

WABASHA PLANNING COMMISSION

October 14, 2025 6:00 PM

Commissioner Burke will be joining via zoom from 102 15th Street NE, Washington, DC 20002

MEETING AGENDA

- 1) Call to Order
- 2) Approval of Minutes-
 - 1) Minutes from 9-9-2025
- 3) Changes or Additions to Agenda
- 4) Public Comment
- 5) Public Hearings
- 6) Old Business
 - 1) Short Term Rental Discussion
 - 2) Draft Floodplain Ordinance review and discussion
- 7) New Business
- 8) Board of Adjustment Business
- 9) Other Business
- 10) Next Regular Meeting Date - November meeting date TBD. (Cannot be on Veterans Day)
- 11) Adjourn

Planning Commission

2) 1)

Meeting Date: 10/14/2025

SUBJECT: Minutes from 9-9-2025

DEPARTMENT: Administration

TITLE:

Minutes from 9-9-2025

PURPOSE:

Attachments

9-9-25 PC Minutes

DRAFT

WABASHA PLANNING COMMISSION

September 9, 2025 6:00 PM

MEETING MINUTES

Commission Members:

Tim Wallerich, Chair	Sara Carrels, Vice Chair
Scott Durand	Sharon Burke
Ozzie Goodman	Jeff Sulla

Present: Commissioner Scott Durand; Chair Tim Wallerich; Commissioner Sharon Burke; Commissioner Sara Carrels; Commissioner Ozzie Goodman; Commissioner Jay Jewson

Absent: Commissioner Jeff Sulla

Also Present: Bolton & Menk , Contracted City Planner; Wendy Busch, City Clerk

1) Call to Order
The meeting was called to order by Chair Wallerich at 6:00 PM. Commissioner Durand arrived at 6:04 PM.

2) Approval of Minutes- 6-10-25

Motion made by Commissioner Ozzie Goodman, seconded by Commissioner Sara Carrels to approve the meeting minutes as drafted.

Vote: 6 - 0 Adopted - Unanimously

Other: Commissioner Jeff Sulla (ABSENT)

3) Changes or Additions to Agenda
There were no changes or additions to the agenda.

4) Public Comment
There was no public comment regarding items not listed on the agenda.

5) Public Hearings
There were no public hearings.

6) Old Business
There was no old business.

7) New Business

- 1) 234 Main Street West Retail Cannabis Dispensary Review
Dave Hockett from Bolton & Menk attended the meeting remotely and provided background information. He summarized a staff report prepared by City Planner Kristi Trisko. He referenced the City's cannabis ordinance requirements and limitations. An application for a retail cannabis dispensary to be located at 234 Main Street West was reviewed. Mr. Hockett indicated that the application meets the ordinance requirements.

Mr. Hockett clarified that Wabasha County would have regulatory oversight of all cannabis dispensaries within the County, but the City of Wabasha Planning Commission can provide recommendations in terms of conditions of approval of the CUP. He noted that the applicant must also meet all State licensing requirements.

A list of suggested conditions was reviewed and discussed. It was noted that the hours of operation are already regulated, so it was suggested to eliminate Condition #3 relating to business hours. City Clerk Busch commented that more restrictive conditions could be required. Other potential conditions were discussed, and it was noted that these conditions are already part of the requirements. Signage was discussed, and it was suggested to have a conversation with the business owner in this regard.

Motion made by Commissioner Jay Jewson, seconded by Commissioner Sara Carrels to recommend Conditions #1, #2, #4, and #5 as drafted to Wabasha County.

Vote: 6 - 0 Adopted - Unanimously

Other: Commissioner Jeff Sulla (ABSENT)

- 2) 330 2nd Street West Cannabis
Dave Hockett from Bolton & Menk provided background information. He summarized a staff report prepared by City Planner Kristi Trisko. He referenced the City's cannabis ordinance requirements and limitations. An application for a retail cannabis dispensary to be located at 330 2nd Street West was reviewed. Mr. Hockett indicated that the application meets the ordinance requirements.

Suggested conditions of approval were reviewed and discussed. Chair Wallerich suggested requiring the applicant to install a fence or landscape buffer between the retail cannabis business and a neighboring business. City Clerk Busch commented that Wabasha County will be licensing only two retail cannabis dispensaries.

Motion made by Commissioner Jay Jewson, seconded by Commissioner Sara Carrels to recommend to Wabasha County the conditions as presented, with the addition of a buffer requirement.

Vote: 6 - 0 Adopted - Unanimously

Other: Commissioner Jeff Sulla (ABSENT)

3) Short Term Rental Discussion

This item was discussed following discussion of Item 7.4.

Dave Hockett from Bolton & Menk provided background information. He reviewed the next steps in the process and requested that Commissioners provide comments and ask questions. He referenced potential ordinance language that would regulate these uses and reviewed options in terms of permitting, oversight, and inspections. He summarized a staff report compiled by City Planner Kristi Trisko. He discussed enforcement procedures for ordinance violations. He discussed potential density restrictions.

Commissioners referenced past discussion of short-term rental regulations. City Clerk Busch detailed how the City of Red Wing regulates short-term rentals. Potential IUP application and renewal processes were discussed along with a less cumbersome registration process. Administrative challenges and compliance issues were discussed. It was suggested to require State licensing as a component of the registration process. Mr. Hockett provided process suggestions. Short-term rental platforms were discussed as a resource. Annual fees were discussed. Potential density restrictions per zoning district were discussed, and Mr. Hockett provided recommendations in this regard. Parking requirements were suggested. Complaint-based enforcement of violations was discussed. City Clerk Busch commented that City Attorney Flaherty has been asked to provide guidance. State licensing requirements were reviewed.

The discussion was summarized. It was suggested to draft ordinance language that addresses parking requirements, distancing limitations, a registration process and annual fee, and a requirement for State licensing. Mr. Hockett indicated that Bolton & Menk will work on potential ordinance language for further discussion. The collection and usage of lodging taxes was discussed. It was suggested to consider an enforcement process and penalties for violations. The next steps and the anticipated timeline were discussed. City Clerk Busch discussed challenges related to property searches.

4) Anchor Point Church Request

This item was discussed following discussion of Item 7.2.

Dave Hockett from Bolton & Menk provided background information. He stated that the landowner and the church are seeking to construct a short public street for access to the church property, with the remaining street unconstructed and undeveloped. He referenced the subdivision regulations regarding street extensions, noting that the street should be extended all the way to the southern boundary of the parcel. He reviewed recommendations from the Street Commission and the Utilities Commission, who agreed that the street should be extended all the way to the southern boundary of the property. He stated that the church would be responsible for half the cost of the street extension, with the property owner responsible for the other half.

Randy Fuhrman spoke on behalf of Anchor Point Church. He provided rationale for a shorter street extension at this time. He stated that the church would agree to extend the street to the southern property line in the future. It was clarified that the City would maintain the street. City Clerk Busch commented that, even if an agreement to further extend the street is recorded against the property, this could create issues in the future. She added that street and utility extensions would help pave the way for future development of the area. Turnaround accessibility was discussed.

Motion made by Commissioner Sharon Burke, seconded by Commissioner Scott Durand to approve an extension of Majestic Street to the southern edge of the proposed site plan, with a gravel turnaround recommended.

Vote: 6 - 0 Adopted - Unanimously

Other: Commissioner Jeff Sulla (ABSENT)

8) Board of Adjustment Business
There was no Board of Adjustment business.

9) Other Business
There was no other business.

10) Next Regular Meeting Date - October 14, 2025

11) Adjourn

Motion made by Commissioner Ozzie Goodman, seconded by Commissioner Sara Carrels to adjourn the meeting. The meeting adjourned at 7:16 p.m.

Vote: 6 - 0 Adopted - Unanimously

Other: Commissioner Jeff Sulla (ABSENT)

Respectfully submitted by: _____
Wendy Busch, City Clerk

Adopted Date

Planning Commission

6) 1)

Meeting Date: 10/14/2025

SUBJECT: Short Term Rental Discussion

DEPARTMENT: Administration

TITLE:

Short Term Rental Discussion

PURPOSE:

City Planner Kristi Trisko has provided a memo for review on the Short Term Rental Moratorium.

Attachments

STR Staff Memo



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MEMORANDUM

Date: October 8, 2025
To: Planning Commission
From: Kristi Trisko, AICP, PMP
Subject: Short Term Rental

Potential Future Meeting Schedule:

- **Oct 14** - Continued review and decisions on key issues
- **Nov 11** - First Draft ordinance review
- **Dec 9th** - Second Draft ordinance review, **public hearing** and recommendation to City Council
- **Jan 6th** - City Council – First Read
- **Feb 3rd** - City Council Second Read (completed in time before the moratorium set by CC)

STR Moratorium timeline: August 5, 2025, to February 5, 2026

Limiting STR's: The legality of limiting short-term rentals is an evolving area of law as current litigation is actively being pursued by property owners in Bloomington and Apple Valley (and likely other jurisdictions in Minnesota) as seen in the article below. However, there are also numerous cities in Minnesota that have limited short term rentals, by ordinance, and are not in litigation and other are pursuing an outright ban. There are also many examples of cities and townships that have not limited short term rentals.

As is often the case, given the request at hand, we must proceed with caution and craft standards that are reasonable and broadly applicable to zoning districts or areas that have similar characteristics that can be regulated equally with standards that are proportionate to the intensity of the use requested and connected to reasonable expectations for both the property owner(s) and adjacent property owners within the City's many neighborhoods.

***The Minnesota Star Tribune** - September 3, 2025 at 4:00AM*

"Twin Cities suburbs face new fights, lawsuits over Airbnb rentals"

Bloomington and Apple Valley face lawsuits over Airbnb rules, while Wayzata and St. Anthony are among the cities considering bans.

Summary of September's Meeting:

Licensing & Support

- The licensing process could operate on an honor system, reducing staff workload, but it is clearly not working - register for free once within 180 days... (carrot for existing STR)
- Implement a yearly fee and require a state license, prior to issuance



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- Make sure fees are explained outlining a detailed list of what the fee is for
- Consider raising fees to cover true administrative and consultant costs, this could naturally limit the number of rentals if the cost becomes prohibitive.
 - **What's the standard first cost?**

Interim Use Permit (IUP) – Split ideas from Commissioners – Ideally, want neighbors to have a voice, transparency but not wanting the full review. No teeth in partial request. Also, what do you do when things go wrong with neighbors.

