

City of Medicine Lake

Ordinance No. 119

[Floodplain Ordinance]

Floodplain Management Ordinance

THE CITY COUNCIL OF THE CITY OF MEDICINE LAKE, MINNESOTA DOES ORDAIN AS FOLLOWS:

SECTION 1.0 STATUTORY AUTHORIZATION, FINDINGS OF FACT AND PURPOSE

1.1 Statutory Authorization. The legislature of the State of Minnesota has, in Minnesota Statutes Chapter 103F and Chapter 462 delegated the responsibility to local government units to adopt regulations designed to minimize flood losses. Therefore, the City Council of Medicine Lake, Minnesota, does ordain as follows.

1.2 Statement of Purpose.

- 1.21 This ordinance regulates development in the flood hazard areas of the City of Medicine Lake. 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.
- 1.22 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.
- 1.23 The 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.

SECTION 2.0 GENERAL PROVISIONS

2.1 How to Use This Ordinance. This ordinance adopts the floodplain maps applicable to the City of Medicine Lake and includes two floodplain districts: Floodway and Flood Fringe; within these districts the standards in Sections 4 or 5 will apply, depending on the location of a property.

2.2 Lands to Which Ordinance Applies. This ordinance applies to all lands within the jurisdiction of the City of Medicine Lake shown on the Official Zoning Map and/or the attachments to the map as being located within the boundaries of the Floodway or Flood Fringe Districts.

2.21 The Floodway and Flood Fringe 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.

2.3 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. The attached material includes the Flood Insurance Study for Hennepin County, Minnesota, and Incorporated Areas, dated November 4, 2016 and the Flood Insurance Rate Map panels enumerated below, dated November 4, 2016, all prepared by the Federal Emergency Management Agency. These materials are on file in the offices at City Hall.

Effective Flood Insurance Rate Map panels:

27053C0193F

27053C0331F

2.4 Base Flood Elevations. Base Flood Elevations for regional flood events are determined by referencing the Flood Insurance Study, referred to in 2.3 above, and hydraulic models developed and maintained by the BCWMC. This method of identifying flood hazard areas is consistent with the standards established by the Minnesota Department of Natural Resources.

2.5 Interpretation. The boundaries of the zoning districts are determined by scaling distances on the Flood Insurance Rate Map.

2.51 Where a conflict exists between the floodplain limits illustrated on the official zoning map and actual field conditions as determined by survey, the flood elevations shall be the governing factor. The Zoning Administrator shall interpret the boundary location based on the ground elevations that existed on the site on the date of the first National Flood Insurance Program map showing the area within the regulatory floodplain, and other available technical data.

2.52 Persons contesting the location of the district boundaries will be given a reasonable opportunity to present their case to the Planning Commission and Board of Adjustment and to submit technical evidence.

2.6 Abrogation and Greater Restrictions. It is not intended by this ordinance to repeal, abrogate, or impair any existing easements, covenants, or other private agreements. However, where this ordinance imposes greater restrictions, the provisions of this ordinance prevail. All other ordinances inconsistent with this ordinance are hereby repealed to the extent of the inconsistency only.

2.7 Warning and Disclaimer of Liability. This ordinance does not imply that areas outside the floodplain districts or land uses permitted within such districts will be free from flooding or flood damages. This ordinance does not create liability on the part of the City of Medicine Lake or its officers or employees for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

2.8 Severability. If any section, clause, provision, or portion of this ordinance is adjudged unconstitutional or invalid by a court of law, the remainder of this ordinance shall not be affected and shall remain in full force.

