

City of Ramsey
Agenda
Environmental Policy Board (EPB)
Monday September 21, 2015
6:30 pm
The COR Room, 7550 Sunwood Drive NW

- 1. Call to Order**
- 2. Citizen Input**
- 3. Approve Agenda**
- 4. Approve Minutes**
 1. Approve Meeting Minutes Dated August 17, 2015
- 5. Policy Board Business**
 1. Consider an Amendment to City Code Chapter 117, Article II, Division 4, Subdivision III (Floodplain Overlay Districts) to Adopt Updated Flood Insurance Rate Maps Prepared by the Federal Emergency Management Agency
 2. Review of EPB Presence at Happy Days
- 6. Board/Staff Input**
- 7. Adjournment**

Environmental Policy Board (EPB)

4. 1.

Meeting Date: 09/21/2015

By: Chris Anderson, Community
Development

Information

Title:

Approve Meeting Minutes Dated August 17, 2015

Action:

Attachments

Meeting Minutes Dated August 17, 2015

Form Review

Inbox

Chris Anderson (Originator)
Form Started By: Chris Anderson
Final Approval Date: 09/18/2015

Reviewed By

Chris Anderson

Date

09/18/2015 09:42 AM
Started On: 09/18/2015 09:42 AM

**ENVIRONMENTAL POLICY BOARD
CITY OF RAMSEY
ANOKA COUNTY
STATE OF MINNESOTA**

On Monday, August 17, 2015, the Environmental Policy Board (EPB) met in The COR Conference Room at the Ramsey Municipal Center, 7550 Sunwood Drive N.W., Ramsey, Minnesota.

Members Present: Chairperson Thomas Stodola
 Board Member Bob Bentz
 Board Member Jane Covart
 Board Member Larry Lewis
 Board Member Michael Valentine

Members Absent: Board Member Reid Bernard
 Board Member Michael Hiatt

Also Present: City Planner Chris Anderson
 Community Development Director Timothy Gladhill
 City Council Liaison John LeTourneau

1. CALL TO ORDER

Chairperson Stodola called the meeting to order at 6:30 p.m.

2. CITIZEN INPUT

None.

3. APPROVE AGENDA

Motion by Board Member Valentine and seconded by Board Member Bentz to approve the agenda as submitted.

Motion carried. Voting Yes: Chairperson Stodola, Board Member Valentine, Bentz, Lewis, and Covart. Voting No: None. Absent: Board Members Bernard, and Hiatt.

4. APPROVE MINUTES

4.01: Approve Meeting Minutes Dated June 15, 2015

Motion by Board Member Bentz and seconded by Board Member Lewis to approve the regular meeting minutes dated June 15, 2015.

Motion carried. Voting Yes: Chairperson Stodola, Board Member Bentz, Lewis, Covart, and Valentine. Voting No: None. Absent: Board Members Bernard, and Hiatt.

5. POLICY BOARD BUSINESS

5.01: Revisit the Question to be Asked as Part of the Citizen Engagement Process for the Environmental Protection/Resource Management Chapter of the Comprehensive Plan

City Planner Anderson presented the staff report. He noted before staff moves forward with the public engagement process regarding the Comprehensive Plan, they wanted to have a conversation with the Board to proceed with the question that had been developed. Specifically, the question of “What value do natural resources and environmental sustainability add to your neighborhood?” has been discussed previously, and he said he is seeking further discussion on it. He pointed out there will be further opportunities to solicit feedback such as at the Draw Concert series, and upcoming Happy Days. The question will also be brought before the City Council before adoption.

Board Member Bentz commented the question sounded good.

Board Member Valentine stated it had come to his attention in the last year that the word “sustainability” had become a bad word. He asked if that word could be removed because it can be a distraction for some people.

Board Member Lewis mentioned he also does not approve of the word “sustainability”. He added the word “environmental” can stay if needed. He suggested the question read “What value do natural resources add to your neighborhood?”

Chairperson Stodola stated he approves of the word “sustainability” and did not think it posed a problem.

Board Member Lewis clarified he did not think it was a very clear word.

Chairperson Stodola said he liked Board Member Lewis' suggested question because it is clearer. He suggested replacing the word “neighborhood” with “community”. He said he thinks the word “community” invites people to think more broadly.

Consensus was reached to use the word “neighborhood” in place of “community”.

City Planner Anderson offered to eliminate the word “sustainability”. He explained he added it in to address one of the discussion items from May to incorporate ‘environment’ into the question. He said people may or may not see it as negative. He concluded the word may come up in workshop discussions and as part of the public process.

Council Member Bentz asked if it is a mandate of a Comprehensive Plan to address sustainability.

City Planner Anderson responded it should be acknowledged and incorporated into a Comp Plan. He said it is not a required element of the Comp Plan.

Board Member Covart commented using the word “sustainability” may make people feel it is something they can do something about. She suggested using the word “renewable”. She said that may bring in the idea of active participation.

City Planner Anderson clarified that what was being suggested was change the word “natural resources” to “renewable resources”.

Board Member Covart said she didn't have a concrete suggestion, and just wanted to suggest the word “renewable” be added.

Councilmember LeTourneau noted he approved of using the words “natural resources” because it makes people think of natural things. We want to raise awareness of water and renewable resources, and he said he would like to have people be brought into a discussion of how we can address the aquifer and other issues. If the word “renewable” helps open up the conversation, then it should be used. He suggested the question read, “What value does environmental and natural and renewable resources add to your community.” He pointed out water is renewable. Trees are somewhat renewable, and compost and recycling is more renewable than natural resources.

Chairperson Stodola stated the word “renewable” was redundant.

Board Member Bentz commented these words are more along the lines of reclaiming rather than renewable. He suggested creating a statement with the words “renewable” and “reclaimable”, as they both fit under the umbrella of “sustainability”. He stated a moderator in a discussion may be able to suggest words that others may not think of. He said preservation is a large part of this subject, and others may not think of this as sustainable.

Councilmember LeTourneau stated he would like to find words that resonate with the public.

Chairperson Stodola noted he had thought over the situation and he would no longer like to keep the word “sustainability” in. He said if the Board is having this much discussion over it, the public could be unsettled.

Board Member Lewis suggested the word “sustainability” be replaced with “conservation”. He stated it may be more to the point. He clarified the question would then read, “What value do natural resources and conservation add to your neighborhood?”

It was the consensus of the Environmental Policy Board to move ahead with the question: “What value do natural resources and conservation add to your community?”

Councilmember LeTourneau asked when this item will come before the Council.

City Planner Anderson replied it will be either the 25th of August or the 8th of September.

Councilmember LeTourneau suggested this question be posted at Happy Days.

City Planner Anderson responded he did plan to have it in place by Happy Days for that reason. He said it would be a great opportunity to get feedback on this, and anything else.

Councilmember LeTourneau stated if there is a lot of confusion over it, the Board can discuss at a future meeting. If people seem to understand it, then we can move forward in discussion of this chapter of the Comp Plan.

Board Member Bentz inquired if dates had been set up for the discussion of the Comp Plan.

City Planner Anderson replied there are no public dates set yet. Some of the other chapters will likely not move forward until 2016. The Comp Plan Update is not actually due until 2018. Our discussions are ahead of the game.

5.02: Discuss Erosion Concerns Along Both Rivers and Consider Potential Prevention/Mitigation Resources

City Planner Anderson presented the staff report. He noted both the Rum and the Mississippi Rivers are considered waters of the state. He explained any work conducted below the Ordinary High Water elevation would require review by and a permit from the DNR. Any work above the Ordinary High Water elevation is subject to review by the city. Staff is looking for a motion or direction to reach out to the Conservation District to determine what may be needed to extend the shoreline inventory that the ACD completed along the Mississippi River to Ramsey's western limits.

Board Member Bentz questioned why the previous inventory was stopped at Ramsey's eastern border.

City Planner Anderson replied it was dependent on the pool that is created above the dam. The purpose of that study was to assess the condition of the recreational pool of the dam, and that geographically ended before Ramsey.

Board Member Bentz asked if the Army Corps of Engineers could do the work.

City Planner Anderson responded that that may be a possibility, depending on their staff and the funds available to them. He said that is another entity or agency to reach out to, or bring into the conversation.

Councilmember LeTourneau clarified the discussion is not about spending any money yet. It is to discuss the choices available.

City Planner Anderson confirmed this discussion is not to authorize anything.

Board Member Valentine thanked City Planner Anderson for putting the information together to begin a discussion on possible remedies. This discussion is a great need. He also mentioned he just learned about Minnesota Erosion Control Association. He said it seems to be more involved in stormwater management.

City Planner Anderson responded he is aware of MECA. While they do work with stormwater, he said they could be a possible source of funding.

Board Member Valentine mentioned it is quite a task to be involved in anything with waters in Minnesota since there are so many agencies and organization involved.

Board Member Lewis clarified this agenda item is to request endorsement of determining the feasibility of putting together a report to see what needs to be done. He suggested using the word “partners” and identifying who they are so they can be used appropriately as needed.

Board Member Bentz advised this will rely on the cooperation of the landowners along the way.

City Planner Anderson agreed. He noted some previous discussions have been around finding out the condition of the riverbanks and also getting buy-in from the landowners.

Chairperson Stodola noted this work would not mean spending any money, except for the City Planner's time. Since staff came to the board with it, it would seem Staff would think it is worth the time. He suggested contacting the DNR and asking them to be a communication point. If there are calls and concerns from residents, they should be directed to the DNR for further information.

Motion by Board Member Valentine to recommend that Staff explore completing a shoreline inventory to establish a baseline data set of current conditions and use that data to prioritize potential project sites, proactively contact those property owners, and engage other public agencies to discuss development of a comprehensive program to assist riparian land owners with erosion concerns.

Further discussion: Board Member Lewis suggested adding the language of “and identify potential partnerships”.

Motion seconded by Board Member Bentz.

Motion carried. Voting Yes: Chairperson Stodola, Board Member Valentine, Bentz, Lewis, and Covart. Voting No: None. Absent: Board Members Bernard, and Hiatt.

Councilmember LeTourneau stated this will continue to be discussed with the community while being considerate of how it is discussed. The City wants to be part of a solution and not part of a problem, so public perception will be important.

City Planner Anderson reminded the Board that shoreline erosion is a detriment to the river and thus there is a public benefit to assessing the current condition of the riverbank and identifying priority sites for possible stabilization. Also, the DNR is working through potential rule revisions to the river. This could heighten the public's perception of what the City could do and the level of involvement the public would like to have.

5.03: Discuss Potential Policy to Address Buildable Area on Parcels with Floodplains and Wetlands

City Planner Anderson presented the staff report. He provided an example of a case in which a building permit was issued for a new home that met all zoning standards but was very near to a drainage and utility easement and wetland. Since it met all the standards and criteria, and the City could not deny the permit even though it was evident that a future deck would be problematic due to the proximity to the easement and wetland. Ultimately, the homeowner had to go to several agencies to get permission to put a few holes in the ground for the deck. This type of situation is becoming more common as more challenging and/or less desirable lots are now being built out.

He referred to the agenda and the options listed. He stated he did not want to suggest any specific language, in order to engage the Board in discussion.

Board Member Valentine posed the question at what point does a builder and potential homeowner discover what is on the lot. He added that a designated wetland doesn't always look like a wetland. When the homeowners come in for a building permit, they most likely have already situated a house on property and they may not know about wetlands.

City Planner Anderson responded oftentimes a surveyor is in touch with the City, as they are seeking out plat and grading plans. He said many times, the survey is just the boundary of drainage of utilities. It should indicate wetland as well, but it isn't always the case. That information is gathered as part of the Certificate of Survey. That comes in as part of the building permit application for construction of a new home. He stated most of the time, it is the builder that comes in for the building permit, not the homeowner.

Board Member Lewis stated some of this discussion is occurring too far downstream. These are issues that need to be way further upstream. If a buyer is unaware of what the potential issues are with the lot, the problem lies with the City or the Surveyor. He said this awareness should be available much earlier in the process.

City Planner Anderson stated the builder should know what the land is designed for, and he should know the minimum setbacks. This information should be obtained before the time of building. That is why this issue has come up for the agenda. In the case mentioned earlier, the builder may have known, but the homeowner was not aware.

Community Development Director Gladhill explained the City is trying to create buildable areas when land is subdivided. The City is trying to establish that some of the policies will become effective on a certain date. He agreed the communication issue should be handled further upstream.

Board Member Bentz noted he has known residents that have built outbuildings and then have issues with rain. He explained his mother was a realtor and she made a point to tell people about swamps and wetlands. He asked if this should be part of the consideration as well.

City Planner Anderson pointed out a building should be 20 feet from the perimeter of the drainfield. This is one of the reasons Ramsey has a 2.5 acre lot size in the rural developing district. There must be room for a septic system, as well as room for an alternate site, should the first one fail.

Board Member Bentz stated he was not sure residents are aware of that requirement. Many times, it is unclear where the drainfield is until there is a big event.

City Planner Anderson explained zoning permits and how they can help. The permits must provide a site plan, and must show setbacks. He acknowledged the City could do better at educating the public. This may help to reduce these issues.

Board Member Lewis asked if City Planner Anderson could foresee variances issued on the two options listed in the packet.

City Planner Anderson responded that is always a potential. He noted that for discussion purposes, this applies to the principal structure. The City has in the past approved variances for reduced front yard setbacks to gain a bit more space in the back yard if a drainage pond already exists.

Community Development Director Gladhill explained staff is seeking consensus to develop a setback ordinance. With that, staff will get a sense of what is happening to existing properties and what that may mean for variances.

Motion by Board Member Valentine to begin discussion to establish a minimum principal structure setback from wetlands, floodplains, and storm sewer pipes, and to inform the necessary parties involved of the setback as soon as possible.

Further discussion: Board Member Bentz expressed concern over the subdivision issues and asked if the City has a way to push back on some of the subdivisions and refuse the permit to build a secondary structure. City Planner Anderson responded the City does have the ability to push back to some extent. In the end, if the request meets all standards in City Code, the City cannot withhold a permit.

Seconded by Board Member Lewis.

Further discussion: Board Member Bentz mentioned there are some houses that do not meet the minimums as mentioned. The homes are along Armstrong Boulevard, and north of Bunker Boulevard. City Planner Anderson responded their minimum lot size is less than the 10,800 square feet that is required for a standard sewer and water neighborhood. Those are within The COR and there are some deviations from the standard code. For the zoning of that area, the homes do meet the criteria.

