

**6120.5800 ZONING: LAND USES PERMITTED IN FLOODWAY AND FLOOD FRINGE AREAS.**

Subpart 1. **Certification of compliance.** No vacant flood plain land shall be occupied or used and no building hereafter erected, altered, or moved shall be occupied until the applicant submits to the appropriate local official a certification by a registered professional engineer, land surveyor, or other qualified person designated by the local governing body that the finished fill and building floor elevations or other flood protection measures are in compliance with appropriate flood plain zoning provisions and other flood plain regulations.

Subp. 2. **Removal of lands from a flood plain district.** The floodplain designation on official zoning maps shall not be removed from floodplain areas adjacent to and outside of floodways unless it can be shown that the areas are filled to an elevation at or above the flood protection level and are contiguous to other lands lying outside the floodplain district or unless flood control measures which meet the standards of part 6120.5900, subpart 6, items B, subitem (1) and D are constructed and operative.

Subp. 3. **Permitted uses within the floodway or between levels.** Local zoning ordinances may designate specified uses as permitted or special permit uses provided such uses have a low flood damage potential and will not materially obstruct flood flows or increase velocities or stages of the regional flood. However, uses that are likely to cause pollution of waters, as defined in Minnesota Statutes 1969, section 115.01, are prohibited unless adequate safeguards approved by the state water pollution control agency are provided. All other uses are prohibited including storage of any potentially hazardous materials which if subject to flooding may become buoyant, flammable, explosive, or may be injurious to human, animal, or plant life. Permitted uses must not be detrimental to the uses permitted in adjoining districts. The following uses may be permitted within the floodway or between levees:

A. Uses having a low flood damage potential including agricultural uses, recreational uses, parking lots, loading areas, storage yards, airport landing strips, certain sand and gravel operations, water control structures, navigation facilities, and other open space uses.

B. Structures accessory to the above uses and commercial excavation and stockpiling of materials may be permitted if:

- (1) structures are not intended for human habitation;
- (2) structures will have a low flood damage potential;
- (3) structures or stockpiles of materials, if permitted, will be constructed and placed so as to offer a minimal obstruction to the flow of flood waters;
- (4) structures will be firmly anchored to prevent flotation; and

(5) service facilities within these structures, such as electrical and heating equipment, will be at or above the flood protection elevation for the site as described in part 6120.5700, subpart 5, or adequately floodproofed as provided in part 6120.5900, subpart 3, item D.

C. Channel and harbor connections to public waters, constructed under authority of Minnesota Statutes 1969, chapter 105, which can be shown will not cause material increases in flood stages within the floodplain and which will not increase the flood hazard to properties adjacent to the floodplain.

D. Public utility facilities and water oriented industries which must be adjacent to watercourses provided that the development is located in such a manner that it will not significantly alter flood flows, heights, or velocities of the regional flood. Whenever necessary, compensating measures shall be required to be undertaken to offset any adverse effects of allowing the use within the floodway and to keep increases in stages of the regional flood within the limits specified in part 6120.5700, subpart 4, item A.

**Subp. 4. Development of flood fringe areas adjacent to and outside of floodways.**  
Development:

A. General provisions. All floodplain developments within designated flood fringe areas shall be compatible with local comprehensive plans.

Floodplain developments shall not 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.

B. Residential areas. The finished surface of the first floor or basement floor of any residential building or structure to be erected, constructed, reconstructed, altered, or moved on the floodplain shall ordinarily be placed on fill at or above the flood protection elevation. The fill shall be at or above the elevation associated with the regional flood plus any increase in the water surface elevation due to floodplain encroachment as described in part 6120.5700, subpart 4, item A. The fill shall extend at such elevation at least 15 feet beyond the limits of any structure or building erected thereon. Where existing streets or utilities are at elevations which make strict compliance with this provision impractical, the commissioner may authorize use of floodproofing or other measures or methods to provide protection to the flood protection elevation. Floodproofing or other protective measures may be allowed only upon issuance of a special use permit by the local governmental unit.

C. Commercial areas. Commercial buildings or structures generally are to be constructed on fill with no first floor or basement floor below the flood protection elevation. Accessory land uses such as yards, railroad tracks, and parking lots may be at lower elevations. However, in the absence of an adequate local flood warning system, no area shall be designed for use by the public which would be inundated to a depth greater

than two feet or subjected to flood velocities greater than four feet per second upon the occurrence of the regional flood.

D. Manufacturing and industrial areas. Manufacturing and industrial buildings, structures, and appurtenant works shall be protected to the flood protection elevation. Measures shall be taken to minimize interference with normal plant operations especially for streams having protracted flood durations. Certain accessory land uses such as yards, railroad tracks, and parking lots may be at lower elevations subject to requirements of item C. Local ordinances shall give due consideration to needs of industries whose businesses require that they be located in a floodplain area.

E. Public utilities, roads, and bridges. Public utility facilities, roads, railroad tracks, and bridges within the floodplain should be designed to minimize increases in flood elevations and should be compatible with existing local comprehensive floodplain development plans. When failure or interruption of these public facilities would result in danger to the public health or safety or where such facilities are essential to the orderly functioning of the area, protection to the flood protection elevation shall be provided. Where failure or interruption of service would not endanger life or health, a lesser degree of protection may be provided for minor or auxiliary roads, railroad tracks, or utilities.

F. Storage of materials. Materials that, in time of flooding, are buoyant, flammable, explosive, or could be injurious to human, animal, or plant life shall be stored at or above the flood protection elevation, floodproofed, or protected by structural measures consistent with the standards set forth herein. Furthermore, storage of materials likely to cause pollution of the waters, as defined in Minnesota Statutes 1969, section 115.01, if subject to flooding are prohibited unless adequate safeguards approved by the state water pollution control agency are provided.

Subp. 5. **Nonconforming uses of the floodplain.** Local floodplain management ordinances may, where appropriate, provide for the gradual elimination of nonconforming uses within the floodway. Any addition or modification to a lawful nonconforming use shall be in conformance with the provisions of these standards and criteria and shall not increase the flood damage potential or increase the degree of obstruction to flood flows.

Nonconforming uses within the flood fringe may be continued provided that such uses will not have an unduly adverse effect on flood flows, velocities, or stages associated with the regional flood. Any addition or modification to a lawful nonconforming use within the flood fringe shall be in conformance with the provisions of these standards and criteria. Where applicable, provisions shall be made to allow the proposed modifications and additions to be protected to the flood protection elevation by an approved use of supplemental floodplain management measures as outlined in part 6120.5900.

**Statutory Authority:** *MS s 104.05*

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