conditions and there is a formal appeal of the decision of the Building Official, the Planning Commission shall make the necessary

interpretation and this Planning Commission interpretation may be appealed to the Zoning Board of Appeals. All decisions will be based on elevations on the regional (100—year) flood profile and other available technical data. Persons contesting the location of the district boundaries shall be given a reasonable opportunity to present their case to the Planning Commission and to submit technical evidence,

Subd. 5. **ABROGATION AND GREATER RESTRICTIONS.** It is not intended by this Section to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Section imposes greater restrictions, the provisions of this Section shall prevail.

Subd. 6. **WARNING AND DISCLAIMER OF LIABILITY.** This Section 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 Section shall not create liability on the part of the City of La Crescent or any officer or employee thereof for any flood damages that result from reliance on this Section or any administrative decision lawfully made there under.

Subd. 7. **SEVERABILITY.** If any section, clause, provision, or portion of this Section is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Section shall not be affected thereby.

Subd. 8. ESTABLISHMENT OF FLOODPLAIN ZONING DISTRICTS

A. Districts:

1. **Floodway District.** The Floodway District includes those areas within Zones AE that have a floodway delineated as shown on the Flood Insurance Rate Map adopted by reference. For lakes, wetlands and other basins within Zone AE areas, the Floodway District also includes those areas that are at or below the ordinary high water level as defined in Minnesota Statutes, Section 103G.005, subdivision 14.
2. **Flood Fringe District.** The Flood Fringe District includes areas within Zones AE that have a floodway delineated on the Flood Insurance Rate Map adopted by reference, but located outside of the floodway.
3. **General Floodplain District.** The General Floodplain District includes those areas within Zone A as shown on the Flood Insurance Rate Map adopted by reference.

B. Applicability: Where Floodway and Flood Fringe districts are delineated on the floodplain maps, the standards for those districts in this ordinance will apply, depending on the location of a property. Locations where Floodway and Flood Fringe districts are not delineated on the floodplain maps are considered to fall within the General Floodplain district. Within the General Floodplain district, the Floodway District standards apply unless the floodway boundary is determined according to the process outlined in the General Floodplain District.

12.30 REQUIREMENTS FOR ALL FLOODPLAIN DISTRICTS

Subd. 1 **PERMIT REQUIRED.** A permit must be obtained from the Building Official to verify a development meets the standards outlined in this ordinance 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 ordinance.

- B. The construction of a dam, on-site septic system, or fence, although a permit is not required for a farm fence as defined in this ordinance.
- C. The change or extension of a nonconforming use.
- D. The repair of a structure that has been damaged by flood, fire, tornado, or any other source.
- E. The placement of fill, excavation of materials, or the storage of materials or equipment within the floodplain.
- F. Relocation or alteration of a watercourse (including new or replacement culverts and bridges), unless a public waters work permit has been applied for.
- G. Any other type of “development” as defined in this ordinance.

Subd. 2 MINIMUM DEVELOPMENT STANDARDS. 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:

- A. 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;
- B. Constructed with materials and utility equipment resistant to flood damage;
- C. Constructed by methods and practices that minimize flood damage; and
- D. 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.

Subd. 3. FLOOD CAPACITY. In no cases shall floodplain development adversely affect the efficiency or unduly restrict the capacity of the channels or floodways of any tributaries to the main stream, drainage ditches, or any other drainage facilities or systems.

Subd. 4. PROHIBITED MATERIALS. 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.

Subd. 5 CRITICAL FACILITIES. Critical facilities, as defined in this Title, are prohibited in all floodplain districts.

12.31 FLOODWAY DISTRICT (FW)

Subd. 1. PERMITTED USES. The following uses, subject to the standards set forth in this section, are permitted uses if otherwise allowed in the underlying zoning district or any applicable overlay district:

- A. General farming, pasture, grazing, farm fences, outdoor plant nurseries, horticulture, forestry, sod farming, and wild crop harvesting.

- B. Industrial-commercial loading areas, parking areas, and airport landing strips.
- C. Open spaces, including but not limited to private and public 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, hunting and fishing areas, and single or multiple purpose recreational trails.
- D. Residential yards, lawns, gardens, parking areas, and play areas.
- E. 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.

Subd. 2. STANDARDS FOR FLOODWAY PERMITTED USES.

- A. The use must have a low flood damage potential.
- B. 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.
- C. 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.

