



**CITY HALL**  
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January 8, 2015

Planning Commissioners  
Winona, Minnesota 55987

Dear Commissioner:

The next meeting of the Planning Commission will be held on **Monday, January 12, 2015, at 4:30 p.m. in the Council Chambers** of the Winona City Hall.

1. **Call to Order**
2. **Minutes – December 8, 2014**
3. **Public Hearing – Proposed Amendments to Floodplain Ordinance (Attachment)**
4. **Other Business**
5. **Future Action Items**

Zoning Ordinance Update-As noted during the Commission's last meeting, the 2015 approved budget did include a line item to update the City Zoning Ordinance. Although the ordinance has experienced a considerable amount of change over the years, it has not been updated as a "unit" since its initial 1959 adoption. The City will use a consultant in assisting with the project. At this point, it is anticipated that work will proceed in mid year.

Although staff has not yet recommended a specific project approach, it has during the last 2-3 year period developed a listing of noted problem areas related to the current ordinance. That list is found on the last page to this agenda for discussion purposes.

6. **Adjournment**

Sincerely,

A handwritten signature in black ink, appearing to read "Mark Moeller".

Mark Moeller  
City Planner

## **PLANNING COMMISSION MINUTES**

**DATE:** December 8, 2014

**TIME:** 4:30 p.m.

**PRESENT:** Chairperson Davis, Commissioners Boettcher, Buelow, Porter, Fritz, and L. Olson

**ABSENT:** Commissioners M. Olson, Ballard, and Hahn

**STAFF PRESENT:** City Planner, Mark Moeller; and Assistant City Planner, Carlos Espinosa

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The meeting was called to order at 4:30 p.m. by Chairperson Davis.

### **Approval of Minutes – November 24, 2014**

The minutes for November 24, 2014 were approved upon motion by Commissioner Porter and second by Commissioner Fritz with a change noting that Commissioner Boettcher was present, but left before voting occurred.

### **Review of Site Plan Ordinance/Process**

Mr. Moeller stated that this agenda item is being brought forward in part based on Commissioner Fritz's request. The proposed amendments to the site plan ordinance would add the Planning Commission to the list of those notified when a site plan is received. Mr. Moeller stated that staff recommended two additional changes: adding the word "complete" between "a" and "site," and adding the work "business" between "one" and "day."

Commissioner Fritz commented that impetus behind the proposed changes is simply to ensure that the Planning Commission is notified when a new site plan is received.

Commissioner Porter stated that despite the intents of the ordinance, he was concerned about the Planning Commission creating "new" requirements for developers when reviewing site plans.

Following further miscellaneous discussion, Commissioner Fritz motioned to approve the ordinance as written and with the changes suggested by staff. The motion was seconded by Commissioner Boettcher. Upon vote, the motion passed 5-1 with Commissioner Porter voting against.

Mr. Moeller stated that the ordinance changes would be brought back to the Commission in a final form before being forwarded to the City Council.

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**Discussion – Proposed Amendments – Floodplain and Shoreland Ordinances**

Mr. Moeller stated that the proposed floodplain and shoreland ordinance amendments are based on required changes from the Minnesota Department of Natural Resources and recent updates to the City's Conditional Use Permit ordinance. Mr. Moeller stated that the proposed floodplain ordinance amendments would essentially bring Winona's ordinance in-line with the state model floodplain ordinance. Mr. Moeller stated that the floodplain ordinance changes would require a public hearing in front of the Planning Commission because they are part of the zoning code, but the changes to the shoreland ordinance would not because they are part of a standalone chapter in City Code.

Commissioner Buelow asked if there is going to be public input process for the new flood maps produced by FEMA. Mr. Moeller stated he was unsure of the exact process, but would bring back more information when this item is next considered by the Planning Commission.

Following further discussion, it was the consensus of the Commission to return both items to the Planning Commission in final form before forwarding them to the City Council.

**Adjournment**

There being no further business to come before the Commission, the meeting was adjourned at 5:15 p.m.

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Carlos Espinosa  
Assistant City Planner

## PLANNING COMMISSION

**AGENDA ITEM: 3. Public Hearing – Proposed Amendments to Floodplain Ordinance**

**PREPARED BY: Mark Moeller**

**DATE: January 12, 2015**

During the Commission's meeting of December 8<sup>th</sup>, it was recommended that a formal hearing be established to consider the attached proposal relating to an updated City Floodplain Ordinance. At that time, it was noted that, throughout the course of the past year, staff has been working with DNR officials in an effort to update the ordinance. In considering the document, proposed amendments will serve a number of purposes including:

- The adoption of additional Flood Insurance Rate Maps (FIRM) that will formally serve to provide map coverage and City flood plain jurisdiction of floodplain areas annexed since the last ordinance update.
- Definition and language changes needed to bring the City's Ordinance in line with State floodplain model ordinance language and Federal Emergency Management Agency (FEMA) standards. In part, these amendments will continue to promote the City's eligibility in the FEMA National Flood Insurance Program.
- The creation of a third floodplain district. Although the City's present ordinance is built around two districts (Floodway and Flood Fringe), the new General Floodplain District is needed to regulate floodplain areas for which specific floodway and flood fringe areas have not been delineated. Generally, these areas are found on some of the new maps to be adopted under the first bullet point.

