

ITEM: Proposed Floodplain Ordinance Amendment

SUBMITTED BY: Deborah Jones, Zoning and Planning Director

**REVIEWED BY: Justin Miller, City Administrator
Roger Knutson, City Attorney**

Background:

As part of a recent update of national flood maps, FEMA has been reviewing the communities that have not participated in the national flood insurance program. Falcon Heights has never been a participant in the program because of its location on relatively high ground with respect to local rivers and bodies of water. Residents of Falcon Heights cannot buy flood insurance.

Non participating communities are being encouraged to become part of the program. There are benefits to Falcon Heights residents in making flood insurance available. First, residents of Falcon Heights have expressed an interest in buying flood insurance and have found that they cannot get it because the city does not participate in the program. Second, many lenders and home financing programs now require this insurance. Eligibility for flood insurance will expand the borrowing options for residents and prospective residents.

Therefore, the FEMA has requested that Falcon Heights adopt the necessary code amendment that will allow the city to participate in the national flood insurance program. Because the proposed amendment changes the zoning chapter of the code, the Planning Commission is required to hold a public hearing and make a recommendation to the City Council.

Analysis:

The proposed amendment, prepared by the City Attorney, adds **ARTICLE VIII. FLOODPLAIN REGULATIONS** to Chapter 113 of the City Code. It also adds nine relevant definitions to Section 113-3. This ordinance follows a model successfully used in other cities. There will be no cost to the city in making this change, nor will it change the way things are already done regarding development. There is no indication that Falcon Heights is at more risk for flooding than it was before. However, adoption of this ordinance is a necessary part of the process that will make property owners eligible to purchase flood insurance if they wish to have it or need it to qualify for home financing.

Staff Recommendation:

Staff recommends approval of the proposed ordinance.

Attachments:

- Proposed ordinance
- FEMA handout "Effects Of Non-Participation in the National Flood Insurance Program."
- Published notice of the hearing.

Actions Requested:

- Hold a public hearing on the proposed ordinance
- Vote on a recommendation to the City Council

CITY OF FALCON HEIGHTS
RAMSEY COUNTY, MINNESOTA

ORDINANCE NO. _____

**AN ORDINANCE AMENDING CHAPTER 113
OF THE FALCON HEIGHTS CITY CODE
CONCERNING FLOODPLAIN REGULATIONS**

THE CITY COUNCIL OF FALCON HEIGHTS ORDAINS:

SECTION 1. Chapter 113 of the Falcon Heights City Code is amended by adding the following definitions to Section 113-3:

Development means any man-made change to real estate, including but not limited to construction or reconstruction of buildings, installing manufactured homes or travel trailers, installing utilities, construction of roads or bridges, erection of levees, walls, or fences, drilling, mining, filling, dredging, and storage of materials.

Flood means a general and temporary condition of partial or complete inundation of normally dry land areas from overflow of inland or tidal waves, or the unusual and rapid accumulation or runoff of surface waters from any source.

Floodplain or Flood Prone Area means any land area susceptible to being inundated by water from any source (see Flood).

Flood-proofing means any combination of structural and non-structural additions, changes or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

Manufactured Home means a structure, transportable in one or more sections, which is built on a permanent chassis and is designated for use with or without a permanent foundation when attached to the required utilities.

New Construction means, for the purposes of determining insurance rates, structures for which the “start of construction” commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, new construction means structures for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

Special Flood Hazard Area means the land in the floodplain within a community subject to a one percent (1%) or greater chance of flooding in any given year. The area may be designated as Zone A on the FHBM. After detailed ratemaking has been completed in preparation for publication of the flood insurance rate map, Zone A usually is refined into Zones A, AO, AH, A1-30, AE, A99, AR, AR/A1-30, AR/AE, AR/AO, AR/AH, AR/A, VO, or V1-30, VE, or V. For purposes of these regulations, the term “special flood hazard area” is synonymous in meaning with the phrase “area of special flood hazard.”

Structure for floodplain management purposes, a walled and roofed building, including gas or liquid storage tanks, that is principally above ground. The term includes recreational vehicles and travel trailers on site for more than 180 days.

Substantial Improvement means any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure either, (a) before the improvement or repair is started, or (b) if the structure has been damaged, and is being restored, before the damage occurred. For the purposes of this definition "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure regardless of the actual work performed. The term does not, however, include either (1) any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions or (2) any alteration of a “historic structure”, provided that the alteration will not preclude the structure’s continued designation as a historic structure.

SECTION 2. Chapter 113 of the Falcon Heights City Code is amended by adding Article VIII to provide as follows:

ARTICLE VIII. FLOODPLAIN REGULATIONS

Sec. 113-500. Statutory authorization and purpose.

(a) *Statutory Authorization.* The legislature of the State has, in Minnesota Statutes chapter 462 delegated the responsibility to local government units to adopt regulations designed to minimize flood losses.

(b) *Statement of Purpose.*

- (1) The City of Falcon Heights wishes to establish eligibility in the National Flood Insurance Program and in order to do so must meet the requirements of 44 CFR Part 60.3(a)
- (2) The City of Falcon Heights wishes to minimize potential losses due to periodic flooding including 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.

Sec. 113-501. Warning and disclaimer of disclaimer of liability.

This Article does not imply that areas will be free from flooding or flood damages. This Article shall not create liability on the part of the City or any officer or employee thereof for any flood damages which result from reliance on this Article or any administrative decision lawfully made thereunder.

Sec. 113-502. Permit Requirements.

