

CHAPTER 95

FP, FLOODPLAIN OVERLAY DISTRICT

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01-95-1: STATUTORY AUTHORIZATION, FINDINGS OF FACT, AND PURPOSE:

The legislature of the State has, in Minnesota Statutes chapters 104 and 462, as may be amended, delegated the responsibility to local government units to adopt regulations designed to minimize flood losses. Therefore, the City does ordain as follows:

A. Findings Of Fact:

1. Periodic Inundation: The flood hazard areas of the City are subject to periodic inundation which results in potential loss of life, loss of property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures on flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.
2. Methods Used To Analyze Flood Hazards: This Article is based upon a reasonable method of analyzing flood hazards which is consistent with the standards established by the Minnesota Department of Natural Resources.

- B. **Statement Of Purpose:** It is the purpose of this District to promote the public health, safety, and general welfare and to minimize those losses described in subsection A of this Section by provisions contained herein.

01-95-2: WARNING AND DISCLAIMER OF LIABILITY: This Article does not imply that areas outside the FP Floodplain Overlay District boundaries or land uses allowed within this District will be free from flooding or flood damages. This Article shall not create liability on the part of the City or any officer or employee thereof for any flood damages which result from reliance on this Article or any administrative decision lawfully made thereunder.

01-95-3: DISTRICT APPLICATION: The FP, Floodplain Overlay District shall be applied to and superimposed upon all districts as existing or amended by the text and map of this Article. The FP, Floodplain Overlay District regulations shall not be construed to allow any use or structure otherwise not allowed in the underlying zoning district where the property is located. The regulations and requirements imposed by the FP Floodplain Overlay District shall be in addition to those established by all other districts of this Article. The FP Floodplain Overlay District shall be established based upon the specific information contained in the Flood Insurance Rate Map and the Flood Insurance Study for the City as adopted in Section 01-95-4.B of this Article. All aforementioned official road maps and documents are hereby adopted by reference and declared to be an integral part of this Article.

01-95-4: GENERAL PROVISIONS:

- A. **Lands To Which The Chapter Applies:** This District shall apply to all lands within the jurisdiction of the City shown on the Official Zoning Map and the Flood Insurance Rate Map attached thereto as being located within the boundaries of the areas designated as Zone AE or Zone A.
- B. **Establishment Of Official Zoning Map:**
1. **Adoption:** The Official Zoning Map together with all materials attached thereto is hereby adopted by reference and declared to be a part of this Article. The attached material shall include the Flood Insurance Study and Flood Insurance Rate Map for the City, dated February 10, 2003, as may be amended. The Official Zoning Map shall be on file in the office of the City Clerk and the Zoning Administrator.

2. **Regulatory Flood Protection Elevation:** The regulatory flood protection elevation shall be an elevation no lower than one foot (1') above the elevation of the 100-year base regional flood elevation plus any increases in flood elevation caused by encroachments on the Floodplain that result from designation of floodway.
 3. **Regional Flood Elevation For Lakes:** The base regional flood level for lakes shall be as defined on the current Flood Insurance Rate Map or on the (insert date), letter from the Federal Emergency Management Agency to the City. These elevations are as follows:
- C. **Rules for Interpretation Of District Boundaries:** The boundaries of the Floodplain Overlay District 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, the City Engineer shall make the necessary interpretation. The persons contesting the location of the District boundary shall be given a reasonable opportunity to present their case and to submit their own technical evidence if they so desire.

01-95-5: ESTABLISHMENT OF ZONING DISTRICTS:

- A. **Floodway Subdistricts:** The area within the FP Floodplain Overlay District is further divided into three (3) districts:
1. **FW, Floodway District:** The FW District includes the bed of a lake or wetland or the channel of a river or stream and those portions of the adjoining Floodplain which are intended to store or carry and discharge, respectively, the regional flood. The Floodway District shall include those areas designated as floodway on the Flood Insurance Rate Map adopted in Section 01-96-4.B of this Article.
 2. **FF, Flood Fringe District:** Includes the area outside of the floodway, but subject to inundation by the 100-year regional floods. The Flood Fringe District shall include those areas designated as floodway fringe on the Flood Insurance Rate Map adopted in Section 01-96-4.B of this Article.
 3. **GFD, General Floodplain District:** The General Floodplain District shall include those areas designated as unnumbered "A" zones on the Flood Insurance Rate Map adopted in Section 01-96-4.B of this Article.