2.9 Definitions. Unless specifically defined below, words or phrases used in this ordinance shall be interpreted according to common usage and so as to give this ordinance its most reasonable application

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

- 2.92 Base Flood Elevation. The elevation of the “regional flood.” The term “base flood elevation” is used in the flood insurance survey.
- 2.93 Basement. Any area of a structure, including crawl spaces, having its floor or base subgrade (below ground level) on all four sides, regardless of the depth of excavation below ground level.
- 2.94 BCWMC. The Bassett Creek Watershed Management Commission
- 2.95 Conditional Use. A specific type of structure or land use listed in the official control that may be allowed but only after an in-depth review procedure and with appropriate conditions or restrictions as provided in the official zoning controls or building codes and upon a finding that:
- (a) Certain conditions as detailed in the zoning ordinance exist.
 - (b) The structure and/or land use conform to the comprehensive land use plan if one exists and are compatible with the existing neighborhood.
- 2.96 Critical Facilities. Facilities necessary to a community’s public health and safety, those that store or produce highly volatile, toxic or water-reactive materials, and those that house occupants that may be insufficiently mobile to avoid loss of life or injury. Examples of critical facilities include hospitals, correctional facilities, schools, daycare facilities, nursing homes, fire and police stations, wastewater treatment facilities, public electric utilities, water plants, fuel storage facilities, and waste handling and storage facilities.
- 2.97 Development. Any manmade change to improved or unimproved real estate, including buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.
- 2.98 Equal Degree of Encroachment. A method of determining the location of floodway boundaries so that floodplain lands on both sides of a stream are capable of conveying a proportionate share of flood flows.

- 2.99 Flood. A temporary increase in the flow or stage of a stream or in the stage of a wetland or lake that results in the inundation of normally dry areas.
- 2.910 Flood Frequency. The frequency for which it is expected that a specific flood stage or discharge may be equaled or exceeded.
- 2.911 Flood Fringe. The portion of the Special Flood Hazard Area (one percent annual chance flood) located outside of the floodway. Flood fringe is synonymous with the term “floodway fringe” used in the Flood Insurance Study for Hennepin County, Minnesota.
- 2.912 Flood Insurance Rate Map. An official map on which the Federal Insurance Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community. A FIRM that has been made available digitally is called a Digital Flood Insurance Rate Map (DFIRM).
- 2.913 Flood Prone Area. Any land susceptible to being inundated by water from any source (see “Flood”).
- 2.914 Floodplain. The beds proper and the areas adjoining a wetland, lake or watercourse which have been or hereafter may be covered by the regional flood.
- 2.915 Floodproofing. A combination of structural provisions, changes, or adjustments to properties and structures subject to flooding, primarily for the reduction or elimination of flood damages.
- 2.916 Floodway. The bed of a wetland or lake and the channel of a watercourse and those portions of the adjoining floodplain which are reasonably required to carry or store the regional flood discharge.
- 2.917 Lowest Floor. The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, used solely for parking of vehicles, building access, or storage in an area other than a basement area, is not considered a building’s lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of 44 Code of Federal Regulations, Part 60.3.

- 2.918 **Manufactured Home.** A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term “manufactured home” does not include the term “recreational vehicle.”
- 2.919 **New Construction.** Structures, including additions and improvements, and placement of manufactured homes, for which the start of construction commenced on or after the effective date of this ordinance.
- 2.920 **Obstruction.** Any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel modification, culvert, building, wire, fence, stockpile, refuse, fill, structure, or matter in, along, across, or projecting into any channel, watercourse, or regulatory floodplain which may impede, retard, or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water.
- 2.921 **One Hundred Year Floodplain.** Lands inundated by the “Regional Flood” (see definition).
- 2.922 **Principal Use Structure.** All uses or structures that are not accessory uses or structures.
- 2.923 **Recreational Vehicle.** A vehicle that is built on a single chassis, is 400 square feet or less when measured at the largest horizontal projection, is designed to be self-propelled or permanently towable by a light duty truck, and is designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use. For the purposes of this ordinance, the term recreational vehicle is synonymous with the term “travel trailer/travel vehicle.”
- 2.924 **Regional Flood.** A flood which is representative of large floods known to have occurred generally in Minnesota and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of the 1% chance or 100-year recurrence interval. Regional flood is synonymous with the term "base flood" used in a flood insurance study.