Subd. 3. CONDITIONAL USES. The following uses may be allowed as conditional uses following the standards and procedures set forth in this section and further subject to the standards set forth below in Subd. 4, if otherwise allowed in the underlying zoning district or any applicable overlay district:

- A. Structures accessory to primary uses listed Subd. 1 above and primary uses listed in Subd. 3, B through G below.
- B. Grading, extraction, fill and storage of soil, sand, gravel, and other materials.
- C. Marinas, boat rentals, permanent docks, piers, wharves, water control structures and navigational facilities.
- D. Storage yards for equipment, machinery, or materials.
- E. Construction of fences, other than farm fences which are a permitted use, that obstruct flood flows.
- F. Structural works for flood control such as levees, dikes, and floodwalls where the intent is to protect agricultural crops for a frequency flood event equal to or less than the 10-year frequency flood event.

Subd. 4. STANDARDS FOR FLOODWAY CONDITIONAL USES.

- A. All Uses. A Conditional Use must not cause any increase in the stage of the 100-year or regional flood elevations or cause an increase in flood damages in the reach or reaches affected.

B. Fill, Storage of Materials and Equipment:

1. Fill, dredge spoil and other similar materials deposited or stored in the floodplain must be protected from erosion by vegetative cover, mulching, riprap or other acceptable method. Dredge spoil sites and sand and gravel operations and similar uses must be covered by a long-term site development.
2. Temporary placement of fill, other materials which would cause an increase to the stage of the 1% chance or regional flood may only be allowed after the City Council has approved an appropriate plan which assures removal of the materials from the floodway based upon the flood warning time available. The Conditional Use Permit must be title registered with the property in the Office of the County Recorder.

C. Accessory Structures:

1. Accessory structures shall not be designed or intended for human habitation.
2. Accessory structures, if permitted, shall be constructed and placed on the building site so as to offer the minimum obstruction to the flow of flood waters.
 - a. Whenever possible, structures shall be constructed with the longitudinal axis parallel to the direction of flood flow, and,
 - b. So far as practicable, structures shall be placed approximately on the same flood flow lines as those of adjoining structures.
3. Accessory structures must be elevated on fill or structurally dry flood proofed in accordance with the FP1 or FP2 flood proofing classifications in the State Building Code. All floodproofed structures must be adequately anchored to prevent flotation, collapse or lateral movement and designed to equalize hydrostatic flood forces on exterior walls.
4. As an alternative, an accessory structure may be flood proofed to the FP3 or FP4 flood proofing classification in the State Building Code All flood proofed accessory structures must either be certified by a registered professional engineer or meet or exceed the following criteria:
 - a. To allow for the equalization of hydrostatic pressure, there must be a minimum of two “automatic” openings in the outside walls of the structure, with a total net area of not less than one square inch for every square foot of enclosed area subject to flooding; and
 - b. There must be openings on at least two sides of the structure and the bottom of all openings must be no higher than one foot above the lowest adjacent grade to the structure. Using human intervention to open a garage door prior to flooding will not satisfy this requirement for automatic openings.

D. Structural works for flood control that will change the course, current or cross section of protected wetlands or public waters shall be subject to the provisions of Minnesota Statute, Chapter 103G.245.

E. A levee, dike or floodwall constructed in the floodway shall not cause an increase to the 1% chance or regional flood and the technical analysis must assume equal conveyance or storage loss on both sides of a stream.

- F. Floodway developments must not adversely affect the hydraulic capacity of the channel and adjoining floodplain of any tributary watercourse or drainage system.

12.32 FLOOD FRINGE DISTRICT (FF)

Subd. 1. PERMITTED USES. Permitted Uses shall be those uses of land or structures listed as Permitted Uses in the underlying zoning use district(s). All Permitted Uses shall comply with the standards for Flood Fringe “Permitted Uses” and the standards for all Flood Fringe “Permitted and Conditional Uses” listed.

Subd. 2. STANDARDS FOR FLOOD FRINGE PERMITTED USES.

