

Goodhue County Land Use Management

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To: County Board
From: Land Use Management
Meeting Date: January 2, 2024
Report date: December 27, 2023

PUBLIC HEARING: Consider Goodhue County Ordinance Updates

Proposed amendments to Article 32 (Floodplain District) to add Repetitive Loss language.

Attachments:

Proposed Amendments
December 18, 2023, Planning Commission Draft Meeting Minutes
[Goodhue County Zoning Ordinance](#)

Summary:

Goodhue County Zoning is responsible for enforcing the FEMA Floodplain Ordinance as part of the National Flood Insurance Program (NFIP). These rules are found in Article 32 of the County Zoning Ordinance. This responsibility includes working with property owners who suffer property losses due to flooding. FEMA rules require any nonconforming structure that is damaged more than 50% of its value to meet floodplain elevation/floodproofing standards if the structure will be reconstructed (substantial damage). FEMA includes a provision in its rules for “Repetitive Loss”: “If a structure is damaged by flooding on two separate occasions during a 10 year period equal to or exceeding 25% of its market value it shall be considered “substantially damaged”. Under the Repetitive Loss provision a structure may suffer flood losses over time and be considered “substantially damaged” which means the property owner may apply for funds under the NFIP to properly elevate or floodproof their structure. For property owners to apply for these funds, the County Zoning Ordinance must contain Repetitive Loss language.

Additional minor changes have been proposed to Article 32 as recommended by the DNR’s Floodplain and Shoreland Planner. Adopting this language now means property owners may use 2023 flood events and damages towards the “2 events in 10 years” provision.

PAC Recommendation:

The Planning Advisory Commission recommends the County Board

- Adopt the staff report into the record;
- Accept the testimony, exhibits, and other evidence presented into the record; and

APPROVE the amendments to Article 32 (Floodplain District).

**PLANNING ADVISORY COMMISSION
GOODHUE COUNTY, MN
December 18, 2023 MEETING MINUTES
DRAFT**

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4. All exterior signage located on the property must follow Goodhue County Zoning Ordinance Article 11 Section 17 (Sign Regulations). The applicant shall consult the appropriate road authority prior to placing signs within the road Right-of-Way;
 5. Applicant shall obtain Building Permit approvals for a change of use to the existing structure from the Goodhue County Building Permits Department prior to establishing the use;
 6. Applicant shall work with Goodhue County Environmental Health to obtain appropriate permits for future septic construction or capacity increases as needed;
 7. Compliance with all necessary State and Federal registrations, permits, licensing, and regulations;
 8. Compliance with Goodhue County Zoning Ordinance including, but not limited to, Article 11, Section 25 Retreat Centers, Article 11 Section 30 Rural Tourism, and Article 22 A2, General Agriculture District;
 9. The Interim Use Permit shall expire upon the sale of the property; and
 10. The Applicants shall provide contact information to abutting property owners including Steven Finstad so neighbors may contact them with concerns or issues.

Motion carried 4:2

Commissioners Greseth and Buck dissented

PUBLIC HEARING: Consider Goodhue County Zoning Ordinance Updates - Solid Waste Transfer Facilities and Floodplain Repetitive Loss Ordinance

Proposed amendments to Article 10 (Definitions), Article 11 (Performance Standards), and Article 20 (Table of Uses) to allow Solid Waste Transfer Facilities. Proposed amendments to Article 32 (Floodplain District) to add Repetitive Loss language.

Pierret presented the staff report and attachments. She noted they should have separate hearings for the two amendments.

Chair Buck Opened the Public Hearing for the Floodplain Repetitive Loss Ordinance

No one spoke for or against the request.

⁵After Chair Buck called three times for comments it was moved by Commissioner Miller and seconded by Commissioner Nystuen to close the Public Hearing.

Motion carried 6:0

⁶It was moved by Commissioner Miller and seconded by Commissioner Greseth for the Planning Advisory Commission to:

- adopt the staff report into the record;
- adopt the finding of fact;
- accept the application, testimony, exhibits, and other evidence presented into the record; and Recommend the County Board of Commissioners **APPROVE** the Proposed amendments to Article 32 (Floodplain District) to add Repetitive Loss language.

Motion carried 6:0

ARTICLE 32 FP, FLOODPLAIN DISTRICT

SECTION 1. STATUTORY AUTHORIZATION, FINDINGS OF FACT AND PURPOSE

- Subd 1. Statutory Authorization. The Legislature of the State of Minnesota has, in Minnesota Statutes, Chapter 104 and 394.21, delegated the responsibility to local governmental units to adopt regulations designed to minimize flood losses.
- Subd 2. Findings of Fact.
- A. The flood hazard areas of Goodhue County, Minnesota, are subject to periodic inundation which results in potential loss of life, loss of property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.
 - B. Methods Used to Analyze Flood Hazards. The regulations of this Article are based upon a reasonable method of analyzing flood hazards which is consistent with the standards established by the Minnesota Department of Natural Resources.
 - C. National Flood Insurance Program Compliance. This Ordinance is adopted to comply with the rules and regulations of the National Flood Insurance Program codified as 44 Code of Federal Regulations Parts 59 -78, as amended, so as to maintain the community's eligibility in the National Flood Insurance Program.
- Subd. 3. Statement of Purpose. It is the purpose of this Article to promote the public health, safety, and general welfare and to minimize those losses described in Section 1, Subd. 2.A by provisions contained herein.

