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CITY OF TONKA BAY MEMORANDUM

To: *City Council Members
Lindy Crawford, City Administrator*

From: *Addison Lewis, Assistant City Planner
Justin Messner, City Engineer*

Date: *October 17, 2016
City Council Regular Meeting for October 25, 2016*

WSB Project No. *01987-023*

Request: ***An amendment to Chapter 1040 General Floodplain Ordinance***

RECOMMENDATION

Staff recommends the City Council approve Ordinance No. 2016-04 amending Chapter 1040 of the Tonka Bay City Code to be consistent with the requirements of the National Flood Insurance Program.

CONSIDERATIONS RELATING TO THE REQUEST

1. Overview

The Federal Emergency Management Agency (FEMA) recently completed their update of the Hennepin County Flood Insurance Study and Flood Insurance Rate Maps (also known as floodplain maps), which will go into effect November 4, 2016. FEMA updates the floodplain maps periodically to reflect changing conditions, such as new topography, land development, updated mapping studies, and construction of flood mitigation projects. These maps are the tools by which mortgage companies and insurers determine the need and premium rates for flood insurance. They are also used by community officials to determine suitability of potential development projects.

As part of the update to the Flood Insurance Study and floodplain maps, the National Flood Insurance Act of 1968 requires adoption of specific floodplain management regulations as a condition of continued eligibility in the National Flood Insurance Program. The State of Minnesota has delegated the responsibility to local governments through Minnesota Statutes Chapter 103F and Chapter 462 to adopt these regulations designed to minimize flood losses. The City of Tonka Bay's existing floodplain ordinance regulations are in Chapter 1040 (General Floodplain Ordinance).

The purpose of the ordinance amendment is to incorporate required floodplain ordinance text revisions, as well as to incorporate the Flood Insurance Study, Hennepin County, Minnesota and Incorporated Areas and the accompanying Flood Insurance Rate Maps developed by FEMA with an effective date of November 4, 2016.

The Flood Insurance Rate Maps (FIRMs) indicate the Special Flood Hazard Areas (SFHAs) subject to Inundation by the 1% Annual Chance Flood. The 1% annual chance flood (100-year flood), also known as the base flood, is the flood that has a 1% chance of being equaled or exceeded in any given year. All floodplain areas within the City of Tonka Bay are within "Zone AE", meaning that base flood elevations have been determined for these areas. The base flood elevation is the water-surface elevation of the 1% annual chance flood.

The regulations of this Chapter only apply to areas mapped within the floodplain. As such, the floodplain areas function as an overlay zoning district. Permitted and conditional uses listed in this ordinance are only allowed if they are permitted within the underlying zoning district. Within floodplain areas, uses are regulated differently depending on whether they are within the floodway or flood fringe. The floodway is essentially any area within the floodplain below the Ordinary High Water Line. Flood fringe applies to areas within the floodplain but above the Ordinary High Water Line. (See attached informational handout from the DNR.)

The Minnesota Department of Natural Resources (DNR) is the State Coordinating Agency for the National Flood Insurance Program and has provided the minimum required amendments that meet the requirements of the federal regulations. The changes incorporate the newly adopted floodplain maps, required definitions, and additional standards for uses within the floodplain. The required changes are also intended to add clarity to the ordinance. Section 8.7 of this ordinance provides guidance when considering variances and conditional uses in floodplain areas and is optional but highly recommended by DNR staff. The DNR has provided a letter of conditional approval of the proposed ordinance which is attached to this report.

FEMA has stated that if the required ordinance update is not adopted by November 4, 2016, the community will be removed from the National Flood Insurance Program and residents will be unable to purchase flood insurance. Existing policies would either be cancelled or the premiums increased.

2. Ordinance Amendment Review Criteria

When considering an amendment to the Tonka Bay City Code, Section 1003.01, Subdivision 8 states that the City Council shall consider possible adverse effects of a proposed amendment and that judgement shall be based upon (but not limited to) the following factors:

1. *The proposed action has been considered in relation to the specific policies and provisions of and has been found to be consistent with the Comprehensive Plan.*
2. *The proposed site is or will be compatible with present and future land uses of the area.*
3. *The proposed use conforms with all performance standards contained herein.*
4. *The impact on character of the surrounding area.*
5. *The demonstrated need for such use.*
6. *The proposed use will not tend to or actually depreciate the area in which it is proposed.*
7. *The proposed use can be accommodated with existing public services and will not overburden the City's service capacity.*

The proposed ordinance is intended to minimize flood damage by incorporating development standards for properties located within the floodplain. The ordinance update is a requirement for continued eligibility in the National Flood Insurance Program. The amendment should not alter the existing character of the area and will help to protect public health, safety, and general welfare of

the community by minimizing flood damage. Staff finds that the proposed ordinance amendment conforms to the required criteria.

3. **Resident Concerns.** Staff sent out a notification letter in July to all lakeshore property owners regarding the floodplain map changes. We followed up on inquiries regarding changes to their properties. There have been no concerns regarding the ordinance amendments to date.
4. **Engineering Considerations.** None.

POTENTIAL ACTION

- A) MOTION TO APPROVE ORDINANCE 2016-04 amending Chapter 1040 General Floodplain Ordinance.
- B) MOTION TO DENY ORDINANCE 2016-04 amending Chapter 1040 General Floodplain Ordinance
- C) TABLE THE ITEM and request additional information.

FEMA has stated that if the required ordinance update is not adopted by November 4, 2016, the community will be removed from the National Flood Insurance Program and residents will be unable to purchase flood insurance. Existing policies would either be cancelled or the premiums increased.

RECOMMENDATION

Staff recommends the City Council make a motion to approve Ordinance No. 2016-04 amending Chapter 1040 of the Tonka Bay City Code to be consistent with the requirements of the National Flood Insurance Program. A template approval motion is provided below.

“I move that we approve Ordinance 2016-04 amending Chapter 1040 – General Floodplain of the Tonka Bay City Code to be consistent with the requirements of the National Flood Insurance Program. I move that we adopt Resolution 16-43 authorizing summary publication of the amendments to Chapter 1040 – General Floodplain Ordinance.”