01-95-6: FW, FLOODWAY DISTRICT:

A. Permitted Uses:

1. General farming, pasture, grazing, outdoor plant nurseries, horticulture, truck farming, forestry, sod farming, and wild crop harvesting.
2. Industrial-commercial loading areas, parking areas, and airport landing strips.
3. Private and public golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting preserves, target ranges, trap and skeet ranges, hunting and fishing areas, and single or multiple purpose recreational trails including pedestrian bridges.
4. Residential lawns, gardens, parking areas, and play areas.
5. Public utilities, sanitary sewer, public water, storm sewer, and street improvements.

B. Standards For Floodway Permitted Uses:

1. The use shall have a low flood damage potential.
2. The use shall not obstruct flood flows or increase flood elevations and shall not involve structures, fill, obstructions, excavations or storage of materials or equipment.

C. Permitted Accessory Uses: None.

D. Conditional Uses:

1. Structures accessory to the uses listed in subsection A of this Section, and the uses listed in subsection D2 through D8 of this Section.
2. Extraction and storage of sand, gravel, and other materials.
3. Marinas, boat rentals, docks, piers, wharves, and water control structures.
4. Railroads, streets, bridges, utility transmission lines, and pipelines.
5. Storage yards for equipment, machinery, or materials.
6. Placement of fill.

7. Travel trailers and travel vehicles either on individual lots of record or in existing or new subdivisions or commercial or condominium type campgrounds, subject to the exemptions and provisions of Section 01-95-11 of this Article.
8. Structural works for flood control such as levees, dikes and floodwalls constructed to any height where the intent is to protect individual structures and levees or dikes where the intent is to protect agricultural crops for a frequency flood event equal to or less than the 10-year frequency flood event.

E. **Standards For Floodway Conditional 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 which, acting alone or in combination with existing or anticipated future uses, adversely affect the capacity of the floodway, or increase flood heights, with the exception of floodway boundary amendments. Consideration of the effects of a proposed use shall be based upon the reasonable assumption that there will be an equal degree of encroachment extending for a significant reach on both sides of the stream. All conditional use applications shall be accompanied by a floodway impact statement drafted by a registered engineer. The City Engineer shall be responsible for submitting the proposal and application to the Department of Natural Resources and any other governmental unit having jurisdiction over the area for review and comment.

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 site development plan is submitted which includes an erosion/sedimentation prevention element to the plan.
3. As an alternative, and consistent with subsection E2 of this Section, dredge spoil disposal and sand and gravel operations may allow temporary, on-site storage of fill or other materials which would have caused an increase to the stage of the 100-year or regional flood but only after the 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.

F. **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 floodproofed in accordance with the FP-1 or FP-2 floodproofing classifications in the State Building Code. As an alternative, an accessory structure may be floodproofed to the FP-3 or FP-4 floodproofing classification in the State Building Code provided the accessory structure constitutes a minimal investment, does not exceed 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 floodproofed 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; and
 - b. Any mechanical and utility equipment in a structure must be elevated to or above the regulatory flood protection elevation or properly floodproofed.

G. Storage Of Material And Equipment:

1. The storage or processing of materials that are in time of flooding buoyant, flammable, explosive, or could be injurious to human, animal, or plant life, is prohibited.
2. Storage of other material or equipment may be allowed if not subject to major damage by floods and firmly anchored to prevent flotation or readily movable from the area within the time available after flood warning.