- A. 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 two (2) foot below the Regulatory Flood Protection Elevation and the fill must extend at such elevation at least fifteen (15) feet beyond the outside limits of the structure. Elevations must be certified by a registered professional engineer, land surveyor or other qualified person designated by the community.
- B. Accessory Structures. As an alternative to fill, accessory structures that constitute a minimal investment and that do not exceed 576 square feet for the outside dimension at ground level may be internally flood proofed to the FP3 or FP4 floodproofing classifications in the State Building Code, provided that:
 - 1. The accessory structure constitutes a minimal investment, does not exceed 576 square feet in size, and is only used for parking and storage.
 - 2. All portions of floodproofed accessory structures below the Regulatory Flood Protection Elevation must be: (i) adequately anchored to prevent flotation, collapse or lateral movement and designed to equalize hydrostatic flood forces on exterior walls, (ii) be constructed with materials resistant to flood damage, and (iii) must have all service utilities be water-tight or elevated to above the regulatory flood protection elevation
 - 3. Designs for meeting this requirement must either be certified by a registered professional engineer or meet or exceed the following criteria:
 - a. To allow for the equalization of hydrostatic pressure, there must be a minimum of two “automatic” openings in the outside walls of the structure, with a total net area of not less than one square inch for every square foot of enclosed area subject to flooding; and
 - b. There must be openings on at least two sides of the structure and the bottom of all openings must be no higher than one foot above the lowest adjacent grade to the structure. Using human intervention to open a garage door prior to flooding will not satisfy this requirement for automatic openings.
- C. The cumulative placement of fill on a parcel must not exceed one thousand (1,000) cubic yards, unless said fill is specifically intended to elevate a structure in accordance with the standards in this section, or if processed as a Conditional Use as regulated in this section.
- D. The storage of any materials or equipment shall be elevated on fill to the Regulatory Flood Protection Elevation.

- E. All service utilities, including ductwork, must be elevated or water-tight to prevent infiltration of floodwaters.
- F. All fill must be properly compacted and the slopes must be properly protected by the use of riprap, vegetative cover or other acceptable method.
- G. All new principal structures must have vehicular access at or above an elevation not more than two feet below the regulatory flood protection elevation, or must have a flood warning /emergency evacuation plan acceptable to the City Council.
- H. 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.
- I. Manufactured homes and recreational vehicles must meet the standards in this ordinance.

Subd. 3. **CONDITIONAL USES.** The following uses and activities may be allowed as conditional uses, if allowed in the underlying zoning district or any applicable overlay district, following the procedures in this ordinance.

- A. Storage of any material or equipment below the regulatory flood protection elevation.
- B. The cumulative placement of more than 1,000 cubic yards of fill when the fill is not being used to elevate a structure in accordance with the provision of this ordinance.
- C. The use of methods to elevate structures above the regulatory flood protection elevation, including stilts, pilings, parallel walls, or above-grade, enclosed areas such as crawl spaces or tuck under garages, shall meet the standards in Section 12.32, Subd. 4(F).

Subd. 4. **STANDARDS FOR FLOOD FRINGE CONDITIONAL USES.**

- A. The standards listed in this section apply to all conditional uses.
- B. Residential basements, as defined in this Title, are not allowed below the regulatory flood protection elevation.
- C. All areas of nonresidential structures, including basements, to be placed below the regulatory flood protection elevation must be structurally dry floodproofed, meeting the FP1 or FP2 floodproofing classification in the State Building Code, which requires making the structure watertight with the walls substantially impermeable to the passage of water and with structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.
- D. The placement of more than 1,000 cubic yards of fill or other similar material on a parcel (other than for the purpose of elevating a structure to the regulatory flood protection elevation) must comply with an approved erosion/sedimentation control plan.
 - 1. The plan must clearly specify methods to be used to stabilize the fill on site for a

flood event at a minimum of the regional (1% chance) flood event.