- 2.925 Regulatory Flood Protection Elevation (RFPE). An elevation not less than two feet above the elevation of the regional flood. It is the elevation to which uses regulated by this Ordinance are required to be elevated or flood-proofed.
- 2.926 Repetitive Loss. Flood related damages sustained by a structure on two separate occasions during a ten year period for which the cost of repairs at the time of each such flood event on the average equals or exceeds 25% of the market value of the structure before the damage occurred.
- 2.927 Special Flood Hazard Area. A term used for flood insurance purposes synonymous with "One Hundred Year Floodplain."
- 2.928 Start of Construction. Includes substantial improvement, and means the actual start of construction, repair, reconstruction, rehabilitation, addition, placement or other improvement that occurred before the permit's expiration date. The actual start is either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, foundations, or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.
- 2.929 Structure. Anything constructed or erected on the ground or attached to the ground or on-site utilities, including, but not limited to, buildings, factories, sheds, detached garages, cabins, manufactured homes, recreational vehicles not meeting the exemption criteria specified in Section 9.22 of this ordinance and other similar items.

- 2.930 Substantial Damage. Means damage of any origin sustained by a structure where the cost of restoring the structure to before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.
- 2.931 Substantial Improvement. Within any consecutive 365-day period, any reconstruction, rehabilitation (including normal maintenance and repair), repair after damage, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the “start of construction” of the improvement. This term includes structures that have incurred “substantial damage,” regardless of the actual repair work performed. The term does not, however, include either:
- (a) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions.
 - (b) Any alteration of a “historic structure,” provided that the alteration will not preclude the structure’s continued designation as a “historic structure.” For the purpose of this ordinance, “historic structure” is as defined in 44 Code of Federal Regulations, Part 59.1.

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

SECTION 3.0 ESTABLISHMENT OF ZONING DISTRICTS

3.1 Districts.

- 3.11 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 in Section 2.3, as well as portions of other lakes, wetlands, and basins within Zones AE (that do not have a floodway delineated) that are located at or below the ordinary high water level as defined in Minnesota Statutes, Section 103G.005, subdivision 14.

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

3.13 Reserved for General Floodplain District (GF).

3.2 Applicability. Within the floodplain districts established in this ordinance, the use, size, type and location of development shall comply with the terms of this ordinance and other applicable regulations. In no cases shall floodplain development adversely affect the efficiency or unduly restrict the capacity of the channels or floodways of any tributaries to the main stream, drainage ditches, or any other drainage facilities or systems. All uses not listed as permitted uses or conditional uses in Sections 4.0 and 5.0 are prohibited. In addition, critical facilities, as defined in Section 2.96, are prohibited in all floodplain districts.

3.3 General Rules and Prohibitions Affecting Uses.

3.31 No use shall be permitted or conditionally permitted unless the proposed use conforms to the land use plans and underlying zoning requirements of the City and the watershed management plan, goals, and policies of the BCWMC.

3.32 No use shall be permitted, which acting alone or in combination with existing or anticipated uses, would adversely affect the efficiency or the capacity of the floodway or regional floodplain or increase the Floodplain elevation or flood damages.

(a) In connection with any proposed activity or development, or placement of an obstruction in the Floodway District or the

Flood Fringe District, there must be no net loss in floodway or regional floodplain (1% chance) storage and in increase in Floodplain elevations, consistent with the BCWMC watershed management plan and policies, as may be amended from time to time.

- 3.33 No existing land use, obstruction, or structure within the Floodplain shall be altered in size or scope, except in accordance with the provisions of this ordinance.

SECTION 4.0 FLOODWAY DISTRICT (FW)

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

- 4.11 Open space uses, including but not limited to picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, hunting and fishing areas.
- 4.12 Residential lawns, gardens.
- 4.13 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.

4.2 Standards for Floodway Permitted Uses.

- 4.21 The use shall have a low flood damage potential.
- 4.22 The use shall not obstruct flood flows or cause any increase in flood elevations and shall not involve structures, obstructions, or storage of materials or equipment or other obstructions that would collect debris or restrict flood flows.

4.3 Conditional Uses. The following uses shall be allowed as conditional uses following the standards and procedures set forth in Section 10.4 of this ordinance and further subject to the standards set forth in Section 4.4, if otherwise allowed in the underlying zoning district or any applicable overlay district.

- 4.31 Marinas, boat rentals, permanent docks, piers, wharves, and water control structures.