H. Garbage And Solid Waste Disposal: No conditional use permits for garbage and waste disposal sites shall be issued for floodway areas. There shall be no further encroachment upon the floodway at existing sites.

I. Structural Works:

1. 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 applicable provisions of Minnesota statutes and review of the Minnesota Department of Natural Resources and the Army Corps of Engineers community-wide structural works for flood control intended to remove areas from the regulatory Floodplain shall not be allowed in the floodway.
2. 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.

01-95-7: FF, FLOOD FRINGE DISTRICT:

A. Permitted Uses:

1. General farming, pasture, grazing, outdoor plant nurseries, horticulture, truck farming, forestry, sod farming, and wild crop harvesting.
2. Industrial loading areas, parking areas, and airport landing strips.
3. Private and public golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting preserves, target ranges, trap and skeet ranges, hunting and fishing areas, and single or multiple purpose recreational trails, including pedestrian bridges.
4. Residential lawns, gardens, parking areas, and play areas.
5. Public utilities, sanitary sewer, public water, storm sewer, and street improvements.

B. Conditional Uses: The following are conditional uses in the Floodplain districts provided they are allowed in the base zoning districts (requires a conditional use permit and shall be subject to the standards, criteria and procedures specified in subsection C of this Section and Chapter 5 of this Article).

1. Floodway Conditional Uses: Floodway conditional uses are subject to the same conditions of Section 01-5-4 of this Article.
2. Residential Uses: Principal and accessory residential structures shall be constructed on fill with the lowest floor (including basement) at or above the regulatory flood protection elevation. The finished fill elevation shall be no more than one foot (1') below the regulatory flood protection elevation

for the particular area and shall extend at such elevation at least fifteen feet (15') beyond the limits of any structure or building erected thereon. For detached residential accessory structures of no more than five hundred (500) square feet of gross floor area and representing minimal investment the fill shall extend at such elevation at least five feet (5') beyond the limits of said structure erected thereon.

3. Nonresidential Structures: Commercial, manufacturing, and industrial structures shall ordinarily be elevated on fill so that their lowest floor (including basement) is at or above the regulatory flood protection elevation, but may where Floodplain fill may result in an increase in the regional flood elevation, change in the natural course of the Floodplain drainage or result in potential flooding of neighboring properties be floodproofed in accordance with the State Building Code. Structures that are not elevated to above the regulatory flood protection elevation shall be floodproofed to FP-1 or FP-2 classification as defined by the State Building Code. Structures floodproofed to FP-3 or FP-4 classification shall not be permitted.

C. Standards For Flood Fringe Uses:

1. Damage Potential: The use shall have a low flood damage potential.
2. Flood Flows: 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.
3. Residential Uses: Residences that do not have vehicular access at or above an elevation not more than two feet (2') below the regulatory flood protection elevation shall not be permitted unless granted a variance by the Board of Adjustment. In granting a variance, the Board shall specify limitations on the period of use or occupancy of the residence.
4. Business Uses: Commercial structures generally must be constructed on fill with no first floor or basement floor below the flood protection elevation. Accessory land uses, such as yards, railroad tracks, and parking lots may be at lower elevations. However, a permit for such facilities to be used by the general public shall not be granted, in the absence of a flood warning system, if the area is inundated to a depth greater than two feet (2') or subject to flood velocities greater than four feet (4') per second upon the occurrence of the regional flood.
5. Manufacturing And Industrial Uses: Manufacturing and industrial buildings, structures and appurtenant works shall be projected to the flood protection elevation. Measures shall be taken to minimize interference with normal plant operations especially for streams having protracted flood durations.

Certain necessary land uses such as yards and parking lots may be at lower elevations subject to requirements set out in subsection C4 of this Section. In considering permit applications, the City Engineer shall give due consideration to needs of an industry whose business requires that it be located in Floodplain areas.