2. The plan must be prepared and certified by a registered professional engineer or other qualified individual acceptable to the Building Official.
 3. The plan may incorporate alternative procedures for removal of the material from the floodplain if adequate flood warning time exists.
- E. Storage of materials and equipment below the regulatory flood protection elevation must comply with an approved emergency plan providing for removal of such materials within the time available after a flood warning.
- F. Alternative elevation methods other than the use of fill may be utilized to elevate a structures lowest flood above the Regulatory Flood Protection Elevation. These alternative methods may include the use of stilts, pilings, parallel walls, etc., or above—grade, enclosed areas such as crawl spaces or tuck under garages. The base or floor of an enclosed area shall be considered above—grade and not a structures basement or lowest floor if: 1) if the enclosed area is above—grade or at least one side of the structure; 2) is designed to internally flood and is constructed with flood resistant materials; and 3) is used solely for parking of vehicles, building access or storage. The above—noted alternatives elevation methods are subject to the following additional standards:
1. Design and Certification - The structure’s design and as-built condition must be certified by a registered professional engineer or architect as being in compliance with the general design standards of the State Building Code and, specifically, that all electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities must be at or above the Regulatory Flood Protection Elevation or be designed to prevent flood water from entering or accumulating within these components during times of Flooding.
 2. Specific Standards for Above-grade, Enclosed Areas. Above-grade, fully enclosed areas such as crawl spaces or tuck under garages must be designed to internally flood and the design plans must stipulate:
 - a. The minimum area of openings in the walls where internal flooding is to be used as a flood proofing technique. There shall be a minimum of two openings on at least two sides of the structure and the bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of flood waters without any form of human intervention, and shall have a minimum net area of not less than one square inch for every square foot of enclosed area subject to flooding unless a registered professional engineer or architect certifies that a smaller net area will suffice.
 - b. That the enclosed area will be designed of flood resistant materials in accordance with the FP3 or FP4 classifications in the State Building Code and shall be used solely for building access, parking of vehicles or storage.

12.33 GENERAL FLOOD PLAIN DISTRICT

Subd. 1. PERMITTED USES.

- A. The uses listed in this section as Floodway District Permitted Uses shall be permitted uses if otherwise allowed in the underlying zoning district or any applicable overlay district.
- B. All other uses shall be subject to the floodway/flood fringe evaluation criteria in Subd. 2, below. If the proposed use is in the Floodway District the standards in for the Floodway District shall apply. I If the proposed use is in the Flood Fringe District the standards of the Flood Fringe District shall apply.

Subd. 2. PROCEDURES FOR FLOODWAY DETERMINATIONS WITHIN THE GENERAL FLOOD PLAIN DISTRICT.

- A. Detailed Study. Developments greater than 50 lots or 5 acres, or as requested by the zoning administrator, shall be subject to a detailed study to determine the regulatory flood protection elevation and the limits of the Floodway District. The determination of the floodway and flood fringe must be consistent with accepted hydrological and hydraulic engineering standards, and must include the following components, as applicable:
 1. Estimate the peak discharge of the regional flood.
 2. Calculate the water surface profile of the regional flood based upon a hydraulic analysis of the stream channel and overbank areas.
 3. Compute the floodway necessary to convey or store the regional flood without increasing flood stages more than 0.5 foot. A lesser stage increase than 0.5 shall be required if, as a result of the additional stage increase, increased flood damages would result. An equal degree of encroachment on both sides of the stream within the reach shall be assumed in computing floodway boundaries.
- B. Alternative Methods. Provided no detailed study is available, an applicant must identify a base flood elevation, at minimum, to determine the boundaries of the special flood hazard area. The applicant shall obtain and utilize best available data to determine the regional flood elevation and floodway boundaries from a state, federal, or other source. If no such data exists, the applicant may determine the base flood elevation and floodway limits through other accepted engineering practices. Any such method shall assume a 0.5 foot stage increase to accommodate for future floodway determination.
- C. The Building Official will review the submitted information and assess the technical evaluation and the recommended Floodway and/or Flood Fringe District boundary. The assessment must include the cumulative effects of previous floodway encroachments. The Building Official 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 Zoning Administrator may approve or deny the application.
- D. Once the Floodway and Flood Fringe District boundaries have been determined, the Building Official must process the permit application consistent with the applicable provisions of the Floodway and Flood Fringe Districts in this ordinance.

12.34 SUBDIVISIONS

Subd. 1. REVIEW CRITERIA: No land may be subdivided which is unsuitable for the reason of flooding, inadequate drainage, water supply or sewage treatment facilities. Manufactured home parks and recreational vehicle parks or campgrounds are considered subdivisions under this

ordinance.

Subd. 2. All lots within the floodplain districts must be able to contain a building site outside of the Floodway District at or above the Regulatory Flood Protection Elevation.

Subd. 3. All subdivisions shall have water and sewage treatment facilities that comply with the provisions of this title and 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.

Subd. 4. For all subdivisions in the floodplain, the Floodway and Flood Fringe District 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.

Subd. 5. In the General Flood Plain District, applicants shall provide the information required in 12.34, Subd, 2 of this title to determine the 100-year flood elevation, the Floodway and Flood Fringe District boundaries and the Regulatory Flood Protection Elevation for the subdivision site.