- IUPs should include property-specific conditions tailored to each location.
- Fees for IUPs should be high enough to fund contract consulting for proper review.
- If the process becomes too complex or burdensome, it may discourage participation.
- Similar to licensing there is a point it becomes too cumbersome for them to want to proceed.

Restrictions & Zoning

- Consider restricting short-term rentals by total percentage of households.
- Question raised: *Why should zoning dictate how a home is used as a home?*
- Hard STR Cap? Or not?
- Noise, Parking... Concern that this approach may feel like passing the buck to police
- Preference for dispersion across zoning districts, especially in:
 - R1 (Single-Family Residential)
 - Rural Residential (R2)
 - Exempt areas such as the downtown

Parking Requirements

- Recommend 1 parking space per bedroom.
- Concern about excessive parking and its impact on neighborhoods.
- Parking limits could serve as an effective regulatory tool.

Key Elements - for The draft ordinance

Processing STR - License vs IUP

Options:

- All licensing,
- Blend of licensing & IUP's
- All IUP's

Recommendation:

State Statute establishes two STR uses based on **time of stay and bedrooms**. I would recommend that we follow the number of bedrooms found in these definitions as a logical break for how to process request. I would also recommend that we adopt the space requirements found in State Statute 4625.0900 Space Requirements.



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- Licensing = Less than a week, up to 9 people, and up to 4 bedrooms
- IUP = Less or more than a week, more than 10 people, and more than 4 bedrooms

MN STATE STATUTE

Subd. 7. Hotel or motel. "Hotel or motel" means a building, structure, enclosure, or any part thereof used as, maintained as, advertised as, or held out to be a place where sleeping accommodations are furnished to the public and furnishing accommodations for periods of less than one week.

Subd. 8. Lodging establishment. "Lodging establishment" means: (1) a building, structure, enclosure, or any part thereof used as, maintained as, advertised as, or held out to be a place where sleeping accommodations are furnished to the public as regular roomers, for periods of one week or more, and having five or more beds to let to the public; or (2) a building, structure, or enclosure or any part thereof located within ten miles distance from a hospital or medical center and maintained as, advertised as, or held out to be a place where sleeping accommodations are furnished exclusively to patients, their families, and caregivers while the patient is receiving or waiting to receive health care treatments or procedures for periods of one week or more, and where no supportive services, as defined under section 157.17, subdivision 1, paragraph (a), or health supervision services, as defined under section 157.17, subdivision 1, paragraph (b), or home care services, as defined under section 144A.471.

4625.0900 SPACE REQUIREMENTS.

Every room occupied for sleeping purposes by one person shall contain at least 70 square feet of usable floor space, and every room occupied for sleeping purposes by more than one person shall contain not less than 60 square feet of usable floor space for each occupant thereof. Under no circumstances shall there be provided less than 400 cubic feet of air space per occupant. Beds shall be spaced at least three feet apart when placed side by side. No sleeping quarters shall be provided in any basement having more than half its clear floor to ceiling height below the average grade of the adjoining ground.

Inspections / On-Site Standards (Inside and Out of Building)

Options:

- Signed Affidavit of Compliance, on application with self-certified by the owner
- State Health Department Inspection and Licensing required for all approvals
- Requiring a site plan and floor plan with all STR applications

Recommendation:

I would recommend that we **require a site plan** showing necessary on-site parking, 1 parking space per room and any outdoor use that would be used by renters; looking for noise, lighting issues; **and a floor plan** showing all bedrooms within the building used for STR.



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Self-Certification: If the Commission decides to move forward with a self-certification method, I recommend that we talk through the certification point by point making sure that owners are aware of the requirements.

State Certification: I would recommend that we require all applicants get an inspection and approval from the State Health Department before issuing a license or an IUP to ensure that residents have a smoke detector, fire extinguisher, parking stall(s), outdoor usage, outdoor lighting, etc., and the correct number of bedrooms.

Possible text:

1) Certificate of Inspection. No STR Permit shall be issued until the applicant has obtained a Certificate of Inspection from the Minnesota Department of Health. The applicant shall arrange for an inspection of the STR Unit proposed to be permitted by the Minnesota Department of Health to determine whether the Dwelling and STR Unit comply with the requirements of this Section and all other applicable federal, state, and local laws. Lake County administers all inspections of behalf of Minnesota Department of Health. Applicants should contact Lake County Health Inspector to arrange an inspection and submit a copy of the completed inspection with the permit application.

2) All Dwellings and STR Units proposed to be permitted under this Section shall comply in all respects with all local, state and federal building codes, regulations and standards

Proof of Liability Insurance

Options:

- Yes
- No

Recommendation: Insurance proof should be required; Possible text: “Proof of valid property insurance that provides coverage for the short term rental unit to be \$1,000,000 or the minimum amount as required by the insurance provider, whichever is greater” – as found in numerous STR ordinances in MN.

Ownership / Quick Response within 30 minutes

Options: Yes or No

Recommendation: I recommend that without a 24/7 onsite owner or manager that can respond to concerns within 30-minute from an emergency responder (name, email, cell number) no application should be accepted to make sure that all issues are resolved asap for any complaint.

Limit Location of STR's

Options:

- Cap STR's based on zoning districts;
 - R-1 – larger lots found on River Drive, Skyline Drive Bluff properties;



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- R-2 traditional smaller city core lots
- RC, RR/LA, RR/GT – future large lots
- TDC – downtown, current bed and breakfasts, AirBnB, etc...
- General Commercial
- Highway Commercial – AmericInn – excluded from all STR numbers
- Industrial
- No STR Caps

Housing Totals To Date:

Year	Total SFD Built
1,344 (Census 2020-Base Data)	
2020	10
2021	7 (*-1 Demo)
2022	9 (*-2 Demo)
2023	13 (*-1 Demo)
2024	9
Total Housing	1,392

**Demo number included in total housing*

Recommendation: I would recommend that STR's within R-1, R-2, RC, RR/LA, and RR/GT be limited to 3% of the total housing within the City (1,392 housing units = 41 STR available (19 still open) for all **Non-Homeowner Occupied residents**. The current percentage of STR's within these zones are as follows:

Zones	Total STR's Registered and active	Percentage of Total
R-1	5	0.36%
R-2	16	1.15%
RC	1	0.07%
RR/LA	0	0%
RR/GT	0	0%
Total Residential	22	1.58%
TDC	19	1.36%
GC	2	0.07%
HC	1	0.07%
Industrial	0	0%
Total Non-Residential	22	1.50%
Total	44	

**AmericInn has been excluded from list*

** All RED numbers are not part of the proposed cap*

Potential text: Short term rentals shall comply with all zoning requirements and must comply with the following additional restrictions:



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1. The total number of licenses issued to non-homeowner occupied residences pursuant to this Section at any one time shall not exceed 3% of the total housing units in the City of Wabasha within the following zoning districts in the City; R-1, R-2, RC, RR/LA, RR/GT.

Limit Distance between STR's

Options:

- No limit on distance between STR's
- Limit based on physical distance between STR's
- Limit based on maximum number on a street or block
- Some combination of 2 and 3

Recommendation:

I would recommend that we limit **STR's** based on physical distance for ease of regulation and simplicity to enforce while still addressing the specific issue raised by residents along Skyline Drive this past summer. I would only recommend applying this to the R-1 and R-2 zoning districts as the rural residential district would provide enough distance just based on typical lot sizes to not create issues and I don't think STR's have to be as closely regulated in mixed commercial or industrial areas.



What should the distance be? 350 feet would not provide enough separation between the current STR's on Skyline Drive, Main Street, or River Drive. I would recommend that we use 500'. That would give between 3-5 lots of separation between STR's along most streets in traditional 70-100-foot-wide lots.

Potential Text: No license shall be granted for a short-term rental which would be located within 500 feet of a separate structure containing one or more a short-term rental unit in the R-1 and R-2 zoning districts.

Miscellaneous items:

Non-Transferable – Yes

Number of bedrooms – Yes, in floor plan

Limit on the Number of Guests. The maximum number of transient guests permitted to stay within a STR Unit at any one time shall be one person, plus the number of bedrooms contained in the primary residence multiplied by two, up to a maximum of 10. Such sum shall include both adults and children. No more than 4 bedrooms shall be leased or rented in a STR Unit.

Events. Events are not allowed to be hosted by non-Owners on the property licensed by the STR Permit.

Occupant Eligibility. The primary overnight and daytime Occupant of a STR Unit must be an adult 18 years of age or older. This adult shall provide a telephone number to the Owner and be accessible to the Owner via telephone at all times.



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Parking. A property with an STR Unit shall provide a minimum of one (1) off-street parking stall per bedroom. The maximum amount of vehicles allowed at the property shall be limited to the number of off-street parking spaces provided. To be valid, off-street parking shall meet all applicable requirements set forth in the City Code.

Additional occupancy on any property licensed by a STR Permit by use of recreational vehicles, tents, accessory structures, garages, boathouses, pole barns, sheds, fish houses or similar structure is declared unlawful and strictly prohibited.