SECTION 2. GENERAL PROVISIONS

- Subd 1. Lands to Which Article Applies. This Ordinance shall apply to all lands within the jurisdiction of Goodhue County shown on the Official Zoning Map as being located within the boundaries of the FP, Floodplain District.
- Subd 2. Establishment of Official Zoning Map. The Official Zoning Map together with all materials attached thereto is hereby adopted by reference and declared to be a part of this Ordinance. The attached material shall include the *Flood Insurance Study, Goodhue County, Minnesota and Incorporated Areas* and the Flood Insurance Rate Map Index panel number 27049CINDoA therein, all dated September 25, 2009, as developed by the Federal Emergency Management Agency. The Official Zoning Map shall be on file in the office of Goodhue County Land Use Management and recorded with the Goodhue County Recorder's office.
- Subd 3. Regulatory Flood Protection Elevation. The Regulatory Flood Protection Elevation shall be an elevation no lower than one foot above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the floodplain that result from designation of a floodway.

- Subd 4. Warning and Disclaimer of Liability. This Article does not imply that areas outside the floodplain districts or land uses permitted within such districts will be free from flooding or flood damages. This Article shall not create liability on the part of Goodhue County or any officer or employee thereof for any flood damages that result from reliance on this Article or any administrative decision lawfully made thereunder.
- Subd 5. The boundaries of the zoning districts shall be determined by scaling distances on the Official Zoning Map. Where interpretation is needed as to the exact location of the boundaries of the district as shown on the Official Zoning Map, as for example where there appears to be a conflict between a mapped boundary and actual field conditions and there is a formal appeal of the decision of the Zoning Administrator, the Board of Adjustment shall make the necessary interpretation. All decisions will be based on elevations on the regional (100-year) flood profile, *the ground elevations that existed on the site at the time the Community adopted its initial floodplain ordinance or on the date of the first National Flood Insurance Program map showing the area in the floodplain if earlier*, and other available technical data. Persons contesting the location of the district boundaries shall be given a reasonable opportunity to present their case to the Board of Adjustment and to submit technical evidence.
- Subd 6. **ANNEXATIONS:** The Flood Insurance Rate Map panels adopted by reference into Section 2.2 above may include floodplain areas that lie outside of the corporate boundaries of the Goodhue County at the time of adoption of this ordinance. If any of these floodplain land areas are annexed into the County after the date of adoption of this ordinance, the newly annexed floodplain lands shall be subject to the provisions of this ordinance immediately upon the date of annexation into the County.
- Subd. 7 **DEFINITIONS:**
- A. **FLOOD.** A temporary increase in the flow or stage of a stream or in the stage of a wetland or lake that results in the inundation of normally dry areas.
 - B. **FLOOD FREQUENCY.** The frequency for which it is expected that a specific flood stage or discharge may be equaled or exceeded.
 - C. **FLOOD FRINGE.** That portion of the floodplain outside of the floodway.
 - D. **FLOODPLAIN.** The areas adjoining a wetland, lake or watercourse which have been or hereafter may be covered by the regional flood.
 - E. **FLOOD-PROOFING.** The combination of structural provisions, changes, or adjustments to properties and structures subject to flooding, primarily for the reduction or elimination of flood damages.
 - F. **FLOODWAY.** The bed of a wetland or lake and the channel of the watercourse and those portions of the adjoining floodplain which are reasonably required to carry or store the regional flood discharge.
 - G. **FLOOR AREA, GROUND.** The area within the exterior walls of the main building or structure as measured from the outside walls at the ground floor level, not including garages, or enclosed or unenclosed porches and not including attached utility or accessory rooms having three or more exterior sides.
 - H. **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.

- I. **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.”
- J. **RECREATIONAL VEHICLE** – a vehicle that is built on a single chassis, is 400 square feet or less when measured at the largest horizontal projection, is designed to be self-propelled or permanently towable by a light duty truck, and is designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use. For the purposes of this Ordinance, the term recreational vehicle shall be synonymous with the term travel trailer/travel vehicle.
- ~~J.K.~~ **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 such flood event on the average equals or exceeds 25% of the market value of the structure before the damage occurred.
- ~~K.L.~~ **SUBSTANTIAL DAMAGE** – means damage of any origin sustained by a structure where the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. (The language in Article 6, Section 1, Subd. 1 will suffice as long as the word “market” is placed in front of the word “value” in the second line).
- ~~L.M.~~ **SUBSTANTIAL IMPROVEMENT** – within any consecutive 365-day period, any reconstruction, rehabilitation (including normal maintenance and repair), repair after damage, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the “start of construction” of the improvement. This term includes structures which have incurred “substantial damage,” regardless of the actual repair work performed. The term does not, however, include either:
- i. 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.
 - ii. Any alteration of an “historic structure,” provided that the alteration will not preclude the structure’s continued designation as an “historic structure.” For the purpose of this Ordinance, “historic structure” shall be as defined in 44 Code of Federal Regulations, Part 59.1.

SECTION 3. ESTABLISHMENT OF ZONING DISTRICT

Subd. 1. Floodplain Areas.