Given the ordinance amendment process, the DNR issued a "conditional" approval letter (Exhibit 1) stating that, subject to two conditions, the draft ordinance complied with State floodplain management rules and FEMA standards. Since that time, the (attached) ordinance has been amended to address the two conditions. As reflected on Exhibit 2, these have been found to be acceptable to the DNR.

In addition to the previous, the draft ordinance will include amendments needed to bring administrative procedures in line with recent City conditional use permit changes. These changes are generally reflected under the proposed ordinance section 43.75 (d) and, in part, transfer conditional use administrative authority from the Board of Adjustment to the Planning Commission.

As noted during initial discussion of this item, participation in the Federal Flood Insurance Program requires that the City enact regulations, approved by both the Mn DNR and FEMA, to manage community floodplain areas. Given Exhibits 1 and 2, the

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**3. PUBLIC HEARING – PROPOSED AMENDMENTS TO FLOODPLAIN ORDINANCE**

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DNR has determined that the proposal is consistent with State Rules and Statutes as well as FEMA standards. Staff approval of the ordinance is therefore recommended.

Should the Commission concur with staff recommendation, approval should be recommended to Council.

In closing, during previous Commission discussion of this issue, it was noted that the State and FEMA had initiated a statewide effort to update flood maps. During the last meeting, a question was asked as to how a map amendment process works in allowing for public review. This question was posed to DNR officials, and a response is found on Exhibit 3.

Attachments

AN ORDINANCE TO AMEND  
THE CODE OF THE CITY OF  
WINONA, MINNESOTA  
1979

The City of Winona does ordain:

Section 1. That Article XV of Chapter 43 of the City Code of Winona, Minnesota, 1979, which Article is entitled "Flood Plain Management Ordinance" be amended as follows:

ARTICLE XV. FLOOD PLAIN MANAGEMENT ORDINANCE

**43.66 STATUTORY AUTHORIZATION, FINDINGS OF FACT AND PURPOSE.**

- (a) Statutory Authorization. The legislature of the State of Minnesota has, in Minnesota Statutes Chapter 103F and Minnesota Statutes 412.191, 462.351-462.365, and 471.62 delegated the responsibility to local government units to adopt regulations designed to minimize flood losses.
- (b) Findings of Fact.
  - (1) The flood hazard areas of the City of Winona, 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 or flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.
  - (2) This ordinance is based upon a reasonable method of analyzing flood hazards which is consistent with the standards established by the Minnesota Department of Natural Resources.
- (c) Statement of Purpose. It is the purpose of this ordinance to promote the public health, safety, and general welfare and to minimize those losses described in Section 43.66(b)(1) by provisions contained herein.
- (d) 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.
- (e) This ordinance is also intended to preserve the natural characteristics and functions of watercourses and floodplains in order to moderate flood and stormwater impacts, improve water quality, reduce soil erosion, protect

aquatic and riparian habitat, provide recreational opportunities, provide aesthetic benefits, and enhance community and economic development.

**43.67 GENERAL PROVISIONS.**

- (a) Establishment of Official Flood Plain 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 for the City of Winona prepared by the Federal Emergency Management Agency dated August 19, 1997, the Flood Insurance Study for the County of Winona dated July 18, 1983, and the Flood Insurance Rate Map and Flood Boundary and Floodway Map panels enumerated below. The official Zoning Map shall be on file in the office of the City Engineer.

<u>FIRM PANEL NUMBER</u>	<u>EFFECTIVE DATE</u>
275250 - 0001 B	<del>[January 19, 1983]</del> <u>August 19, 1997</u>
275250 - 0002 D	<u>August 19, 1997</u>
275250 - 0003 C	<del>[July 17, 1986]</del> <u>August 19, 1997</u>
275250 - 0004 D	<u>August 19, 1997</u>
275250 - 0005 D	<u>August 19, 1997</u>
275250 - 0006 D	<u>August 19, 1997</u>
<u>2705250077C</u>	<u>January 18, 1984</u>
<u>2705250079C</u>	<u>January 18, 1984</u>
<u>2705250091C</u>	<u>January 18, 1984</u>
<u>2705250092C</u>	<u>January 18, 1984</u>
<u>2705250094C</u>	<u>January 18, 1984</u>
<u>2705250100C</u>	<u>January 18, 1984</u>

<u>FBFM PANEL NUMBER</u>	<u>EFFECTIVE DATE</u>
<u>2705250077</u>	<u>January 18, 1984</u>
<u>2705250079</u>	<u>January 18, 1984</u>
<u>2705250091</u>	<u>January 18, 1984</u>
<u>2705250092</u>	<u>January 18, 1984</u>
<u>2705250094</u>	<u>January 18, 1984</u>

- (b) Lands to Which Ordinance Applies. This ordinance shall apply to all lands within the jurisdiction of the City of Winona which are shown on the Zoning Map as being located within the boundaries of the Floodway, ~~[or]~~ Flood Fringe Districts, or General Floodplain Districts.