Motion carried. Voting Yes: Chairperson Stodola, Board Member Valentine, Lewis, Bentz, and Covart. Voting No: None. Absent: Board Members Bernard, and Hiatt.

5.04: Discuss Desired Information for EPB Presence at Happy Days

City Planner Anderson presented the staff report. He offered to circulate a sign up sheet for volunteers. He said he will also take care of the set up and take down.

Board Member Bentz suggested having a slide show.

City Planner Anderson stated he didn't know if there would be access to electricity in the tent yet, but he planned to display some of the more interesting pictures.

It was the consensus of the Environmental Policy Board to sign up for volunteer time slots by email.

5.05: Review Comparison Document of The COR Development Plan and Original Ramsey Town Center Master Plan Prepared by the Planning Commission

Community Development Director Gladhill presented the staff report. He gave an overview of the most current version of The COR Development Plan. He reviewed the original Ramsey Town Center Master Plan. This discussion will focus on the changes between the two in an effort to

ensure all policy makers are on the same page. A broader discussion will be held in September and he wanted to capture and changes to be made ahead of that meeting.

Board Member Bentz stated he would like to look at what has been built, and what is not there. He asked if there are provisions for affordable housing.

Chairperson Stodola responded there has been a plan for lower income apartment housing.

Community Development Director Gladhill noted there are housing goals. The City cannot dictate exactly what types of housing it prefers, but it can work toward goals. Ultimately, it would be best to mix levels of income, and that will start to play out in decision making along the way. He stated sometimes density brings the affordable housing.

Board Member Lewis questioned what kind of opportunities there will be to review this.

Community Development Director Gladhill replied the plan is to get through all the Boards and Committees in August. It has not been determined how the final document will be fabricated. It will become a survey of all these groups, the public and other stakeholders. It could mean a collaboration meeting of interested parties for more discussion.

Councilmember LeTourneau asked if he was looking for input relative to this particular body or input relative to how this fits in the community.

Community Development Director Gladhill responded both. He said the natural resources plan of the Comprehensive Plan is what is more related to this Body.

Board Member Lewis stated he has not seen anything on this document that deviates from the original plan from an environmental standpoint.

Community Development Director Gladhill stated from a natural resources standpoint, one of the features that is different is The Draw and the amphitheater. The amphitheater made a fairly significant change to the natural resources. He pointed out the original plan had a strong parks program, and the current plan has a strong master parks and trail plan. He also noted the drainage system has changed. The area west of Lake Ramsey is lower than it was going to be.

Councilmember LeTourneau mentioned some of the wetland drainage area in the western part of the city is being taken away. He questioned what will be done to mitigate that.

Community Development Director Gladhill replied there have been Wetland Credits purchased, and there are enhancements in other areas. That will need to continue.

Board Member Lewis said he thought there was a discussion about the big box anchor mall on the west side of Armstrong Boulevard.

Community Development Director Gladhill responded the City did publicize this and there was an effort to look at eminent domain. He explained that statute has now changed. However, the zoning is still there for a retail setting. It still could occur.

Councilmember LeTourneau commented he continually hears that people want restaurants. He said some people want the food to be locally produced. Others want chains to come in. He said

his thought process is that it will evolve when there is enough density to support it. So that becomes a marketing issue. He said there is not enough density here for chains like Chipotle. He pointed out the City now has something like 2000 housing units. He questioned what the density needs to be. Once that density is reached, maybe then it would be feasible to revisit the west side of Armstrong Boulevard for the big box retail mall. He asked how the City can play a role in facilitating that.

Board Member Valentine mentioned there are a lot of small malls around the Cities that are empty. He warned the Board to be careful of this. He suggested in the scope of this Board, we should consider the sites as if they are individual sites. There should be some stormwater management before deciding what could go in there. If housing is considered, how does the density affect the impervious area, compared to single homes.

Board Member Lewis pointed out the City would be sacrificing trails and shoulders with the big box potential mall development. The pedestrian orientation from the area west of Zeolite Street became less important and more auto centric. He stated some of the new housing north of Bunker Lake Boulevard may not be interested in looking at a large Kmart type building where the anchor retails was planned.

Community Development Director Gladhill said in discussions with all the Boards, something may come up to make that area more palatable. We can take the best of some neighboring communities and try to come up with something more attractive.

Board Member Lewis commented it would be difficult to get a developer to do an upscale shopping area without the housing to support it.

Board Member Bentz said he was disappointed in the notes in regards to blue stream. He questioned if any of that would be coming forward from the open space discussion.

Community Development Director Gladhill responded staff is working on how to best present that information. Staff is getting feedback in regard to Lake Ramsey Commons being a shared property between the surrounding parcels.

Board Member Bentz suggested planning more with Lake Ramsey and consider whether it could be made a usable lake. He suggested looking at putting in storm draining before it hits the river. He further advised to create a list of all the things we do not want to happen again.

Community Development Director Gladhill stated this could be a good addition to the questions for the other Boards. It would be helpful to solicit input as to what they think the issues have been and ask if this is the right direction aesthetically.

Councilmember LeTourneau went back to the point of the view shed for those homeowners that are now looking at retail buildings. He asked if the original aesthetics are in place, or if they should be revisited. He noted the diameter of the trees was changed, and other designs were left out due to cost. He questioned if design standards have changed.

Board Member Lewis posed the question of which is faster – bringing in big box retailing, or housing.

Community Development Director Gladhill stated this all originated from a joint meeting. One of the questions from that meeting was what is the goal for that development. Sometimes it feels like there are multiple goals. He asked if the development should happen quickly so it can get on the tax role, or if the consensus is to wait for the long term vision to come.

Board Member Bentz commented the issue is with the interchange. People do not like using frontage roads because they are difficult to use. The interchange does not seem welcoming right now. Ramsey has resources to market. If Ramsey wants to attract businesses, we need to look at parking issues when there are events, maybe looking at a water park or other features geared toward families. He said he doesn't see a big box store doing much of anything.

Community Development Director Gladhill explained the Planning Commission is not suggesting the original plan be followed. The Commission acknowledged that was aggressive for the market that is Ramsey. The Commission would like to put together a plan that matches the goals. He said he has hopefully captured some of the additional topics needed for that survey. Each Board has come up with more questions along the way. He said Staff recommends the City Council adopt this document, with the understanding that it will be revised as it goes through the different Boards and Agencies.

Motion by Board Member Lewis and seconded by Board Member Valentine to recommend that the City Council adopt the attached Comparison Document for The COR, including the revisions and questions suggested at this meeting.

Motion carried. Voting Yes: Chairperson Stodola, Board Member Lewis, Valentine, Bentz, and Covart. Voting No: None. Absent: Board Members Bernard, and Hiatt.

6. BOARD / STAFF INPUT

- Receive Presentation from Smart Irrigation Forum

The purpose of this case is simply to provide the Board with a copy of the presentation that was offered at the Smart Irrigation Forum hosted by the Anoka County Water Task Force.

- **Girl Scout Recognition**

Councilmember LeTourneau stated he runs through the north loop frequently. There is a garbage can that the Girl Scouts put up there. He asked if it would be of interest to put a plaque on it recognizing their hard work.

City Planner Anderson noted the City had worked with the Girl Scouts to determine how best to recognize their work. They had asked if they could handle the recognition at one point. He said he would be in touch with them.

Motion by Board Member Lewis and seconded by Board Member Valentine to recommend that the City follow through with the commitment previously made to acknowledge the work the Girl Scouts have done in the north loop.

Motion carried. Voting Yes: Chairperson Stodola, Board Member Lewis, Valentine, Bentz, and Covart. Voting No: None. Absent: Board Members Bernard, and Hiatt.

7. ADJOURNMENT

Motion by Board Member Valentine and seconded by Board Member Lewis to adjourn the meeting.

The meeting adjourned at 9:09 p.m.

Respectfully submitted,

Chris Anderson
City Planner

ATTEST:

JoAnn Shaw
Community Development Secretary

Drafted by Chris Moksnes
TimeSaver Off Site Secretarial, Inc.

Meeting Date: 09/21/2015

By: Chris Anderson, Community
Development

Information

Title:

Consider an Amendment to City Code Chapter 117, Article II, Division 4, Subdivision III (Floodplain Overlay Districts) to Adopt Updated Flood Insurance Rate Maps Prepared by the Federal Emergency Management Agency

Purpose/Background:

In 1979, the City enrolled in the National Flood Insurance Program (NFIP) by adopting floodplain regulations and Flood Boundary and Floodway Maps and Flood Insurance Rate Maps (FIRM) for the community. The Flood Boundary and Floodway Maps and FIRMs currently in effect are dated November 1, 1979. The community has grown substantially since the late 1970s, and thus, the maps lack much of the current street network. Additionally, the scale of the maps is one (1) inch equals 800 feet, which makes it rather challenging to accurately scale the proposed location of buildings. The Federal Emergency Management Agency (FEMA) has been systematically updating floodplain maps across the state and has recently completed new maps for Anoka County. If the City desires to remain in the NFIP, we must amend our existing floodplain standards to adopt the new maps.

The floodplain standards are designed to minimize structural damage as a result of large scale floods, oftentimes referred to as a 100-year flood, by prohibiting the placement of structures within designated floodways and by requiring either floodproofing and/or the use of fill to elevate a structure to a certain elevation if within the flood fringe areas. Structures located within a designated floodplain are required to be covered by flood insurance if the owner utilized federal or federally related financial assistance to acquire the property (federally backed loans). If a community opted not to participate in the NFIP, then federally backed mortgages would not be an option for properties in the Special Flood Hazard Area (SFHA), flood insurance would not be available (to any property owner), and disaster assistance for the community also would not be available.

Notification:

A notice of Public Hearing will be published in the City's official newspaper, the Anoka UnionHerald.

Observations/Alternatives:

The updated Flood Insurance Rate Maps (FIRM) have incorporated the Flood Boundary and Floodway Maps information. The updated maps also include an underlying aerial image, which assists in determining whether a property, or portions of a property, are located within a designated flood zone. The updated maps have also incorporated any studies or detailed analyses that have been completed (either by the City, WMO, or other entity). Upon adoption of the updated maps, the City will also gain access to Digital Flood Insurance Rate Maps (DFIRMs) through FEMA.

In order to avoid being suspended from the NFIP program, the City must adopt an amendment to the Floodplain Overlay Districts Subdivision in City Code to incorporate the updated maps. The amendment must be adopted and provided to FEMA's regional office no later than December 16, 2015. The MN DNR is assisting communities with this process and has provided a model ordinance that meets the minimum federal requirements. The model ordinance has commentary that identifies mandatory language as well as those items that may be optional. The model ordinance very closely resembles the City's current floodplain regulations with the exception of identifying the new map panels and the fact that there has been some rearrangement of text (and incorporation of FEMA required language). Staff is presently working on reformatting this language into a draft ordinance but has included both the current Floodplain Overlay Districts Section of City Code as well as the Model Ordinance. Note that cross-reference notes have been added to the Model Ordinance to help demonstrate what language is already in City

Code.

It is anticipated that the City Council will take final action on the ordinance amendment in late November or early December, which will allow Staff to send the updated ordinance to FEMA by December 16, 2015.

Staff attempted to attach each map panel to this case but due to file size, was not able to publish the agenda. So, Staff will have a hard copy of each map panel available at the meeting.

Alternatives

Option #1. Recommend that the City Council adopt the updated Flood Insurance Rate Maps via an amendment to the Floodplain Overlay Districts Subdivision of City Code. The updated maps will assist in administering the floodplain standards as they have a much more complete road network and have aerial imagery as well. If the City does not adopt the updated maps via an ordinance amendment, the City will be suspended from the NFIP which will create great challenges for property owners in the SFHA attempting to sell or refinance (federally backed loans would not be available). Staff supports this option.

Option #2. Recommend that the City Council not adopt the updated Flood Insurance Rate maps via an amendment to the Floodplain Overlay Districts Subdivision of City Code. If the City fails to adopt the updated maps via an ordinance amendment, the City will be suspended from the NFIP, which can trigger some significant challenges for certain properties within the community. Furthermore, the City loses its eligibility for federal disaster relief funding as well. Staff does not support this option.

Funding Source:

This work is being handled as part of normal Staff duties.

Action:

Motion to recommend that the City Council adopt the updated Flood Insurance Rate Maps by amending Chapter 117, Article II, Division 4, Subdivision III (Floodplain Overlay Districts).

Attachments

[Letter from MN DNR](#)

[Current Floodplain Regulations](#)

[Model Ordinance with Cross Reference Notes](#)

Form Review

Inbox

Chris Anderson (Originator)
Form Started By: Chris Anderson
Final Approval Date: 09/18/2015

Reviewed By

Chris Anderson

Date

09/18/2015 09:06 AM
Started On: 09/17/2015 01:57 PM

NOTES TO USERS

This map is for use in administering the National Flood Insurance Program. It does not necessarily identify all areas subject to flooding, particularly from local drainage sources of small size. The **community map repository** should be consulted for possible updated or additional flood hazard information.

To obtain more detailed information in areas where **Base Flood Elevations (BFEs)** and/or **floodways** have been determined, users are encouraged to consult the Flood Profiles and Floodway Data and/or Summary of Stillwater Elevations tables contained within the Flood Insurance Study (FIS) Report that accompanies this FIRM. Users should be aware that BFEs shown on the FIRM represent rounded whole-foot elevations. These BFEs are intended for flood insurance rating purposes only and should not be used as the sole source of flood elevation information. Accordingly, flood elevation data presented in the FIS Report should be utilized in conjunction with the FIRM for purposes of construction and/or floodplain management.

Coastal Base Flood Elevations shown on this map apply only landward of 0.0' North American Vertical Datum of 1988 (NAVD 88). Users of this FIRM should be aware that coastal flood elevations are also provided in the Summary of Stillwater Elevations table in the Flood Insurance Study Report for this jurisdiction. Elevations shown in the Summary of Stillwater Elevations table should be used for construction and/or floodplain management purposes when they are higher than the elevations shown on this FIRM.

Boundaries of the **floodways** were computed at cross sections and interpolated between cross sections. The floodways were based on hydraulic considerations with regard to requirements of the National Flood Insurance Program. Floodway widths and other pertinent floodway data are provided in the Flood Insurance Study Report for this jurisdiction.

Certain areas not in Special Flood Hazard Areas may be protected by **flood control structures**. Refer to Section 2.4 "Flood Protection Measures" of the Flood Insurance Study Report for information on flood control structures for this jurisdiction.