6. Waste Treatment And Waste Disposal:

- a. No new construction, addition, or modification to existing waste treatment facilities shall be permitted within the flood fringe unless emergency plans and procedures for action to be taken in the event of flooding are prepared, filed with, and approved by the Minnesota Pollution Control Agency. The emergency plans and procedures must provide for measures to prevent introduction of any pollutant or toxic material into the flood waters.
- b. There shall be no disposal of garbage or solid waste materials within flood fringe areas except upon issuance of a conditional use permit at sites approved by the Minnesota Pollution Control Agency and subject to the requirements of Chapter 5 of this Article.

7. Flood Control Works: Establishment of flood control works shall be subject to the applicable provisions of Minnesota statutes and review of the Minnesota Department of Natural Resources and the Army Corps of Engineers and shall require a conditional use permit pursuant to Chapter 5 of this Article.

- a. The minimum height and design of any dikes, levees, floodwalls, or similar structural works shall be based upon the flood profile of the regional flood defined between the structures subject to the following:
 - 1) For urban areas, the minimum height and design of structure works shall be at least three feet (3') above the elevation of the regional flood or at the elevation of the standard protect flood, whichever is greater.
 - 2) Modifications and additions to existing structural works shall assure that the work will provide a means of decreasing the flood damage potential in the area. Any existing structural work which potentially threatens public health or safety shall be modified or reconstructed in order to meet the standards contained herein within a period of one year of February 10, 2003.

- b. Flood protection elevations and floodway limits which reflect proposed measures for flood control shall not be effective until such measures are constructed and operative unless the proposed measures will increase flood heights, in which event, the regulatory flood protection elevations and Floodplain limits shall reflect the anticipated increases.
 - c. Detailed plans shall be submitted to the City Engineer for any new developments placed on the Floodplain landward from the dikes and levees. The plans must provide for ponding areas or other measures to protect against flooding from internal drainage.
- 8. Fill For Construction: Fill shall be adequately compacted and the slopes shall be 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 must be investigated prior to the initiation of site preparation if a change of special flood hazard area designation will be requested.
- 9. Structural Floodproofing Standards: Alternative elevation methods other than the use of fill may be utilized to elevate a commercial and industrial structure's lowest floor above the regulatory flood protection elevation. These alternative methods may include the use of stilts, pilings, parallel walls, etc., or above grade, enclosed areas such as crawlspaces 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:
 - a. the enclosed area is above grade on at least one side of the structure;
 - b. is designed to internally flood and is constructed with flood resistant materials;
 - c. is used solely for parking of vehicles, building access or storage. The above noted alternative elevation methods are subject to the following additional standards:
 - 1) Design And Certification: The structure's design and as-built condition must be certified by a registered professional engineer or architect as being in compliance with the general design standards of the State Building Code and, specifically, that all electrical, heating, ventilation, plumbing and air-

conditioning equipment and other service facilities must be at or above the regulatory flood protection elevation or be designed to prevent flood water from entering or accumulating within these components during times of flooding.

- 2) Specific Standards For Above Grade, Enclosed Areas: Above grade, fully enclosed areas such as crawlspaces or tuck under garages must be designed to internally flood and the design plans must stipulate:
 - a) The minimum area of openings in the walls where internal flooding is to be used as a floodproofing technique. When openings are placed in a structure's walls to provide for entry of flood waters to equalize pressures, the bottom of all openings shall be no higher than one foot (1') above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of flood waters.
 - b) That the enclosed area will be constructed 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.
 - c) Basements: "Basements", as defined in Section 01-2-2 of this Article, shall be subject to the following:
 - (1) Residential basement construction shall not be allowed below the regulatory flood protection elevation.
 - (2) Nonresidential basements may be allowed below the regulatory flood protection elevation provided the basement is structurally dry floodproofed in accordance with subsection C9d of this Section.
 - d. Nonresidential Structures: All areas of nonresidential structures, including basements to be placed below the regulatory flood protection elevation, shall be floodproofed in accordance with the structurally dry floodproofing classifications in the State Building Code and this shall require making the structure watertight with the walls substantially impermeable to the passage of water and with

structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. Structures floodproofed to the FP-3 or FP-4 classification shall not be permitted.