12.35 UTILITIES, RAILROADS, ROADS AND BRIDGES

Subd. 1. PUBLIC UTILITIES. All public utilities and facilities such as gas, electrical, sewer, and water supply systems to be located in the floodplain must be flood proofed in accordance with the State Building Code or elevated to the Regulatory Flood Protection Elevation.

Subd. 2. PUBLIC TRANSPORTATION FACILITIES. Railroad tracks, roads, and bridges to be located within the floodplain must comply with 12.31 and 12.32 of this title. These transportation facilities must be elevated to the Regulatory Flood Protection Elevation 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.

Subd. 3. ON-SITE SEWAGE TREATMENT AND WATER SUPPLY SYSTEMS: Where public utilities are not provided: a) On-site water supply systems must be designed to minimize or eliminate infiltration of flood waters into the systems and are subject to the provisions in Minnesota Rules Chapter 4725.4350, as amended; and b) New or replacement on-site sewage treatment systems must be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, they must not be subject to impairment or contamination during times of flooding. and are subject to the provisions in Minnesota Rules Chapter 7080.2270, as amended.

12.36 MANUFACTURED HOMES AND MANUFACTURED HOME PARKS AND PLACEMENT OF TRAVEL TRAILERS AND RECREATIONAL VEHICLES.

Subd. 1. Manufactured homes and manufactured home parks are subject to applicable standards for each floodplain district. In addition:

- A. New and replacement manufactured homes must be elevated in compliance with Section 6 of this ordinance and must be securely anchored to a system that resists flotation, collapse and lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state or local anchoring requirements for resisting wind

forces.

New manufactured home parks and expansions to existing manufactured home parks must meet the appropriate standards for subdivisions in Section 8 of this ordinance. New or replacement manufactured homes in existing manufactured home parks must meet the vehicular access requirements for subdivisions in Section 8.12 of this ordinance.

Subd. 3. Recreational Vehicles: New recreational vehicle parks or campgrounds and expansions to existing recreational vehicle parks or campgrounds are prohibited in any floodplain district. Recreational vehicles placed in existing recreational vehicle parks, campgrounds or lots of record in the floodplain must either:

Meet the requirements for manufactured homes in Section 10.1, or

- A. Be travel ready, meeting the following criteria:
 - 1. Individual lots or parcels of record.
 - 2. Existing commercial recreational vehicle parks or campgrounds.
 - 3. Existing condominium type associations.

12.37 ADMINISTRATION OF FLOODPLAIN REGULATIONS.

Subd. 1. BUILDING OFFICIAL: A Building Official is designated by the City Council and shall administer and enforce this title. If the Building Official finds a violation of the provisions of this title, the Building Official shall notify the person responsible for such violation in accordance with the procedures stated in 12.40 of the title.

Subd. 2. PERMIT REQUIREMENTS:

- A. Permit Required. A Permit issued by the Building Official in conformity with the provisions of the floodplain ordinance shall be secured prior to the erection, addition or alteration of any building, structure, or portion thereof; prior to the use or change of use of a building, structure, or land; prior to the change or extension of a nonconforming use; and prior to the placement of fill, excavation of materials, or the storage of materials or equipment within the floodplain.
- B. Application for Permit. Application for a Permit must be submitted to the Building Official on forms furnished by The Building Official and must include the following where applicable:
 - 1. A site plan showing all pertinent dimensions, existing or proposed buildings, structures, and significant natural features having an influence on the permit.
 - 2. Location of fill or storage of materials in relation to the stream channel.
 - 3. Copies of any required municipal, county, state or federal permits or approvals.
 - 4. Other relevant information requested by the Zoning Administrator as necessary to properly evaluate the permit application.
- C. State and Federal Permits. Prior to granting a Permit or processing an application for a Conditional Use Permit or Variance, the Building Official shall determine that the

applicant has obtained all necessary State and Federal Permits.