(a) No person shall erect, construct, enlarge, alter, repair, improve, move, or demolish any building or structure without first obtaining a separate permit for each building or structure from the Zoning Administrator.

(b) No man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, fences, mining, dredging, filling, grading, paving, excavation or drilling operations, shall be commenced until a separate permit has been obtained from the Zoning Administrator for each change.

© No manufactured home shall be placed on improved or unimproved real estate without first obtaining a separate permit for each mobile home from the Zoning Administrator.

Sec. 113-503. Permit application.

To obtain a permit, the applicant shall first file a permit application on a form furnished for that purpose. The form must be completed and submitted to the Zoning Administrator before the issuance of a permit will be considered.

Sec. 113-504. Duties of the Zoning Administrator.

(a) The Zoning Administrator is appointed as the person responsible for receiving applications and examining the plans and specifications for the proposed construction or development.

(b) After reviewing the application, the Zoning Administrator may require any additional measures which are necessary to meet the minimum requirements of this ordinance.

(c) The Zoning Administrator shall review proposed development to assure that all necessary permits have been received from those governmental agencies from which approval is required by Federal or State law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.

Sec. 113-505. Review of permit application.

The Zoning Administrator shall review all permit applications to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is in a flood prone area, all new construction and substantial improvements (including the placement of manufactured homes) shall 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.

Sec. 113-506. Subdivisions.

The Zoning Administrator shall review subdivision proposals and other proposed new development to determine whether such proposals will be reasonably safe from flooding. If a subdivision proposal or other proposed new development is in a flood prone area, any such proposal shall be reviewed to assure that:

- (1) All such proposals are consistent with the need to minimize flood damage within the flood prone area,
- (2) All public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage, and
- (3) Adequate drainage is provided to reduce exposure of flood hazard.

Sec. 113-507. Water supply system.

The Zoning Administrator shall require within flood prone areas, new and replacement water supply systems to be designed to minimize or eliminate infiltration of flood waters into the systems.

Sec. 113-508. Sanitary sewage and water disposal systems.

The Zoning Administrator shall require within flood prone areas:

- (1) New and replacement sanitary sewage systems to be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, and
- (2) On-site waste disposal systems to be located to avoid impairment to them or contamination from them during flooding.

Sec. 113-509. Annexations and extraterritorial jurisdiction.

The City of Falcon Heights shall not approve any development located in a Special Flood Hazard Area (SFHA) outside the corporate limits unless such development or plat is in the accordance with the floodplain ordinance that meets the minimum federal (44 CFR 60.3), state (Minnesota Regulation Parts 6120.5000 through 6120.6200), and local requirements for development within a Special Flood Hazard area.

SECTION 3. This ordinance shall be effective immediately upon is passage and publication.

ADOPTED this _____ day of _____, 2009, by the City Council of Falcon Heights, Minnesota.

CITY OF FALCON HEIGHTS

BY: _____
Peter Lindstrom, Mayor

ATTEST:

Justin Miller, City Administrator/Clerk



Federal Emergency Management Agency
Region V
536 South Clark Street, 6th Floor
Chicago, IL 60605-1521

EFFECTS OF NON-PARTICIPATION
IN THE
NATIONAL FLOOD INSURANCE PROGRAM

1. Flood insurance will no longer be available. No resident will be able to purchase a flood insurance policy.
2. No Federal grants of loans for buildings may be made in identified flood hazard areas. Includes all Federal agencies such as HUD, EDA, Small Business Administration, HHS, etc.
3. Only limited Federal disaster assistance may be provided in identified flood hazard areas.
4. No Federal Mortgage insurance may be provided in identified flood hazard areas. This includes FHA, VA, Farmers Home, etc.
5. Legislative changes to Flood Disaster Protection Act, (FDPA) lifted restriction on conventional loans in non-participating communities and replaced it with the requirement that lenders:
 - a. must notify buyer or lessee that property is in a flood area: and
 - b. must notify buyer or lessee that property in flood hazard area is not eligible for Federal disaster relief in a declared disaster.
6. Actuarial rates go into effect regardless or whether or not a community participates in the program. Without a local flood plain management ordinance unsafe construction today may be prohibitively expensive, and therefore unsalable, tomorrow. Such a condition could be triggered by a community's reentry in the program at a later date. Examples of reasons for re-establishing eligibility:
 - a. New legislative body or inclination of such a body.
 - b. Larger share of mortgage market through FHA, VA, Farmers Home.
 - c. Federal grant or loan for particular project.
 - d. A major disaster, triggering need for disaster aid.
 - e. Changed political pressures.
7. Local governing body may be susceptible to some form of liability by not participating because their action:
 - (1) denies the ability of its citizens to purchase flood and related water damage insurance, and:
 - (2) does not take positive steps to reduce the exposure of life and property in the face of authoritative scientific and technological data. Up to now, there have been no consistent court rulings along these lines.

CITY OF FALCON HEIGHTS, MINNESOTA

PUBLIC HEARING NOTICE

NOTICE IS HEREBY GIVEN that the Falcon Heights Planning Commission will meet on June 23, 2009, at approximately 7:00 p.m. at Falcon Heights City Hall, 2077 Larpenteur Avenue West, Falcon Heights, Minnesota 55113, to consider amendments to the City's zoning ordinance, Chapter 113 of the City Code, adopting floodplain regulations.

All persons who desire to speak on this issue are encouraged to attend and will be given an opportunity to be heard at this meeting. Additional information can be obtained by contacting the City of Falcon Heights at (651) 644-5050.

Dated: June 9, 2009



Justin Miller, City Administrator/Clerk
City of Falcon Heights, Minnesota