10. Erosion Control: 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 respective Floodplain area falls within a designated Shoreland Overlay District and shoreland regulations will be applied. 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 engineering 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.
11. Storage Of Materials And Equipment:
 - a. The storage or processing of materials that are, in the time of flooding, flammable, explosive, or potentially injurious to human, animal, or plant life is prohibited.
 - b. Storage of other materials or equipment may be allowed if readily removable from the area within the time available after a flood warning and in accordance with a plan approved by the governing body.
 - c. The provisions of subsection C5 of this Section shall also apply.

01-95-8: GFD, GENERAL FLOODPLAIN DISTRICT:

- A. **Permitted Uses:** The uses listed as permitted uses in Section 01-95-7.A of this Article are permitted uses in the General Floodplain District.
- B. **Conditional Uses:** All other uses shall be subject to the floodway/flood fringe evaluation criteria pursuant to Section 01-5-4 of this Article. Section 01-95-6 of this Article shall apply if the proposed use is in the Floodway District and Section 01-95-7 of this Article shall apply if the proposed use is in the Flood Fringe District.

01-95-9: SUBDIVISIONS:

- A. **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 regulatory flood protection elevation. All subdivisions shall have water and sewage treatment facilities that comply with the provisions of this Article and have road access both to the subdivision and to the individual building sites no lower than two feet (2') below the regulatory flood protection elevation and the required elevation of all access roads shall be clearly labeled on all required subdivision drawings and platting documents.
- B. **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 requirements incorporate specific fill compaction and side slope protection standards for multi-structure or multi-lot developments.

01-95-10: PUBLIC UTILITIES, RAILROADS, ROADS, AND BRIDGES:

- A. **Public Utilities:** All public utilities and facilities such as gas, electrical, sewer, and water supply systems to be located in the Floodplain shall be floodproofed in accordance with the State Building Code or elevated to above the regulatory flood protection elevation.
- B. **Public Transportation Facilities:** Railroad tracks, roads, and bridges to be located within the FP Floodway District shall comply with Section 01-95-6.E of this Article. All railroad tracks, roads, bridges, and major transportation facilities must be constructed at or above the regulatory flood protection elevation 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 minor railroads may be constructed at an elevation two feet (2') below the regulatory flood protection elevation where failure or interruption of transportation services would not endanger the public health or safety.
- C. **On-Site Sewage Treatment And Water Supply Systems:** Where public utilities are not provided: 1) on-site water supply systems must be designed to minimize or eliminate infiltration of flood waters into the systems; and 2) new or replacement on-site sewage treatment systems must be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters and they shall not be subject to impairment or

contamination during times of flooding. Any sewage treatment system designed in accordance with the State's current Statewide standards for on-site sewage treatment systems shall be determined to be in compliance with this Article.

01-95-11: MANUFACTURED HOMES AND MANUFACTURED HOME PARKS AND PLACEMENT OF TRAVEL TRAILERS AND TRAVEL VEHICLES:

- A. **Restrictions:** New manufactured home parks and expansions to existing manufactured home parks shall be subject to the provisions placed on subdivisions by Chapter 59 of this Article.
- B. **Elevation And Anchoring:**
 - 1. The placement of new or replacement manufactured homes in existing manufactured home parks or on individual lots of record that are located in the AE, A99, AH and AO flood zones on the City's current FIRM Map, as may be amended, will be treated as a new structure and may be placed only if elevated in compliance with Section 01-95-7.C.9 of this Article.
 - 2. 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.
- C. **Travel Trailers:** Travel trailers and travel vehicles that do not meet the exemption criteria specified in subsection C1 of this Section shall be subject to the provisions of this Article and as specifically spelled out in subsections C3 and C4 of this Section.
 - 1. Exemptions: Travel trailers and travel vehicles are exempt from the provisions of this Article if they are placed in any of the areas listed in subsection C2 of this Section, and further they meet the following criteria:
 - a. Have current licenses required for highway use.
 - b. Are highway ready, meaning on wheels or the internal jacking system, are attached to the site only by quick disconnect type utilities commonly used in campgrounds and trailer parks and the travel trailer/travel vehicle has no permanent structural type additions attached to it.