The **projection** used in the preparation of this map was Universal Transverse Mercator (UTM) zone 15. The **horizontal datum** was NAD 83, GRS 1980 spheroid. Differences in datum, spheroid, projection or UTM zones used in the production of FIRMs for adjacent jurisdictions may result in slight positional differences in map features across jurisdiction boundaries. These differences do not affect the accuracy of this FIRM.

Flood elevations on this map are referenced to the North American Vertical Datum of 1988. These flood elevations must be compared to structure and ground elevations referenced to the same **vertical datum**. For information regarding conversion between the National Geodetic Vertical Datum of 1929 and the North American Vertical Datum of 1988, visit the National Geodetic Survey website at <http://www.ngs.noaa.gov> or contact the National Geodetic Survey at the following address:

NGS Information Services
NOAA, N/NGS12
National Geodetic Survey
SSMC-3, #9202
1315 East-West Highway
Silver Spring, Maryland 20910-3282
(301) 713-3242

To obtain current elevation, description, and/or location information for **bench marks** shown on this map, please contact the Information Services Branch of the National Geodetic Survey at (301) 713-3242, or visit its website at <http://www.ngs.noaa.gov>.

Base Map information shown on this FIRM was provided in digital format by the USDA-FSA Aerial Photography Field Office. This information was photogrammetrically compiled at a scale of 1:12,000 from aerial photography dated 2009.

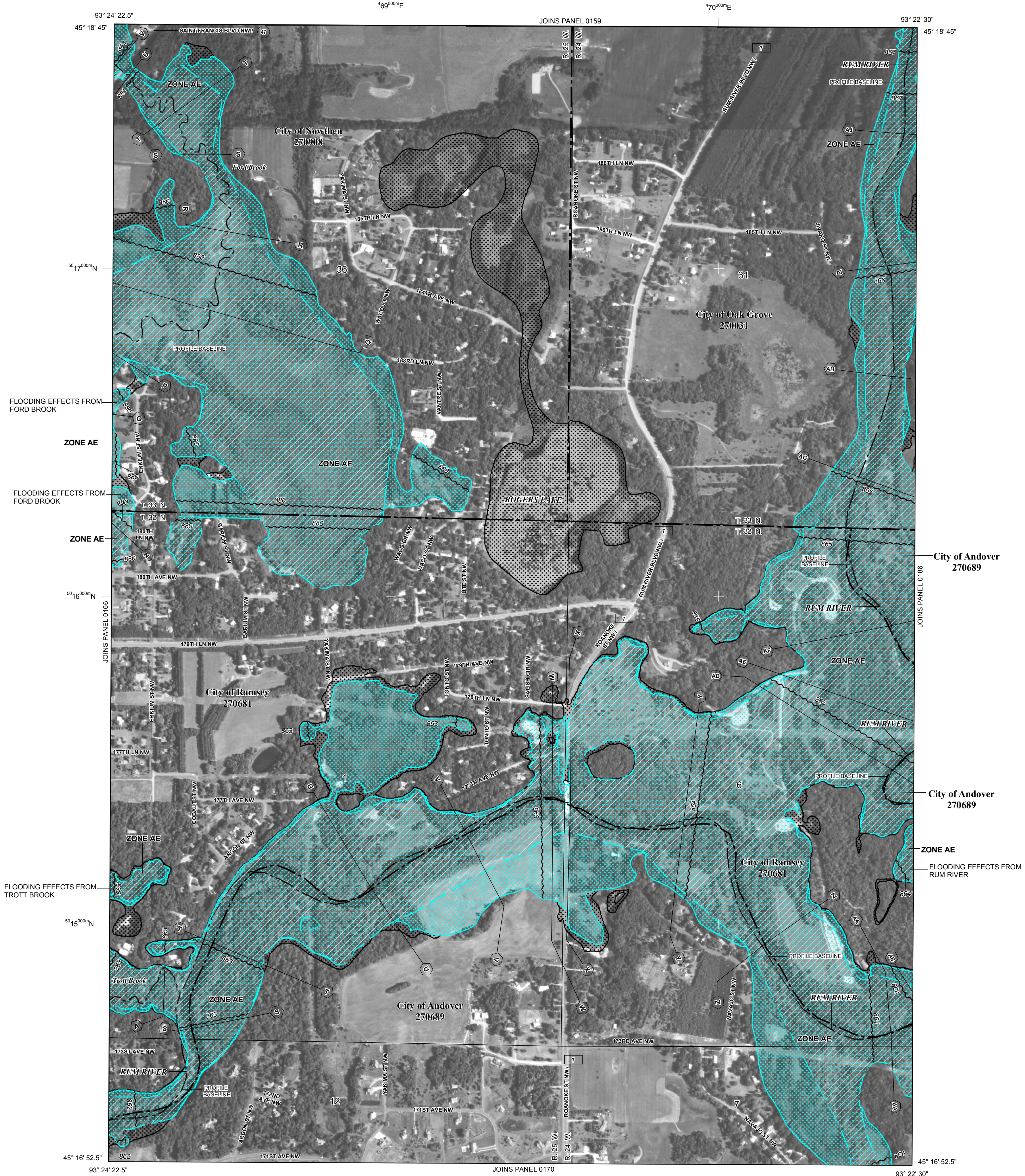
The **profile baselines** depicted on this map represent the hydraulic modeling baselines that match the flood profiles in the FIS report. As a result of improved topographic data, the **profile baseline**, in some cases, may deviate significantly from the channel centerline or appear outside the SFHA.

Corporate limits shown on this map are based on the best data available at the time of publication. Because changes due to annexations or de-annexations may have occurred after this map was published, map users should contact appropriate community officials to verify current corporate limit locations.

Please refer to the separately printed **Map Index** for an overview map of the county showing the layout of map panels; community map repository addresses; and a Listing of Communities table containing National Flood Insurance Program dates for each community as well as a listing of the panels on which each community is located.

For information on available products associated with this FIRM visit the **Map Service Center (MSC)** website at <http://msc.fema.gov>. Available products may include previously issued Letters of Map Change, a Flood Insurance Study Report, and/or digital versions of this map. Many of these products can be ordered or obtained directly from the MSC website.

If you have **questions about this map**, how to order products, or the National Flood Insurance Program in general, please call the **FEMA Map Information eXchange (FMIX)** at 1-877-FEMA-MAP (1-877-336-2627) or visit the FEMA website at <http://www.fema.gov/business/nfp>.



LEGEND

- 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. The Special Flood Hazard Area is the area subject to flooding by the 1% annual chance flood. Areas of Special Flood Hazard include Zones A, AE, AH, AO, AR, A99, V, and VE. The Base Flood Elevation is the water-surface elevation of the 1% annual chance flood.
- ZONE A** No Base Flood Elevations determined.
- ZONE AE** Base Flood Elevations determined.
- ZONE AH** Flood depths of 1 to 3 feet (usually areas of ponding); Base Flood Elevations determined.
- ZONE AO** Flood depths of 1 to 3 feet (usually sheet flow on sloping terrain); average depths determined. For areas of alluvial fan flooding, velocities also determined.
- ZONE AR** Special Flood Hazard Areas formerly protected from the 1% annual chance flood by a flood control system that was subsequently described. Zone AR indicates that the former flood control system is being restored to provide protection from the 1% annual chance or greater flood.
- ZONE A99** Area to be protected from 1% annual chance flood by a Federal flood protection system under construction; no Base Flood Elevations determined.
- ZONE V** Coastal flood zone with velocity hazard (wave action); no Base Flood Elevations determined.
- ZONE VE** Coastal flood zone with velocity hazard (wave action); Base Flood Elevations determined.
- FLOODWAY AREAS IN ZONE AE
The floodway is the channel of a stream plus any adjacent floodplain areas that must be kept free of encroachment so that the 1% annual chance flood can be carried without substantial increases in flood heights.
- OTHER FLOOD AREAS
- ZONE X** Areas of 0.2% annual chance flood; areas of 1% annual chance flood with average depths of less than 1 foot or with drainage areas less than 1 square mile; and areas protected by levees from 1% annual chance flood.
- OTHER AREAS
- ZONE D** Areas determined to be outside the 0.2% annual chance floodplain.
- ZONE E** Areas in which flood hazards are undetermined, but possible.
- COASTAL BARRIER RESOURCES SYSTEM (CBRS) AREAS
- OTHERWISE PROTECTED AREAS (OPAs)

- CBRS areas and OPAs are normally located within or adjacent to Special Flood Hazard Areas.
- 1% Annual Chance Floodplain Boundary
- 0.2% Annual Chance Floodplain Boundary
- Floodway boundary
- Zone D boundary
- CBRS and OPA boundary
- Boundary dividing Special Flood Hazard Area Zones and boundary dividing Special Flood Hazard Areas of different Base Flood Elevations, flood depths, or flood velocities.
- Base Flood Elevation line and value; elevation in feet*
- Base Flood Elevation value where uniform within zone; elevation in feet*

*Referenced to the North American Vertical Datum of 1988

- Cross section line
- Transect line
- Geographic coordinates referenced to the North American Datum of 1983 (NAD 83) Western Hemisphere
- 1000-meter Universal Transverse Mercator grid values, zone 15
- Bench mark (see explanation in Notes to Users section of this FIRM panel)
- River Mile

MAP REPOSITORIES
Refer to Map Repositories list on Map Index

EFFECTIVE DATE OF COUNTYWIDE FLOOD INSURANCE RATE MAP

EFFECTIVE DATE(S) OF REVISION(S) TO THIS PANEL

For community map revision history prior to countywide mapping, refer to the Community Map History table located in the Flood Insurance Study report for this jurisdiction.

To determine if flood insurance is available in this community, contact your insurance agent or call the National Flood Insurance Program at 1-800-638-6620.

MAP SCALE 1" = 500'

NATIONAL FLOOD INSURANCE PROGRAM

PANEL 0167E

FIRM
FLOOD INSURANCE RATE MAP
ANOKA COUNTY,
MINNESOTA
AND INCORPORATED AREAS

PANEL 167 OF 450
(SEE MAP INDEX FOR FIRM PANEL LAYOUT)

CONTAINS:

COMMUNITY	NUMBER	PANEL	SUFFIX
ANDOVER, CITY OF	270689	0167	E
NOWTHEN, CITY OF	270908	0167	E
OAK GROVE, CITY OF	270031	0167	E
RAMSEY, CITY OF	270681	0167	E

SEPTEMBER 30, 2011

PRELIMINARY

Notice to User: The **Map Number** shown below should be used when placing map orders; the **Community Number** shown above should be used on insurance applications for the subject community.

MAP NUMBER
27003C0167E
EFFECTIVE DATE

Federal Emergency Management Agency



July 9, 2015

The Honorable Sarah Strommen
Mayor, City of Ramsey
7550 Sunwood Dr NW
Ramsey, MN 55303

Dear Mayor Strommen,

ANOKA COUNTY, MINNESOTA FLOOD INSURANCE STUDY

You recently received a letter from the Federal Emergency Management Agency (FEMA) dated June 16, 2015, about your floodplain regulations. This letter, known as the Letter of Final Determination (LFD), explains that the Flood Insurance Rate Maps (FIRMs) for your community, as well as the Anoka County Flood Insurance Study, are now complete and will become effective on December 16, 2015 (which is 6 months from the date of the LFD).

This letter is intended to explain the statement in the LFD that “your community is required... to adopt or show evidence of adoption of floodplain management regulations that meet the standards of Paragraph 60.3(d)...by the effective date of the FIRM.” In other words, *your community must amend your floodplain ordinance, or adopt a new ordinance, by December 16, 2015, in order to continue participating in the National Flood Insurance Program (NFIP).* The DNR, as the State Coordinating Agency for the NFIP, will be assisting you in this effort.

The DNR will advise your staff as to what type of floodplain ordinance your community should adopt. We will be contacting you within the next few weeks with a draft ordinance tailored to your community. I urge you to respond as soon as possible to initiate this process so as to prevent your community from being suspended from the National Flood Insurance Program should you not meet the 6-month deadline.

We strongly encourage your community to complete a draft of a new or revised floodplain ordinance and forward it to my attention by September 16, 2015 (the midpoint of the 6-month adoption period).

This allows time for our review and approval, for your community to complete the adoption/publication process, and for an adopted/certified copy of the ordinance to be sent to the Federal Emergency Management Agency’s Chicago Regional Office by December 16, 2015.

All communities will eventually receive one set of paper copies of the Anoka County Flood Insurance Study and the respective flood insurance rate map panels from FEMA. Many communities prefer to have the final study/maps available when they initiate the ordinance adoption/amendment process. We anticipate that electronic versions of the final maps will be available within the next month, and we will make them available on our ftp site:

ftp://ftp.dnr.state.mn.us/pub/waters/floodplain/County_data/Anoka/ These posted documents will include pdfs for viewing and printing, as well as shapefiles for GIS use.



Mayor Strommen
July 9, 2015
Page two

FEMA has advised us that, *without exception*, a community will be suspended from the National Flood Insurance Program if the required floodplain ordinance documents are not received in its Chicago Regional Office by the study/map effective date. A suspended community may be reinstated if the community: 1) submits the required floodplain ordinance language; and 2) documents that no improper floodplain development has occurred since the study/map effective date or that any improper floodplain development has been properly mitigated. During the suspension period, no flood insurance policies can be written or renewed in the community. This would have a serious impact on people exposed to flood damage or those who are trying to purchase homes in the designated 100-year floodplain, where flood insurance is a requirement of the loan.

While our office in St. Paul will be the main contact for the ordinance update, we will coordinate with DNR Area Hydrologist Kate Drewry of our St. Paul regional office. Ms. Drewry will continue to be your main contact for day-to-day assistance with administering your floodplain management ordinance and for questions about other DNR water-related programs and permits. Please feel free to contact Ms. Drewry at any time at (651) 259-5753 or kate.drewry@state.mn.us. If you have questions for me, you may contact me at the address in the footer of page one, at (651) 259-5713, or at ceil.strauss@state.mn.us.

Sincerely,



Ceil Strauss, CFM
State Coordinator, National Flood Insurance Program

ec: Terri Yearwood, DNR Eco-Waters' Regional Manager
Jeanne Daniels, DNR Eco-Waters' District Manager
Kate Drewry, Area Hydrologist
Chris Anderson, Floodplain Administrator

Subdivision III. - Floodplain Overlay Districts

FOOTNOTE(S):

--- (3) ---

State Law reference— Floodplain Management Law, Minn. Stats. § 103F.101 et seq.; floodplain management ordinances, Minn. Stats. § 103F.121.

Sec. 117-180. - Findings of fact; purpose.