Suspension / Revoked License = fines, process & appeal set up



Legend

City Limits

Roads

- Local Roads
- Interstate
- US Highway
- State Highway
- County Roads

Parcels 04/21/2025

Zoning

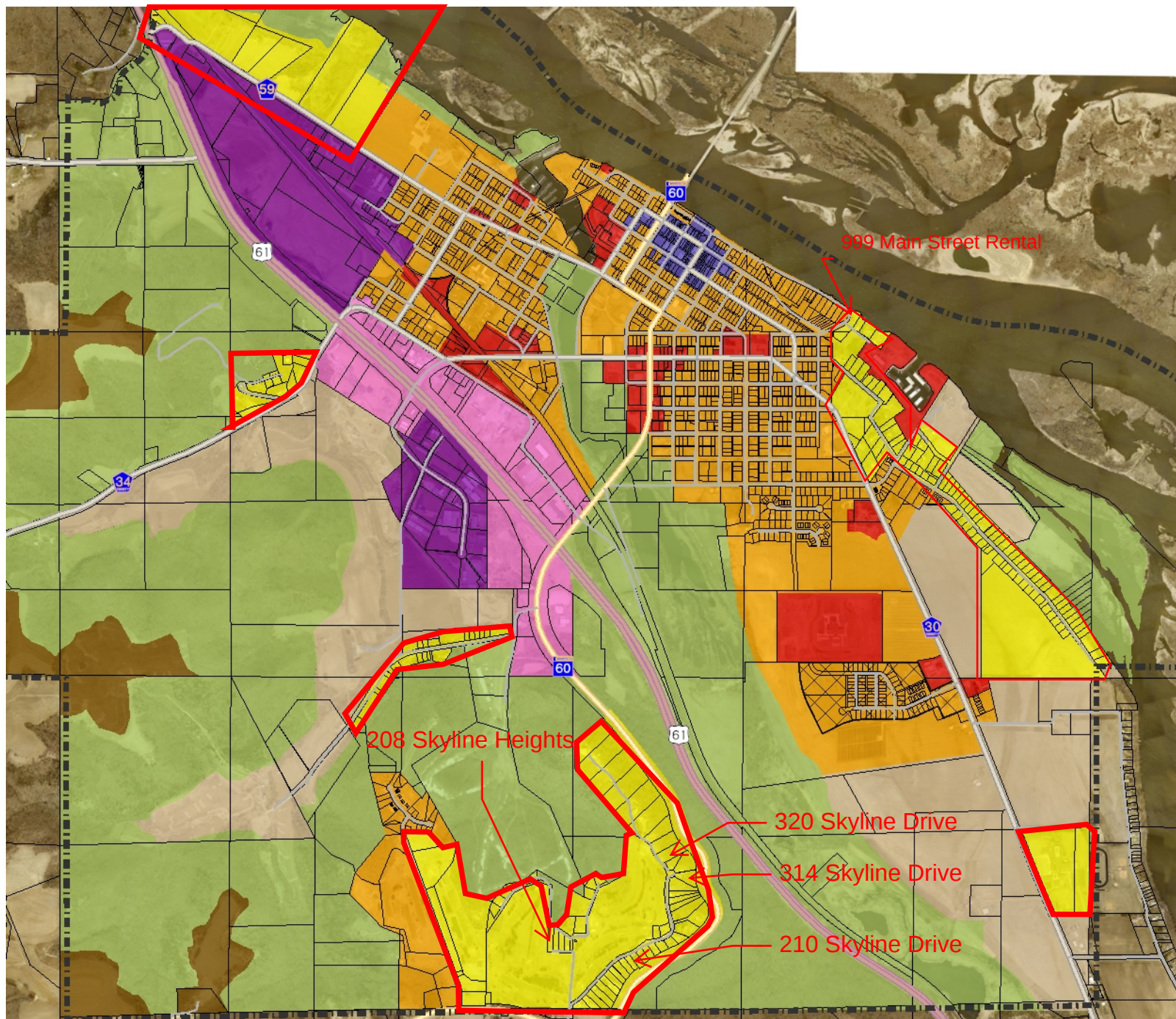
- RC - Residential Conservancy
- RR/LA - Rural/Residential/Limited
- RR/GT - Rural Residential Growth
- R1 - Low Density Residential
- R2 - Medium Density Residential
- Traditional Downtown Commercial
- GC - General Commercial
- HC - Highway Commercial
- I- Industrial
- PUD Overlay District Eagle Basin

Zoning Map



Disclaimer:

This drawing is neither a legally recorded map nor a survey and is not intended to be used as one. This drawing is a compilation of records, information, and data located in various city, county, and state offices, and other sources affecting the area shown, and is to be used for reference purposes only. The City of Wabasha is not responsible for any inaccuracies herein contained.

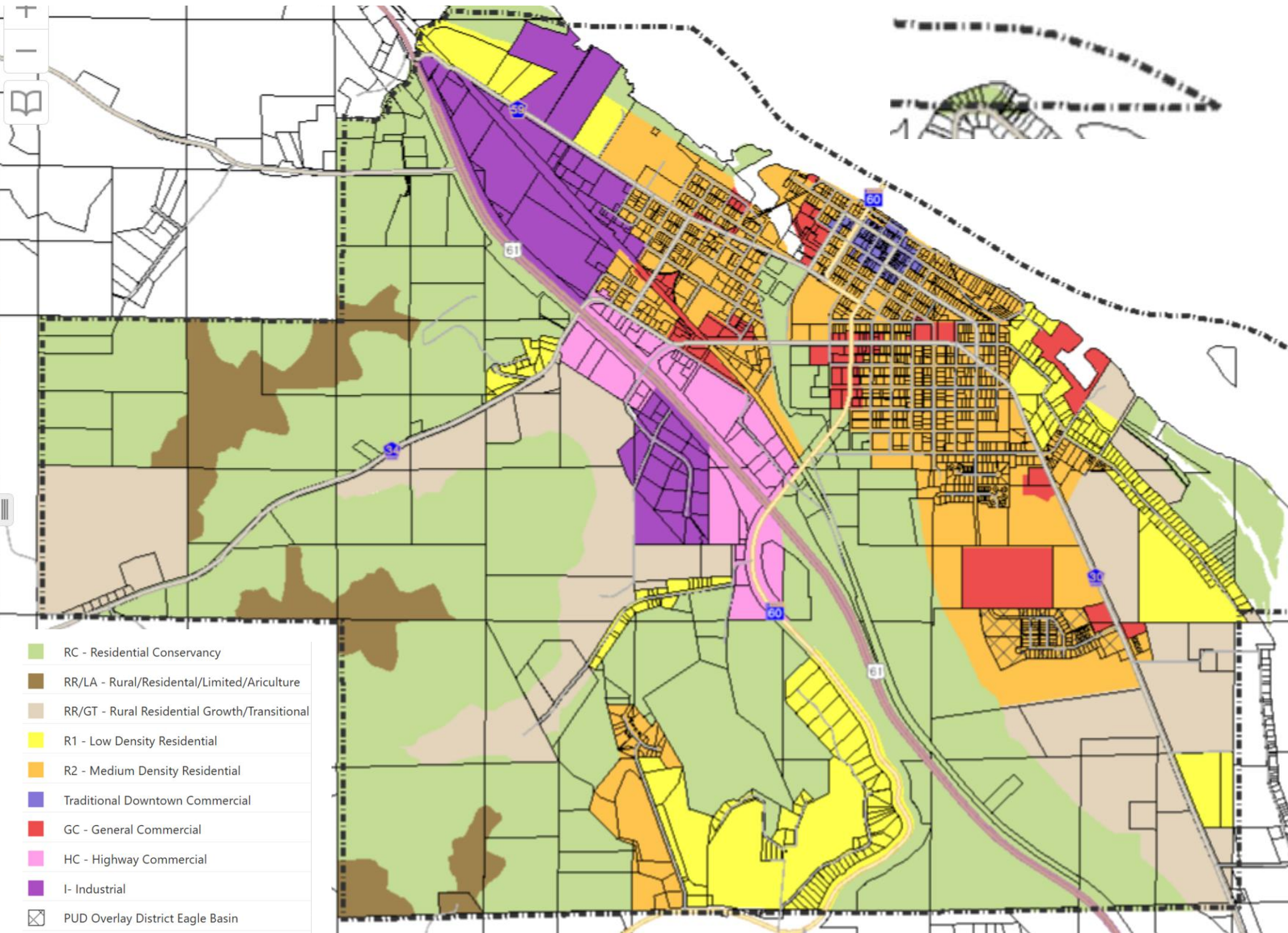


0 2,107 Feet



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Planning Commission

6) 2)

Meeting Date: 10/14/2025

SUBJECT: Draft Floodplain Ordinance review and discussion

DEPARTMENT: Administration

TITLE:

Draft Floodplain Ordinance review and discussion

PURPOSE:

A draft ordinance has been supplied to the City for review. The latest estimated FEMA Map Modernization Status in MN by County, indicated that the letter of final determination will be sent to Wabasha County and Cities in November of 2025 with an effective date of May of 2026. The City will have 6 months to adopt an updated draft floodplain ordinance. Please see the attached memo prepared by City Planner Kristi Trisko.

Attachments

October 2025 Draft Floodplain Ordinance PC Memo



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MEMORANDUM

Date: October 7, 2025

To: Wabasha Planning Commission

From: Kristi Trisko, AICP, PMP
Wabasha Consultant Planner

Subject: Floodplain Ordinance – DNR Draft

§ 160.01-160-XX Floodplain Ordinance

I have been working with Garry Bennett, MnDNR's Statewide Hydrologist and Lucas Youngsma, MnDNR's Local Hydrologist to amend our floodplain ordinance. The attached draft was provided to us by Garry Bennett in mid-July this year.

The latest Estimated FEMA Map Modernization Status in Minnesota - by County, indicated that the letter of final determination (LFD) will be sent to Wabasha County and Cities **in November 2025 with an effective date of May 2026**. So we will have six (6) months to adopt an updated draft floodplain ordinance.

It has been reviewed by Wendy and Brian Malm. I have several components we want to talk with you about shown in RED and BLUE. Once we get the final FIRM map identification numbers from Garry and/or Lucas and completed your review; we can schedule a public hearing and get this document approved in early 2026.

