

Subdivision III. - Floodplain Overlay Districts

FOOTNOTE(S):

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**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.