- A. Floodway District. The Floodway District shall include those areas designated as Zone AE and are delineated within the floodway on the Flood Insurance Rate Map adopted in Section 2 Subd. 2 of this article.
- B. Flood Fringe District. The Flood Fringe area shall include those areas designated as Zone AE and are located outside of the delineated floodway ~~floodway fringe on the Flood Fringe District shall include those areas shown~~ on the Flood Insurance

Rate Map as adopted in Section 2 Subd 2 ~~as being within Zones AE, AO, or AH but being located outside of the floodway.~~

- C. General Flood Plain District. The General Floodplain area shall include those areas designated as Zone A or ~~Zones AE, AO, or AH without~~ that do not have a floodway delineated on the Flood Insurance Rate Map adopted in Section 2, Subd. 2 of this Article.

- Subd. 2. Compliance. No new structure or land shall hereafter be used and no structure shall be located, extended, converted, or structurally altered without full compliance with the terms of this Ordinance and other applicable regulations which apply to uses within the jurisdiction of the Ordinance. Within the Floodway, Flood Fringe and General Floodplain areas, all uses not listed as permitted uses or conditional uses in Sections 4, 5, and 6, that follow, respectively, shall be prohibited. In addition, a caution is provided here that:
- A. New manufactured homes, replacement manufactured homes and certain travel trailers and travel vehicles are subject to the general provisions of this Ordinance and specifically Section 9 of this Article.
 - B. Modifications, additions, structural alterations, normal maintenance and repair, or repair after damage to existing non-conforming structures and non-conforming uses of structures or land are regulated by Article 6, and the General Provisions of this Ordinance.
 - C. As-built elevations for elevated or flood-proofed structures must be certified by ground surveys and flood-proofing techniques must be designed and certified by a registered professional engineer or architect as specified in Section 6, Subd. 2.B of this Article and the General Provisions of this Ordinance.

SECTION 4. FLOODWAY AREA (FW)

- Subd. 1. Permitted Uses.
- A. General farming, pasture, grazing, outdoor plant nurseries, horticulture, truck farming, forestry, sod farming, and wild crop harvesting.
 - B. Industrial-commercial loading areas, parking areas, and airport landing strips.
 - C. Private and public golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting preserves, target ranges, trap and skeet ranges, hunting and fishing areas, and single or multiple purpose recreational trails.
 - D. Residential lawns, gardens parking areas, and play areas.
- Subd. 2. Standards for Floodway Permitted Uses.
- A. The use shall have a low flood damage potential.
 - B. The use shall be permissible in the underlying zoning district if one exists.

- C. The use shall not obstruct flood flows or increase flood elevations and shall not involve structures, fill, obstructions, excavations, or storage of materials or equipment.

Subd. 3. Conditional Uses.

- A. Structures accessory to the uses listed in Section 4, Subd. 1 above and the uses listed in B through H.
- B. Extraction and storage of sand, gravel, and other materials.
- C. Marinas, boat rentals, docks, piers, wharves, and water control structures.
- D. Railroads, streets, bridges, utility transmission lines, and pipelines.
- E. Storage yards for equipment, machinery or materials.
- F. Placement of fill.
- G. Travel trailers and travel vehicles either on individual lots of record or in existing or new subdivisions or commercial or condominium type campgrounds, subject to the exemptions and provisions of Section 9, Subd. 3 of this Article.
- H. Structural works for flood control such as levees, dikes, and floodwalls constructed to any height where the intent is to protect individual structures and levees or dikes where the intent is to protect agricultural crops for a frequency flood event equal to or less than the ten year frequency flood event.

Subd. 4. Standards for Floodway Conditional Uses.

- A. All Uses. No structure (temporary or permanent), fill (including fill for roads and levees), deposit, obstruction, storage of materials or equipment, or other uses may be allowed as a conditional use that will cause any increase in the stage of the 100 year or regional flood or cause an increase in flood damages in the reach or reaches affected.
- B. All floodway conditional uses shall be subject to the procedures and standards contained in Article 4 of this Ordinance.
- C. The conditional use shall be permissible in the underlying zoning district is one exists.
- D. Fill.
 - 1. Fill, dredge spoil and all other similar materials deposited or stored in the floodplain shall be protected from erosion by vegetative cover, mulching, riprap or other acceptable method.
 - 2. Dredge spoil sites and sand and gravel operations shall not be allowed in the floodway unless a long-term side development plan is submitted which includes an erosion/ sedimentation prevention element to the plan.
 - 3. As an alternative, and consistent with Sub-section 2 above, dredge spoil disposal and sand and gravel operations may allow temporary, on-site storage of fill or other materials which could have caused an increase to the stage of the 100 year or regional flood but only after the governing body has received an appropriate plan which assures the removal of the materials from the floodway based upon the flood warning time available.

The conditional use permit must be title registered with the property in the Office of the County Recorder.