(1) The Floodway, Flood Fringe and General Floodplain Districts are overlay districts that are superimposed on all existing zoning districts. The standards imposed in the overlay districts shall be in addition to any other requirements set forth in this ordinance. In case of a conflict, the

more restrictive standards shall apply.

(c) Interpretation.

- (1) In their interpretation and application, the provisions of this ordinance shall be held to be minimum requirements and shall be liberally construed in favor of the governing body and shall not be deemed a limitation or repeal of any other powers granted by State Statutes.
- (2) The boundaries of the zoning districts shall be determined by scaling distances on the Zoning Map. Where interpretation is needed as to the exact location of the boundaries of the district as shown on the official Zoning Map, the Board of Adjustment shall make the necessary interpretation in conformance with the provisions of Section 43.75(b) [43.74(c)].

All decisions will be based on elevations on the regional (1% chance) flood profile, the ground elevations that existed on the site on the date of the first National Flood Insurance Program map showing the area within the regulatory floodplain, if earlier, and other available technical data.

- (3) Persons contesting the location of the district boundaries will be given a reasonable opportunity to present their case to the Board of Adjustment and to submit technical evidence.

(d) 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 and is contiguous to lands outside the flood plain. Special exceptions to this rule may be permitted by the Commissioner of the Department 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 the Department of Natural Resources (DNR) 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 must approve the amendment prior to community approval. The Commissioner of the DNR 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.]~~

- (1) Floodplain Designation – Restrictions on Removal. 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 regulatory flood protection elevation and is contiguous to lands outside the floodplain. Special exceptions to this rule may be permitted by the Commissioner of the Department of Natural Resources (DNR) if the Commissioner determines that, through other measures, lands are adequately protected for the intended use.

- (2) Amendments Require DNR Approval. All amendments to this ordinance must be submitted to and approved by the Commissioner of the Department of Natural Resources (DNR) prior to adoption. The Commissioner of the DNR must be given 10-days written notice of all hearings to consider an amendment to this ordinance. The notice shall include a draft of the ordinance amendment or technical study under consideration. The Commissioner must approve the amendment prior to community approval.
- (3) Map Revisions Require Ordinance Amendments. The floodplain district regulations must be amended to incorporate any revisions by the Federal Emergency Management Agency to the floodplain maps adopted in Section 43.67 (a) of this ordinance.
- (e) Abrogation and Greater Restrictions. It is not intended by this ordinance to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance imposes greater restrictions, the provisions of this ordinance shall prevail. All other ordinances inconsistent with this ordinance are hereby repealed to the extent of the inconsistency only.
- (f) Warning and Disclaimer of Liability. This ordinance does not imply that areas outside the flood plain districts or land uses permitted within such districts will be free from flooding or flood damages. This ordinance shall not create liability on the part of the City of Winona or any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.
- (g) Severability. If any section, clause, provision, or portion of this ordinance is adjudged unconstitutional or invalid by a court of [e-jurisdiction] law, the remainder of this ordinance shall not be affected [thereby] and shall remain in full force.
- (h) Definitions. Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the same meaning as they have in common usage and so as to give this ordinance its most reasonable application.

Accessory Use or Structure - a use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.

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

Basement - means any area of a structure, including crawl spaces, having its floor or base subgrade (below ground level) on all four sides, regardless of the depth of excavation below ground level.

Conditional Use - means a specific type of structure or land use listed in the official control that may be allowed but only after an in-depth review procedure and with appropriate conditions or restrictions as provided in the official zoning controls or building codes and upon a finding that: (1) certain conditions as detailed in the zoning ordinance exist and (2) the structure and/or land use conform to the comprehensive land use plan if one exists and are compatible with the existing neighborhood.

Development – any manmade change to improved or unimproved real estate, including buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

Equal Degree of Encroachment - a method of determining the location of floodway boundaries so that flood plain lands on both sides of a stream are capable of conveying a proportionate share of flood flows.

Farm Fence – A fence as defined by Minn. Statutes Section 344.02, Subd. 1(a)-(d). An open type fence of posts and wire is not considered to be a structure under this ordinance. Fences that have the potential to obstruct flood flows, such as chain link fences and rigid walls, are regulated as structures under this ordinance.

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.

Flood Frequency - the frequency for which it is expected that a specific flood stage or discharge may be equaled or exceeded.

Flood Fringe - that portion of the flood plain outside of the floodway. Flood fringe is synonymous with the term "floodway fringe" used in the Flood Insurance Study for the City of Winona.

**Floodplain** [~~Flood plain~~] - the beds proper and the areas adjoining a wetland, lake or watercourse which have been or hereafter may be covered by the regional flood.

**Floodproofing** [~~Flood-Proofing~~] - a combination of structural provisions, changes, or adjustments to properties and structures subject to flooding, primarily for the reduction or elimination of flood damages.

Floodway - the bed of a wetland or lake and the channel of a watercourse and those portions of the adjoining flood plain which are reasonably required to carry or store the regional flood discharge.

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.

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.”

Obstruction - any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel modification, culvert, building, wire, fence, stockpile, refuse, fill, structure, or matter in, along, across, or projecting into any channel, watercourse, or regulatory flood plain which may impede, retard, or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water.