2. Areas Exempted For Placement Of Travel/Recreational Vehicles:
 - a. Individual lots or parcels of record.
 - b. Existing commercial recreational vehicle parks or campgrounds.
 - c. Existing condominium type associations.
3. Development: Travel trailers and travel vehicles exempted in subsection C1 of this Section, lose this exemption when development occurs on the parcel exceeding one thousand dollars (\$1,000.00) for a structural addition to the travel trailer/travel vehicle or an accessory structure such as a garage or storage building. The travel trailer/travel vehicle and all additions and accessory structures will then be treated as a new structure and shall be subject to the elevation/floodproofing requirements and the use of land restrictions specified in Sections 01-95-6 and 01-95-7 of this Article.
4. New Parks: New commercial travel trailer or travel vehicle parks or campgrounds and new residential type subdivisions and condominium associations and the expansion of any existing similar use exceeding five (5) units or dwelling sites shall be subject to the following:
 - a. Any new or replacement travel trailer or travel vehicle will be allowed in the FF, Flood Fringe District or GFD, General Floodplain Districts, provided said trailer or vehicle and its contents are placed on fill above the regulatory flood protection elevation and proper elevated road access to the site exists in accordance with Section 01-95-7.C.3 of this Article. No fill placed in the floodway to meet the requirements of this Article shall increase flood stages of the 100-year or regional flood.
 - b. All new or replacement travel trailers or travel vehicles not meeting the criteria of subsection C4a of this Section may, as an alternative, be allowed as a conditional use if in accordance with the following provisions and the provisions of Section 01-95-15 of this Article. The applicant must submit an emergency plan for the safe evacuation of all vehicles and people during the 100-year flood. Said plan shall be prepared by a registered engineer or other qualified individual and shall demonstrate that adequate time and personnel exist to carry out the evacuation. All attendant sewage and water facilities for new or replacement travel trailers or other recreational vehicles must be protected or constructed so as to not be impaired or contaminated during times of flooding in accordance with Section 01-95-7.C.6 of this Article.

01-95-12: ADMINISTRATION:

- A. **Permit Requirements:** A permit issued by the Zoning Administrator in conformity with the provisions of this Article shall be secured prior to the erection, addition, or alteration of any building, structure, or portion thereof; prior to the use or change of use of a building, structure or land; prior to the change or extension of a nonconforming use; and prior to the placement of fill, excavation of materials, or the storage of materials or equipment within the Floodplain.
- B. **Application and Fee:** A use permit shall be applied for from the Zoning Administrator. Said application shall be made in duplicate and shall include the following where applicable: plans in duplicate drawn to scale, showing the nature, location, dimensions, and elevations of the lot; existing or proposed structures, fill, or storage of materials; and the location of the foregoing in relation to the stream channel. An application fee and cash escrow. The application fee amount will be in accordance with City resolution and shall be required for each use permit.
- C. **Determination:** Within ten (10) days after the application for a use permit, the City Engineer shall determine whether the change, modification, or alteration conforms to the requirements of all applicable City and State regulations and ordinances. This time limit for determination of acceptability shall be automatically extended should referral to, or permit from, another governmental jurisdiction be required. The applicant shall be advised in writing of the City Engineer's determination and findings and if acceptable, a use permit shall be granted.
- D. **Security:**
 - 1. Upon approval of a use permit, the City shall be provided with financial security prior to the issuing of building permits or initiation of work on the proposed improvements or development. Said security shall guarantee conformance and compliance with the conditions of the use permit and the codes and ordinances of the City.
 - 2. The financial security shall be in the amount of the City Engineer's and/or City Building Official's estimated costs of labor and materials for the proposed improvements or development.
 - 3. The City shall hold the security until completion of the proposed improvements or development at which time a certificate of occupancy indicating compliance with the use permit and codes and ordinances of the City may be issued by the City Building Official and said security released. The applicant shall be required to submit certification by a registered professional engineer, registered architect, or registered land surveyor that the finished fill and building elevations were accomplished in compliance

with the provisions of this Article. Floodproofing measures shall be certified by a registered professional engineer or registered architect.