1. 2' base flood elevation protection, now necessary for FHA loans.
2. All new ordinance text in **RED**
3. All optional ordinance text in **BLUE**

County	Status	Preliminary Map	Local Official / Open House	90-day starts	90-day ends	LFD*	Effective map date**
MC LEOD	Effective	9/30/11	1/8/13	5/17/13	8/14/13	1/7/14	7/7/14
MEEKER	Effective	10/29/10	12/15/10	2/10/11	5/11/11	10/3/11	4/3/12
MILLE LACS	Effective	8/11/10; 9/16/11	12/14/10	1/20/11	4/20/11	9/4/12	3/4/13
MORRISON	Effective	11/3/22	1/19/23	6/4/23	9/2/23	1/31/24	7/31/24
MOWER	Effective	6/30/11	11/9/11	1/2/12	4/1/12	3/4/13	9/4/13
MURRAY	Co Modernization+	9/15/2025					NA
NICOLLET	Effective	3/31/2011; rev late 2011; 9/12/18; 2/28/20	5/31/11; 11/8/18; 4/9/20	7/29/21	10/26/21	4/13/22	10/13/22
NOBLES	Effective	7/26/10; rev 11/21/12	1/25/11	5/15/13	8/12/13	11/19/13	5/19/14
NORMAN	Effective	2/8/13; 4/12/18 (levee panels)	3/19/13	7/9/13	10/9/13	3/30/15; 6/20/19 (levee panels)	9/30/15; 12/20/19
OLMSTED	Effective; 90-day ended (levee panels)	6/30/11; rev 9/14/15; 5/29/20 (Zumbro panels); 12/20/23 (levee)	4/17/13; 11/10/2020 (panels); 2/23/21; 2/1/24 (levee)	7/17/13; 3/17/16; 7/27/21 (panels); 6/18/24 (levee)	10/15/13; 6/17/16; 10/25/21 (panels); 9/16/24 (levee)	10/19/16; 3/21/23 (Zumbro panels); Oct 2025 (levee)	4/19/17; 9/21/23 (panels); April 2026 (levee)
OTTER TAIL	No Map						NA
PENNINGTON	Effective	3/31/20; 12/17/21 (panels)	6/17/20; 12/2/20	12/9/20	3/8/21	6/1/22	12/1/22
PINE	Effective	6/15/10	3/15/11	NA	NA	10/03/11	4/3/12
PIPESTONE	Effective	8/26/22	11/30/22	4/20/23 (4/19/23 for Edgerton)	7/20/23 (7/19/23 for Edgerton)	10/25/23	4/25/24
POLK	Risk Map Discovery	7/4/2014; rev ??	8/27/14; ??	1/28/15; 3/11/15	4/27/15; 6/8/15	??	??
POPE	Effective	5/29/20; 11/23/22 (panels)	8/20/20; 1/6/21	7/20/21; 4/24/23 (panels)	10/18/21; 7/22/23 (panels)	3/26/24	9/26/24
RAMSEY	Effective	9/30/08	12/16/08	4/21/09	7/20/09	12/4/09	6/4/10
RED LAKE	Effective	3/29/19	6/11/19	1/15/20	4/14/20	9/9/20	3/9/21
REDWOOD	Effective	9/30/10; rev 10/17/12	2/22/11	5/19/11	8/17/11	1/16/13	7/16/13
RENVILLE	Effective	9/19/06	1/17/07	5/7/08	8/5/08	3/25/09	9/25/09
RICE	Effective	4/30/09; 11/15/19 (4 panels)	7/28/09; 7/16/20	1/6/10; 3/3/21	4/6/10; 6/2/21	10/3/11; 10/6/21 (panels)	4/3/12; 4/6/22 (panels)
ROCK	Open House	8/26/22; rev 2026	12/1/22	TBD	TBD	TBD	TBD
ROSEAU	Effective	6/20/11; rev 5/15/15	9/29/11	5/17/13; 3/22/16	8/18/13; 6/22/16	10/19/16	4/19/17
SCOTT	Effective	9/30/11; rev 7/13/18	6/25/13	1/29/15; 3/23/2019	4/29/15; 6/21/2019	8/12/2020	2/12/21
SHERBURNE	Effective	3/2/10	4/6/10	6/26/10	9/24/10	5/16/11	11/16/11
SIBLEY	No New Map						NA
ST. LOUIS	Effective	10/28/22	2/15/23 & 2/16/23	10/25/23	1/23/24	9/25/24	3/25/25
STEARNS	Effective	12/31/09	5/11/10	10/26/10; 5/10/11	1/25/11; 8/8/11	8/16/11	2/16/12
STEELE	Effective	9/25/09	4/7/10	10/26/10	1/24/11	6/2/11	12/02/11
STEVENS	Effective	5/29/2020; 9/30/21 rev (panels); 2/28/23 (panels)	8/31/20; 10/19/20	12/29/20; 2/5/22 rev panels; 8/1/23 (Swan Lake)	3/29/21 5/9/22 rev panels; 10/30/23 (Swan Lake)	3/12/24	9/12/24
SWIFT	Effective	9/21/04	9/21/04	12/29/04	3/29/04	8/16/05	2/16/06
TODD	Effective	2/17/09	6/2/09	10/22/09	1/20/10	8/4/10	2/4/11
TRAVERSE	No New Map						NA
WABASHA	90-Day Ended	4/25/24	6/18/24	10/15/24	1/13/25	Nov 2025	May 2026
WADENA	Risk Map Discovery						NA
WASECA	Effective	9/30/21	8/31/22; 9/7/22	12/21/22	3/21/23	9/27/23	3/27/24
WASHINGTON	Effective	11/30/07	1/23/08	4/23/08	7/22/08	8/3/09	2/3/10
WATONWAN	Effective	4/24/20; 10/29/21 rev panels	11/12/20; 2/23/21	7/8/22; 8/12/22	10/6/22; 11/10/22	6/7/23	12/7/23
WILKIN	Effective	5/18/11; 12/28/18 (panels); 3/8/23 rev panels	9/22/11; 2/20/19 (panels)	1/26/14; 8/21/2019	4/25/14; 11/19/19	11/18/14; 12/20/23 (panels)	5/18/15; 6/20/24 (panels)
WINONA	Data Dev (Risk MAP)+	2026	2026	2026	2027	2028	2028
WRIGHT	Effective	6/22/11; 7/31/18; 4/29/22 rev (panels)	12/14/11; 8/2/22	8/4/16; 5/24/19; 5/3/23 (panels)	11/2/16; 8/21/19; 8/1/23 (panels)	12/20/23	6/20/24
YELLOW MEDICINE	Effective	2004; rev 8/29/16; rev 1/11/19 (panel)	9/23/04; 11/9/16	10/1/19	12/29/19	4/7/21	10/7/21

* LFD (Letter of Final Determination) - FEMA letter to community will become effective in 6 months. ** Community must adopt new maps by this date.

CHAPTER 160: FLOODPLAIN MANAGEMENT

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SECTION 1.0 STATUTORY AUTHORIZATION AND PURPOSE

- 1.1 **Statutory Authorization.** This floodplain ordinance is adopted pursuant to the authorization and policies contained in Minnesota Statutes, Chapter 103F; Minnesota Rules, parts 6120.5000 – 6120.6200; the rules and regulations of the National Flood Insurance Program (NFIP) in 44 CFR § 59 to 78; and the planning and zoning enabling legislation in Minnesota Statutes, Chapter 462.
- 1.2 **Purpose**
- 1.21 This ordinance regulates development in the flood hazard areas of the City of Wabasha. These flood hazard areas are subject to periodic inundation, which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base. It is the purpose of this ordinance to promote the public health, safety, and general welfare by minimizing these losses and disruptions.
- 1.22 This ordinance is adopted in the public interest to promote sound land use practices, and floodplains are a land resource to be developed in a manner which will result in minimum loss of life and threat to health, and reduction of private and public economic loss caused by flooding.
- 1.23 This ordinance is adopted to maintain eligibility in the National Flood Insurance Program.
- 1.24 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.
- 1.3 **Abrogation and Greater Restrictions.** It is not intended by this ordinance to repeal, abrogate, or impair any existing easements, covenants, or other private agreements. The standards in this ordinance take precedence over any less restrictive, conflicting local laws, ordinances, or codes. All other ordinances inconsistent with this ordinance are hereby repealed to the extent of the inconsistency only.
- 1.4 **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. Not all flood risk is mapped. Larger floods do occur and the flood height may be increased by man-made or natural causes, such as ice jams or bridge openings restricted by debris. This ordinance does not create liability on the part of the City of Wabasha or its officers or employees for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.
- 1.5 **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.

SECTION 2.0 DEFINITIONS

- 2.1 **Definitions.** Unless specifically defined, 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.
- Accessory Structure.** A structure, as defined in this ordinance, that is on the same parcel of property as, and is incidental to, the principal structure or use; an accessory structure specifically excludes structures used for human habitation.

Base Flood. The flood having a one-percent chance of being equaled or exceeded in any given year. "Base flood" is synonymous with the term "regional flood" used in Minnesota Rules, part 6120.5000.

Base Flood Elevation (BFE). The elevation of the base flood, regional flood, or one-percent annual chance flood. The term "base flood elevation" is used in the flood insurance study.

Basement. Any area of a structure, including crawl spaces, having its floor subgrade (below ground level) on all sides, regardless of the depth of excavation below ground level.

Building. See *Structure*.

Channel. A natural or artificial depression of perceptible extent, with definite bed and banks to confine and conduct flowing water either continuously or periodically.

Conditional Use. A land use or development that would not be appropriate generally, but may be allowed with appropriate restrictions upon a finding that certain conditions as detailed in the zoning ordinance exist, the use or development conforms to the comprehensive land use plan of the community, and the use is compatible with the existing neighborhood.

Critical Facilities. Buildings and structures that contain essential facilities and services necessary for emergency response and recovery, or that pose a substantial risk to the public in the event of failure, disruption of function, or damage by flooding. Specifically, this includes facilities identified as Flood Design Class 4 in ASCE 24-14, *Flood Resistant Design and Construction*, as amended. Examples include health care facilities, facilities required for emergency response, power generating stations, communications towers, or electrical substations.

Development. Any man-made change to improved or unimproved real estate, including, but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

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.

FEMA. Federal Emergency Management Agency.

Farm Fence. An open type of fence of posts and horizontally run wire, further specified in Minnesota Statutes, section 344.02, Subd. 1(a-d).

Flood. A temporary rise in the stream flow or water surface elevation from any source that results in the inundation of normally dry land areas.

Flood Fringe. The portion of the one-percent annual chance floodplain located outside of the floodway. **This district shall be extended laterally to the 0.2-percent annual chance floodplain, where mapped.**

Flood Insurance Rate Map (FIRM). An official map on which the Federal Insurance Administrator has delineated both the special flood hazard areas and the risk premium zones applicable to the community. A FIRM that has been made available digitally is called a Digital Flood Insurance Rate Map (DFIRM).

Flood Insurance Study (FIS). The study referenced in Section 160.03 (B), which is an examination, evaluation and determination of flood hazards, and if appropriate, corresponding

Commented [GB1]: All optional blue bold text found in this model, if accepted by the community, should be made un-bold and changed to black in final draft.

surface elevations, or an examination, evaluation, and determination of mudslide (i.e. mudflow) and/or flood-related erosion hazards.

Floodplain. The beds, channel and the areas adjoining a wetland, lake or watercourse, or other source which have been or hereafter may be inundated by the base flood.

Floodproofing. A combination of structural and non-structural additions, changes, or adjustments to properties and structures subject to flooding, primarily for the reduction or elimination of flood damages.

Floodway. The bed of a wetland or lake and the channel of a watercourse and those portions of the adjoining floodplain which must be reserved to carry or store the base flood discharge without cumulatively increasing the water surface elevation more than one-half foot.