Principal Use or Structure - means all uses or structures that are not accessory uses or structures.

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

Recreational Vehicle – a vehicle that is built on a single chassis, is four hundred (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.”

Regional Flood - a flood which is representative of large floods known to have occurred generally in Minnesota and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of the 1% chance or 100-year recurrence interval. Regional flood is synonymous with the term "base flood" used in the Flood Insurance Study.

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 flood plain that result from designation of a floodway.

Structure - anything constructed or erected on the ground or attached to the ground or on-site utilities, including, but not limited to, buildings, factories, sheds, detached garages, cabins, manufactured homes, [~~travel trailers/~~] recreational vehicles not meeting the exemption criteria specified in Section 43.74(c)(1) [43.71(c)(1)] of the ordinance and other similar items.

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.

Substantial Improvement - within any consecutive 365-day period, any reconstruction, rehabilitation (including normal maintenance and repair), repair after damage, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures that have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include either:

- (a) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions.
- (b) Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure." For the purpose of this ordinance, "historic structure" shall be as defined in 44 Code of Federal Regulations, Part 59.1.

~~[Variance – means a modification of a specific permitted development standard required in an official control including this ordinance to allow an alternative development standard not stated as acceptable in the official control, but only as applied to a particular property for the purpose of alleviating a practical difficulty or unique circumstance as defined and elaborated upon in a community's respective planning and zoning enabling legislation.]~~

- (i) **Annexations** - The Flood Insurance Rate Map panels adopted by reference into Section 43.67 (a) above may include floodplain areas that lie outside of the corporate boundaries of the City of Winona at the time of adoption of this ordinance. If any of these floodplain land areas are annexed into the City of

Winona 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.

#### **43.68 ESTABLISHMENT OF ZONING DISTRICTS.**

(a) Districts.

(1) (F-1) Floodway District. The Floodway District shall include those areas designated as floodway on the flood boundary and floodway maps and flood insurance rate maps adopted in Section 43.67(a).

(2) (F-2) Flood Fringe District. The Flood Fringe District shall include those areas designated as floodway fringe on the flood boundary and floodway maps adopted in Section 43.67(a), and those areas designated on the flood insurance rate maps adopted in Section 43.67 as being within Zones AE, AO, or AH but located outside of the floodway.

(3) (F-3) General Floodplain District. The General Floodplain District shall include those areas designated as Zone A on the flood insurance rate maps adopted in Section 43.67, and those areas designated as Zones A1-30, AO, or AH without a floodway on the flood boundary and floodway maps adopted in Section 43.67(a).

(b) Compliance. Within the floodplain districts established in this ordinance, the use of any land; the use, size, type and location of structures on lots, the installation and maintenance of transportation, utility, water supply and waste treatment facilities; and the subdivision of land shall be in full compliance with the terms of this ordinance, and other applicable regulations. All uses not listed as permitted uses or conditional uses in Sections 43.69 and 43.70, respectively, shall be prohibited. ~~[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 this ordinance. Within the Floodway and Flood Fringe Districts, all uses not listed as permitted uses or conditional uses in Sections 43.69 and 43.70 that follow, respectively, shall be prohibited.]~~ In addition, a caution is provided here that:

(1) New manufactured homes, replacement manufactured homes and certain ~~[travel trailers and travel]~~ recreational vehicles are subject to the general provisions of this ordinance and specifically Section 43.74 ~~[43.73];~~

- (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 ordinance and specifically Section [43.76](#) ~~[43.75]~~; and
- (3) 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 the general provisions of this ordinance and specifically as stated in Section [43.75](#) ~~[43.74]~~ of this ordinance.

**43.69 FLOODWAY DISTRICT.**

(a) Permitted Uses. [The following uses, subject to the standards set forth in Section 43.69\(b\), are permitted uses if otherwise allowed in the underlying zoning district or any applicable overlay district:](#)

- (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.
- (4) Residential lawns, gardens, parking areas, and play areas.

(b) Standards for Floodway Permitted Uses.

- (1) The use shall have a low flood damage potential.
- (2) ~~[The use shall be permissible in the underlying zoning district.~~
- ~~(3) ]~~The use shall not obstruct flood flows or increase flood elevations and shall not involve structures, fill, obstructions, excavations or storage of materials or equipment.

(c) Conditional Uses Subject to the Provisions of Section 43.69(d)(1)-(9).

[The following uses may be allowed as conditional uses following the standards and procedures set forth in Section 43.75 \(c\) of this ordinance and further subject](#)

to the standards set forth in Section 43.69(d)(1)-(9), if otherwise allowed in the underlying zoning district or any applicable overlay district.

- (1) Structures accessory to the uses listed in (a) above and the uses listed in (2)-(8) below.
  - (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 or construction of fences that obstruct flood flows. This does not include farm fences, as defined in section 43.67 (h).
  - (7) ~~[Travel trailers and travel vehicles Road-ready]~~ Recreational 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 43.74(c) ~~[43.73(e)]~~ of this ordinance.
  - (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.
- (d) Standards for Floodway Conditional Uses.
- (1) All Uses. No conditional use shall be allowed that will cause any increase in the stage of the 1% chance or regional flood or cause an increase in flood damages in the reach or reaches affected. ~~[The conditional use shall be permissible in the underlying zoning district.]~~
  - (2) All floodway conditional uses shall be subject to the procedures and standards contained in Section 43.75(c) ~~[43.74(d)]~~ of this ordinance.
  - (3) ~~[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.~~
  - (4) Fill.