(a) Findings of fact.

- (1) The flood hazard areas of the city 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 or flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.
- (2) Methods used to analyze flood hazards. This subdivision is based upon a reasonable method of analyzing flood hazards that is consistent with the standards established by the state department of natural resources.

(b) Statement of purpose. It is the purpose of this subdivision to promote the public health, safety, and general welfare and to minimize those losses described in subsection (a)(1) of this section by provisions contained herein.

(Code 1978, § 9.22.01; Ord. No. 79-13, 10-29-1979; Ord. No. 86-2, 8-25-1986; Ord. No. 92-07, 7-13-1992)

Sec. 117-181. - General provisions.

(a) Lands to which this subdivision applies. This subdivision shall apply to all lands within the jurisdiction of the city 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.

(b) Establishment of official zoning map. The official zoning map, together with all material attached thereto, is hereby adopted by reference and declared to be a part of this section. The attached material shall include: the Flood Insurance Study for the City of Ramsey prepared by the Federal Insurance Administration dated May 1979, the flood boundary and floodway map and flood insurance rate map dated November 1, 1979, the revised FB-FW Panel 20 of 20 and the Revised Floodway Data Table prepared by the Minnesota DNR, both dated March 31, 1987; as modified by the conditional letter of map revision case #08-05-2729R, dated September 25, 2008. The official zoning map shall be on file in the office of the city administrator and the zoning administrator.

(c) Regulatory flood protection elevations. The regulatory flood protection elevation shall be an elevation no lower than one foot above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the floodplain that result from designation of a floodway.

(d) Interpretation.

- (1) In their interpretation and application, the provisions of this subdivision shall be held to be minimum requirements and shall be liberally construed in favor of the city council 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 zoning administrator, the board of adjustment shall make the necessary interpretation. 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 board and to submit technical evidence.

- (e) Abrogation and greater restrictions. It is not intended by this subdivision to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this subdivision imposes greater restrictions, the provisions of this subdivision shall prevail.
- (f) Warning and disclaimer of liability. This subdivision 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 subdivision shall not create liability on the part of the city or any officer or employee thereof for any flood damages that result from reliance on this subdivision or any administrative decision lawfully made thereunder.

(Code 1978, § 9.22.02; Ord. No. 79-13, 10-29-1979; Ord. No. 84-06, 9-29-1984; Ord. No. 86-2, 8-25-1986; Ord. No. 87-01, 10-17-1988; Ord. No. 92-07, 7-13-1992; Ord. No. 09-02, § 1, 2-24-2009)

Sec. 117-182. - Establishment of flood zone districts.

(a) Districts.

- (1) Floodway district. The floodway district shall include those areas designated as floodway on the flood boundary and floodway map adopted in section 117-181.
- (2) Flood fringe district. The flood fringe district shall include those areas designated as floodway fringe on the flood boundary and floodway map adopted in section 117-181.
- (3) General floodplain district. The general floodplain district shall include those areas designated as unnumbered A zones on the flood insurance rate map adopted in section 117-181.

(b) Compliance. No new structure or land shall hereafter be used and no structure shall be located, extended, converted, or structurally altered without full compliance with the terms of this subdivision and other applicable regulations that apply to uses within the jurisdiction of this Code. Within the floodway, flood fringe and general floodplain districts, all uses not listed as permitted uses or conditional uses in sections 117-183, 117-184 and 117-185 that follow, respectively, shall be prohibited. In addition, a caution is provided here that:

- (1) New manufactured homes, replacement manufactured homes and certain travel trailers and travel vehicles are subject to the general provisions of this Code and specifically section 117-187;
- (2) Modifications, additions, structural alterations or repair after damage to existing nonconforming structures and nonconforming uses of structures or land are regulated by the general provisions of this Code and specifically section 117-189; and
- (3) As-built elevations for elevated or floodproofed structures must be certified by ground surveys and floodproofing techniques must be designed and certified by a registered professional engineer or architect as specified in the general provisions of this Code and specifically as stated in section 117-188.

(Code 1978, § 9.22.03; Ord. No. 79-13, 10-29-1979; Ord. No. 86-2, 8-25-1986; Ord. No. 92-07, 7-13-1992)

Sec. 117-183. - Floodway District (FW).

- (a) Permitted uses.
 - (1) General farming, pasture, grazing, outdoor plant nurseries, horticulture, truck farming, forestry, sod farming, and wild crop harvesting.
 - (2) Industrial-commercial loading areas, parking areas, and airport runways
 - (3) 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, target ranges, trap and skeet ranges, hunting and fishing areas, and single or multiple purpose recreational trails.
 - (4) Residential lawns, gardens, parking areas, and play areas.
- (b) Standards for floodway permitted uses.
 - (1) The use shall have a low flood damage potential.
 - (2) The use shall be permissible in the underlying zoning district if one exists.
 - (3) The use shall not obstruct flood flows or increase flood elevations and shall not involve structures, fill, obstructions, excavations or storage of materials or equipment.
- (c) Conditional uses.
 - (1) Structures accessory to the uses listed in subsection (a) of this section and the uses listed in subsections (c)(2) through (9) of this section.
 - (2) Extraction and storage of sand, gravel, and other materials.
 - (3) Marinas, boat rentals, docks, piers, wharfs, and water control structures.
 - (4) Railroads, streets, bridges, utility transmission lines, and pipelines.
 - (5) Storage yards for equipment, machinery, or materials.
 - (6) Placement of fill.
 - (7) Travel trailers and travel vehicles either on individual lots of record or in existing or new subdivisions or commercial or condominium type campgrounds, subject to the exemptions and provisions of this subsection (c).
 - (8) Structural works for flood control such as levees, dikes and floodwalls constructed to any height where the intent is to protect individual structures and levees or dikes where the intent is to protect agricultural crops for a frequency flood event equal to or less than the ten-year frequency flood event.
 - (9) Oversizing of signs.
 - (10) Expansion or enlargement of lawful nonconforming uses.
- (d) Standards for floodway conditional uses.
 - (1) All uses. No structure (temporary or permanent), fill (including fill for roads and levees), deposit, obstruction, storage of materials or equipment, or other uses may be allowed as a conditional use that will cause any increase in the stage of the 100-year or regional flood or cause an increase in flood damages in the reach affected.
 - (2) All floodway conditional uses shall be subject to the procedures and standards contained in section 117-188(d).
 - (3) The conditional use shall be permissible in the underlying zoning district.
 - (4) Fill.
 - a. Fill, dredge spoil and all other similar materials deposited or stored in the floodplain shall be protected from erosion by vegetative cover, mulching, rip-rap or other acceptable methods.

- b. Dredge spoil sites and sand and gravel operations shall not be allowed in the floodway unless a long-term site development plan is submitted which includes an erosion/sedimentation prevention element to the plan.
 - c. As an alternative, and consistent with subsection (d)(4)b of this section, dredge spoil disposal and sand and gravel operations may allow temporary, on-site storage of fill or other materials which would have caused an increase to the stage of the 100-year or regional flood but only after the city council has received an appropriate plan which ensures the 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.
- (5) Accessory structures.
- a. Accessory structures shall not be designed for human habitation.
 - b. Accessory structures, if permitted, shall be constructed and placed on the building site so as to offer the minimum obstruction to the flow of floodwaters.
 - 1. Whenever possible, structures shall be constructed with the longitudinal axis parallel to the direction of flood flow; and
 - 2. So far as practicable, structures shall be placed approximately on the same flood flow lines as those of adjoining structures.
 - c. Accessory structures shall be elevated on fill or structurally dry floodproofed in accordance with the FP-1 or FP-2 floodproofing classifications in the state building code. As an alternative, an accessory structure may be floodproofed to the FP-3 or FP-4 floodproofing classification in the state building code provided the accessory structure constitutes a minimal investment, does not exceed 500 square feet in size, and for a detached garage, the detached garage must be used solely for parking of vehicles and limited storage. All floodproofed accessory structures must meet the following additional standards, as appropriate:
 - 1. The structure must be adequately anchored to prevent flotation, collapse or lateral movement of the structure and shall be designed to equalize hydrostatic flood forces on exterior walls; and
 - 2. Any mechanical and utility equipment in a structure must be elevated to or above the regulatory flood protection elevation or properly floodproofed.
- (6) Storage of materials and equipment.
- a. 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.
 - b. Storage of other materials or equipment may be allowed if readily removable from the area within the time available after a flood warning and in accordance with a plan approved by the city council.
- (7) 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 Minn. Stats. ch. 103G. Community-wide structural works for flood control intended to remove areas from the regulatory floodplain shall not be allowed in the floodway.
- (8) A levee, dike or floodwall constructed in the floodway shall not cause an increase to the 100-year or regional flood and the technical analysis must assume equal conveyance or storage loss on both sides of a stream.

(Code 1978, § 9.22.04; Ord. No. 79-13, 10-29-1979; Ord. No. 86-2, 8-25-1986; Ord. No. 92-07, 7-13-1992)

Sec. 117-184. - Flood Fringe District (FF).

- (a) Permitted uses. Permitted uses shall be those uses of land or structures listed as permitted uses in the underlying zoning use district. All permitted uses shall comply with the standards for flood fringe permitted uses listed in subsection (b) of this section and the standards for all flood fringe uses listed in subsection (e) of this section.
- (b) Standards for flood fringe permitted uses.
 - (1) All structures, including accessory structures, must be elevated on fill so that the lowest floor including basement floor 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 such elevation at least 15 feet beyond the outside limits of the structure erected thereon.
 - (2) As an alternative to elevation on fill, accessory structures that constitute a minimal investment and that do not exceed 500 square feet for the outside dimension at ground level may be internally floodproofed in accordance with section 117-183(d)(5)c.
 - (3) The cumulative placement of fill where at any one time in excess of 1,000 cubic yards of fill is located on the parcel shall be allowable only as a conditional use, unless said fill is specifically intended to elevate a structure in accordance with subsection (b)(1) of this section.
 - (4) The storage of any materials or equipment shall be elevated on fill to the regulatory flood protection elevation.
 - (5) The provisions of subsection (e) of this section shall apply.
- (c) Conditional uses. Any structure that is not elevated on fill or floodproofed in accordance with subsection (b)(1) and (2) of this section or any use of land that does not comply with the standards in subsections (d) and (e) of this section shall only be allowable as a conditional use. An application for a conditional use shall be subject to the standards and criteria and evaluation procedures specified in subsections (d) and (e) of this section and section 117-188(d).
- (d) Standards for flood fringe conditional uses.
 - (1) Alternative elevation methods other than the use of fill may be utilized to elevate a structure's lowest floor above the regulatory flood protection elevation. These alternative methods may include the use of stilts, pilings, parallel walls, etc., or abovegrade, 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 structure's basement or lowest floor if: the enclosed area is above grade on at least one side of the structure; it is designed to internally flood and is constructed with flood resistant materials; and it is used solely for parking of vehicles, building access or storage. The alternative elevation methods noted in this subsection (d)(1) are subject to the following additional standards:
 - a. 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 floodwater from entering or accumulating within these components during times of flooding.
 - b. Specific standards for abovegrade, enclosed areas. Abovegrade, fully enclosed areas such as crawl spaces or tuck under garages must be designed to internally flood and the design plans must stipulate:
 - 1. The minimum area of openings in the walls where internal flooding is to be used as a floodproofing technique. When openings are placed in a structure's walls to provide for entry of floodwaters to equalize pressures, 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 floodwaters.

2. That the enclosed area will be designed of flood resistant materials in accordance with the FP-3 or FP-4 classifications in the state building code and shall be used solely for building access, parking of vehicles or storage.
- (2) Basements, as defined in section 117-1, shall be subject to the following:
 - a. Residential basement construction shall not be allowed below the regulatory flood protection elevation.
 - b. Nonresidential basements may be allowed below the regulatory flood protection elevation provided the basement is structurally dry floodproofed in accordance with subsection (d)(3) of this section.
 - (3) All areas of nonresidential structures including basements to be placed below the regulatory flood protection elevation shall be floodproofed in accordance with the structurally dry floodproofing classifications in the state building code. Structurally dry floodproofing must meet the FP-1 or FP-2 floodproofing classification in the state building code and this shall require making the structure watertight with the walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. Structures floodproofed to the FP-3 or FP-4 classification shall not be permitted.
 - (4) When at any one time more than 1,000 cubic yards of fill or other similar material is located on a parcel for such activities as on-site storage, landscaping, sand and gravel operations, landfills, roads, dredge spoil disposal or construction of flood control works, an erosion/sedimentation control plan must be submitted unless the community is enforcing a state-approved shoreland management ordinance. In the absence of a state-approved shoreland ordinance, the plan must clearly specify methods to be used to stabilize the fill on site for a flood event at a minimum of the 100-year or regional flood event. The plan must be prepared and certified by a registered professional engineer or other qualified individual acceptable to the city council. The plan may incorporate alternative procedures for removal of the material from the floodplain if adequate flood warning time exists.
 - (5) Storage of materials and equipment:
 - a. 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.
 - b. Storage of other materials or equipment may be allowed if readily removable from the area within the time available after a flood warning and in accordance with a plan approved by the city council.
 - (6) The provisions of subsection (e) of this section shall also apply.
- (e) Standards for all flood fringe uses.
- (1) All new principal structures must have vehicular access at or above an elevation not more than two feet below the regulatory flood protection elevation. If a variance to this requirement is granted, the board of adjustment must specify limitations on the period of use or occupancy of the structure for times of flooding and only after determining that adequate flood warning time and local flood emergency response procedures exist.
 - (2) Commercial uses. Accessory land uses, such as yards, railroad tracks, and parking lots may be at elevations lower than the regulatory flood protection elevation. However, a permit for such facilities to be used by the employees or the general public shall not be granted in the absence of a flood warning system that provides adequate time for evacuation if the area would be inundated to a depth greater than two feet or be subject to flood velocities greater than four feet per second upon occurrence of the regional flood.
 - (3) Manufacturing and industrial uses. Measures shall be taken to minimize interference with normal plant operations especially along streams having protracted flood durations. Certain accessory land uses such as yards and parking lots may be at lower elevations subject to requirements set

out in subsection (e)(2) of this section. In considering permit applications, due consideration shall be given to needs of an industry whose business requires that it be located in floodplain areas.