4.4 Standards for Floodway Conditional Uses.

- 4.41 All Uses. A conditional use shall not cause any increase in the stage of the 1% chance or regional flood or cause an increase in flood damages in the reach or reaches affected.
- 4.42 Structural works for flood control that will change the course, current or cross section of protected wetlands or public waters are subject to the provisions of Minnesota Statutes, Section 103G.245.

SECTION 5.0 FLOOD FRINGE DISTRICT

5.1 Permitted Uses. Provided that such uses shall not adversely affect the efficiency or restrict the capacity of the channels or floodways of any tributary to the main stream or other drainage facility or system, the following uses are permitted in the Flood Fringe District to the extent that they are not prohibited by any other City Code provision and provided they do not involve new structures, fill, fences, dams, storage of materials, or equipment:

- 5.11 Open space uses, including but not limited to picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, hunting and fishing areas.
- 5.12 Residential lawns, gardens, parking areas, and play areas.
- 5.13 Non-residential parking areas.
- 5.14 Signs and signals delineating or accessory to parks, trails and other permitted uses as described above in this Subdivision.
- 5.15 Single family homes and associated accessory structures existing prior to the effective date of this ordinance. Any improvements to existing single family homes and associated accessory structures must meet the requirements of this ordinance.

5.2 Standards for Flood Fringe Permitted Uses:

- 5.21 The use shall have a low flood damage potential.
- 5.22 The use shall not obstruct flood flows or cause any increase in flood elevations and shall not involve structures, obstructions, or storage of materials or equipment or other obstructions that would collect debris or restrict flood flows.
- 5.23 Non-residential parking areas shall meet the following provisions:
 - (a) 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; and
 - (b) Vegetated buffers meeting City and BCWMC requirements must be established around wetlands, streams, and water bodies.

5.3 Conditional Uses. The following uses and activities may be allowed as conditional uses, if allowed in the underlying zoning district(s) or any applicable overlay district, following the procedures in Section 10.4 of this ordinance.

- 5.31 Marinas, boat rentals, permanent docks, piers, wharves, and water control structures.

5.4 Standards for Flood Fringe Conditional Uses.

- 5.41 All Uses. A conditional use shall not cause any increase in the stage of the 1% chance or regional flood or cause an increase in flood damages in the reach or reaches affected.
- 5.42 Structural works for flood control that will change the course, current or cross section of protected wetlands or public waters are subject to the provisions of Minnesota Statutes, Section 103G.245.

SECTION 6.0 RESERVED FOR GENERAL FLOODPLAIN DISTRICT

SECTION 7.0 LAND DEVELOPMENT STANDARDS

7.1 In General. Recognizing that flood prone areas may exist outside of the designated floodplain districts, the requirements of this section apply to all land within the City of Medicine Lake.

7.2 Subdivisions. No land may be subdivided which is unsuitable for reasons of flooding or inadequate drainage, water supply or sewage treatment facilities. Manufactured home parks and recreational vehicle parks or campgrounds are considered subdivisions under this ordinance.

7.21 All lots within the floodplain districts shall be able to contain a building site outside of the Floodway District at or above the regulatory flood protection elevation.

7.22 All subdivisions shall 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 shall be prepared by a registered engineer or other qualified individual, and shall demonstrate that adequate time and personnel exist to carry out the evacuation.

7.23 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 shall be clearly labeled on all required subdivision drawings and platting documents.

7.24 If a subdivision proposal or other proposed new development is in a flood prone area, any such proposal must be reviewed to assure that:

(a) All such proposals are consistent with the need to minimize flood damage within the flood prone area,

(b) All public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage, and

(c) Adequate drainage is provided to reduce exposure of flood hazard.

7.3 Removal of Special Flood Hazard Area Designation. The Federal Emergency Management Agency (FEMA) has established criteria for removing the special flood hazard area designation for certain structures properly elevated on fill above the 100-

year flood elevation. FEMA's requirements incorporate specific fill compaction and side slope protection standards for multi-structure or multi-lot developments. These standards should be investigated prior to the initiation of site preparation if a change of special flood hazard area designation will be requested.