E. Accessory Structures.

1. Accessory structures shall not be designed for human habitation.
2. Accessory structures, if permitted, shall be constructed and placed on the building site so as to offer the minimum obstruction to the flow of flood waters.
 - a. Whenever possible, structures shall be constructed with the longitudinal axis parallel to the direction of flood flow.
 - b. So far as practicable, structures shall be placed approximately on the same flood flow lines as those of adjoining structures.
3. Accessory structures shall be elevated on fill or structurally dry flood-proofed in accordance with the FP-1 or FP-2 flood-proofing classifications in the State Building Code. As an alternative, an accessory structure may be flood-proofed to the FP-3 or FP-4 flood-proofing classifications in the State Building Code provided the accessory structure constitutes a minimal investment, does not exceed five hundred (500) square feet in size, and for a detached garage, the detached garage must be used solely for parking of vehicles and limited storage. All flood-proofed accessory structures must meet the following additional standards, as appropriate:
 - a. The structure must be adequately anchored to prevent flotation, collapse or lateral movement of the structure and shall be designed to equalize hydrostatic flood forces on exterior walls.
 - b. Any mechanical and utility equipment in a structure must be elevated to or above the RFPE or properly flood-proofed.
 - c. To allow for the equalization of hydrostatic pressure, there must be a minimum of two "automatic" openings in the outside walls of the structure having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding. There must be openings on at least two sides of the structure and the bottom of all openings must be no higher than one foot above the lowest adjacent grade to the structure. Using human intervention to open a garage door prior to flooding will not satisfy this requirement for automatic openings.

F. Storage of Materials and Equipment.

1. The storage or processing of materials that are, in time of flooding, flammable, explosive or potentially injurious to human, animal, or plant life is prohibited.
2. Storage of other materials or equipment may be allowed if readily removable from the area within the time available after a flood warning and in accordance with a plan approved by the governing body.

G. Structural works for flood control that will change the course, current or cross section of protected wetlands or public waters shall be subject to the provisions of Minnesota Statutes, Chapter 105. Community-wide structural works for flood

control intended to remove areas from the regulatory floodplain shall not be allowed in the floodway.

- H. A levee, dike or floodwall constructed in the floodway shall not cause an increase to the 100 year or regional flood and the technical analysis must assume equal conveyance or storage loss on both sides of a stream.

SECTION 5. FLOOD FRINGE AREA (FF)

- Subd 1. Permitted Uses. Permitted uses shall be those uses of land or structures listed as permitted uses in the underlying zoning use district(s). If no pre-existing underlying zoning use district exists, then any residential or non-residential structure or use of a structure or land shall be a permitted use in the Flood Fringe provided such use does not constitute a public nuisance. All permitted uses shall comply with the standards for Flood Fringe "permitted uses" listed in Section 5, Subd. 2 and the standards for all Flood Fringe uses listed in Section 5, Subd. 5.
- Subd 2. Standards for Flood Fringe Permitted Uses.
 - A. All structures, including accessory structures, must be elevated on fill so that the lowest floor including basement floor is at or above the RFPE. The finished fill elevation for structures shall be no lower than one (1) foot below the RFPE and the fill shall extend at such elevation at least fifteen (15) beyond the outside limits of the structure erected thereon.
 - B. As an alternative to elevation on fill, accessory structures that constitute a minimal investment and that do not exceed five hundred (500) square feet for the outside dimension at ground level may be internally flood-proofed in accordance with Subd. 4.A of this Section.
 - C. The cumulative placement of fill where at any one time in excess of one thousand (1,000) cubic yards of fill is located on the parcel shall be allowable only as a conditional use, unless said fill is specifically intended to elevate a structure in accordance with Section 5 Subd 2 A of this Article.
 - D. The storage of any materials or equipment shall be elevated on fill to the RFPE.
 - E. The provisions of Section 5, Subd. 3 of this Article shall apply.
- Subd 3. Conditional Uses. Any structure that is not elevated on fill or flood-proofed in accordance with Section 5, Subd. 2.A; Section 5, Subd. 2.B; or any use of land that does not comply with the standards in Section 5, Subd. 2.C and Section 5, Subd. 2.D shall only be allowable as a conditional use. An application for a conditional use shall be subject to the standards and criteria and evaluation procedures specified in Section 5, Subd. 4.A and B and Article 4 of this Ordinance.
- Subd 4. Standards for Flood Fringe Conditional Use.
 - A. Alternative elevation methods other than the use of fill may be utilized to elevate a structure's lowest floor above the RFPE. These alternative methods may include the use of stilts, pilings, parallel walls, etc., or above grade enclosed areas such as crawl spaces or tuck under garages. The base or floor of an enclosed area shall be considered above grade and not a structure's basement or lowest floor if:

1. If the enclosed area is above grade on at least one side of the structure.
2. Is designed to internally flood and is constructed with flood-resistant materials.
3. Is used solely for parking of vehicles, building access or storage.