- (4) Fill shall be properly compacted and the slopes shall be properly protected by the use of rip-rap, vegetative cover or other acceptable method. 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 multistructure or multilot 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.
- (5) Floodplain developments shall not adversely affect the hydraulic capacity of the channel and adjoining floodplain of any tributary watercourse or drainage system where a floodway or other encroachment limit has not been specified on the official zoning map.
- (6) Standards for travel trailers and travel vehicles are contained in section 117-187(c).
- (7) All manufactured homes must be securely anchored to an adequately anchored foundation system that resists flotation, collapse and lateral movement. Methods of anchoring may include, but are not to be 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.

(Code 1978, § 9.22.05; Ord. No. 79-13, 10-29-1979; Ord. No. 86-2, 8-25-1986; Ord. No. 92-07, 7-13-1992)

Sec. 117-185. - General floodplain district.

(a) Permissible uses.

- (1) The uses listed in section 117-183(a) shall be permitted uses.
- (2) All other uses shall be subject to the floodway/flood fringe evaluation criteria pursuant to subsection (b) of this section. Section 117-183 shall apply if the proposed use is in the floodway district and section 117-184 shall apply if the proposed use is in the flood fringe district.

(b) Procedures for floodway and flood fringe determinations within the general floodplain district.

- (1) Upon receipt of an application for a conditional use permit for a use within the general floodplain district, the applicant shall be required to furnish such of the following information as is deemed necessary by the zoning administrator for the determination of the regulatory flood protection elevation and whether the proposed use is within the floodway or flood fringe district.
 - a. A typical valley cross section showing the channel of the stream, elevation of land areas adjoining each side of the channel, cross sectional areas to be occupied by the proposed development, and high water information.
 - b. Plan (surface view) showing elevations or contours of the ground; pertinent structure, fill, or storage elevations; size, location, and spatial arrangement of all proposed and existing structures on the site; location and elevations of streets; photographs showing existing land uses and vegetation upstream and downstream; and soil type.
 - c. Profile showing the slope of the bottom of the channel or flow line of the stream for at least 500 feet in either direction from the proposed development.
- (2) The applicant shall be responsible for submitting one copy of the information required in subsection (b)(1) of this section to a designated engineer or other expert person or agency for technical assistance in determining whether the proposed use is in the floodway or flood fringe district and to determine the regulatory flood protection elevation. Procedures consistent with Minn. Rules pts. 6120.5000—6120.6200 shall be followed in this expert evaluation. The designated engineer or expert is strongly encouraged to discuss the proposed technical

evaluation methodology with the respective department of natural resources' area hydrologist prior to commencing the analysis. The designated engineer or expert shall:

- a. Estimate the peak discharge of the regional flood.
 - b. Calculate the water surface profile of the regional flood based upon a hydraulic analysis of the stream channel and overbank areas.
 - c. 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 foot 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.
- (3) The zoning administrator shall present the technical evaluation and findings of the designated engineer or expert to the council. The council must formally accept the technical evaluation and the recommended floodway and/or flood fringe district boundary or deny the permit application. The council, prior to official action, may submit the application and all supporting data and analyses to the Federal Emergency Management Agency, the department of natural resources or the planning commission for review and comment. Once the floodway and flood fringe boundaries have been determined, the city council shall refer the matter back to the zoning administrator who shall process the permit application consistent with the applicable provisions of sections 117-183 and 117-184.

(Code 1978, § 9.22.06; Ord. No. 79-13, 10-29-1979; Ord. No. 86-2, 8-25-1986; Ord. No. 92-07, 7-13-1992)

Sec. 117-186. - Public utilities, railroads, roads, and bridges.

- (a) 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 above the regulatory flood protection elevation.
- (b) Public transportation facilities. Railroad tracks, roads, and bridges to be located within the floodplain shall comply with sections 117-183 and 117-184. Elevation to the regulatory flood protection elevation shall be provided 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.
- (c) On-site sewage treatment and water supply systems. Where public utilities are not provided:
 - (1) On-site water supply systems must be designed to minimize or eliminate infiltration of floodwaters into the systems; and
 - (2) New or replacement on-site sewage treatment systems must be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters and they shall not be subject to impairment or contamination during times of flooding.

Any sewage treatment system designed in accordance with the state's current statewide standards for on-site sewage treatment systems shall be determined to be in compliance with this subdivision.

(Code 1978, § 9.22.08; Ord. No. 79-13, 10-29-1979; Ord. No. 86-2, 8-25-1986; Ord. No. 92-07, 7-13-1992)

Sec. 117-187. - Manufactured homes and manufactured home parks and placement of travel trailers and travel vehicles.

- (a) New manufactured home parks and expansions to existing manufactured home parks shall be subject to the provisions placed on subdivisions by article III of this chapter.
- (b) The placement of new or replacement manufactured homes in existing manufactured home parks or on individual lots of record that are located in floodplain districts will be treated as a new structure and may be placed only if elevated in compliance with section 117-184. If vehicular road access for preexisting manufactured home parks is not provided in accordance with section 117-184(e)(1), then replacement manufactured homes will not be allowed until the property owner develops a flood warning emergency plan acceptable to the council. All manufactured homes must be securely anchored to an adequately anchored foundation system that resists flotation, collapse and lateral movement. Methods of anchoring may include, but are not to be 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.
- (c) Travel trailers and travel vehicles that do not meet the exemption criteria specified in subsection (c)(1) of this section shall be subject to the provisions of this Code and as specifically spelled out in subsections (c)(3) and (4) of this section.
 - (1) Exemption. Travel trailers and travel vehicles are exempt from the provisions of this subdivision if they are placed in any of the areas listed in subsection (c)(2) of this section and, further, they meet the following criteria:
 - a. Have current licenses required for highway use.
 - b. Are highway ready meaning on wheels or the internal jacking system, are attached to the site only by quick disconnect type utilities commonly used in campgrounds and trailer parks and the travel trailer/travel vehicle has no permanent structural type additions attached to it.
 - c. The travel trailer or travel vehicle and associated use must be permissible in any preexisting, underlying zoning use district.
 - (2) Areas exempted for placement of travel/recreational vehicles:
 - a. Individual lots or parcels of record.
 - b. Existing commercial recreational vehicle parks or campgrounds.
 - c. Existing condominium type associations.
 - (3) Travel trailers and travel vehicles exempted in subsection (c)(1) of this section lose this exemption when development occurs on the parcel exceeding \$500.00 for a structural addition to the travel trailer/travel vehicle or an accessory structure such as a garage or storage building. The travel trailer/travel vehicle and all additions and accessory structures will then be treated as a new structure and shall be subject to the elevation/floodproofing requirements and the use of land restrictions specified in sections 117-183 and 117-184.
 - (4) New commercial travel trailer or travel vehicle parks or campgrounds and new residential type subdivisions and condominium associations and the expansion of any existing similar use exceeding five units or dwelling sites shall be subject to the following:
 - a. Any new or replacement travel trailer or travel vehicle will be allowed in the floodway or flood fringe districts provided said trailer or vehicle and its contents are placed on fill above the regulatory flood protection elevation and proper elevated road access to the site exists in accordance with section 117-184(e)(1). No fill placed in the floodway to meet the requirements of this subdivision shall increase flood stages of the 100-year or regional flood.
 - b. All new or replacement travel trailers or travel vehicles not meeting the criteria of subsection (d)(1) of this section may, as an alternative, be allowed as a conditional use if in accordance with the following provisions and the provisions of section 117-188(d). The applicant must submit an emergency plan for the safe evacuation of all vehicles and people during the 100-year flood. Said 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. All attendant sewage and water facilities for new or replacement travel trailers or other

recreational vehicles must be protected or constructed so as to not be impaired or contaminated during times of flooding in accordance with section 117-186(c).

(Code 1978, § 9.22.09; Ord. No. 79-13, 10-29-1979; Ord. No. 86-2, 8-25-1986; Ord. No. 92-07, 7-13-1992)

Sec. 117-188. - Administration.

- (a) Zoning administrator. A zoning administrator or other official designated by the administrator shall administer and enforce this subdivision. If the zoning administrator finds a violation of the provisions of this subdivision, the zoning administrator shall notify the person responsible for such violation in accordance with the procedures stated in section 117-190.
- (b) Permit requirements.
 - (1) To be secured prior to any work. A permit issued by the zoning administrator in conformity with the provisions of this Code 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.
 - (2) Application for permit. Application for a permit shall be made in duplicate to the zoning administrator on forms furnished by the zoning administrator and shall include the following where applicable: plans in duplicate drawn to scale, showing the nature, location, dimensions, and elevations of the lot; existing or proposed structures, fill, or storage of materials; and the location of the foregoing in relation to the stream channel.
 - (3) State and federal permits. Prior to granting a permit or processing an application for a conditional use permit or variance, the zoning administrator shall determine that the applicant has obtained all necessary state and federal permits.
 - (4) 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 zoning administrator stating that the use of the building or land conforms to the requirements of this Code.
 - (5) 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 Code, and punishable as provided by section 117-190.
 - (6) 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 Code. Floodproofing measures shall be certified by a registered professional engineer or registered architect.
 - (7) 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 or alterations and additions to structures are floodproofed.
- (c) Board of adjustment.
 - (1) Rules. The board of adjustment shall adopt rules for the conduct of business and may exercise all of the powers conferred on such boards by state law.

- (2) Administrative review. The board shall hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement or administration of this subdivision.
 - (3) Variances. The board may authorize upon appeal in specific cases such relief or variance from the terms of this subdivision as will not be contrary to the public interest and only for those circumstances such as hardship, practical difficulties or circumstances unique to the property under consideration, as provided for in the respective enabling legislation for planning and zoning for cities or counties. In the granting of such variance, the board of adjustment shall clearly identify in writing the specific conditions that existed consistent with the criteria specified in the respective enabling legislation that justified the granting of the variance. No variance shall have the effect of allowing in any district uses prohibited 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.
 - (4) Hearings. Upon filing with the board of adjustment of an appeal from a decision of the zoning administrator, or an application for a variance, the board shall fix a reasonable time for a hearing and give due notice to the parties in interest as specified by law. The board shall submit by mail to the commissioner of natural resources a copy of the application for proposed variances sufficiently in advance so that the commissioner will receive at least ten days notice of the hearing.
 - (5) Decisions. The board shall arrive at a decision on such appeal or variance within 60 days of the adjournment of the public hearing. In passing upon an appeal, the board may, so long as such action is in conformity with the provisions of this subdivision, reverse or affirm, wholly or in part, or modify the order, requirement, decision or determination of the zoning administrator or other public official. It shall make its decision in writing setting forth the findings of fact and the reasons for its decisions. In granting a variance the board may prescribe appropriate conditions and safeguards such as those specified in subsection (d)(6) of this section, which are in conformity with the purposes of this subdivision. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this subdivision punishable under section 117-190. A copy of all decisions granting variances shall be forwarded by mail to the commissioner of natural resources within ten days of such action.
 - (6) Appeals. Appeals from any decision of the board may be made, and as specified in section 117-53 and in the Minnesota Statutes.
 - (7) Flood insurance notice and recordkeeping. The zoning administrator shall notify the applicant for a variance that:
 - a. 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 \$25.00 for \$100.00 of insurance coverage; and
 - b. Such construction below the 100-year or regional flood level increases risks to life and property. Such notification shall be maintained with a record of all variance actions. A community shall maintain a record of all variance actions, including justification for their issuance, and report such variances issued in its annual or biennial report submitted to the administrator of the National Flood Insurance Program.
- (d) Conditional uses. The processing of conditional use permit (CUP) applications shall follow the procedure as outlined in section 117-51. Applications shall be submitted to the zoning administrator who shall forward the application to the planning and zoning commission and the council for consideration.
- (1) Hearings. Upon filing with the zoning administrator an application for a CUP the zoning administrator 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.
 - (2) Decisions. The council shall arrive at a decision on a CUP within 60 days of the adjournment of the planning commission public hearing. In granting a CUP the council shall prescribe appropriate

conditions and safeguards, in addition to those specified in subsection (d)(6) of this section, which are in conformity with the purposes of this subdivision. Violations of such conditions and safeguards, when made a part of the terms under which the CUP is granted, shall be deemed a violation of this subdivision punishable under section 117-190. A copy of all decisions granting CUPs shall be forwarded by mail to the commissioner of natural resources within ten days of such action.

- (3) Procedures to be followed by the planning commission in passing on CUP applications within all floodplain districts.
 - a. 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:
 1. Plans in triplicate drawn to scale showing the nature, location, dimensions, and elevation of the lot, existing or proposed structures, fill, storage of materials, floodproofing measures, and the relationship of the above to the location of the stream channel.
 2. Specifications for building construction and materials, floodproofing, filling, dredging, grading, channel improvement, storage of materials, water supply and sanitary facilities.
 - b. Transmit one copy of the information described in subsection (d)(3)a of this section 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.
 - c. Based upon the technical evaluation of the designated engineer or expert, the council shall determine the specific flood hazard at the site and evaluate the suitability of the proposed use in relation to the flood hazard.
- (4) Factors upon which the decision of the council shall be based. In passing upon conditional use applications, the council shall consider all relevant factors specified in other sections of this Code, and:
 - a. The 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 or they may block bridges, culverts or other hydraulic structures.
 - c. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.
 - d. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
 - e. The importance of the services provided by the proposed facility to the community.
 - f. The requirements of the facility for a waterfront location.
 - g. The availability of alternative locations not subject to flooding for the proposed use.
 - 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 plan and floodplain management program for the area.
 - j. The safety of access to the property in times of flood for ordinary and emergency vehicles.
 - k. The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters expected at the site.

- I. Such other factors which are relevant to the purposes of this subdivision.
- (5) Time for acting on application. The council shall act on an application in the manner described above within 60 days of the adjournment of the planning commission public hearing except that where additional information is required pursuant to subsection (d)(4) of this section. The council shall render a written decision within 30 days from the receipt of such additional information.
- (6) Conditions attached to conditional use permits. Upon consideration of the factors listed above and the purpose of this section, the council shall attach such conditions to the granting of CUPs as it deems necessary to fulfill the purposes of this Code. 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 Code. 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.

(Code 1978, § 9.22.10; Ord. No. 79-13, 10-29-1979; Ord. No. 86-2, 8-25-1986; Ord. No. 92-07, 7-13-1992)

Sec. 117-189. - Nonconforming uses.