7.31 Standards for Uses Removed from the Special Flood Hazard Area.

- (a) All structures, including accessory structures, shall 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 shall be no lower than one foot below the regulatory flood protection elevation and the fill shall extend at the same elevation at least 15 feet beyond the outside limits of the structure.
- (b) The cumulative placement of fill or similar material on a parcel shall be prohibited, unless the fill is specifically intended to elevate a structure in accordance with Section 7.31(a) of this ordinance.
- (c) The storage of any materials or equipment shall be elevated on fill to the regulatory flood protection elevation.
- (d) All service utilities, including ductwork, shall be elevated or water-tight to prevent infiltration of floodwaters.
- (e) 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.
- (f) All fill shall be properly compacted and the slopes shall be properly protected by the use of riprap, vegetative cover or other acceptable method.
- (g) All new principal structures shall have vehicular access at or above an elevation not more than two feet below the regulatory flood protection elevation, or shall have a flood warning /emergency evacuation plan acceptable to the City Council.

- (h) Manufactured homes and recreational vehicles shall meet the standards of Section 9 of this ordinance.

7.32 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 following standards:

- (a) The base or floor of an enclosed area shall be considered above-grade and not a structure's basement or lowest floor if: 1) the enclosed area is above-grade on at least one side of the structure; 2) it is designed to internally flood and is constructed with flood resistant materials; and 3) it is used solely for parking of vehicles, building access or storage. The above-noted alternative elevation methods are subject to the following additional standards.
- (b) Design and Certification. The structure's design and as-built condition shall be certified by a registered professional engineer 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 shall 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.
- (c) Specific Standards for Above-grade, Enclosed Areas. Above-grade, fully enclosed areas such as crawl spaces or tuck under garages shall be designed to internally flood and the design plans shall stipulate:
 - (1) The minimum area of openings in the walls where internal flooding is to be used as a floodproofing 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. The automatic openings 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 would suffice. The automatic 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

- (2) 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.

7.33 Additional Standards. The standards of Section 3.32 (a) shall apply.

7.4 Building Sites. If a proposed building is in a flood prone area, all new construction and substantial improvements (including the placement of manufactured homes) must be:

- 7.41 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;
- 7.42 Constructed with materials and utility equipment resistant to flood damage;
- 7.43 Constructed by methods and practices that minimize flood damage; and
- 7.44 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.

SECTION 8.0 PUBLIC UTILITIES, RAILROADS, AND BRIDGES

8.1 Public Utilities. All public utilities and facilities such as gas, electrical, sewer, and water supply systems to be located in the floodplain shall be floodproofed in accordance with the State Building Code or elevated to the regulatory flood protection elevation.

8.2 Public Transportation Facilities. Railroad tracks, roads, and bridges to be located within the floodplain shall comply with Sections 4.0 and 5.0 of this ordinance. These transportation facilities shall be elevated to the regulatory flood protection elevation

where failure or interruption of these facilities would result in danger to the public health or safety or where such facilities are essential to the orderly functioning of the area. Minor or auxiliary roads or railroads may be constructed at a lower elevation where failure or interruption of transportation services would not endanger the public health or safety.

8.3 On-site Water Supply and Sewage Treatment Systems. Where public utilities are not provided: 1) On-site water supply systems shall 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 2) New or replacement on-site sewage treatment systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, they shall 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.

SECTION 9.0 MANUFACTURED HOMES, MANUFACTURED HOME PARKS, AND RECREATIONAL VEHICLES

9.1 Manufactured Homes. New manufactured home parks and expansions to existing manufactured home parks are prohibited in any floodplain district. For existing manufactured home parks or lots of record, the following requirements apply:

- 9.11 Placement or replacement of manufactured home units is prohibited in the Floodway District.
- 9.12 If allowed in the Flood Fringe District, placement or replacement of manufactured home units is subject to the requirements of Section 5 of this ordinance and the following standards.
 - (a) New and replacement manufactured homes shall be elevated in compliance with Section 7.3 of this ordinance and shall be securely anchored to an adequately anchored foundation 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.
 - (b) New or replacement manufactured homes in existing manufactured home parks shall meet the vehicular access requirements for subdivisions in Section 7.22.