General Floodplain. Those floodplains designated on the Flood Insurance Rate Maps referenced in Section 160.03 (B), but that do not have a delineated floodway.

Light Duty Truck. Any motor vehicle that has all three of the following:

- A. 8,500 pounds Gross Vehicle Weight Rating or less;
- B. vehicle curb weight of 6,000 pounds or less; and
- C. basic vehicle frontal area less than 45 square feet.

Lowest Floor. The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, used solely for parking of vehicles, building access, or storage in an area other than a basement area, is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of 44 CFR § 60.3.

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."

New Construction. Structures for which the start of construction commenced on or after the effective date of an adopted floodplain management regulation, and includes any subsequent improvements to such structures.

Principal Structure. The main building or other structure on a lot that is utilized for the property's principal use.

Reach. A hydraulic engineering term to describe a longitudinal segment of a stream or river influenced by a natural or man-made obstruction. In an urban area, the segment of a stream or river between two consecutive bridge crossings would most typically constitute a reach.

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. Those vehicles not meeting this definition shall be considered a structure for the purposes of this ordinance. For the purposes of this ordinance, the term recreational vehicle is synonymous with the term "travel trailer/travel vehicle."

Regulatory Flood Protection Elevation (RFPE). An elevation that is one foot above the elevation of the base flood plus any increases in the water surface elevation caused by encroachments on the

floodplain that result from designation of a floodway. These increases in water surface elevations are typically identified in the Floodway Data Tables, found in the Flood Insurance Study.

---OR---

Regulatory Flood Protection Elevation (RFPE). An elevation that is two feet above the elevation of the base flood.

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.

Special flood hazard area (SFHA). An area having special flood, mudslide (i.e., mudflow), or flood-related erosion hazards, and shown on an FHBM or FIRM as Zone A, AO, A1-30, AE, AR, AR/A1-30, AR/AE, AR/AO, AR/AH, AR/A, A99, AH, VO, V1-30, VE, V, M, or E.

Stage Increase. Any increase in the water surface elevation during the one-percent annual chance flood caused by encroachments on the floodplain.

Start of Construction. Includes substantial improvement, and means the date the permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, foundations, or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Structure. A roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home. Recreational vehicles not considered travel ready, as detailed in Section 11.22, shall also be considered a structure for the purposes of this ordinance.

Subdivision. Land that has been divided for the purpose of sale, rent, or lease, including planned unit developments.

Substantial Damage. 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.

Substantial Improvement. Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures that have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include either:

- A. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or

Commented [GB2]: Please select one of these definitions to use for the definition of "Regulatory Flood Protection Elevation (RFPE)" and delete the other. If the higher standard (highlighted in blue) is chosen then please note that the text from Section 7 (General Floodplain District) needs to be deleted as noted within sections 7.22 & 7.41.

****Note: [the HUD FFRMS standard referenced below is currently on hold by the federal government]** DNR is now recommending communities use two-foot freeboard to be eligible for FHA loans under the new Federal Flood Risk Management Standards. For any new construction with building permit applications submitted after **Jan. 1, 2025**, these standards will be a requirement to be eligible for FHA loans.

Commented [KT3R2]: Brian please review and let me know which one you recommend keeping.

Commented [WB4R2]: If two feet is going to be required for FHA loans it seems that are already making that choice for us.

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 defined in 44 CFR § 59.1.

Variance. "Variance" means the same as that defined in 44 CFR § 59.1 and Minnesota Statutes, Section 462.357, Subd. 6(2).

Violation. "Violation" means the failure of a structure or other development to be fully compliant with the community's flood plain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this ordinance is presumed to be in violation of until such time as that documentation is provided.

Watercourse. A channel in which a flow of water occurs either continuously or intermittently in a definitive direction. The term applies to either natural or artificially constructed channels.

SECTION 3.0 JURISDICTION AND DISTRICTS

- 3.1 **Lands to Which Ordinance Applies.** This ordinance applies to all lands within the jurisdiction of the City of Wabasha within the Special Flood Hazard Areas (SFHAs) identified on the Flood Insurance Rate maps identified in Section 3.2. Areas within the SFHA are within one of three districts: the Floodway, Flood Fringe, or General Floodplain.
- 3.11 The Floodway, Flood Fringe or General Floodplain Districts are overlay districts. The standards imposed in the overlay districts are in addition to any other requirements. In case of a conflict, the more restrictive standards will apply.
- 3.12 These regulations apply to all areas within the SFHA. If areas below the Base Flood Elevation (BFE) extend beyond the mapped SFHA based on actual field conditions, the Base Flood Elevation (BFE) shall be the governing factor in locating the outer boundaries of the one-percent annual chance floodplain and these regulations apply to the outer boundary of the one-percent annual chance floodplain.
- 3.13 Persons contesting the location of the district boundaries will be given a reasonable opportunity to present their case to the **Board of Adjustment** and to submit technical evidence.
- 3.2 **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 Wabasha County, Minnesota and Incorporated Areas, dated **[Insert effective date]**, the Flood Insurance Rate Map panel numbers **27157C0090E, 27157C0095E, 27157C0210E, 27157C0225E, and 27157C0230E**, all dated **[insert date]** and prepared by the Federal Emergency Management Agency. These materials are on file at **Wabasha City Hall**
- 3.3 **Districts**
- 3.31 Floodway District. Those areas within Zone AE delineated within floodway areas as shown on the Flood Insurance Rate Maps referenced in Section 3.2 and those areas within Zone A determined to be located in the floodway based on the delineation methods in Section 7.4.
- 3.32 Flood Fringe District. Those areas within Zone AE located outside of the delineated floodway as shown on the Flood Insurance Rate Maps referenced in Section 3.2, and those areas within Zone A determined to be located in the flood fringe based on the delineation methods in

Commented [GB5]: This section should be edited to include the correct information for the community.

Commented [KT6R5]: Wendy, please verify that the BOA is the correct group for review.

Commented [WB7R5]: BOA, § 162.027 BOARD OF ADJUSTMENT.

(A) *Establishment.* The Planning Commission, from its members, shall elect five non-Council individuals on an annual basis at the beginning of each calendar year to sit on the Board of Adjustment which will be a committee of the Planning Commission as allowed in M.S. § 462.354, as it may be amended from time to time. All eligible members shall continue to serve until a new board is appointed.

(B) *Powers and duties.* The Board of Adjustment shall have the following powers and duties:

(1) To hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by the Planning Administrator or designee;

(2) To hear and decide requests for variances from this chapter of city code under the process specified in § 162.030 of this chapter; and

(3) To hear and decide appeals and variances under other sections of city code, as specified in those sections.

(Prior Code, § 305.04) (Ord. passed 12-18-2007; Ord. passed 7-2-2018)

Commented [GB8]: Will have to insert the effective date, once known.

Commented [GB9]: Will have to insert the effective date, once known.

Commented [GB10]: I inserted the West Newton Special Use District since it is in the city's current ordinance. I also inserted additional text from the current ordinance in Sections 3.34 and 8.0 below relating to this.

Commented [WB11R10]: I do not see West Newton in our existing code anywhere???

Commented [KT12R10]: No we don't have it in the City. It is part of the County. Lucas explained that to Garry and I a few weeks ago. 😊 It has been removed from our ordinance.

Section 7.4. **This district shall be extended laterally to the 0.2-percent annual chance floodplain, where mapped.**

3.33 General Floodplain District. Those areas within Zone A or AE that do not have a floodway delineated as shown on the Flood Insurance Rate Maps referenced in Section 3.2.

3.4 **Annexations.** The Flood Insurance Rate Map panels referenced in Section 3.2 may include floodplain areas that lie outside of the corporate boundaries of the City of Wabasha at the time of adoption of this ordinance. If any of these floodplain land areas are annexed into the City of Wabasha 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. Annexations into panels not referenced in Section 3.2 require ordinance amendment in accordance with Section 15.0.

3.5 **Municipal Boundary Adjustments & Townships.** The Flood Insurance Rate Map panels referenced in Section 3.2 apply countywide. If at any point any lands come under the jurisdiction of another local government, the following shall apply:

3.51 City adjustments of corporate boundaries, including but not limited to annexations and detachments, shall shift floodplain administrative authority of all affected lands immediately upon the date of the boundary adjustment occurring. Cities retain jurisdiction for all incorporated lands, and the County retains jurisdiction under this ordinance on all unincorporated lands, except as provided under Section 3.52 below or through some form of administrative agreement.

3.52 Townships adopting official controls under Minnesota Statutes, Section 394.33 may only obtain zoning authority for floodplain controls when they have adopted an ordinance that is approved by the Department of Natural Resources and has formally enrolled in the NFIP. Until this occurs, the county shall retain jurisdiction under this ordinance on all unincorporated lands. If a township returns zoning authority, the county shall resume that authority.

SECTION 4.0 REQUIREMENTS FOR ALL FLOODPLAIN DISTRICTS

4.1 **Permit Required.** A permit must be obtained from the Zoning Administrator to verify compliance with all applicable standards outlined in this ordinance prior to the following uses or activities:

4.11 The erection, addition, modification, maintenance, rehabilitation, repair, or alteration of any building, structure, or portion thereof. Normal maintenance requires a permit to determine if such work, either separately or in conjunction with other planned work, constitutes a substantial improvement, as specified in Section 13.13.

4.12 The construction of a fence, pool, deck, or placement of anything that may cause a potential obstruction. **Farm fences, as defined in Section 2.0 of this ordinance, are not considered to be an obstruction, and as such, do not require a permit.**

4.13 The change or expansion of a nonconforming use.

4.14 The repair of a structure that has been damaged by flood, fire, tornado, or any other source.

4.15 The placement of fill, riprap, excavation, utilities, on-site sewage treatment systems, or other service facilities.

4.16 The storage of materials or equipment, in conformance with Section 4.22.

4.17 Relocation or alteration of a watercourse (including stabilization projects or the construction of new or replacement dams, culverts and bridges). A local permit is not required if a public waters work permit has been obtained from the Department of Natural Resources, unless a significant area above the ordinary high water level is also to be disturbed.