A structure or the use of a structure or premises which was lawful before the passage or amendment of the ordinance from which this subdivision is derived but which is not in conformity with the provisions of this subdivision may be continued subject to the following conditions:

- (1) No such use shall be expanded, changed, enlarged, or altered in a way that increases its nonconformity.
- (2) Any alteration or addition to a nonconforming structure or nonconforming use which would result in increasing the flood damage potential of that structure or use shall be protected to the Regulatory Flood Protection Elevation in accordance with any of the elevation on fill or floodproofing techniques (i.e., FP-1 thru FP-4 floodproofing classifications) allowable in the state building code, except as further restricted in subsection (3) of this section.
- (3) The cost of any structural alterations or additions to any nonconforming structure over the life of the structure shall not exceed 50 percent of the market value of the structure unless the conditions of this subdivision are satisfied. The cost of all structural alterations and additions constructed since the adoption of the community's initial floodplain controls must be calculated into today's current cost which will include all costs such as construction materials and a reasonable cost placed on all manpower or labor. If the current cost of all previous and proposed alterations and additions exceeds 50 percent of the current market value of the structure, then the structure must meet the standards of sections 117-183 and 117-184 for new structures depending upon whether the structure is in the floodway or flood fringe, respectively.
- (4) If any nonconforming use is discontinued for six consecutive months, any future use of the building premises shall conform to this subdivision. The assessor shall notify the zoning administrator in writing of instances of nonconforming uses that have been discontinued for a period of 12 months.
- (5) 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 subdivision. The applicable provisions for establishing new uses or new structures in sections 117-183, 117-184, 117-185 will apply depending upon whether the use or structure is in the floodway, flood fringe or general floodplain district, respectively.

(Code 1978, § 9.22.11; Ord. No. 79-13, 10-29-1979; Ord. No. 86-2, 8-25-1986; Ord. No. 92-07, 7-13-1992)

Sec. 117-190. - Penalties for violation.

- (a) Violation of the provisions of this subdivision 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.
- (b) Nothing herein contained shall prevent the city from taking such other lawful action as is necessary to prevent or remedy any violation. Such actions may include but are not limited to:
 - (1) In responding to a suspected Code violation, the zoning administrator 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 community must act in good faith to enforce these official controls and to correct Code violations to the extent possible so as not to jeopardize its eligibility in the National Flood Insurance Program.
 - (2) When a Code violation is either discovered by or brought to the attention of the zoning administrator, the zoning administrator shall immediately investigate the situation and document the nature and extent of the violation of the official control. As soon as is reasonably possible, this information will be submitted to the appropriate department of natural resources and Federal Emergency Management Agency regional office along with the community's plan of action to correct the violation to the degree possible.
 - (3) The zoning administrator shall notify the suspected party of the requirements of this subdivision and all other official controls and the nature and extent of the suspected violation of these controls. If the structure and/or use is under construction or development, the zoning administrator may order the construction or development immediately halted until a proper permit or approval is granted by the community. If the construction or development is already completed, then the zoning administrator may either:
 - a. Issue an order identifying the corrective actions that must be made within a specified time period to bring the use or structure into compliance with the official controls; or
 - b. Notify the responsible party to apply for an after-the-fact permit/development approval within a specified period of time not to exceed 30 days.
 - (4) 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 Code 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 Code.

(Code 1978, § 9.22.12; Ord. No. 79-13, 10-29-1979; Ord. No. 86-2, 8-25-1986; Ord. No. 92-07, 7-13-1992)

State Law reference— Violations of floodplain management ordinances, Minn. Stats. § 103F.145.

Sec. 117-191. - Amendments.

- (a) 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 regional flood and is contiguous to lands outside the floodplain. Special exceptions to this rule may be permitted by the commissioner of natural resources if it is determined that, through other measures, lands are adequately protected for the intended use.
- (b) All amendments to this subdivision, including amendments to the official zoning map, must be submitted to and approved by the commissioner of natural resources prior to adoption. Changes in the official zoning map must meet the Federal Emergency Management Agency's (FEMA) Technical Conditions and Criteria and must receive prior FEMA approval before adoption. The commissioner of natural resources must be given ten days' written notice of all hearings to consider an amendment to this subdivision and said notice shall include a draft of the subdivision amendment or technical study under consideration.

(Code 1978, § 9.22.13; Ord. No. 79-13, 10-29-1979; Ord. No. 86-2, 8-25-1986; Ord. No. 92-07, 7-13-1992)

State Law reference— Adoption procedures for floodplain management ordinances, Minn. Stats. § 103F.121.

Secs. 117-192—117-220. - Reserved.

Ordinance Language

Commentary

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 [394/462] delegated the responsibility to local government units to adopt regulations designed to minimize flood losses. Therefore, the (City Council/ Board of Commissioners) of _____, Minnesota, does ordain as follows.

117-180
(a)(1)

Mandatory language. The zoning enabling statute reference is Chapter 394 for counties and Chapter 462 for cities and townships. "Governing body" is the City Council or County or Township Board.

1.2 Purpose:

1.21 This ordinance regulates development in the flood hazard areas of _____. 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.

117-180
(b)

Mandatory language

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 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.

1.23 is optional language referencing the natural beneficial functions of floodplains.

SECTION 2.0 GENERAL PROVISIONS

2.1 **How to Use This Ordinance:** This ordinance adopts the floodplain maps applicable to (Community) and includes three floodplain districts: Floodway, Flood Fringe, and General Floodplain.

2.11 Where Floodway and Flood Fringe districts are delineated on the floodplain maps, the standards in Sections 4 or 5 will apply, depending on the location of a property.

2.12 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 in Section 4 apply unless the floodway boundary is determined, according to the process outlined in Section 6. Once the floodway boundary is determined, the Flood Fringe District standards in Section 5 may apply outside the floodway.

The types of floodplain zones present in a community will vary, depending on hydrologic conditions and the level of detail of the applicable maps.

If the General Floodplain District (the A zone or other zones without a defined floodway) is not present within the community, references to it, including the provisions of Section 6, may be deleted but Section 6 should be "reserved for future use" (i.e., in case a future annexation adds an A zone).

2.2 **Lands to Which Ordinance Applies:** This ordinance applies to all lands within the jurisdiction of (Community) shown on the Official Zoning Map and/or the attachments to the map as being located within the boundaries of the Floodway, Flood Fringe, or General Floodplain Districts.

117-181
(a)

2.21 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

2.21 is optional – if the community has a zoning ordinance – as most do – it's helpful to define these districts as overlay districts. If

Ordinance Language

Commentary

other requirements in this ordinance. In case of a conflict, the more restrictive standards will apply.

not, then delete this statement and other overlay references.

117-181
(b)

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 _____ County, Minnesota, and Incorporated Areas, dated _____ and the Flood Insurance Rate Map panels enumerated below, dated _____, all prepared by the Federal Emergency Management Agency. These materials are on file in the (list location where maps will be filed – i.e., City Clerk’s office).

Mandatory language. Each community must adopt the Flood Insurance Study and specific map panels that encompass its boundaries. Under Minnesota Rules 6120.5700, these materials are considered attachments to the Zoning Map.

(list all map panels here)

Listing of maps will vary by jurisdiction and map type.

- For communities with older maps, such as Flood Hazard Boundary Maps, in addition to Flood Insurance Rate Maps, these maps should also be listed in Section 2.3.
- For counties, the map index may be used in lieu of listing all the map panels individually.
- Cities may need to adopt other map panels to encompass areas that may be annexed in the future. Counties and townships may need to adopt city map panels to encompass areas that may be detached from cities. See Section 2.10.

117-181
(c)

2.4 **Regulatory Flood Protection Elevation:** The regulatory flood protection elevation (RFPE) is an elevation no lower than one foot above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the floodplain that result from designation of a floodway.

Optional - Reiterates information in the (mandatory) definition of this term in Section 2.9. The RFPE can be increased beyond one foot to provide enhanced flood protection.

In A-O zones, add more detailed language: “Within the AO Zone, the RFPE is an elevation no lower than [the number shown on the FIRM] above the highest adjacent grade of an existing structure or proposed structure or a proposed structural addition.”

117-181
(d)

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, the flood elevations shall be the governing factor. The Zoning Administrator must 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/Board of Adjustment) and to submit technical evidence.

117-181
(e)

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

Ordinance Language

Commentary

inconsistent with this ordinance are hereby repealed to the extent of the inconsistency only.

117-181
(A)

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 (*Community*) or its officers or employees for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

This statement not needed if already included in zoning ordinance

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.

These definitions may already exist as part of zoning ordinance, but check for consistency.

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

Definitions are mandatory unless otherwise indicated.

✓ 2.911 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.

ADD

2.912 Base Flood Elevation – The elevation of the “regional flood.” The term “base flood elevation” is used in the flood insurance survey.

Optional definition

✓ 2.913 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.

✓ 2.914 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:

Optional definition – check against zoning ordinance. Some local ordinances – and the state rules that apply to floodplains – use the older term “special use.”

(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.

~~2.915 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.~~

Optional definition – see the (optional) regulation of critical facilities in Section 3.25.

✓ 2.916 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.

This definition means that many land alteration activities are regulated and may require permits.

✓ 2.917 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.

Ordinance Language	Commentary
<p><i>ADD</i> 2.918 Farm Fence – A fence as defined by Minn. Statutes Section 344.02, Subd. 1(a)-(d). An open type fence of posts and wire is not considered to be a structure under this ordinance. Fences that have the potential to obstruct flood flows, such as chain link fences and rigid walls, are regulated as structures under this ordinance.</p>	<p><i>Optional definition – to be used if this type of farm fence is to be exempted from permit requirements</i></p>
<p>✓ 2.919 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.</p>	<p><i>Optional definition</i></p>
<p>✓ 2.920 Flood Frequency – the frequency for which it is expected that a specific flood stage or discharge may be equaled or exceeded.</p>	<p><i>Optional definition</i></p>
<p>✓ 2.921 Flood Fringe – that portion of the floodplain outside of the floodway. Flood fringe is synonymous with the term “floodway fringe” used in the Flood Insurance Study for <u>(Local Unit)</u>, Minnesota.</p>	<p><i>For cities mapped as part of county-wide flood insurance study, the county name should be inserted here.</i></p>
<p>2.922 Flood Prone Area – any land susceptible to being inundated by water from any source (see “Flood”).</p>	<p><i>Optional definition – see provisions of Section 7 on flood prone areas</i></p>
<p>✓ 2.923 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.</p>	
<p>✓ 2.924 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.</p>	
<p>✓ 2.925 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.</p>	
<p><i>ADD</i> 2.926 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.</p>	
<p><i>ADD</i> 2.927 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.”</p>	
<p>✓ 2.928 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.</p>	<p><i>Optional definition</i></p>
<p><i>ADD</i> 2.929 One Hundred Year Floodplain – lands inundated by the “Regional Flood” (see definition).</p>	
<p>✓ 2.930 Principal Use or Structure – all uses or structures that are not accessory uses or structures.</p>	<p><i>Optional definition</i></p>
<p>✓ 2.931 Reach – a hydraulic engineering term to describe a longitudinal segment of a stream or river influenced by a natural or man-made</p>	<p><i>Optional definition</i></p>

Ordinance Language

Commentary

obstruction. In an urban area, the segment of a stream or river between two consecutive bridge crossings would most typically constitute a reach.

Likely will need to ADD

2.932 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."

2.933 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.

2.934 Regulatory Flood Protection Elevation (RFPE) - an elevation not less than one foot above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the floodplain that result from designation of a floodway.

RFPE: The one-foot elevation is mandated by state law, but a higher elevation can yield increased protection.

2.935 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.

Repetitive Loss: This is an optional definition linked to the optional provision for repetitive loss properties in Section 11.16.

ADD

2.936 Special Flood Hazard Area – a term used for flood insurance purposes synonymous with "One Hundred Year Floodplain."

2.937 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.

2.938 Substantial Damage - means damage of any origin sustained by a structure where the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

2.939 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:

"Start of construction" and "historic structure" are defined in 44 Code of Federal Regulations 59.1.

- (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

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Commentary

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.

"Historic structures" as defined in the CFR generally include sites listed on or eligible for the National Register of Historic Places and state- or locally-designated historic properties.

~~2.10. **Annexations:** The Flood Insurance Rate Map panels adopted by reference into Section 2.3 above may include floodplain areas that lie outside of the corporate boundaries of the (Community) at the time of adoption of this ordinance. If any of these floodplain land areas are annexed into the (Community) after the date of adoption of this ordinance, the newly annexed floodplain lands will be subject to the provisions of this ordinance immediately upon the date of annexation.~~

The first Section 2.10 applies to cities only. It is optional but recommended – if not included, any annexation will trigger an amendment of the floodplain ordinance.

~~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 (County/ Township) 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.~~

The second Section 2.10 applies only to counties or townships that exercise zoning authority. Counties may choose to adopt specific map panels or adopt the countywide map index.

SECTION 3.0 ESTABLISHMENT OF ZONING DISTRICTS

3.1 Districts:

- 3.11 Floodway District. The Floodway District includes those areas designated as floodway on the Flood Insurance Rate Map adopted in Section 2.3.
- 3.12 Flood Fringe District. The Flood Fringe District includes those areas designated as floodway fringe on the Flood Insurance Rate Map adopted in Section 2.3, as being within Zones AE, AO, or AH but being located outside of the floodway.
- 3.13 General Floodplain District. The General Floodplain District includes those areas designated as Zone A or Zones AE, AO, or AH without a floodway on the Flood Insurance Rate Map adopted in Section 2.3.

For lakes, ponds and wetlands, the floodway is usually administratively defined as the area at or below the Ordinary High Water Level. See DNR's Floodplain Information Sheet 1, http://files.dnr.state.mn.us/publications/waters/floodplain_management_fact_sheet_1.pdf

3.2 **Compliance:** Within the floodplain districts established in this ordinance, the use of any land, the use, size, type and location of structures on lots, the installation and maintenance of transportation, utility, water supply and waste treatment facilities, and the subdivision of land must comply with the terms of this ordinance and other applicable regulations. All uses not listed as permitted uses or conditional uses in Sections 4.0, 5.0 and 6.0, respectively, are prohibited.

If a community has floodplain delineations on the FIRM for lakes, ponds and wetland without delineated floodways, contact DNR Floodplain Program staff for specific language.

In addition, a caution is provided here that:

Zones AO and AH are areas prone to flooding due to overland flow or small ponds, and are not typically found on most FIRMs. If not present, references in 3.12 and 3.13 can be deleted.

3.21 New and replacement manufactured homes and certain recreational vehicles are subject to the general provisions of this ordinance and specifically Section 9.0.

Optional language in second paragraph and 3.21 -3.23 cross-references other sections of the ordinance.