The above noted alternative elevation methods are subject to the following additional standards:

- a. Design and Certification. The structure's design and as-built condition must be certified by a registered professional engineer or architect as being in compliance with the general design standards of the State Building Code and, specifically, that all electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities must be at or above the RFPE or be designed to prevent flood water from entering or accumulating within these components during times of flooding.
- b. Specific Standards for Above Grade, Enclosed Areas. Above grade fully enclosed areas such as crawl spaces or tuck under garages must be designed to internally flood and the design plans must stipulate:
 - i. A minimum area of "automatic" openings in the walls where internal flooding is to be used as a flood-proofing technique. There shall be a minimum of two openings on at least two sides of the structure and the bottom of all openings shall be no higher than one (1) foot above grade. The automatic openings shall have a minimum net area of not less than one square inch for every square foot of enclosed area subject to flooding unless a registered professional engineer or architect certifies that a smaller net area would suffice. The automatic openings may be equipped with screens, louvers, valves or other coverings or devices provided that they permit the automatic entry and exit of flood waters without any form of human intervention.
 - ii. That the enclosed area will be designed of flood-resistant materials in accordance with the FP-3 or FP-4 classifications in the State Building Code and shall be used solely for building access, parking of vehicles, or storage.
- B. Basements, as defined by Article 10 of this Ordinance, shall be subject to the following:
 1. Residential basement construction shall not be allowed below the RFPE.
 2. Non-residential basements may be allowed below the RFPE provided the basement is structurally dry flood-proofed in accordance with Section 5, Subd. 4.C of this Article.
- C. All areas of non-residential structures including basements to be placed below the RFPE shall be flood-proofed in accordance with the structurally dry flood-proofing classifications in the State Building Code. Structurally dry flood-proofing must meet the FP-1 or FP-2 flood-proofing classification in the State

Building Code and this shall require making the structure water tight with the walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. Structures flood-proofed to the FP-3 or FP-4 classification shall not be permitted.

- D. When at any one time more than one thousand (1,000) cubic yards of fill or other similar material is located on a parcel for such activities as on-site storage, landscaping, sand and gravel operations, landfills, roads, dredge spoil disposal or construction of flood control works, an erosion/ sedimentation control plan must be submitted unless the community is enforcing a state approved shoreland management ordinance. In the absence of a state approved shoreland ordinance, the plan must clearly specify methods to be used to stabilize the fill on site for a flood event at a minimum of the 100 year or regional flood event. The plan must be prepared and certified by a registered professional engineer or other qualified individual acceptable to the governing body. The plan may incorporate alternative procedures for removal of the material from the floodplain if adequate flood warning time exists.
- E. Storage of Materials and Equipment.
 - 1. The storage or processing of materials that are, in time of flooding, flammable, explosive, or potentially injurious to human, animal, or plant life is prohibited.
 - 2. Storage of other materials or equipment may be allowed if readily removable from the area within the time available after a flood warning and in accordance with a plan approved by the governing body.
- F. The provisions of Section 5, Subd. 5 of this Article shall also apply.

Subd 5. Standards for All Flood Fringe Uses.

- A. Commercial Uses. Accessory land uses, such as yards, railroad tracks, and parking lots may be at elevations lower than the RFPE. However, a permit for such facilities to be used by the employees or the general public shall not be granted in the absence of a flood warning system that provides adequate time for evacuation if the area would be inundated to a depth and velocity such that when multiplying the depth (in feet) times velocity (in feet per second) the product number exceeds four upon occurrence of the regional flood.
- B. Manufacturing and Industrial Uses. Measures shall be taken to minimize interference with normal plant operations especially along streams having protracted flood durations. Certain accessory land uses such as yards and parking lots may be at lower elevations subject to requirements set out in Section 5, Subd. 5.B above. In considering permit applications, due consideration shall be given to needs of an industry whose business requires that it be located in floodplain areas.
- C. Fill shall be properly compacted and the slopes shall be properly protected by the use of riprap, vegetative cover or other acceptable method. The Federal Emergency Management Agency (FEMA) has established criteria for removing the special flood hazard area designation for certain structures properly elevated on fill above the 100 year flood elevation - FEMA's requirements incorporate

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

- D. Floodplain developments shall not adversely affect the hydraulic capacity of the channel and adjoining floodplain of any tributary watercourse or drainage system where a floodway or other encroachment limit has not been specified in the Official Zoning Map.
- E. Standards for travel trailers and travel vehicles are contained in Section 9, Subd 3.
- F. All manufactured homes must be securely anchored to an adequately anchored foundation system that resists flotation, collapse and lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state or local anchoring requirements for resisting wind forces.

SECTION 6. GENERAL FLOODPLAIN AREA

Subd 1. Permissible Uses.

- A. The uses listed in Section 4, Subd. 1 of this Article shall be permitted uses.
- B. All other uses shall be subject to the floodway/ flood fringe evaluation criteria pursuant to Section 6, Subd. 2. Section 4 shall apply if the proposed use is in the Floodway area and Section 5 shall apply if the proposed use is in the Flood Fringe area.

Subd 2. Procedures for Floodway and Flood Fringe Determinations Within the General Floodplain Area.