- E. **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 Article and other applicable regulations which apply to uses within the jurisdiction of this Article. Within the FW, Floodway; FF, Flood Fringe; and GFD, General Floodplain Districts, all uses not listed as permitted uses or conditional uses in Sections 01-95-6 and 01-95-7 of this Article, shall be prohibited. In addition:
1. New manufactured homes, replacement manufactured homes and certain travel trailers and travel vehicles are subject to the general provisions of this Chapter and specifically Chapter 59 of this Article.
 2. Modifications, additions, structural alterations or repair after damage to existing nonconforming structures and nonconforming uses of structures or land are regulated by the general provisions of this Chapter and specifically, Chapter 15 of this Article.
 3. As-built elevations for elevated or floodproofed structures must be certified by ground surveys and floodproofing techniques must be designed and certified by a registered professional engineer or architect as specified in the general provisions of this Article and specifically as stated in subsection H of this Section.
- F. **Certificate Of Zoning Compliance For New, Altered, Or Nonconforming Use:** It shall be unlawful to use, occupy, or permit the use or occupancy of any building or premises or part thereof hereafter created, erected, changed, converted, altered, or enlarged in its use or structure until a certificate of zoning compliance shall have been issued by the Zoning Administrator stating that the use of the building or land conforms to the requirements of this Article.
- G. **Construction And Use To Be As Provided On Applications, Plans, Permits, Variances And Certificates Of Zoning Compliance:** Permits, conditional use permits, or certificates of zoning compliance issued on the basis of approved plans and applications authorize only the use, arrangement, and construction set forth in such approved plans and applications, and no other use, arrangement, or construction. Any use, arrangement, or construction at variance with that authorized shall be deemed a violation of this Article, and punishable as provided by Chapter 3 of this Article.
- H. **Certification:** The applicant shall be required to submit certification by a registered professional engineer, registered architect, or registered land surveyor that the finished fill and building elevations were accomplished in compliance with

the provisions of this Article. Floodproofing measures shall be certified by a registered professional engineer or registered architect.

- I. **Record Of First Floor Elevation:** The Zoning Administrator shall maintain a record of the elevation of the lowest floor (including basement) of all new structures and alterations or additions to existing structures in the Floodplain. The Zoning Administrator shall also maintain a record of the elevation to which structures and/or alteration additions to structures are floodproofed.

01-95-13: AMENDMENTS AND VARIANCES:

- A. In addition to the procedures and requirements for amendments and variances as established in Chapter 7 of this Article, the commissioner of Natural Resources shall be given at minimum ten (10) days notice of any public hearing, and a review and written report must be obtained from the Minnesota Department of Natural Resources and any other governmental body or commission having jurisdiction for such changes, additions or modifications affecting an FP, Floodplain Overlay District. The commissioner of Natural Resources shall be advised in writing of all decisions made regarding variances and amendments.
- B. No variance or amendment shall have the effect of allowing a prohibited use within an FP District, permit a lesser degree of flood protection than the established flood protection elevation, and/or permit standards lower than those required under applicable State law.

01-95-14: FLOOD INSURANCE NOTICE AND RECORD KEEPING: The Zoning Administrator shall notify the applicant for a variance that: a) the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance, and b) such construction below the 100-year or regional flood level increases risks to life and property. Such notification shall be maintained with a record of all variance actions. A community shall maintain a record of all variance actions, including justification for their issuance, and report such variances issued in its annual or biannual report submitted to the administrator of the National Flood Insurance Program.