3.22 Modifications, additions, structural alterations, normal maintenance

117-182 (a)

117-182 (b)

117-182 (b) (1)

117-182 (b) (2)

Ordinance Language	Commentary	
<p>and repair, or repair after damage to existing nonconforming structures and nonconforming uses of structures or land are regulated by the general provisions of this ordinance and specifically Section 11.0.</p>		
<p>3.23 All structures must be 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.</p>	<p><i>Item 3.23 is mandatory based on 44 CFR 60(a)(3), from which this language is drawn.</i></p>	
<p>3.24 As-built elevations for elevated or floodproofed structures must be certified by ground surveys and flood-proofing techniques must be designed and certified by a registered professional engineer or architect as specified in the general provisions of this ordinance and specifically as stated in Section 10.0 of this ordinance.</p>		
<p>3.25 Critical facilities, as defined in Section 2.915, are prohibited in all floodplain districts.</p>	<p><i>Optional but recommended language in 3.25 would prohibit critical facilities in all floodplain districts. This is a higher regulatory standard intended to keep critical infrastructure and concentrations of people out of floodplain areas.</i></p>	
<p>SECTION 4.0 FLOODWAY DISTRICT (FW)</p>		
<p>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:</p>	<p><i>It is critical that the floodway be protected so that it can transport and store the waters of the regional (100-year) flood without increased flood heights or velocities or threats to public health and safety.</i></p>	
<p>117-183 (a)(1)</p>	<p>4.11 General farming, pasture, grazing, outdoor plant nurseries, horticulture, truck farming, forestry, sod farming, and wild crop harvesting.</p>	<p><i>Note that communities are not required to adopt <u>all</u> of the listed uses, but must provide for <u>some</u> use of the floodway land. Other similar uses may be included in this section if they meet the standards in Section 4.2. If a community wishes to restrict all floodplain districts to only these permitted floodway uses, see the DNR's "Restrictive Ordinance."</i></p>
<p>(a)(2)</p>	<p>4.12 Industrial-commercial loading areas, parking areas, and airport landing strips.</p>	
<p>(a)(3)</p>	<p>4.13 Open space uses, 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.</p>	
<p>(a)(4)</p>	<p>4.14 Residential lawns, gardens, parking areas, and play areas.</p>	
<p>4.15 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, and that the standards in Sections 4.41, 4.43(a) and 4.46 of this ordinance are met.</p>	<p><i>4.15: Earlier versions of the DNR sample ordinances listed utility and transportation uses as conditional uses. In this version, these uses are permitted if DNR is notified and certain standards are met</i></p>	
<p>4.2 Standards for Floodway Permitted Uses:</p>		
<p>(b)(1)</p>	<p>4.21 The use must have a low flood damage potential.</p>	
<p>(b)(3)</p>	<p>4.22 With the exception of the uses listed in Section 4.15, the use must not obstruct flood flows or increase flood elevations and must not involve structures, fill, obstructions, excavations or storage of materials or equipment.</p>	<p><i>Higher standards for floodway protection could include limiting impervious coverage in the floodway, in order to facilitate infiltration of rainfall.</i></p>
<p>4.23 Any facility that will be used by employees or the general public must be designed with a flood warning system that provides adequate time</p>		

Ordinance Language

Commentary

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.

4.3 **Conditional Uses:** The following uses may 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.

117-183

(c)(1)

4.31 Structures accessory to the uses listed in 4.1 above and the uses listed in 4.32 - 4.37 below.

(c)(2)

4.32 Extraction and storage of sand, gravel, and other materials.

(c)(3)

4.33 Marinas, boat rentals, docks, piers, wharves, and water control structures.

(c)(5)

4.34 Storage yards for equipment, machinery, or materials.

(c)(6)

4.35 Placement of fill or construction of fences that obstruct flood flows. Farm fences, as defined in section 2.918, are permitted uses.

(c)(7)

4.36 Travel-ready recreational vehicles meeting the exception standards in Section 9.3.

(c)(8)

4.37 Levees or dikes intended to protect agricultural crops for a frequency flood event equal to or less than the 10-year frequency flood event.

4.4 Standards for Floodway Conditional Uses:

117-183 (d)(1)

4.41 All Uses. A conditional use must 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 Fill; Storage of Materials and Equipment:

117-183 (d)(6) a.

(a) 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.

117-183 (d)(4) a.

(b) 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. Permanent sand and gravel operations and similar uses must be covered by a long-term site development plan.

(d)(4) c.

(c) Temporary placement of fill, other materials, or equipment which would cause an increase to the stage of the 1% percent chance or regional flood may only be allowed if the (Governing Body) has approved a plan that assures removal of the materials from the floodway based upon the flood warning time available.

4.43 Accessory Structures:

117-183 (d)(5) a. (d)(5) b.

(a) Accessory structures must not be designed for human habitation.

(b) Accessory structures, if permitted, must be constructed and placed on the building site so as to offer the minimum obstruction to the flow of flood waters:

Note that these conditional uses are optional for the community but, if allowed, must meet the standards in Sections 4.4. Communities are encouraged to select only those conditional uses that are appropriate for their conditions.

Optional statement in 4.35 allows typical farm fences such as barbed wire fences that don't obstruct flood flows as permitted uses. See also Section 10.21(c).

Section 4.36 is optional: we recommend treating recreational vehicles as conditional uses so that road access and warning systems are carefully reviewed to ensure public safety in times of flooding.

Note that flood control projects intended to remove areas from the floodway to allow development of single or multiple structures are not permitted unless a Letter of Map Revision (LOMR) can be obtained to change the floodway boundary. Contact DNR Floodplain Program staff for further information.

4.42 (a) and (b) must be included if deposition or storage of fill is allowed in the floodway

Alternative (c) is an optional alternative allowing temporary storage of fill or other materials that could increase flood stage, suitable for locations where adequate flood warning times will be available to allow removal of materials.

If accessory structures are to be allowed in the floodway, items (a) through (c) are required.

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Commentary

(1) Whenever possible, structures must be constructed with the longitudinal axis parallel to the direction of flood flow; and

(2) So far as practicable, structures must be placed approximately on the same flood flow lines as those of adjoining structures.

117-183 (d)(5)c.

(c) Accessory structures must be elevated on fill or structurally dry floodproofed in accordance with the FP-1 or FP-2 floodproofing classifications in the State Building Code. All floodproofed accessory structures must meet the following additional standards:

(1) The structure must be adequately anchored to prevent flotation, collapse or lateral movement and designed to equalize hydrostatic flood forces on exterior walls; and

(2) Any mechanical and utility equipment in the structure must be elevated to or above the regulatory flood protection elevation or properly floodproofed.

117-183 (d)(5)c.

(d) As an alternative, an accessory structure may be internally/wet floodproofed to the FP-3 or FP-4 floodproofing classifications in the State Building Code, provided the accessory structure constitutes a minimal investment and does not exceed 576 square feet in size. A detached garage may only be used for parking of vehicles and limited storage. All structures must meet the following standards:

(1) 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

(2) 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.

Subsection (d) is optional language allowing for wet floodproofing of small accessory structures that constitute a minimal investment.

4.44 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.

117-183 (d)(6) a.

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

(d)(8)

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

Optional provision providing notice that work in public waters requires a DNR permit.

SECTION 5.0 FLOOD FRINGE DISTRICT (FF)

5.1 Permitted Uses: Permitted uses are those uses of land or structures allowed in the underlying zoning district(s) that comply with the standards in Sections

If underlying zoning district(s) are present (as in most communities) the second sentence

Ordinance Language

Commentary

5.2. If no pre-existing, underlying zoning districts exist, then any residential or nonresidential structure or use of a structure or land is a permitted use provided it does not constitute a public nuisance.

can be deleted.

5.2 Standards for Flood Fringe Permitted Uses:

5.21 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 one foot below the regulatory flood protection elevation and the fill must extend at the same elevation at least 15 feet beyond the outside limits of the structure.

"Lowest floor" is defined as the lowest floor of the lowest enclosed area, including basements, crawl spaces, etc. See Section 2.926.

- (a) All service utilities, including ductwork, must be elevated or water-tight to prevent infiltration of floodwaters.
- (b) As an alternative to elevation on fill, an accessory structure that constitutes a minimal investment and that does not exceed 576 square feet in size may be internally floodproofed in accordance with Section 4.43.

(a) clarifies that ductwork must be elevated because it is seldom water-tight, which results in health hazards due to mold and mildew after flooding.

(b) If an accessory structure exceeds 576 square feet, then FEMA will not allow internal floodproofing, and the structure must be elevated on fill or dry floodproofed in accordance with Section 4.44 (a) – (c).

5.22 The cumulative placement of fill or similar material on a parcel must not exceed 1,000 cubic yards, unless the fill is specifically intended to elevate a structure in accordance with Section 5.21 of this ordinance, or if allowed as a conditional use under Section 5.33 below.

5.22 is an optional provision. Treating large volumes of fill as a conditional use allows communities to require an erosion control and emergency removal plan for uses such as sand and gravel mining or dredge spoil storage.

5.23 The storage of any materials or equipment must be elevated on fill to the regulatory flood protection elevation.

5.24 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.

5.25 Fill must be properly compacted and the slopes must be properly protected by the use of riprap, vegetative cover or other acceptable method.

5.26 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 (Governing Body).

Section 5.26 is optional, but is mandatory for subdivisions, which include manufactured home parks and recreational vehicle parks/campgrounds. See also Section 7.13.

5.27 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.

5.28 Interference with normal manufacturing/industrial plant operations must be minimized, especially along streams having protracted flood durations. In considering permit applications, due consideration must be given to the needs of industries with operations that require a floodplain location.

The Federal Emergency Management Agency (FEMA) has established criteria for removing the flood fringe designation for certain structures properly elevated on fill above the regional flood elevation. These standards, included in Technical Bulletin 10.01, require enhanced management and notification procedures. Contact DNR floodplain staff for

5.29 Flood fringe developments must not adversely affect the hydraulic capacity of the channel and adjoining floodplain of any tributary watercourse or drainage system.

5.30 Manufactured homes and recreational vehicles must meet the

117-184 (b)(1)

117-184 (b)(2)

117-184 (b)(3)

117-184 (b)(4)

117-184 (e)(4)

117-184 (e)(1)

117-184 (e)(2)

117-184 (e)(3)

117-184 (e)(5)

Ordinance Language

Commentary

standards of Section 9 of this ordinance.

further information.

117-184 (c)
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. Conditional uses must meet the standards in Sections 5.24 through 5.30 and Section 5.4.

As with conditional uses in the floodway, conditional uses in the flood fringe are optional – communities should determine which of these uses are needed and appropriate in their floodplain areas.

5.31 Any structure that is not elevated on fill or floodproofed in accordance with Section 5.21 of this ordinance.

5.32 Storage of any material or equipment below the regulatory flood protection elevation.

5.33 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 Section 5.21 of this ordinance.

5.4 Standards for Flood Fringe Conditional Uses:

5.41 The standards listed in Sections 5.24 through 5.30 apply to all conditional uses.

117-184 (d)(2)
5.42 Basements, as defined by Section 2.913 of this ordinance, are subject to the following:

(a) Residential basement construction is not allowed below the regulatory flood protection elevation.

(b) Non-residential basements may be allowed below the regulatory flood protection elevation provided the basement is structurally dry floodproofed in accordance with Section 5.44 of this ordinance.

117-184 (d)(3)
5.43 All areas of nonresidential structures, including basements, to be placed below the regulatory flood protection elevation must be floodproofed in accordance with the structurally dry floodproofing classifications in the State Building Code. Structurally dry floodproofing must meet the FP-1 or FP-2 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. Structures wet floodproofed to the FP-3 or FP-4 classification are not permitted.

117-184 (d)(4)
5.44 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.

Optional provisions to be used if placement of this amount of fill is regulated as a conditional use.

(a) 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.

(b) The plan must be prepared and certified by a registered professional engineer or other qualified individual acceptable to the (Governing Body).

Ordinance Language	Commentary
(c) The plan may incorporate alternative procedures for removal of the material from the floodplain if adequate flood warning time exists.	
<p>117-184 (cd) (5)</p> <p>5.45 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.</p>	
5.46 RESERVED FOR OPTIONAL ALTERNATIVE ELEVATION METHODS	<p><i>Alternative elevation methods such as the use of stilts, pilings, parallel walls, etc. may be appropriate in certain circumstances, provided that communities are able to provide a high level of monitoring and enforcement. Contact DNR floodplain staff for the applicable language.</i></p>
<p>SECTION 6.0 GENERAL FLOODPLAIN DISTRICT (GF)</p>	
<p>6.1 Permitted Uses:</p>	
<p>117-185 (a) (4)</p> <p>6.11 The uses listed in Section 4.1 of this ordinance, Floodway District Permitted Uses, are permitted uses.</p>	
<p>(a) (2)</p> <p>6.12 All other uses are subject to the floodway/flood fringe evaluation criteria specified in Section 6.2 below. Section 4.0 applies if the proposed use is determined to be in the Floodway District. Section 5.0 applies if the proposed use is determined to be in the Flood Fringe District.</p>	<p><i>If the General Floodplain District (the A zone or the AE, AO or AH zones without a defined floodway) is not present within the community, delete the contents of this section and retitle it "Reserved for Future Use" (i.e., in case a future annexation adds an A zone).</i></p>
<p>6.2 Procedures for Floodway and Flood Fringe Determinations:</p>	
6.21 Upon receipt of an application for a permit or other approval within the General Floodplain District, the Zoning Administrator must obtain, review and reasonably utilize any regional flood elevation and floodway data available from a federal, state, or other source.	
6.22 If regional flood elevation and floodway data are not readily available, the applicant must furnish additional information, as needed, to determine the regulatory flood protection elevation and whether the proposed use would fall within the Floodway or Flood Fringe District. Information must be consistent with accepted hydrological and hydraulic engineering standards and the standards in 6.23 below.	<p><i>State and federal rules establish standards for this determination but do not specify a procedure to be followed. (However, the community is required under 44 CFR 60.3(b)(4) to "obtain, review and reasonably utilize" base flood elevation and floodway data.) The procedure shown here is one that DNR suggests that communities follow. DNR Floodplain Program staff can assist communities in obtaining relevant data and completing the determination.</i></p>
<p>117-185 (b) (2)</p> <p>6.23 The determination of floodway and flood fringe must include the following components, as applicable:</p> <p>(a) Estimate the peak discharge of the regional (1% chance) flood.</p> <p>(b) Calculate the water surface profile of the regional flood based upon a hydraulic analysis of the stream channel and overbank areas.</p> <p>(c) Compute the floodway necessary to convey or store the regional flood without increasing flood stages more than one-half (0.5) foot. A lesser stage increase than 0.5 foot is required if, as a result of the stage increase, increased flood damages would result. An equal degree of encroachment on both sides of the stream within</p>	

Ordinance Language

Commentary

the reach must be assumed in computing floodway boundaries.