- A. Upon receipt of an application for a conditional use permit for a use within the General Floodplain District, the applicant shall be required to furnish such of the following information as is deemed necessary by the Zoning Administrator for the determination of the RFPE and whether the proposed use is within the Floodway or Flood Fringe area.
 - 1. A typical valley cross section showing the channel of the stream, elevation of land areas adjoining each side of the channel, cross sectional areas to be occupied by the proposed development, and high water information.
 - 2. Plan (surface view) showing elevations or contours of the ground, pertinent structure, fill or storage elevations of streets; photographs showing existing land uses and vegetation upstream and downstream; and soil type.
 - 3. Profile showing the slope of the bottom of the channel or flow line of the stream for at least five hundred (500) feet in either direction from the proposed development.
- B. The applicant shall be responsible to submit one (1) copy of the above information to a designated engineer or other expert person or agency for technical assistance in determining whether the proposed use is in the Floodway or Flood Fringe area and to determine the RFPE. Procedures

consistent with Minnesota Regulations 1983, Parts 6120.5000 - 6120.6200 shall be followed in this expert evaluation. The designated engineer or expert is strongly encouraged to discuss the proposed technical evaluation methodology with the respective DNR area hydrologist prior to commencing the analysis. The designated engineer or expert shall:

1. Estimate the peak discharge of the regional flood.
 2. Calculate the water surface profile of the regional flood based upon a hydraulic analysis of the stream channel and overbank areas.
 3. Compute the floodway necessary to convey or store the regional flood without increasing flood stages more than 0.5 foot. A lesser stage increase than 0.5 foot shall be required if, as a result of the additional stage increase, increased flood damages would result. An equal degree of encroachment on both sides of the stream within the reach shall be assumed in computing floodway boundaries.
- C. The Zoning Administrator shall present the technical evaluation and findings of the designated engineer or expert to the governing body. The governing body must formally accept the technical evaluation and the recommended Floodway and/or Flood Fringe area boundary or deny the permit application. The governing body, prior to official action, may submit the application and all supporting data and analysis to FEMA, the DNR, or the Planning Commission for review and comment. Once the Floodway and Flood Fringe boundaries have been determined, the governing body shall refer the matter back to the Zoning Administrator who shall process the permit application consistent with the applicable provisions of Section 4 and 5 of this Article.

SECTION 7. SUBDIVISIONS

- Subd 1. Review Criteria. No land shall be subdivided which is unsuitable for the reason of flooding, inadequate drainage, water supply or sewage treatment facilities. All lots within the floodplain districts shall contain a building site at or above the RFPE. All subdivisions shall have water and sewage treatment facilities that comply with the provisions of this Ordinance and have road access both to the subdivision and the individual building sites no lower than two feet below the RFPE. For all subdivisions in the Floodplain, the Floodway and Flood Fringe boundaries, the RFPE and the required elevation of all access roads shall be clearly labeled on all required subdivision drawings and platting documents.
- Subd 2. Floodway/Flood Fringe Determinations in the General Floodplain Area. In the General Floodplain area, applicants shall provide the information required in Section 6, Subd. 2 of this Article to determine the 100 year flood elevation, the Floodway and Flood Fringe area boundaries, and the RFPE for the subdivision site.
- Subd 3. Removal of Special Flood Hazard Area Designation. FEMA has established criteria for removing the special flood hazard area designation for certain structures properly elevated on fill above the 100 year flood elevation. FEMA's requirements incorporate specific fill compaction and side slope protection standards for multi-structure or multi-lot developments. These standards should be investigated prior to the initiation of site preparation if a change of special flood hazard area designation will be requested.

SECTION 8. PUBLIC UTILITIES, RAILROADS, ROADS AND BRIDGES

- Subd 1. Public Utilities. All public utilities and facilities such as gas, electrical, sewer, and water supply systems to be located in the floodplain shall be flood-proofed in accordance with the State Building Code or elevated to above the RFPE.
- Subd 2. Public Transportation Facilities. Railroad tracks, roads, and bridges to be located within the floodplain shall comply with Sections 4 and 5 of this Article. Elevation to the RFPE shall be provided where failure or interruption of these transportation facilities would result in danger to the public health or safety or where such facilities are essential to the orderly functioning of the area. Minor or auxiliary roads or railroads may be constructed at a lower elevation where failure or interruption of transportation services would not endanger the public health or safety.
- Subd 3. On-Site Sewage Treatment and Water Supply Systems. Where public utilities are not provided:
- A. On-site water supply systems must be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters.
 - B. New or replacement on-site sewage treatment systems must be designed to minimize or eliminate infiltration of flood waters and they shall not be subject to impairment or contamination during times of flooding. Any sewage treatment system designed in accordance with the State's current state-wide standards for on-site sewage treatment systems shall be determined to be in compliance with this Section.

SECTION 9. MANUFACTURED HOMES AND MANUFACTURED HOME PARKS AND PLACEMENT OF TRAVEL TRAILERS AND TRAVEL VEHICLES

- Subd 1. New manufactured home parks and expansions to existing manufactured home parks shall be subject to the provisions placed on subdivisions by Section 7 of this Article.
- Subd 2. The placement of new or replacement manufactured homes in existing manufactured home parks or on individual lots of record that are located in floodplain areas will be treated as a new structure and may be placed only if elevated in compliance with Section 5 of this Article. If vehicular road access for pre-existing manufactured home parks is not provided in accordance with Section 5, Subd. 5.A, then replacement manufactured homes will not be allowed until the property owner develops flood warning emergency plan acceptable to the governing body.
- A. All manufactured homes must be securely anchored to an adequately anchored foundation system that resists flotation, collapse, and lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state or local anchoring requirements for resisting wind forces.

Subd 3. Recreational vehicles that do not meet the exemption criteria specified in Section 9, Subd. 3.A below shall be subject to the provisions of this Article and as specifically spelled out in Sections 9, Subd. 3.B and C below.