- (aa) Fill, dredge spoil and all other similar materials deposited or stored in the flood plain shall be protected to the regulatory flood elevation protection from erosion by vegetative cover, mulching, riprap or other acceptable method.
- (bb) 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.
- (cc) As an alternative, and consistent with subsection (bb) immediately above, 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-]~~ City Council 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.

(5) Accessory Structures.

- (aa) Accessory structures shall not be designed for human habitation.
- (bb) 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. Whenever possible, structures shall be constructed with the longitudinal axis parallel to the direction of flood flow. So far as practicable, structures shall be placed approximately on the same flood flow lines as those of adjoining structures.
- (cc) The lowest floor of accessory structures shall be elevated on fill or structurally dry flood-proofed to the regulatory flood elevation protection 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 floodproofing classification in the State Building Code provided the accessory structure constitutes a minimal investment, does not exceed 500 square feet in size, and for a detached garage, it must be used solely for parking of vehicles and limited storage.]~~
- (dd) All flood-proofed accessory structures must meet the following additional standards, as appropriate:

- (1) The structure must be adequately anchored to prevent

flotation, collapse or lateral movement of the structure and shall be designed to equalize hydrostatic flood forces on exterior walls; and

- (2) Any mechanical and utility equipment in a structure must be elevated to or above the Regulatory Flood Protection Elevation or properly flood-proofed.

(ee) As an alternative, an accessory structure may be flood-proofed 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 576 square feet in size, and for a detached garage, it must be used solely for parking of vehicles and limited storage. The structure must meet the following additional standards:

(i) 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; and

(ii) 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.

- (6) Storage of Materials and Equipment.

(aa) 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.

(bb) Storage of other materials or equipment may be allowed below the regulatory flood protection elevation 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]~~ City Council.

- (7) Structural works for flood control that will change the course, current or cross section of protected wetlands or public waters shall be subject to the provisions of Minnesota Statute, Chapter 103G. Community-wide structural works for flood control intended to remove areas from the regulatory flood plain shall not be allowed in the floodway.

- (8) A levee, dike or floodwall constructed in the floodway shall not cause an increase to the 100-year or regional flood and the technical analysis must assume equal conveyance or storage loss on both sides of a stream.
- (9) Floodplain developments shall not adversely affect the hydraulic capacity of the channel and adjoining floodplain of any tributary watercourse or drainage system. ~~[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 section.]~~

#### 43.70 FLOOD FRINGE DISTRICT.

- (i) Permitted Uses. Permitted Uses ~~[shall be]~~ are those uses of land or structures ~~[listed as Permitted Uses]~~ allowed in the underlying zoning ~~[use]~~ district(s) that comply with the standards in Sections 43.70(b) and 43.70(e). ~~[All permitted Uses shall comply with the standards for Flood Fringe "Permitted Uses" listed in Section 43.70(b) and 43.70(e).]~~
- (j) Standards for Flood Fringe Permitted Uses.
- (1) All structures, including accessory structures, must be elevated on fill so that the lowest floor including basement floor is at or above the Regulatory Flood Protection Elevation. The finished fill elevation for structures shall be no lower than one (1) foot below the Regulatory Flood Protection Elevation and the fill shall extend at such elevation at least fifteen (15) feet beyond the outside limits of the structure erected thereon.
- (aa) As an alternative to elevation on fill, accessory structures that constitute a minimal investment and that do not exceed 576 ~~[500]~~ square feet for the outside dimension at ground level may be internally flood-proofed in accordance with Section 43.69(d)(3)(cc) ~~[43.69(d)(5)(cc)]~~.
- (bb) In the unnumbered A zone which is bound by Highway 14-61, the East Burns Valley Creek dike, Homer Road, and the corporate city limits, the regulatory flood protection elevation is established

at 660.0 feet.

(cc) 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 43.70(b)(1) of this ordinance.

(dd) The storage of any materials or equipment which are located on fill to the Regulatory Flood Protection Elevation.

(k) Conditional Uses. Any structure that is not elevated on fill or flood-protected in accordance with Section 43.70(b)(1)-(2) or any use of land that does not comply with the standards in Section 43.70(b)(3)-(4) 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 Sections 43.70(d)-(e) and 43.75(c) [~~43.74(d)~~] of this ordinance.

(l) Standards for Flood Fringe Conditional Uses.

(1) Alternative elevation methods other than the use of fill may be utilized to elevate a structure's lowest floor above the Regulatory Flood Protection Elevation. These alternative methods may include the use of stilts, pilings, parallel walls, etc., or above-grade, enclosed areas such as crawl spaces [~~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) the enclosed area is above-grade on at least one side of the structure; 2) it is designed to internally flood and is constructed with flood resistant materials; and 3) it is used solely for parking of vehicles, building access or storage. The above-noted alternative elevation methods are subject to the following additional standards:

(aa) 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.