- D. Certificate of Zoning Compliance for a New, Altered, or Nonconforming Use. It shall be unlawful to use, occupy or permit the use or occupancy of any building or premises or part thereof hereafter created, erected, changed, converted, altered, or enlarged in its use or structure until a Certificate of Zoning Compliance shall have been issued by the Building Official stating that the use of the building or land conforms to the requirements of this title,
- E. Construction and Use to be as provided on Applications, Plans, Permits, Variances and Certificates of Zoning Compliance. Permits, Conditional Use Permits, 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. Any use, arrangement, or construction at variance with that authorized shall be deemed a violation of this title, and punishable as provided by 12.40 of this title.
- F. Certification. 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 title. Floodproofing measures must be certified by a registered professional engineer or registered architect. Accessory structures designed in accordance with Section 12.32 Subd. 2.B of this ordinance are exempt from certification, provided sufficient documentation is provided.
- G. Record of First Floor Elevation. The Building Official shall 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 flood plain. The Building Official shall also maintain a record of the elevation to which structures or alterations and additions to structures are flood proofed.
- H. Notifications for Watercourse Alterations. Before authorizing any alteration or relocation of a river or stream, the Zoning Administrator must notify adjacent communities. If the applicant has applied for a permit to work in public waters pursuant to Minnesota Statutes, Section 103G.245, this will suffice as adequate notice. A copy of the notification must also be submitted to the Chicago Regional Office of the Federal Emergency Management Agency (FEMA).
- I. 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 Zoning Administrator must notify the Chicago Regional Office of FEMA of the changes by submitting a copy of the relevant technical or scientific data.

Subd. 3. VARIANCES IN THE FLOODPLAIN:

- A. No Variance shall have the effect of allowing in any district uses prohibited in that district or permit standards lower than those required by State law.
- B. Any variances from the floodplain requirements should follow the requirements and procedures for zoning variances outlined in this title. No Variance shall permit a lower degree of flood protection than the Regulatory Flood Protection Elevation for the particular area, allow any increase in flood levels during the base flood discharge, or permit standards lower than those required by State law.
- C. Variances may only be issued in the floodplain by a community upon (i) a showing

of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

- D. Variances may only be issued in the floodplain upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- E. Flood Insurance Notice. The Zoning Administrator 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.
- F. General Considerations. The community may consider the following factors in granting variances and imposing conditions on variances and conditional uses in floodplains:
 - 1. The potential danger to life and property due to increased flood heights or velocities caused by encroachments;
 - 2. The danger that materials may be swept onto other lands or downstream to the injury of others;
 - 3. The proposed water supply and sanitation systems, if any, and the ability of these systems to minimize the potential for disease, contamination and unsanitary conditions;
 - 4. The susceptibility of any proposed use and its contents to flood damage and the effect of such damage on the individual owner;
 - 5. The importance of the services to be provided by the proposed use to the community;
 - 6. The requirements of the facility for a waterfront location;
 - 7. The availability of viable alternative locations for the proposed use that are not subject to flooding;
 - 8. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future;
 - 9. The relationship of the proposed use to the Comprehensive Land Use Plan and flood plain management program for the area;
 - 10. The safety of access to the property in times of flood for ordinary and emergency vehicles;
 - 11. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters expected at the site.
- F. Submittal of Hearing Notices to the Department of Natural Resources (DNR). The (designated body/community official) must submit hearing notices for proposed variances to the DNR sufficiently in advance to provide at least ten days' notice of

the hearing. The notice may be sent by electronic mail or U.S. Mail to the respective DNR area hydrologist.

- G. 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.
- H. Record-Keeping. The Zoning Administrator 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.

Subd. 4. **CONDITIONAL USES IN THE FLOODPLAIN.** Applications for Conditional Uses shall be submitted to the Building Official who shall forward the application to the Planning Commission for a public hearing, consideration and recommendation to the City Council who shall decide on the application.

- A. Hearings. Upon filing of an application for a Conditional Use Permit, the City Building Official shall submit by mail to the Commissioner of Natural Resources a copy of the application for proposed Conditional Use sufficiently in advance so that the Commissioner will receive at least ten days' notice of the hearing.
- B. Decisions. A copy of all decisions granting Conditional Use Permits shall be forwarded by mail to the Commissioner of Natural Resources within ten (10) days of such action.
- C. Procedures to be followed by the City of La Crescent in passing on Conditional Use Permit Applications Within all Flood Plain Districts.
 - 1. Require the applicant to furnish such of the following information and additional information as deemed necessary by the Planning Commission for determining the suitability of the particular site for the proposed use:
 - a. Plans drawn to scale showing the nature, location, dimensions, and elevations of the lot, existing or proposed structures, fill, storage of materials, flood proofing measures, and the relationship of the above to the location of the stream channel.
 - b. Specifications for building construction and materials, flood proofing, filling, dredging, grading, channel improvement, storage of materials, water supply and sanitary facilities.
 - 2. Transmit one copy of the information described 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.
 - 3. Based upon the technical evaluation of the designated engineer or expert, the Planning Commission shall determine the specific flood hazard at the site and evaluate the suitability of the proposed use in relation to the flood hazard.
- D. Factors Upon Which the Decision of the Planning Commission Shall be Based. In passing upon Conditional Use applications, the Planning Commission and the City Council shall consider all relevant factors specified in other sections of this Title, and Section 12/37, Subd. E.3 above.