9.2 Recreational Vehicles. New recreational vehicle parks or campgrounds and expansions to existing recreational vehicle parks or campgrounds are prohibited in any floodplain district. Placement of recreational vehicles in existing recreational vehicle parks or campgrounds in the floodplain shall meet the exemption criteria below or be treated as new structures meeting the requirements of this ordinance.

9.21 Recreational vehicles are exempt from the provisions of this ordinance if they are placed in any of the following areas and meet the criteria listed in Section 9.22:

- (a) Individual lots or parcels of record.
- (b) Existing commercial recreational vehicle parks or campgrounds.
- (c) Existing condominium-type associations.

9.22 Criteria for Exempt Recreational Vehicles.

- (a) The vehicle shall have a current license required for highway use.
- (b) The vehicle shall be highway ready, meaning on wheels or the internal jacking system, attached to the site only by quick disconnect type utilities commonly used in campgrounds and recreational vehicle parks.
- (c) No permanent structural type additions may be attached to the vehicle.
- (d) The vehicle and associated use shall be permissible in any pre-existing, underlying zoning district.
- (e) Accessory structures are not permitted within the Floodway District. Any accessory structure in the Flood Fringe District shall be constructed of flood-resistant materials and be securely anchored, meeting the requirements applicable to manufactured homes in Section 9.22.
- (f) An accessory structure shall constitute a minimal investment.

9.23 Recreational vehicles that are exempt in Section 9.22 lose this exemption when development occurs on the site that exceeds a

minimal investment for an accessory structure such as a garage or storage building. The recreational vehicle and all accessory structures will then be treated as new structures subject to the elevation and flood proofing requirements of Section 7.3 of this ordinance. No development or improvement on the parcel or attachment to the recreational vehicle is allowed that would hinder the removal of the vehicle should flooding occur.

SECTION 10.0 ADMINISTRATION

10.1 Zoning Administrator. A Zoning Administrator or other official designated by the City Council shall administer and enforce this ordinance.

10.2 Permit Requirements.

10.21 Permit Required. A permit shall be obtained from the Zoning Administrator 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 use or change of use of a building, structure, or land.
- (c) The construction of a dam, fence, or on-site septic system.
- (d) The change or extension of a nonconforming use.
- (e) The repair of a structure that has been damaged by flood, fire, tornado, or any other source.
- (f) The placement of fill, excavation of materials, or the storage of materials or equipment within the floodplain.
- (g) Relocation or alteration of a watercourse (including new or replacement culverts and bridges), unless a public waters work permit has been applied for.
- (h) Any other type of “development” as defined in this ordinance.

- 10.22 Application for Permit. Permit applications shall be submitted to the Zoning Administrator on forms provided by the Zoning Administrator. The permit application shall include the following as applicable.
- (a) A site plan showing all pertinent dimensions, existing or proposed buildings, structures, and significant natural features having an influence on the permit.
 - (b) Location of fill or storage of materials in relation to the stream channel.
 - (c) Copies of any required municipal, county, state or federal permits or approvals.
 - (d) Other relevant information requested by the Zoning Administrator as necessary to properly evaluate the permit application.
- 10.23 Certificate of Zoning Compliance for a New, Altered, or Nonconforming Use. No building, land or structure may be occupied or used in any manner until a certificate of zoning compliance has been issued by the Zoning Administrator stating that the use of the building or land conforms to the requirements of this ordinance.
- 10.24 Certification. The applicant is 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 ordinance. Floodproofing measures shall be certified by a registered professional engineer or registered architect.
- 10.25 Record of First Floor Elevation. The Zoning Administrator 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 floodplain. The Zoning Administrator shall also maintain a record of the elevation to which structures and alterations or additions to structures are floodproofed.
- 10.26 Notifications for Watercourse Alterations. Before authorizing any alteration or relocation of a river or stream, the Zoning Administrator shall 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 shall also be submitted to the Chicago Regional Office of the Federal Emergency Management Agency (FEMA).

- 10.27 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 shall notify the Chicago Regional Office of FEMA of the changes by submitting a copy of the relevant technical or scientific data.