01-95-15: CONDITIONAL USES: Conditional uses require a conditional use permit based upon procedures set forth in, and regulated by, Chapter 5 of this Article. In addition, the City Engineer shall determine whether the proposed conditional use location is within a floodway or flood fringe area by computing the floodway necessary to convey or store the regional flood without increasing flood stages more than 0.5 feet.

A lesser stage increase than 0.5 feet 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. Upon such determination, the applicable conditions, provisions and restrictions shall be imposed. The commissioner of Natural Resources shall be given at minimum ten (10) days' notice of the required public hearing and shall be advised in writing of decisions made concerning any conditional use.

A. Procedures And Standards For Evaluating Proposed Conditional Uses:

Upon receipt of an application for a conditional use permit for a use within the FP Floodplain District, the applicant shall be required to furnish such of the following information as is deemed necessary for the determination of the regulatory flood protection elevation and whether the proposed use is in the FW, Floodway or the FF, Flood Fringe District:

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 the nature, locations, dimensions, and elevation of the lot, contours of the ground, fill; storage of materials; floodproofing measures; the arrangement of all proposed and existing structures on the site; locations and elevations of streets; existing and proposed utilities, septic tanks or water wells; existing land uses and vegetation upstream and downstream; soil type, and the relationship of the above to the location of the channel.
3. Profile showing the slope of the bottom of the channel or flow line of the stream for at least five hundred feet (500') in either direction from the proposed development.

B. Supplementary Considerations: In acting upon the conditional use application, the governing body shall consider all relevant factors specified in Sections 01-5-3 and 01-5-4 of this Article in addition to:

1. The danger to life and property due to increased flood heights or velocities caused by encroachments.
2. The danger that materials may be swept onto other lands or downstream to the injury of others or they may block bridges, culverts, or other hydraulic structures.
3. The water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.

4. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
5. The importance of the services provided by the proposed facility to the community.
6. The requirements of the facility for a waterfront location.
7. The availability of alternative locations not subject to flooding for the proposed use.
8. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
9. The relationship of the proposed use to the Comprehensive Plan and Floodplain management program for the area.
10. The safety of access to the property in times of flood for ordinary and emergency vehicles.
11. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site.
12. Such other factors which are relevant to the purposes of this Article.

C. **Conditions Attached To Conditional Use Permits:** Upon consideration of the factors listed above and the purposes of this Article, the governing body may attach such conditions to the granting of conditional use permits, as it deems necessary to fulfill the purposes of this Article. Such conditions may include, but are not limited to, the following:

1. Modification of waste treatment and water supply facilities.
2. Limitations on period of use, occupancy, and operation.
3. Imposition of operational controls, sureties, and deed restrictions.
4. Requirements for construction of channel modifications, compensatory storage, dikes, levees, and other protective measures.
5. Floodproofing measures, in accordance with the State Building Code and this Article. The applicant shall submit a plan or document certified by a registered professional engineer or architect that the floodproofing measures are consistent with the regulatory flood protection elevation and associated flood factors for the particular area.

01-95-16: AMENDMENTS:

- A. The Floodplain designation on the Official Zoning Map shall not be removed from Floodplain areas unless it can be shown that the designation is in error or that the area has been filled to or above the elevation of the regional flood and is contiguous to lands outside the Floodplain. Special exceptions to this rule may be permitted by the commissioner of Natural Resources if he determines that, through other measures, lands are adequately protected for the intended use.
- B. All amendments to this Article, including amendments to the Official Zoning Map, must be submitted to and approved by the Commission of Natural Resources prior to adoption. Changes in the Official Zoning Map must meet the FEMA technical conditions and criteria and must receive prior FEMA approval before adoption. The commissioner of Natural Resources must be given ten (10) days' written notice of all hearings to consider an amendment to this Article and said notice shall include a draft of the amendment or technical study under consideration.