- 6.24 The Zoning Administrator 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 Zoning Administrator 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.
- 6.25 Once the Floodway and Flood Fringe District boundaries have been determined, the Zoning Administrator must process the permit application consistent with the applicable provisions of Section 4.0 and 5.0 of this ordinance.

Federal rules require that communities assess the cumulative effects of floodway encroachments on both sides of a stream. Contact Floodplain Program staff for assistance in making this assessment.

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 *(Community)*.~~
- 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 must be able to contain a building site outside of the Floodway District at or above the regulatory flood protection elevation.
- 7.22 All subdivisions 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 *(Governing Body)*. 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.
- 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 must be clearly labeled on all required subdivision drawings and platting documents.
- 7.24 In the General Floodplain District, applicants must provide the information required in Section 6.2 of this ordinance to determine the regional flood elevation, the Floodway and Flood Fringe District boundaries and the regulatory flood protection elevation for the subdivision site.
- ~~7.25 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~~

Section 7.1 is optional – this and related provisions in 7.25 and 7.3 are designed to enable communities to manage flood risks in unmapped but flood-prone areas (i.e., wetlands, ditches, isolated basins). If these standards are not needed, Section 7 can be retitled “Subdivisions.”

The subdivision requirements in Section 7.21 – 7.24 are mandatory. These provisions can be integrated into a city or county subdivision ordinance, where one exists. Note that manufactured home and recreational vehicle parks are treated as subdivisions.

7.25 is optional, to be used in conjunction with 7.1.

Ordinance Language

Commentary

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 **Building Sites** 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.~~

7.3 is optional, to be used in conjunction with 7.1.

SECTION 8.0 PUBLIC UTILITIES, RAILROADS, ROADS, AND BRIDGES

117-186
(a)

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

117-186
(b)

8.2 **Public Transportation Facilities:** Railroad tracks, roads, and bridges to be located within the floodplain must comply with Sections 4.0 and 5.0 of this ordinance. These transportation facilities must 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.

117-186
(c)

8.3 **On-site Water Supply and Sewage Treatment Systems:** Where public utilities are not provided: 1) On-site water supply systems must be designed to minimize or eliminate infiltration of flood waters into the systems; and 2) 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 and they must not be subject to impairment or contamination during times of flooding. Any sewage treatment system designed in accordance with the state's current statewide standards for on-site sewage treatment systems is considered to be in compliance with this Section.

Ordinance Language

Commentary

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 must be elevated in compliance with Section 5 of this ordinance and must 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 must 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 must 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 must have a current license required for highway use.
- (b) The vehicle must 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 must be permissible in any pre-existing, underlying zoning district.
- (e) Accessory structures are not permitted within the Floodway

This subsection is mandatory; the remainder of Section 9.0 is optional but recommended if manufactured home parks are located in any floodplain districts.

Section 9 is revised to recognize MN Department of Health rules (Section 4630.0200), which prohibit mobile home parks and recreational camping areas in flood-prone areas. Placement or replacement of manufactured home units may be allowed in existing manufactured home parks or on lots of record.

These exemption criteria are required if recreational vehicles are allowed within any floodplain district. If this section is not used, recreational vehicle placement must be explicitly prohibited in floodplain districts.

9.22(e) is optional. Recreational vehicles in existing campgrounds may be allowed within the Floodway District, if defined as a

117-187

117-187(c)

Ordinance Language

Commentary

District. Any accessory structure in the Flood Fringe District must be constructed of flood-resistant materials and be securely anchored, meeting the requirements applicable to manufactured homes in Section 9.22.

permitted or conditional use, but we recommend they be treated as a temporary use, without accessory structures and with an emergency plan in place.

~~(f) An accessory structure must 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 floodproofing requirements of Section 5.0 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.~~

9.22 (f) and 9.23 are optional. Communities may apply a monetary limit such as \$500 as a threshold for a "minimal investment," recognizing that this threshold will vary from place to place.

SECTION 10.0 ADMINISTRATION

10.1 **Zoning Administrator:** A Zoning Administrator or other official designated by the (Governing Body) must administer and enforce this ordinance.

Many of the standards and procedures in this section are likely to exist in other parts of the community's zoning ordinance, and may be cross-referenced rather than repeated here. However, the community must be able to demonstrate that these procedures or comparable ones are in place.

10.2 Permit Requirements:

10.21 Permit Required. A permit must be obtained from the Zoning Administrator prior to conducting the following activities:

The term "Zoning Administrator" is used throughout this section for ease of reference, but in some communities the City Clerk or other official may fill this role.

- (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, although a permit is not required for a farm fence as defined in this ordinance.
- (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.

The exemption for farm fences in (c) is optional.

10.22 Application for Permit. Permit applications must be submitted to the Zoning Administrator on forms provided by the Zoning Administrator. The permit application must include the following as applicable:

Any change in the course, current or cross-section of public waters requires a public waters work permit from the DNR under MN Stat. 103G.245.

This section may cross-reference any other permitting requirements in the zoning ordinance.

117-183
(a) + (b)

Ordinance Language

Commentary

- (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.

117-188
(b)(4)

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.

117-188
(b)(6)

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 must be certified by a registered professional engineer or registered architect.

117-188
(b)(7)

10.25 Record of First Floor Elevation. The Zoning Administrator must 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 must 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 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).

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 must 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(s) _____ of the zoning ordinance/code.

117-188
(c)(3)

10.32 Adherence to State Floodplain Management Standards. A variance must not allow a use that is not allowed in that district, permit a lower

Cross-reference all sections of the zoning ordinance that regulate processing and review of variance applications. Section 10.3 only contains DNR/FEMA – mandated regulatory & notification provisions.

Communities that administer zoning ordinances (including floodplain ordinances)

Ordinance Language

Commentary

degree of flood protection than the regulatory flood protection elevation for the particular area, or permit standards lower than those required by state law.

must establish a board of adjustment to hear appeals of the ordinance, including variance requests. In many communities, the city council, county board, or planning commission serves as the board of adjustment. If a community does not have existing variance procedures or a board of adjustment, contact Floodplain Program staff for sample ordinance language.

10.33 Additional Variance Criteria. The following additional variance criteria of the Federal Emergency Management Agency must be satisfied:

- (a) Variances must 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.

The language in Section 10.33 (a – c) is language required by FEMA and must be adopted verbatim. Note specifically that the reference to “exceptional hardship” in (b)(ii) must remain in the ordinance, although it has been replaced by the term “practical difficulties” in state zoning enabling statutes.

10.34 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.

Section 10.34 is required by FEMA.

117-188
(c)(7)

10.35 General Considerations. The community may consider the following factors in granting variances and imposing conditions on variances and conditional uses in floodplains:

Section 10.35 is optional but recommended as guidance for communities in reviewing variance applications. The same factors are recommended for review of conditional use applications, below.

117-188
(d)(4)

- (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;

Ordinance Language

Commentary

- (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 vehicles;
- (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). 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.

117-188
(d) (4)

10.37 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.

~~117-188~~

10.38 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.

117-188
(d) (5)

10.4 Conditional Uses:

10.41 Administrative Review. An application for a conditional use permit under the provisions of this ordinance will be processed and reviewed in accordance with Section (s) _____ of the zoning ordinance/code.

117-188 (d)

10.42 Factors Used in Decision-Making. In passing upon conditional use applications, the (Governing Body) must consider all relevant factors specified in other sections of this ordinance, and those factors identified in Section 10.35 of this ordinance.

10.43 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

Cross-reference any conditional use procedures in the zoning ordinance, if these exist. If not, contact Floodplain Program staff for administrative language.

Section 10.42 is optional but recommended as guidance for decisions on conditional uses (and variances, as noted above).

Section 10.43 is also optional; conditions are intended to be specific to the particular site and proposed use.

Ordinance Language

Commentary

for the particular area.

- 10.44 Submittal of Hearing Notices to the Department of Natural Resources (DNR). The (designated body/community official) must submit hearing notices for proposed conditional uses 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.
- 10.45 Submittal of Final Decisions to the DNR. A copy of all decisions granting conditional uses 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.

117-188 (d) (2)

SECTION 11.0 NONCONFORMITIES

11.1 Continuation 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 may be continued subject to the following conditions. Historic structures, as defined in Section 2.939(b) of this ordinance, are subject to the provisions of Sections 11.11 – 11.16 of this ordinance.

117-189

11.11 A nonconforming use, structure, or occupancy must 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 must be protected to the regulatory flood protection elevation in accordance with any of the elevation on fill or floodproofing techniques (i.e., FP-1 thru FP-4 floodproofing classifications) allowable in the State Building Code, except as further restricted in 11.13 and 11.17 below.

117-189 (2)

11.13 If the cost of all previous and proposed alterations and additions exceeds 50 percent of the market value of any nonconforming structure, then the entire structure must meet the standards 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, respectively. The cost of all structural alterations and additions must 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 must conform to this ordinance. The Assessor must notify the Zoning Administrator in writing of instances of nonconformities that have been discontinued for a period of more than one year.

117-189 (4)

11.15 If any nonconformity is substantially damaged, as defined in Section 2.938 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

117-189 (5)

Buildings and structures within the Floodway District may not be enlarged or expanded. In some cases, a floodway area can be filled without causing any rise in flood stage. In such cases, a Letter of Map Revision may be obtained that changes the floodway boundary, placing the area in the Flood Fringe. Contact Floodplain Program staff for details.

Section 11.13 is optional but recommended, in order to gradually eliminate nonconformities over time. Note that Section 11.17 refers to "substantial improvement," which is tracked over a one-year period.

Section 11.14 reflects an optional provision in statute (462.357.1e(1) and 394.36) – local government may impose reasonable conditions on the nonconforming use or structure. Many communities have adopted similar provisions in their zoning ordinances.

Section 11.15 is specific to floodplain uses in state and federal statute, as distinct from the standard provisions for nonconformities in the Chapters 394 and 462.

Ordinance Language

Commentary

Floodway or Flood Fringe, respectively.

- 11.16 If any nonconforming use or structure experiences a repetitive loss, as defined in Section 2.935 of this ordinance, it must not be reconstructed except in conformity with the provisions of this ordinance.
- 11.17 Any substantial improvement, as defined in Section 2.939 of this ordinance, to a nonconforming structure requires that the existing structure and any additions must 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.

Section 11.16 is optional but recommended, in order to gradually eliminate nonconformities that are frequently damaged but not to the "50%" level.

Section 11.17 is a mandatory federal requirement. As defined, "substantial improvement" is monitored over a one-year period.

SECTION 12.0 PENALTIES AND ENFORCEMENT

117-190
(a)

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.

117-190
(b)(4)

12.2 **Other Lawful Action:** Nothing in this ordinance restricts the *(Community)* 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 will constitute an additional violation of this ordinance and will be prosecuted accordingly.

117-190
(b)(2)

12.3 **Enforcement:** Violations of the provisions of this ordinance will be investigated and resolved in accordance with the provisions of Section(s) *(list relevant sections)* of the zoning ordinance/code. In responding to a suspected ordinance violation, the Zoning Administrator and *(Governing Body)* 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 *(Community)* 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.

Cross-reference any sections of the zoning ordinance that deal with enforcement procedures. If such provisions don't exist, contact Floodplain Program staff for sample language.

SECTION 13.0 AMENDMENTS

117-191
(a)

13.1 **Floodplain Designation – Restrictions on Removal:** 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 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.

Ordinance Language

Commentary

117-191
(6)

13.2 **Amendments Require DNR Approval:** All amendments to this ordinance must be submitted to and approved by the Commissioner of the Department of Natural Resources (DNR) prior to adoption. The Commissioner must approve the amendment prior to community approval.

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

EFFECTIVE DATE: This ordinance shall be in full force and effect from and after its passage and approval and publication, as required by law and/or charter.

Adopted by the _____ Board/City Council
(Community Name)

This ____ of _____, ____
(Day) (Month) (Year)

Attest: _____, County Board Chairperson/Mayor
(Name of Elected Official)

Attest: _____, County Administrator/City Clerk
(Name of Community Official)

Stamp With Community Seal:

Environmental Policy Board (EPB)

5. 2.

Meeting Date: 09/21/2015

By: Chris Anderson, Community
Development

Information

Title:

Review of EPB Presence at Happy Days

Purpose/Background:

The purpose of this case is simply to give the Board an opportunity to discuss its thoughts and opinions on how the booth went at the 2015 Happy Days event. More specifically, while it is fresh in the minds of those that were able to attend, Staff is interested in feedback on the following as it relates to the EPB's booth:

- What worked well?
- What would you change or how could it be improved?
- Do you feel there was value in the Board staffing a booth?

Attached to the case are the comments and feedback received at the booth from the public that related to the question: What value do natural resources and conservation add to your community?

Funding Source:

This case is being handled as part of Staff's regular duties.

Action:

No specific action is necessary.

Attachments

Public Input/Comments Received During Event

Form Review

Inbox

Chris Anderson (Originator)
Form Started By: Chris Anderson
Final Approval Date: 09/18/2015

Reviewed By

Chris Anderson

Date

09/18/2015 09:06 AM
Started On: 09/14/2015 08:26 AM

Input from EPB Booth at 2015 Happy Days

What value do natural resources and conservation add to your community?

- Helps preserve the ozone layer
- Wants to see better access (trails) through the Trott Brook greenway corridor and work to maintain it in a natural state rather than seeing it developed.
- Better educate boaters on the Rum River of the Slow/No-Wake provisions. Work with County to get additional buoys installed through Ramsey's section of the river. Install signage at public accesses with a picture of canoe landing that designates the end of the Slow/No-Wake Zone.
- Offer incentive (to encourage people) for those who take advantage of water conservation, soil aeration, solar energy, etc.
- Protect open space and the river
- Use stencils on storm drains as education
- Place for families to walk in nature
- Natural resources provide a peaceful area to relax outside of your home
- Helps the ecosystem
- More pure, conservation
- Makes it a better place to live
- Prevent erosion
- Bike trail along Trott Brook
- Better lighting in parks (crime, curfew)
- Publicize new parks
- Adds a lot of value: exercise, wildlife
- Adds beauty, breaks up city scenery
- Attracts wildlife
- Preserve for future, kids
- Preserve water quality
-