(bb) 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:

- 1) The minimum area of openings in the walls where internal flooding is to be used as a flood-proofing 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 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;
  - 2) That the enclosed area will be designed of flood resistant materials in accordance with the FP-3 or FP-4 classifications in the State Building Code and shall be used solely for building access, parking of vehicles or storage.
- (2) Basements, as defined by Section 43.67(h) of this ordinance, shall be subject to the following:
- (aa) Residential basement construction shall not be allowed below the Regulatory Flood Protection Elevation.
  - (bb) Non-residential basements may be allowed below the Regulatory Flood Protection Elevation provided the basement is structurally dry flood-proofed in accordance with Section 43.70(d)(3) of this ordinance.
- (3) All areas of non-residential structures including basements to be placed below the Regulatory Flood Protection Elevation shall be flood-proofed in accordance with the structurally dry floodproofing 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 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 flood-proofed to the FP-3 or FP-4 classification shall not be permitted.
- (4) When at any one time more than 1,000 cubic yards of fill or other similar material is located on a parcel for such activities as on-site storage, landscaping, sand and gravel operations, landfills, roads, dredge spoil disposal or construction of flood control works, an erosion/ sedimentation control plan must be submitted unless the community is enforcing a state approved shoreland management ordinance. In the absence of a state approved shoreland ordinance, the plan must clearly specify methods to be used to stabilize the fill on site for a flood event at a minimum of the 100-year or regional flood event. The plan must be prepared and certified by a registered professional engineer or other qualified individual

acceptable to the governing body. The plan may incorporate alternative procedures for removal of the material from the flood plain if adequate flood warning time exists.

(5) Storage of Materials and Equipment.

(aa) Unless located on fill above the regulatory flood protection elevation, 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.

(bb) Storage of other materials or equipment may be allowed below the regulatory flood protection elevation 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.

(m) Standards for All Flood Fringe Uses.

(1) All new principal structures must have vehicular access at or above an elevation not more than two (2) feet below the Regulatory Flood Protection Elevation. If a variance to this requirement is granted, the Board of Adjustment must specify limitations on the period of use or occupancy of the structure for times of flooding and only after determining that adequate flood warning time and local flood emergency response procedures exist.

(2) ~~[Commercial Uses—]~~ Accessory land uses, such as yards, railroad tracks, and parking lots may be at elevations lower than the Regulatory Flood Protection Elevation. However, ~~[a permit for such-]~~ any facilities to be used by the employees or the general public ~~[shall be granted in the absence of]~~ must be designed with a flood warning system that provides adequate time for evacuation ~~[if the area is inundated to a depth greater than two feet or be subject to flood velocities greater than four feet per second upon occurrence of the regional flood]~~ if the area is inundated to a depth and velocity such that the depth (in feet) multiplied by the velocity (in feet per second) would exceed a product of four upon occurrence of the regional flood.

(3) Manufacturing and Industrial Uses - measures shall be taken to minimize interference with normal plant operations especially along streams having protracted flood durations. Certain accessory land uses such as yards and parking lots may be at lower elevations subject to requirements set out in Section 43.70(b) above. In considering permit applications, due consideration shall be given to needs of an industry whose business requires that it be located in flood plain areas.

- (4) 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.]~~
- (5) Flood plain developments shall not adversely affect the hydraulic capacity of the channel and adjoining flood plain of any tributary watercourse or drainage system ~~[where a floodway or other encroachment limit has not been specified on the official Zoning Map].~~
- (6) Standards for ~~[travel trailers and travel]~~ recreational vehicles are contained in Section 43.74(c) ~~[43.73(c)]~~.
- (7) ~~All manufactured homes must be securely anchored to an adequately anchored foundation system that resists flotation, collapse and lateral movement. Methods of anchoring may include, but are not to be limited to, use of over the top or frame ties to ground anchors. This requirement is in addition to applicable state or local anchoring requirements for resisting wind forces.~~ Standards for manufactured homes are contained in Section 43.74.
- ~~(8) 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 Section.]~~

#### 43.71 GENERAL FLOODPLAIN DISTRICT

- (a) Permitted Uses. The uses listed in Section 43.69(a) of this ordinance, Floodway District Permitted Uses, shall be permitted uses.
- (b) All other uses shall be subject to the floodway/flood fringe evaluation criteria specified in Section 43.71(c) below. Section 43.69 shall apply if the proposed use is determined to be in the Floodway District. Section 43.70 shall apply if the proposed use is determined to be in the Flood Fringe District.

(c) Procedures for Floodway and Flood Fringe Determinations.