- A. Exemption. Recreational vehicles are exempt from the provisions of this Article if they placed in any of the areas listed in Section 9, Subd. 3.B, 1-3 below and further they meet the following criteria:
 - 1. Have current licenses required for highway use.
 - 2. Are highway-ready, meaning on wheels or the internal jacking system, are attached to the site only by quick disconnect type utilities commonly used on campgrounds and recreational vehicle parks and the recreational vehicle has no permanent structural type additions attached to it.
 - 3. The recreational vehicle and associated use must be permissible in any pre-existing, underlying zoning use district.
- B. Areas Exempted for Placement of Recreational Vehicles.
 - 1. Individual lots or parcels of record.
 - 2. Existing commercial recreational vehicle parks or campgrounds.
 - 3. Existing condominium type associations.
- C. Recreational vehicles exempted in Section 9, Subd. 3.A lose this exemption when development occurs on the parcel exceeding five hundred (500) dollars for a structural addition to the recreational vehicle or exceeding \$500 for an accessory structure such as a garage or storage building. The recreational vehicle and all additions and all accessory structures will then be treated as a new structure and shall be subject to the elevation/flood-proofing requirements and the use of land restrictions specified in Sections 4 and 5 of this Article. There shall be no development or improvement on the parcel or attachment to the recreational vehicle that hinders the removal of the recreational vehicle to a flood free location should flooding occur.
- D. New commercial recreational vehicle parks or campgrounds and new residential type subdivisions and condominium associations and the expansion of any existing similar use exceeding five (5) units or dwelling sites shall be subject to the following:
 - 1. Any new or replacement recreational vehicle will be allowed in the Floodway or Flood Fringe area provided said recreational vehicle and its contents are placed on fill above the RFPE and proper elevated road access to the site exists in accordance with Section 5, Subd. 5.A of this Article. No fill placed in the Floodway to meet the requirements of this Section shall increase flood stages of the 100 year flood.
 - 2. All new or replacement recreational vehicles not meeting the criteria of (1) above may, as an alternative, be allowed as a conditional use if in accordance with the following provisions and the provisions of Article 4 of this Ordinance. The applicant must submit an emergency plan for the safe evacuation of all vehicles and people during the 100 year flood. Said plan shall be prepared by a registered engineer or other qualified

individual, shall demonstrate that adequate time and personnel exist to carry out the evacuation, and shall demonstrate the provisions of Section 9 Subd 3-A 1 & 2 of this Article will be met. All attendant sewage and water facilities for new or replacement recreational vehicles must be protected or constructed so as to not be impaired or contaminated during times of flooding in accordance with Section 8, Subd. 3 of this Article.

- E. Conditional Uses. The Planning Commission shall hear and decide applications for conditional uses permissible under this Ordinance. Applications shall be submitted to the Zoning Administrator who shall forward the application to the Planning Commission for consideration.

SECTION 10 ADMINISTRATION

- Subd 1. **ZONING ADMINISTRATOR:** A Zoning Administrator or other official designated by the Governing Body shall administer and enforce this Ordinance. If the Zoning Administrator finds a violation of the provisions of this Ordinance the Zoning Administrator shall notify the person responsible for such violation in accordance with the procedures stated in Section 12 of the Article.
- Subd 2. **PERMIT REQUIREMENTS.** Permit Required. A Permit issued by the Zoning Administrator in conformity with the provisions of this Ordinance shall be secured prior to the erection, addition, modification, rehabilitation (including normal maintenance and repair), or alteration of any building, structure, or portion thereof; prior to the use or change of use of a building, structure, or land; prior to the construction of a dam, fence, or on-site septic system; prior to the change or extension of a nonconforming use; prior to the repair of a structure that has been damaged by flood, fire, tornado, or any other source; and prior to the placement of fill, excavation of materials, or the storage of materials or equipment within the flood plain.
- Subd 3. NOTIFICATIONS FOR WATERCOURSE ALTERATIONS.** The Zoning Administrator shall notify, in riverine situations, adjacent communities and the Commissioner of the Department of Natural Resources prior to the community authorizing any alteration or relocation of a watercourse. If the applicant has applied for a permit to work in the beds of public waters pursuant to Minnesota Statute, Chapter 103G, this shall suffice as adequate notice to the Commissioner of Natural Resources. A copy of said notification shall also be submitted to the Chicago Regional Office of the Federal Emergency Management Agency (FEMA).
- Subd 4. **NOTIFICATION TO FEMA.** When Physical Changes Increase or Decrease the 100-year Flood Elevation. As soon as is practicable, but not later than six (6) months after the date such supporting information becomes available, the Zoning Administrator shall notify the Chicago Regional Office of FEMA of the changes by submitting a copy of said technical or scientific data.
- Subd 5. **VARIANCES.** The Board of Adjustment may authorize upon appeal in specific cases such relief or variance from the terms of this Ordinance as will not be contrary to the public interest and only for those circumstances such as hardship, practical difficulties or circumstances unique to the property under consideration, as provided for in the respective enabling legislation for planning and zoning for cities or counties as appropriate. In the granting of such variance, the Board of Adjustment shall clearly identify in writing the specific conditions that existed consistent with the criteria

specified in this Ordinance, any other zoning regulations in the Community, and in the respective enabling legislation that justified the granting of the variance. No variance shall have the effect of allowing in any district uses prohibited in that district; permit a lower degree of flood protection than the regulatory flood protection elevation for the particular area; or permit standards lower than those required by state law. The following additional variance criteria of the Federal Emergency Management Agency must be satisfied:

- A. Variances shall not be issued by a community within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.
- B. Variances shall 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 shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

SECTION 11. NONCONFORMING USES

Subd 1. A structure or the use of a structure or premises which was lawful before the passage or amendment of this Ordinance but which is not in conformity with the provisions of this Ordinance may be continued subject to the following conditions. Historic structures, as defined in Section 2 Subd 7 (b) of this Ordinance, shall be subject to the provisions of Sections 11 A – E of this Ordinance.

- A. No such use shall be expanded, changed, enlarged, or altered in a way which increases its nonconformity.
- B. Any structural alteration or addition to a nonconforming structure or nonconforming use which would result in increasing the flood damage potential of that structure or use shall be protected to the Regulatory Flood Protection Elevation in accordance with any of the elevation on fill or flood proofing techniques (i.e. , FP-1 thru FP-4 floodproofing classifications) allowable in the State Building Code, except as further restricted in Section 11 Subd 1-C and F below.
- C. The cost of all structural alterations or additions to any nonconforming structure over the life of the structure shall not exceed 50 percent of the market value of the structure unless the conditions of this Section are satisfied. The cost of all structural alterations and additions must include all costs such as construction materials and a reasonable cost placed on all manpower or labor. If the cost of all previous and proposed alterations and additions exceeds 50 percent of the market value of the structure, then the structure

must meet the standards of Section 4 or 5 of this Ordinance for new structures depending upon whether the structure is in the Floodway or Flood Fringe District, respectively.

- D. If any nonconforming use is discontinued for 1½ consecutive months, any future use of the building premises shall conform to this Ordinance. The Assessor shall notify the Zoning Administrator in writing of instances of nonconforming uses that have been discontinued for a period of 1½ months.
- E. If any nonconforming use or structure is substantially damaged, as defined in Section 2 Subd 7 of this Ordinance, it shall not be reconstructed except in conformity with the provisions of this Ordinance. Additionally, any nonconforming structure experiencing a repetitive loss, as defined, shall be considered substantially damaged. The applicable provisions for establishing new uses or new structures in Sections 4, 5 or 6 will apply depending upon whether the use or structure is in the Floodway, Flood Fringe or General Flood Plain District, respectively.
- F. If a substantial improvement occurs, as defined in Section 2 Subdivision 7 of this Ordinance, from any combination of a building addition to the outside dimensions of the existing building or a rehabilitation, reconstruction, alteration, or other improvement to the inside dimensions of an existing nonconforming building, then the building addition (as required by Section 11 Subd. B above) and the existing nonconforming building must meet the requirements of Section 4 or 5 of this Ordinance for new structures, depending upon whether the structure is in the Floodway or Flood Fringe District, respectively.

SECTION 12. VIOLATIONS IN A FLOODPLAIN DISTRICT

- Subd 1. In responding to a suspected Floodplain area violation, the Zoning Administrator and local government may utilize the full array of enforcement actions available to it including, but not limited to, prosecution and fines, injunctions, after the fact permits, orders for corrective measures of a request to the National Flood Insurance Program for denial of flood insurance availability to the guilty party.
- Subd 2. When a violation in a Floodplain area is either discovered by or brought to the attention of the Zoning Administrator, the Zoning Administrator shall immediately investigate the situation and document the nature and extent of the violation of the official control. As soon as reasonably possible, this information will be submitted to the appropriate DNR and FEMA regional office along with the County's plan of action to correct the violation to the degree possible.
- Subd 3. The Zoning Administrator shall notify the suspected party of the requirements of this Ordinance and all other official controls and the nature and extent of the suspected violation of these controls. If the structure and/or use is under construction or development, the Zoning Administrator may order the construction or development immediately halted until a proper permit or approval is granted by the County. If the construction or development is already completed, then the Zoning Administrator may either: 1) issue an order identifying the corrective action that must be made within a specified time period to bring the use or structure into compliance with the

official controls, or 2) notify the responsible party to apply for an after the fact permit/development approval within a specified period of time not to exceed thirty (30) days.

- Subd 4. If the responsible party does not appropriately respond to the Zoning Administrator within the specified period of time, each additional day that lapses shall constitute an additional violation of this Ordinance and shall be prosecuted accordingly. The Zoning Administrator shall also upon the lapse of the specified response period notify the landowner to restore the land to the condition which existed prior to the violation of this Ordinance.

SECTION 13. AMENDMENTS

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

All amendments to this Ordinance, including amendments to the Official Zoning Map, must be submitted to and approved by the Commissioner of Natural Resources prior to adoption. Changes in the Official Zoning Map must meet the Federal Emergency Management Agency's (FEMA) Technical Conditions and Criteria and must receive prior FEMA approval before adoption. The Commissioner of Natural Resources must be given 10-days written notice of all hearings to consider an amendment to this Ordinance and said notice shall include a draft of the Ordinance amendment or technical study under consideration.