10.3 Variances.

- 10.31 Variance Applications. An application for a variance to the provisions of this ordinance will be processed and reviewed in accordance with applicable state statutes and Section 500: Variances, of the City of Medicine Lake Zoning Regulations, as may be amended.
- 10.32 Adherence to State Floodplain Management Standards. A variance shall not allow a use that is not allowed in that district, permit a lower degree of flood protection than the regulatory flood protection elevation for the particular area, or permit standards lower than those required by state law.
- 10.33 Additional Variance Criteria. The following additional variance criteria of the Federal Emergency Management Agency shall be satisfied:
- (a) Variances shall not be issued by a community within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.
 - (b) Variances may only be issued by a community upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
 - (c) Variances may only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

- 10.34 Flood Insurance Notice. The Zoning Administrator shall 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 shall be maintained with a record of all variance actions.
- 10.35 General Considerations. The community may consider the following factors in granting variances and imposing conditions on variances and conditional uses in floodplains:
- (a) The potential danger to life and property due to increased flood heights or velocities caused by encroachments;
 - (b) The danger that materials may be swept onto other lands or downstream to the injury of others;
 - (c) 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;
 - (d) The susceptibility of any proposed use and its contents to flood damage and the effect of such damage on the individual owner;
 - (e) The importance of the services to be provided by the proposed use to the community;
 - (f) The requirements of the facility for a waterfront location;
 - (g) The availability of viable alternative locations for the proposed use that are not subject to flooding;
 - (h) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future;
 - (i) The relationship of the proposed use to the Comprehensive Land Use Plan and flood plain management program for the area;
 - (j) The safety of access to the property in times of flood for ordinary and emergency

- (k) The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters expected at the site.
- 10.36 Submittal of Hearing Notices to the Department of Natural Resources (DNR) and BCWMC. The City of Medicine Lake shall submit hearing notices for proposed variances to the DNR and BCWMC 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 and BCWMC representative.
- 10.37 Submittal of Final Decisions to the DNR and BCWMC. A copy of all decisions granting variances shall be forwarded to the DNR and BCWMC within ten days of such action. The notice may be sent by electronic mail or U.S. Mail to the respective DNR area hydrologist and BCWMC representative.
- 10.38 The Board of Adjustment shall submit by mail to the Commissioner of Natural Resources a copy of the application for proposed variance sufficiently in advance so that the Commissioner will receive at least ten days notice of the hearing. A copy of all decisions granting a variance shall be forwarded by mail to the Commissioner of Natural Resources within ten (10) days of such action.
- 10.39 Record-Keeping. The Zoning Administrator shall maintain a record of all variance actions, including justification for their issuance, and shall 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.

10.4 Conditional Uses.

- 10.41 Review Procedures. An application for a conditional use permit under the provisions of this ordinance will be processed and reviewed in accordance with Section 400: Conditional use Permits, of the City of Medicine Lake Zoning Regulations.
- 10.42 Conditions Attached to Conditional Use Permits. The (Governing Body) may attach such conditions to the granting of conditional use permits as it deems necessary to fulfill the purposes of this ordinance. Such conditions may include, but are not limited to, the following:
 - (a) Modification of waste treatment 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, compensatory storage, dikes, levees, and other protective measures.
 - (e) Floodproofing measures, in accordance with the State Building Code and this ordinance. The applicant must 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.
- 10.43 Submittal of Hearing Notices to the Department of Natural Resources (DNR) and BCWMC. The Zoning Administrator shall submit hearing notices for proposed conditional uses to the DNR Commissioner and to the BCWMC 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.
- 10.44 Submittal of Final Decisions to the DNR and BCWMC. A copy of all decisions granting conditional uses must be forwarded to the DNR and BCWMC within ten days of such action. The notice may be sent by electronic mail or U.S. Mail to the respective DNR area hydrologist.

SECTION 11.0 NONCONFORMITIES

11.1 Continuance of Nonconformities. A use, structure, or occupancy of land which was lawful before the passage or amendment of this ordinance but which is not in conformity with the provisions of this ordinance, including historic structures, as defined in Section 2.931(b) of this ordinance, may be continued subject to the following conditions:

- 11.11 A nonconforming use, structure, or occupancy shall not be expanded, changed, enlarged, or altered in a way that increases its flood damage potential or degree of obstruction to flood flows except as provided in 11.12 below. Expansion or enlargement of uses, structures or occupancies within the Floodway District is prohibited.