- (1) Upon receipt of an application for a permit or other approval within the General Floodplain District, the Zoning Administrator must obtain, review and reasonably utilize any regional flood elevation and floodway data available from a federal, state, or other source.
- (2) If regional flood elevation and floodway data are not readily available, the applicant must furnish additional information, as needed, to determine the regulatory flood protection elevation and whether the proposed use would fall within the Floodway or Flood Fringe District. Information shall be consistent with accepted hydrological and hydraulic engineering standards and the standards in (c)(4) below.
- (3) The determination of floodway and flood fringe shall include the following components, as applicable:
  - (aa) Estimate the peak discharge of the regional (1% chance) flood.
  - (bb) Calculate the water surface profile of the regional flood based upon a hydraulic analysis of the stream channel and overbank areas.
  - (cc) Compute the floodway necessary to convey or store the regional flood without increasing flood stages more than one-half (0.5) foot. A lesser stage increase than 0.5 foot shall be required if, as a result of the stage increase, increased flood damages would result. An equal degree of encroachment on both sides of the stream within the reach shall be assumed in computing floodway boundaries.
- (4) The Zoning Administrator shall review the submitted information and assess the technical evaluation and the recommended Floodway and/or Flood Fringe District boundary. The assessment must include the cumulative effects of previous floodway encroachments. The Zoning Administrator may seek technical assistance from a designated engineer or other expert person or agency, including the Department of Natural Resources. Based on this assessment, the Zoning Administrator may approve or deny the application.
- (5) Once the Floodway and Flood Fringe District Boundaries have been determined, the Zoning Administrator shall process the permit application consistent with the applicable provisions of Section 43.69 and 43.70 of this ordinance.

**43.72 [43.71] SUBDIVISIONS.** ~~[This section is not intended as a substitute for a~~

~~comprehensive city or county subdivision ordinance. It can, however, be used as an interim control until the comprehensive subdivision ordinance can be amended to include necessary flood plain management provisions.]~~

- (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 flood plain 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 Ordinance and have road access both to the subdivision and to the individual building sites no lower than two feet below the Regulatory Flood Protection Elevation. For all subdivisions in the flood plain, 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. 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.~~

#### **43.72**~~43.73~~**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 flood plain shall be flood-proofed 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 flood plain shall comply with Sections 43.69 and 43.70 of this ordinance. Elevation to the Regulatory Flood Protection Elevation shall be provided where failure or interruption of these transportation facilities would result in danger to the public health or safety or where such facilities are essential to the orderly functioning of the area. Minor or auxiliary roads or railroads may be constructed at a lower elevation where failure or interruption of transportation services would not endanger the public health or safety.
- ~~(c) On-Site Sewage Treatment and Water Supply Systems: Where public utilities are not provided: 1) On-site water supply systems must be designed to minimize or eliminate infiltration of 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 Section.

**43.74 [43.73] MANUFACTURED HOMES, [AND] MANUFACTURED HOME PARKS AND PLACEMENT OF RECREATIONAL VEHICLES.**

- (a) New Manufactured Home Parks. New manufactured home parks and expansions to existing manufactured home parks shall be subject to the provisions placed on subdivisions by Section 43.72 [43.71] of this ordinance.
- (b) Replacement Manufactured Homes - Existing Parks. The placement of new or replacement manufactured homes in existing manufactured home parks or on individual lots of record that are located in flood plain districts will be treated as a new structure and may be placed only if elevated in compliance with Section 43.70 of this ordinance. If vehicular road access for pre-existing manufactured home parks is not provided in accordance with Section 43.70(e)(1), then replacement manufactured homes will not be allowed until the property owner(s) develops a flood warning emergency plan acceptable to the governing body.
  - (1) All manufactured homes must be securely anchored to an adequately anchored foundation system that resists flotation, collapse and lateral movement. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state or local anchoring requirements for resisting wind forces.
- (c) ~~[Travel Trailers/Travel]~~ Recreational Vehicles. ~~[Travel trailers and travel]~~ Recreational vehicles ~~[that do not]~~ must meet the exemption criteria specified in (1) below or be treated as new structures ~~[shall be]~~ subject to the provisions of this ordinance and as specifically spelled out in (3)-(4) below.
  - (1) Exemption – ~~[Travel trailers and travel]~~ Recreational vehicles are exempt from the provisions of this ordinance if they are placed in any of the areas listed in (2) below and further they meet the following criteria:
    - (aa) Have current licenses required for highway use.
    - (bb) 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]~~ recreational vehicle parks and ~~[the travel trailer/travel vehicle has]~~ no permanent structural type additions are attached to ~~[it]~~ the vehicle.
    - (cc) The ~~[travel trailer or travel]~~ recreational vehicle and associated use must be permissible in any pre-existing,

underlying zoning use district.

- (2) Areas Exempted For Placement of ~~Travel~~Recreational Vehicles:
- (aa) Individual lots or parcels of record.
- (~~aa~~**bb**) Existing commercial recreational vehicle parks or campgrounds.
- (cc) Existing condominium type associations.
- (3) [~~Travel trailers and travel~~] **Recreational** vehicles exempted in (c)(1) above lose this exemption [ ~~when development occurs on the parcel exceeding \$500 for a structural addition to the travel trailer/travel vehicle or~~] **with any investment to** 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/flood-proofing requirements and the [~~use of~~] land use restrictions specified in Sections 43.69 and 43.70 of this ordinance.
- (4) New commercial [~~travel trailer or travel~~] **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:
- (aa) **On a** Any new or replacement [~~travel trailer or travel~~] **recreational** vehicle **site** [~~will be allowed~~] in the [~~Floodway or~~] Flood Fringe District[s, ~~provided said trailer or~~] **the** vehicle and its contents **must be** [~~are~~] placed on fill above the Regulatory Flood Protection Elevation and [~~proper elevated~~] **adequate** road access to the site [~~exists~~] **must be provided** in accordance with Section 43.70(e)(1) of this ordinance. No fill placed in the floodway to meet the requirements of this section shall increase flood stages of the 100-year or regional flood.
- (bb) **Any new or replacement recreational vehicle site located in the Floodway District or as an alternative to (aa) above in the Flood Fringe District, may be allowed as a conditional use in accordance with the following provisions and the provisions of Section 43.75(c) of the ordinance.**
- **The applicant must submit an emergency plan for the safe evacuation of all vehicles and people acceptable to the City Council. The plan shall demonstrate that adequate time and personnel exist to carry out an evacuation, and that the**