4.18 Any other type of “development,” as defined in Section 2.0 of this ordinance.

4.2 Minimum Development Standards

4.21 All development must:

- A. Be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
- B. Be constructed with materials and equipment resistant to flood damage;
- C. Be constructed by methods and practices that minimize flood damage;
- D. Be constructed with heating, ventilation, duct work, and air conditioning equipment and other service facilities elevated at least up to the Regulatory Flood Protection Elevation (RFPE). Water, sewage, electrical, and other utility lines below the RFPE shall be constructed so as to prevent water from entering or accumulating within them during conditions of flooding;
- E. Be reasonably safe from flooding and consistent with the need to minimize flood damage;
- F. Be assured to provide adequate drainage to reduce exposure to flood hazards;
- G. Not be detrimental to uses in adjoining areas; and
- H. Not adversely affect the efficiency or restrict the flood carrying capacity of the channel and adjoining floodplain of any tributary watercourse or drainage system.
- I. Ensure that any fill or other materials are protected from erosion, discharge, and sediment entering surface waters by the use of vegetative cover or other methods as soon as possible.

4.22 Materials that, in time of flooding, are buoyant, flammable, explosive, or could be injurious to human, animal, or plant life shall be stored at or above the Regulatory Flood Protection Elevation (RFPE), floodproofed, or protected by other measures as approved by the Zoning Administrator. Storage of materials likely to cause pollution of the waters, such as sewage; sand; rock; wrecked and discarded equipment; dredged spoil; municipal, agricultural or industrial waste; and other wastes as further defined in Minnesota Statutes, Section 115.01, are prohibited unless adequate safeguards approved by the Minnesota Pollution Control Agency are provided. For projects not requiring approvals by the Minnesota Pollution Control Agency, adequate safeguards must be approved by the Zoning Administrator prior to issuance of a permit.

4.23 **Critical facilities shall be located so that the lowest floor is not less than two feet above the Base Flood Elevation (BFE), or the 0.2% annual chance flood elevation, whichever is higher.**

SECTION 5.0 FLOODWAY DISTRICT

5.1 **Permitted Uses in Floodway.** Development allowed in the floodway district is limited to that which has low flood damage potential and will not obstruct flood flows, increase velocities, or increase the water surface elevations of the one-percent annual chance flood. No structures, as defined in Section 2.0, are allowed in the Floodway District, except as provided within subsection 5.15. The following uses and activities may be allowed with a permit, subject to the standards in Section 5.2:

5.11 Agricultural uses, recreational uses, parking lots, loading areas, airport landing strips, water control structures, navigational facilities, as well as public open space uses.

- 5.12 Roads, driveways, railroads, trails, bridges, and culverts.
 - 5.13 Public utility facilities and water-oriented industries which must be in or adjacent to watercourses.
 - 5.14 Grading, filling, land alterations, and shoreline stabilization projects.
 - 5.15 Structures accessory to the uses detailed in Sections 5.11 and 5.31, **which require a CUP under Section 5.32.**
 - 5.16 **Levees or dikes intended to protect agricultural crops, provided the top of the dike does not exceed the 10-percent annual chance flood event.**
- 5.2 Standards for Permitted Uses in Floodway.** In addition to the applicable standards detailed in Section 4.0:
- 5.21 The applicant must demonstrate that the development will not result in any of the following during the one-percent annual chance flood: cause a stage increase of 0.00 feet or greater, obstruct flood flows, or increase velocities. This shall be demonstrated through hydrologic and hydraulic analysis performed by a professional engineer, or using other standard engineering practices (e.g. projects that restore the site to the previous cross-sectional area). This is commonly documented through a “no-rise certification.”
 - 5.22 Any development that would result in a stage increases greater than 0.00 feet may only be allowed with a permit if the applicant has applied for a Conditional Letter of Map Revision (CLOMR) in accordance with 44 CFR § 65.12, and FEMA has issued the CLOMR. Map revisions must follow the procedures in Sections 12.15 and 15.0.
 - 5.23 Any development resulting in decreases to the water surface elevation of the base flood identified in the Flood Insurance Study requires a Letter of Map Revision (LOMR) following the procedures in Sections 12.15 and 15.0.
 - 5.24 Any development in the beds of public waters that will change the course, current or cross section is required to obtain a public waters work permit in accordance with Minnesota Statutes, section 103G.245 or a utility crossing license in accordance with Minnesota Statutes, section 84.415, from the Department of Natural Resources, or demonstrate that no permit is required, before applying for a local permit.
 - 5.25 **Any facility used by employees or the general public must be designed with a flood warning system acceptable to the Zoning Administrator that provides adequate time for evacuation, or be designed to ensure that within the area inundated during the base flood event, the depth (in feet) multiplied by the velocity (in feet per second) is less than four.**
 - 5.26 Fill and other land alteration activities must offer minimal obstruction to the flow of flood waters, **and be protected from erosion and sediment entering surface waters by the use of vegetative cover, riprap or other methods as soon as possible.**
- 5.3 Conditional Uses in Floodway.** The following uses and activities may be permitted as conditional uses, subject to the standards detailed in Sections 5.4:
- 5.31 **Commercial extractive uses, and storage and stockpiling yards.**
 - 5.32 **Structures accessory to uses detailed in Sections 5.11 and 5.31.**
- 5.4 Standards for Conditional Uses in Floodway.** In addition to the applicable standards detailed in Sections 4.0, 5.2 and 12.2:

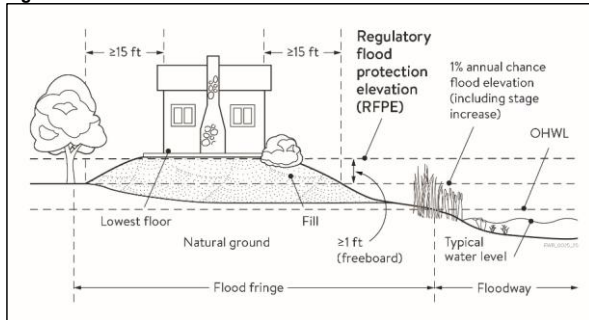
- 5.41 Extractive uses and storage of materials require the completion of a site development and restoration plan, to be approved by the *City of Wabasha*.
- 5.42 Accessory Structures. Structures accessory to the uses detailed in Sections 5.11 and 5.31 must be constructed and placed so as to offer a minimal obstruction to the flow of flood waters, and are subject to the standards in Section 6.23 of this ordinance.

SECTION 6.0 FLOOD FRINGE DISTRICT

- 6.1 Permitted Uses in Flood Fringe. Any uses or activities allowed in any applicable underlying zoning districts may be allowed with a permit, subject to the standards set forth in Sections 6.2.
- 6.2 Standards for Permitted Uses in Flood Fringe. In addition to the applicable standards detailed in Section 4.0:
- 6.21 Residential Structures.

A. Elevation on Fill (Figure 1). Structures erected, constructed, reconstructed, altered, or moved on fill within the Flood Fringe District shall be placed so that the lowest floor, as defined in Section 2.0 of this ordinance, is elevated at or above the Regulatory Flood Protection Elevation (RFPE). The finished fill elevation shall be at or above the elevation associated with the base flood plus any stage increases that result from designation of a floodway. Fill must extend at the same elevation at least 15 feet beyond the outside limits of the structure. Elevations must be certified by a registered professional engineer, land surveyor or other qualified person designated by the Zoning Administrator. Elevation methods alternative to these fill standards are subject to a Conditional Use Permit, as provided in Section 6.31 of this ordinance. **Construction of this type shall only be permitted in locations where the natural ground is no lower than three feet below the base flood elevation.**

Figure 1: Overview of fill standards for residential structures.



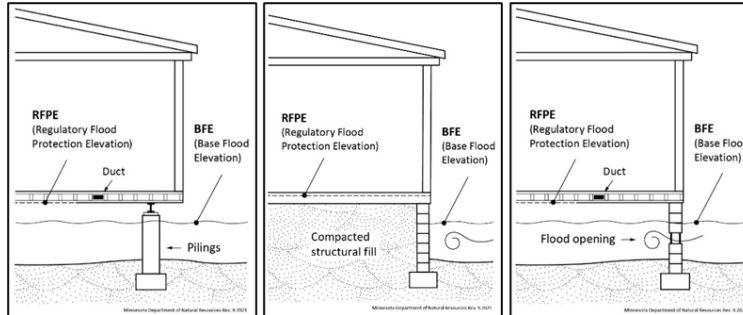
- 6.22 Nonresidential Structures. Nonresidential structures must meet one of the following construction methods:
- A. Elevation on Fill. Structures may be elevated on fill, meeting the standards in Section 6.21.A of this ordinance. Fill for nonresidential structures is not required to be extended 15 feet beyond the outside limits of the structure.
- B. Alternative Elevation Methods. Structures may be elevated using methods alternative to the fill standards in Section 6.21.A of this ordinance. Such methods include the use of blocks,

pilings (Figure 2), filled stem walls (Figure 3), or internally-flooded enclosed areas (Figure 4) such as crawl spaces, attached garages, or tuck under garages.

Figure 2: Blocks or pilings.

Figure 3: Filled stem walls.

Figure 4: Internally flooded enclosed area.



Designs accommodating for internally-flooded enclosed areas must be certified by a registered professional engineer or architect, or meet or exceed the standards detailed in *FEMA Technical Bulletin 1*, as amended, as well as the following standards:

- (1) The lowest floor, as defined in Section 2.0 of this ordinance, shall be elevated at or above the Regulatory Flood Protection Elevation (RFPE).
- (2) The floor of the enclosed area must be at or above the exterior grade on at least one side of the structure.
- (3) To allow for the equalization of hydrostatic pressure, there shall be a minimum of two openings below the base flood elevation on at least two sides of the structure. The bottom of all openings shall be no higher than one foot above grade. The openings shall have a minimum net area of not less than one square inch for every square foot of enclosed area subject to flooding, and shall allow automatic entry and exit of floodwaters without human intervention.
- (4) Internally flooded enclosed areas shall only be used for the parking of vehicles, building access, or storage. Bathrooms and toilet rooms shall not be allowed. **Such areas shall be subject to a deed-restricted non-conversion agreement as well as periodic inspections with the issuance of any permit.**

C. Dry Floodproofing. Structures having watertight enclosed basements or spaces below the Regulatory Flood Protection Elevation (RFPE) must meet the following standards:

- (1) Walls must be substantially impermeable to the passage of water, with structural components having the capacity of resisting hydrostatic and hydrodynamic loads and effects of buoyancy, at least up to the Regulatory Flood Protection Elevation (RFPE);
- (2) Must meet the standards of FEMA Technical Bulletin 3, as amended; and
- (3) A registered professional engineer or architect shall be required to certify that the design and methods of construction meet the standards detailed in this Section.