- E. Conditions Attached to Conditional Use Permits in the Floodplain. Upon consideration of the factors listed above and the purpose of this title, the City Council shall attach such conditions to the granting of Conditional Use Permits as it deems necessary to fulfill the purposes of this title. Such conditions may include, but are not limited to, the following:
1. Modification of waste treatment and water supply facilities.
 2. Limitations on period of use, occupancy, and operation.
 3. Imposition of operational controls, sureties, and deed restrictions.
 4. Requirements for construction of channel modifications, compensatory storage, dikes, levees, and other protective measures.
 5. Floodproofing measures, in accordance with the State Building Code and this title. The applicant shall submit a plan or document certified by a registered professional engineer or architect that the floodproofing measures are consistent with the Regulatory Flood Protection Elevation and associated flood factors for the particular area.

12.38 NONCONFORMING USES.

Subd. 1. A structure or the use of a structure or premises which was lawful before the passage or amendment of this title but which is not in conformity with the provisions of this title may be continued subject to the following conditions:

- A. No such nonconforming use, structure, or occupancy shall be expanded, changed, enlarged, or altered in a way which increases its flood damage potential or degree of obstruction to flood flows as provided in paragraph 12.39, Subd. 1.B below. Expansion or enlargement of structures or occupancies with the Floodway District is prohibited.
- B. Any addition or structural alteration to a nonconforming structure or nonconforming use which would result in increasing its flood damage potential must be protected to the Regulatory Flood Protection Elevation in accordance with any of the elevation on fill or floodproofing techniques (i.e., FPI thru FP4 floodproofing classifications) allowable in the State Building Code, except as further restricted in 12.39, Subd. 1. C, below.
- C. If any nonconforming use is discontinued for 12 consecutive months, any future use of the building premises shall conform to this title. The assessor shall notify the Building Official in writing of instances of nonconforming uses which have been discontinued for a period of 12 months.
- D. If any structure experiences a substantial improvement as defined in this ordinance, then the entire structure must meet the standards of Section 12.31 or 12.32 of this ordinance for new structures, depending upon whether the structure is in the Floodway or Flood Fringe District, respectively. If the current proposal, including maintenance and repair during the previous 365 days, plus the costs of any previous alterations and additions since the first Flood Insurance Rate Map (or add date) exceeds 50 percent of the market value of any nonconforming structure, the entire structure must meet the standards of Section 12.31 or 12.32 of this ordinance.
- E. If any nonconforming use or structure is destroyed by any means, including floods, to an extent of 50 percent or more of its market value at the time of destruction, it

shall not be reconstructed except in conformity with the provisions of this title. The applicable provisions for establishing new uses or new structures in 12.32, 12.33, or 12.34 will apply depending upon whether the use or structure is in the Floodway, Flood Fringe or General Flood Plain District, respectively.

12.39 PENALTIES FOR VIOLATION.

Subd. 1 Violation of the provisions of this title 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) shall constitute a misdemeanor and shall be punishable as defined by law.

Subd. 2 Nothing herein contained shall prevent the City of La Crescent 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 Building Official within the specified period of time, each additional day that lapses will constitute an additional violation of this ordinance and will be prosecuted accordingly.

Subd. 3. In responding to a suspected ordinance violation, the Building Official and Local Government 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 La Crescent must act in good faith to enforce these official controls and to correct ordinance violations to the extent possible so as not to jeopardize its eligibility in the National Flood Insurance Program.

12.40 AMENDMENTS

Subd. 1. The floodplain designation on the Official Zoning 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 elevation and is contiguous to lands outside the flood plain. 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.

Subd. 2. All amendments to this title, including amendments to the Official Zoning Map, must be submitted to and approved by the Commissioner of Natural Resources prior to adoption.

Subd. 3. The floodplain district regulations must be amended to incorporate any revisions by the Federal Emergency Management Agency to the floodplain maps adopted in Section 2.2 of this ordinance.