- 11.12 Any addition or structural alteration to a nonconforming structure or nonconforming use that would result in increasing its flood damage potential shall be protected to the regulatory flood protection elevation in accordance with any of the elevation on fill or floodproofing techniques (i.e., FP1 thru FP4 floodproofing classifications) allowable in the State Building Code, except as further restricted in 11.13 and 11.17 below.
- 11.13 If the cost of all previous and proposed alterations and additions exceeds 50 percent of the market value of any nonconforming structure, that shall be considered substantial improvement, and the entire structure shall meet the standards of Section 7.3 of this ordinance for new structures. The cost of all structural alterations and additions shall include all costs such as construction materials and a reasonable cost placed on all manpower or labor.
- 11.14 If any nonconforming use, or any use of a nonconforming structure, is discontinued for more than one year, any future use of the premises shall conform to this ordinance. The Assessor shall notify the Zoning Administrator in writing of instances of nonconformities that have been discontinued for a period of more than one year.
- 11.15 If any nonconformity is substantially damaged, as defined in Section 2.930 of this ordinance, it may not be reconstructed except in conformity with the provisions of this ordinance. The applicable provisions for establishing new uses or new structures in Sections 4.0 or 5.0 will apply depending upon whether the use or structure is in the Floodway or Flood Fringe, respectively, as well as Section 7.3.
- 11.16 If any nonconforming use or structure experiences a repetitive loss, as defined in Section 2.926 of this ordinance, it shall not be reconstructed except in conformity with the provisions of this ordinance.
- 11.17 Any substantial improvement, as defined in Section 2.931 of this ordinance, to a nonconforming structure requires that the existing structure and any additions shall meet the requirements of Section 4.0 or 5.0 of this ordinance for new structures, depending upon whether the structure is in the Floodway or Flood Fringe District and Section 7.3.

SECTION 12.0 PENALTIES AND ENFORCEMENT

12.1 Violation Constitutes a Misdemeanor. Violation of the provisions of this ordinance or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or conditional uses) constitute a misdemeanor and will be punishable as defined by law.

12.2 Other Lawful Action. Nothing in this ordinance restricts the City of Medicine Lake 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 Zoning Administrator within the specified period of time, each additional day that lapses shall constitute an additional violation of this Ordinance and shall be prosecuted accordingly. The Zoning Administrator shall also upon the lapse of the specified response period notify the landowner to restore the land to the condition that existed prior to the violation of this Ordinance.

12.3 Enforcement. Violations of the provisions of this ordinance will be investigated and resolved in accordance with the provisions of Section 800: Enforcement and Penalties of the City of Medicine Lake Ordinance No. 112: Zoning Regulations, adopted October 7, 2013, as may be amended. In responding to a suspected ordinance violation, the Zoning Administrator and the City of Medicine Lake 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 Medicine Lake shall 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.

SECTION 13.0 AMENDMENTS

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

13.2 Amendments Require DNR Approval. All amendments to this ordinance shall be submitted to and approved by the Commissioner of the Department of Natural

Resources (DNR) prior to adoption. The Commissioner shall approve the amendment prior to community approval.

13.3 Map Revisions Require Ordinance Amendments. The floodplain district regulations shall be amended to incorporate any revisions by the Federal Emergency Management Agency to the floodplain maps adopted in Section 2.3 of this ordinance.

SECTION 14.0 REPEALER

Adoption of this Ordinance repeals Ordinance 86 “Floodplain Management Ordinance” of the City of Medicine Lake as adopted.

SECTION 15.0 EFFECTIVE DATE

This Ordinance shall be in full force and effect from and after its passage and approval and publication, as required by law.

ADOPTED this 3rd day of October, 2016, by the City Council of the City of Medicine Lake, Minnesota.

By: Gary Holter, Mayor

Attest: Nancy Pauly, City Clerk