6.23 Accessory Structures. All accessory structures must meet the following standards:

- A. Structures shall not be designed or used for human habitation.
- B. Structures will have a low flood damage potential.
- C. Structures shall constitute a minimal investment not to exceed 600 square feet in size, one-story in height, and shall only be used for parking and storage, except as provided under Section 6.23.E. Structures not meeting the standards of Sections 6.23.A-C must be designed and constructed in accordance with floodplain management requirements based on whether the structure is residential or non-residential. Residential structures must meet the requirements of Section 6.21, and non-residential structures must meet the requirements of Section 6.22.
- D. Structures with two or more rigid walls, must meet one of the following construction methods:
 - (1)Wet Floodproofing. Structures may be floodproofed in a way to accommodate internal flooding. To allow for the equalization of hydrostatic pressure, there shall be a minimum of two openings on at least two sides of the structure and the bottom of all openings shall be no higher than one foot above grade. The openings shall have a minimum net area of not less than one square inch for every square foot of enclosed area subject to flooding, and shall allow automatic entry and exit of floodwaters without human intervention. Portions of structures below the RFPE must be constructed of flood damage-resistant materials. Utilities must be elevated above the RFPE and any utility lines below the RFPE shall be constructed so as to prevent floodwaters from entering or accumulating within them. Wet floodproofed structures must be anchored to resist flotation, collapse, and lateral movement.
 - (2)Elevation on Fill. Structures may be elevated on fill, meeting the standards in Section 6.21.A of this ordinance. Fill is not required to be extended 15 feet beyond the outside limits of the structure.
 - (3)Alternative Elevation Methods. Structures may have their lowest floor elevated above the Regulatory Flood Protection Elevation (RFPE) through methods alternative to the fill standards in Section 6.23.D(2), and must meet the standards in Section 6.22.B of this ordinance.
 - (4)Dry Floodproofing. Structures may be dry-floodproofed, or watertight, meeting the standards in Section 6.22.C of this ordinance.
- E. Structures with fewer than two rigid walls, such as carports, gazebos, and picnic pavilions, meeting the standards in Section 4.21 of this ordinance may be located at an elevation below the Regulatory Flood Protection Elevation, exceed 576 square feet in size, and may include uses as provided under Section 6.1.

- 6.24 **All new principal structures must provide vehicular access no lower than one foot below the Base Flood Elevation (BFE), unless a flood warning/emergency evacuation plan has been approved by the City of Wabasha.**
- 6.25 Any facilities used by employees or the general public must be designed with a flood warning system acceptable to the City of Wabasha that provides adequate time for evacuation, or be designed to ensure that within the area inundated during the base flood event, the depth (in feet) multiplied by the velocity (in feet per second) is less than four.
- 6.26 Manufactured homes and recreational vehicles must meet the standards of Section 11 of this ordinance.

6.3 Conditional Uses in Flood Fringe. The following uses and activities may be permitted as conditional uses, subject to the standards in Sections 6.4:

6.31 Alternative Elevation Methods – Residential Structures. Residential structures with their lowest floor elevated above the Regulatory Flood Protection Elevation (RFPE) using methods alternative to the fill requirements in Section 6.21.

6.4 Standards for Conditional Uses in Flood Fringe. In addition to the applicable standards detailed in Sections 4.0, 6.2 and 12.2:

6.41 All residential structures with lowest floors elevated through alternative elevation methods must meet the standards in Section 6.22.B of this ordinance.

SECTION 7.0 GENERAL FLOODPLAIN DISTRICT

7.1 Permitted Uses in General Floodplain District

7.11 Until the floodway is delineated, allowable uses will be restricted to those listed in the Floodway District, Section 5.0

7.12 All other uses are subject to a floodway/flood fringe determination as provided in Section 7.4, in addition to the standards provided in Sections 7.2 and 7.3. Permitted uses shall be determined as follows:

A. If the development is determined to be in the Floodway District, Section 5.0 applies.

B. If the development is determined to be in the Flood Fringe District, Section 6.0 applies.

7.2 Determining Flood Elevations

7.21 All development requires a determination of the Base Flood Elevation (BFE). Proposed developments of more than 50 lots or 5 acres, whichever is lesser, must use detailed methods for determining the BFE. This may include use of supporting A Zone modeling and the “shoreland method,” when eligible, on lakes. Exceptions to this requirement include projects that restore the site to the previous cross-sectional area, such as shore stabilization or culvert replacement projects. Base Flood Elevations (BFE) may be found using best available data from any Federal, State, or other source (including MNDNR’s Lake & Flood Elevations Online (LFEO) Viewer).

7.22 The Regulatory Flood Protection Elevation (RFPE) can be determined by assuming a one-half (0.5) foot stage increase to accommodate for future cumulative impacts. A stage increase does not need to be assumed along lakes, wetlands, and other basins that are not affected by velocities.

7.3 Encroachment Analysis

7.31 Encroachments due to development may not allow stage increases more than one-half (0.5) foot at any point, unless through a map revision following the procedures in Sections 12.15 and 15.0. This evaluation must include the cumulative effects of previous encroachments, and must be documented with hydrologic and hydraulic analysis performed by a professional engineer, or using other standard engineering practices. A lesser water surface elevation increase than one-half (0.5) foot is required if, due to the water surface level increase, increased flood damages would potentially result.

7.32 Alterations or changes that result in stage decreases are allowed and encouraged.

7.4 Standards for the Analysis of Floodway Boundaries

Commented [GB13]: This section could possibly be removed since it doesn’t appear the city has any General Floodplain based on a cursory review, but there’s no harm in retaining it. If the city wants to remove this section, let us know and we’ll do a deeper dive to make sure that is acceptable.

Commented [GB14]: If choosing to adopt higher standard for “Regulatory Flood Protection Elevation (RFPE)” definition, then please delete this section entirely.

- 7.41 Requirements for Detailed Studies. Any development, as requested by the Zoning Administrator, shall be subject to a detailed study to determine the Base Flood Elevation (BFE) and the limits of the Floodway District. This determination must be consistent with the minimum standards for hydrologic and hydraulic mapping standards and techniques, as detailed in Minnesota Rules, part 6120.5600, Subp. 4 and *FEMA Guidelines and Standards for Flood Risk Analysis and Mapping*, as revised. Additionally:
- A. A regulatory floodway necessary to carry the discharge of the one-percent annual chance flood must be selected without increasing the water surface elevation more than one-half (0.5) foot at any point. This determination should include the cumulative effects of previous encroachments. A lesser water surface elevation increase than one-half (0.5) foot is required if, due to the water surface level increase, increased flood damages would potentially result; and
 - B. An equal degree of encroachment on both sides of the stream within the reach must be assumed in computing floodway boundaries, unless topography, existing development patterns, and comprehensive land use plans justify a modified approach, as approved by the Department of Natural Resources.
- 7.42 Other Acceptable Methods. For areas where a detailed study is not available or required:
- A. Development prohibited in floodways (e.g. most buildings) requires a floodway/flood fringe determination to verify the development is within the flood fringe. This determination must be done by a professional engineer or utilize other accepted engineering practices. The Department of Natural Resources may also provide technical assistance and must approve any alternative methods used to determine floodway boundaries.
 - B. **For areas where the floodway has not been determined in and along lakes, wetlands, and other basins, the following methodology may be used as an alternative to Item A above, provided these areas are not affected by velocities and the lot is able to accommodate a building site above the Regulatory Flood Protection Elevation (RFPE):**
 - (1) **All areas that are at or below the ordinary high water level, as defined in Minnesota Statutes, section 103G.005, Subd. 14, will be considered floodway, and all areas below the Base Flood Elevation (BFE) but above the ordinary high water level will be considered flood fringe, provided that within 25 feet of the ordinary high water level, or within the Shore Impact Zone as identified in the community's Shoreland ordinance, whichever distance is greater, land alterations shall be restricted to:**
 - (a) **The minimum required to accommodate beach areas, access areas, and accessory structures as permitted, not to exceed a volume greater than 10 cubic yards; projects involving volumes exceeding 10 cubic yards require floodway/flood fringe determination in accordance with the procedures in Section 7.42, item A; and**
 - (b) **The minimum required to accommodate shoreline stabilization projects to correct an identified erosion problem as verified by a qualified resource agency or the zoning administrator.**

SECTION 9.0 SUBDIVISION STANDARDS

9.1 **Subdivisions.** All subdivided land must meet the following requirements. Manufactured home parks and recreational vehicle parks or campgrounds are considered subdivisions under this ordinance.

9.11 All lots within floodplain districts must be suitable for a building site outside of the Floodway District.

9.12 Subdivision of lands within the floodplain districts may not be approved if the cost of providing governmental services would impose an unreasonable economic burden on the City of Wabasha.

9.13 All subdivisions must have vehicular access both to the subdivision and to the individual building sites no lower than two feet below the Regulatory Flood Protection Elevation (RFPE), unless a flood warning/emergency evacuation plan has been approved by the City of Wabasha.

9.14 The Floodway and Flood Fringe District boundaries, the Regulatory Flood Protection Elevation (RFPE) and the required elevation of all access roads must be clearly identified on all required subdivision drawings and platting documents.

SECTION 10.0 PUBLIC AND PRIVATE UTILITIES, SERVICE FACILITIES, ROADS, BRIDGES, AND RAILROADS

10.1 **Public Transportation Facilities.** Railroad tracks, roads, and bridges must be elevated to the Regulatory Flood Protection Elevation (RFPE) where such facilities are essential to the orderly functioning of the area, or where failure or interruption would result in danger to public health or safety. 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. All public transportation facilities should be designed to minimize increases in flood elevations.

10.2 **Public Utilities.** All utilities such as gas, electrical, sewer, and water supply systems to be located in the floodplain must be elevated and/or floodproofed to the Regulatory Flood Protection Elevation (RFPE), be located and constructed to minimize or eliminate flood damage, and be designed to eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters. All public utilities should be designed to minimize increases in flood elevations. New solid waste management facilities, as defined in Minnesota Rules, part 7035.0300, are prohibited in the one-percent annual chance floodplain. Water supply systems are subject to the provisions in Minnesota Rules, part 4725.4350.

10.3 **Private On-Site Water Supply, Individual Sewage Treatment Systems, and other Service Facilities.** Private facilities shall be subject to applicable provisions detailed in Section 9.2. In addition, new or replacement on-site sewage treatment systems are to be located to avoid impairment to them or contamination from them during times of flooding, shall not be located in a designated floodway, and are subject to the provisions in Minnesota Rules, parts 7080.2270.

SECTION 11.0 MANUFACTURED HOMES AND RECREATIONAL VEHICLES

11.1 **Manufactured Homes.** Manufactured homes and manufactured home parks are subject to applicable standards for each floodplain district. In addition:

11.11 New and replacement manufactured homes must be placed and elevated in compliance with Section 6.0 of this ordinance and must be securely anchored to a 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.

11.12 New manufactured home parks and expansions to existing manufactured home parks must meet the appropriate standards for subdivisions in Section 9.0 of this ordinance.

11.2 Recreational Vehicles. New recreational vehicle parks or campgrounds and expansions to existing recreational vehicle parks or campgrounds are prohibited in any floodplain district. Recreational vehicles placed in existing recreational vehicle parks, campgrounds or lots of record in the floodplain must either:

- 11.21 Meet the requirements for manufactured homes in Section 11.1, or
- 11.22 Be travel ready, meeting the following criteria:
 - A. The vehicle must be fully licensed.
 - B. The vehicle must be ready for highway use, meaning on wheels or the internal jacking system, attached to the site only by quick disconnect type utilities.
 - C. No permanent structural type additions may be attached to the vehicle.
 - D. Accessory structures may be permitted in the Flood Fringe District, provided they do not hinder the removal of the vehicle should flooding occur, and meet the standards outlined in Sections 4.0 and 6.23.

SECTION 12.0 ADMINISTRATION

12.1 Duties. A Zoning Administrator or other official must administer and enforce this ordinance.

- 12.11 Permit Application Requirements. Permit applications must be submitted to the Zoning Administrator. The permit application must include the following, as applicable:
 - A. A site plan showing all existing or proposed buildings, structures, service facilities, potential obstructions, and pertinent design features having an influence on the permit.
 - B. Location and detail of grading, fill, or storage of materials.
 - C. Copies of any required local, state or federal permits or approvals.
 - D. Other relevant information requested by the Zoning Administrator as necessary to properly evaluate the permit application.
- 12.12 Recordkeeping. The Zoning Administrator must maintain applicable records in perpetuity documenting:
 - A. All certifications for dry floodproofing and alternative elevation methods, where applicable.
 - B. Analysis of no-rise in the Floodway District, as detailed in Section 5.21, and encroachment analysis ensuring no more than one-half foot of rise in the General Floodplain District, as detailed in Sections 7.22 and 7.31.
 - C. Final elevations, as applicable, detailing the elevation (in relation to mean sea level) of the lowest floor, including basements, of all new and substantially improved structures . Elevations shall be determined by an engineer, architect, surveyor or other qualified individual, as approved by the Zoning Administrator.
 - D. Substantial damage and substantial improvement determinations, as detailed in Section 13.13, including the cost of improvements, repairs, and market value.
 - E. All variance actions, including justification for their issuance, and must report such variances as requested by the Federal Emergency Management Agency.
- 12.13 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 finished fill and

building floor elevations or other flood protection measures are in compliance with the requirements of this ordinance.

12.14 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 in accordance with Minnesota Statutes, Section 103G.245, this will suffice as adequate notice. A copy of the notification must also be submitted to FEMA.

12.15 Notification to FEMA When Physical Changes Increase or Decrease Base Flood Elevations. Where physical changes affecting flooding conditions may increase or decrease the water surface elevation of the base flood, the City of Wabasha must notify FEMA of the changes in order to obtain a Letter of Map Revision (LOMR), by submitting a copy of the relevant technical or scientific data as soon as practicable, but no later than six months after the date such supporting information becomes available. Within the General Floodplain District, a map revision is only required if development results in stage increases greater than 0.5 feet.

12.2 Conditional Uses and Variances

12.21 Process.

A. An application for a conditional use permit will be processed and reviewed in accordance with the provisions of this ordinance.

B. An application for a variance to the provisions of this ordinance will be processed and reviewed in accordance with Minnesota Statutes, Section 462.357, Subd. 6(2) and this ordinance.

12.22 Additional Variance Criteria. The following additional variance criteria must be satisfied:

A. Variances must not be issued within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.

B. Variances from the provisions of this ordinance may only be issued by a community upon:

(1) A showing of good and sufficient cause;

(2) A determination that failure to grant the variance would result in exceptional hardship to the applicant; and

(3) 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 from the provisions in this ordinance may only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

D. Variances must be consistent with the general purpose of these standards and the intent of applicable provisions in state and federal law.

E. Variances may be used to modify permissible methods of flood protection, but no variance shall permit a lesser degree of flood protection than the Regulatory Flood Protection Elevation (RFPE).

F. The Zoning Administrator must notify the applicant for a variance in writing 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 flood level increases risks to life and property.
Notification must be maintained with a record of all variance actions.

12.23 Considerations for Approval. The City of Wabasha must consider all relevant factors specified in other sections of this ordinance in granting variances and conditional use permits, **including the following:**

- 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 safety of access to the property in times of flood for ordinary and emergency vehicles.**

12.24 Conditions of Approval. The City of Wabasha may attach such conditions to the granting of variances and 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. **Limitations on period of use, occupancy, and operation.**
- B. **Imposition of operational controls, sureties, and deed restrictions.**
- C. **The prevention of soil erosion or other possible pollution of public waters, both during and after construction.**
- D. **Other conditions as deemed appropriate by the Zoning Administrator and Planning Commission.**

12.3 Notifications to the Department of Natural Resources

12.31 All notices of public hearings to consider variances or conditional uses under this ordinance must be sent via electronic mail to the Department of Natural Resources respective area hydrologist at least ten (10) days before the hearings. Notices of hearings to consider subdivisions/plats must include copies of the subdivision/plat.

12.32 A copy of all decisions granting variances and conditional uses under this ordinance must be sent via electronic mail to the Department of Natural Resources respective area hydrologist within ten (10) days of final action.

SECTION 13.0 NONCONFORMITIES

13.1 **Continuance of Nonconformities.** A use, structure, or occupancy of land which was lawful before the passage or amendment of this ordinance, but which is not in conformity with the provisions of this ordinance, may be continued subject to the following conditions:

13.11 Within the floodway and general floodplain districts (when a site has been determined to be located in the floodway following the procedures in Section 7.3, or when the floodway has not been delineated), any expansion or enlargement of uses or structures is prohibited.

13.12 Within all districts, any addition, modification, rehabilitation, repair, or alteration shall be in conformance with the provisions of this ordinance, shall not increase the flood damage

potential or increase the degree of obstruction to flood flows, and where applicable, must be protected to the Regulatory Flood Protection Elevation (RFPE).

13.13 If any nonconforming structure is determined to be substantially damaged or substantially improved based on the procedures in Section 13.2, it may not be reconstructed except in conformity with the provisions of this ordinance. **Any structures located outside the one-percent annual chance floodplain are exempt from this provision.**

13.14 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.

13.15 **If any nonconforming structure has utilities, electrical, or mechanical equipment damaged due to flooding, it must be rebuilt in conformance with the elevation requirements in Section 4.21.D to the greatest extent practicable. This requirement shall apply regardless of the determinations made in Section 13.2.**

13.2 Substantial Improvement and Substantial Damage Determinations. Prior to issuing any permits for additions, modifications, rehabilitations, repairs, alterations, or maintenance to nonconforming structures, the Zoning Administrator is required to determine if such work constitutes substantial improvement or repair of a substantially damaged structure. A determination must be made in accordance with the following procedures:

13.21 Estimate the market value of the structure. In the case of repairs, the market value of the structure shall be the market value before the damage occurred and before any restoration or repairs are made.

13.22 Estimate the cost of the project. The property owner shall accommodate for inspection, and furnish other documentation needed by the zoning administrator to evaluate costs.

A. Improvement costs shall be comprised of the market rate of all materials and labor, as well as the costs of all ordinary maintenance and upkeep carried out over the past one year.

B. Costs to repair damages shall be comprised of the market rate of all materials and labor required to restore a building to its pre-damaged condition regardless of the work proposed, as well as associated improvement costs if structure is being restored beyond its pre-damaged condition.

13.23 Compare the cost of the improvement, repairs, or combination thereof to the estimated market value of the structure, and determine whether the proposed work constitutes substantial improvement or repair of a substantially damaged structure, as defined in Section 2.0 of this ordinance.

A. **For the purposes of determining whether the proposed work would constitute substantial improvement, the evaluation shall also include all rehabilitations, additions, or other improvements completed since the community has adopted floodplain standards impacting this structure.**

B. **If any nonconforming structure experiences a repetitive loss, as defined in Section 2.0 of this ordinance, it shall be considered substantially damaged and must not be reconstructed except in conformity with the provisions of this ordinance.**

13.24 Based on this determination, the zoning administrator shall prepare a determination letter and notify the property owner accordingly. Structures determined to be substantially damaged or substantially improved may not be reconstructed except in conformity with the provisions of this ordinance.

SECTION 14.0 VIOLATIONS AND PENALTIES

- 14.1 **Uses in Violation of the Ordinance.** Every structure, fill, deposit, or other use placed or maintained in the floodplain in violation of this ordinance shall be considered a public nuisance.
- 14.2 **Civil Remedies.** The creation of a public nuisance may be enjoined and the maintenance of a public nuisance under this ordinance may be abated by an action brought by the City of Wabasha or the Department of Natural Resources.
- 14.3 **Enforcement.** Violations of the provisions of this ordinance constitutes a misdemeanor and is punishable as defined by law. The Zoning Administrator 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. The City of Wabasha 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.

SECTION 15.0 AMENDMENTS

- 15.1 **Ordinance Amendments.** Any revisions to the floodplain maps by the Federal Emergency Management Agency or annexations of new map panels require an ordinance amendment to update the map references in Section 3.2 of this ordinance.
- 15.2 **Required Approval.** All amendments to this ordinance must be submitted to the Department of Natural Resources for review and approval prior to adoption, for compliance with state and federal rules and requirements. The floodplain ordinance shall not be considered valid until approved.

EFFECTIVE DATE: This ordinance shall be in full force and effect from and after its passage and approval.

Adopted by the City of Wabasha City Council

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

Attest: _____, Mayor Emily Durand
Attest: _____, Wendy Busch, City Clerk