exemption provisions of Section 43.74(c) of this ordinance will be met; and

- 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 43.73 of this ordinance.
- Any fill placed in the floodway to meet the requirements of this section must not increase the flood stage of the regional (1% chance) flood.
- ~~All new or replacement travel trailers or travel vehicles not meeting the criteria of (aa) above may, as an alternative, be allowed as a conditional use if in accordance with the following provisions and the provisions of 43.74(d) of the 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 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 43.70(e)(8) of this ordinance.]~~

### **43.75 [43.74] ADMINISTRATION.**

~~[(a)]~~ 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 43.76 of the ordinance.]~~

#### (b)(a) Permit Requirements.

- (1) 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, 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 flood plain. Normal maintenance and repair also requires a permit if such work, separately or in conjunction with other planned work, constitutes a substantial improvement as defined in this ordinance.

- (2) Application for Permit. Application for a Permit shall be made [~~in duplicate~~] to the Zoning Administrator on forms furnished by the Zoning Administrator and shall include the following where applicable: plans [~~in duplicate~~] drawn to scale, showing the nature, location, dimensions, and elevations of the lot; existing or proposed structures, fill, or storage of materials; and the location of the foregoing in relation to the stream channel.
- (3) State and Federal Permits. Prior to granting a Permit or processing an application for a conditional use permit or variance, the Zoning Administrator shall determine that the applicant has obtained all necessary State and Federal permits.
- (4) Certificate of Zoning Compliance for a New, Altered, or Nonconforming Use. No building, land or structure shall be occupied or used in any manner until a certificate of zoning compliance has been issued by the Zoning Administrator stating that the use of the building or land conforms to the requirements of this ordinance. [~~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 ordinance.~~]
- (5) Construction and Use to be as Provided on Applications, Plans, Permits, Variances and Certificates of Zoning Compliance. Permits, Conditional Use Permits, or Certificates of Zoning Compliance issued on the basis of approved plans and applications authorize only the use, arrangement, and construction set forth in such approved plans and applications, and no other use, arrangement, or construction. Any use, arrangement, or construction at variance with that authorized shall be deemed a violation of this ordinance, and punishable as provided by Section 43.77 [~~43.76~~] of this ordinance.
- (6) Certification. The applicant shall be required to submit certification by a registered professional engineer, registered architect, or registered land surveyor that the finished fill and building elevations were accomplished in compliance with the provisions of this ordinance. Flood-proofing measures shall be certified by a registered professional engineer or registered architect.
- (7) Record of First Floor Elevation. The City Engineer 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 flood plain. The City Engineer shall also maintain a record of the elevation to

which structures or alterations and additions to structures are flood-proofed.

- (8) Notifications for Watercourse Alterations. Before authorizing any alteration or relocation of a river or stream, the Zoning Administrator shall notify adjacent communities. If the applicant has applied for a permit to work in public waters pursuant to Minnesota Statutes, Section 103G.245, this shall suffice as adequate notice. A copy of the notification shall also be submitted to the Chicago Regional Office of the Federal Emergency Management Agency (FEMA).
- (9) Notification to FEMA When Physical Changes Increase or Decrease Base Flood Elevations. As soon as is practicable, but not later than six months after the date such supporting information becomes available, the Zoning Administrator shall notify the Chicago Regional Office of FEMA of the changes by submitting a copy of the relevant technical or scientific data.

~~(e)~~(b) Board of Adjustment.

- (1) Rules. The Board of Adjustment shall adopt rules for the conduct of business and may exercise all of the powers conferred on such Boards by State law and Section 22.21.
- (2) Administrative Review. The Board shall hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement or administration of this ordinance.
- (3) Variances. An application for a variance to the provisions of this ordinance shall be processed and reviewed in accordance with applicable state statutes and Section 22.21 (c) of the City Code.

(aa) Adherence to State Floodplain Management Standards. A variance must not allow a use that is not allowed 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.

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

- (i) 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.

- (ii) Variances shall only be issued by a community upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
- (iii) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

~~[The Board may authorize upon appeal in specific cases such relief or variance from the terms of this floodplain management ordinance where it appears that by reason of unique circumstances the strict enforcement of this ordinance would cause practical difficulties and strict conformity with the standards would be unreasonable, impractical, and not feasible under the circumstances. Variances granted by local governmental units must be consistent with the general purpose of these standards and the intent of applicable state and national laws and programs. In the granting of such variance, the Board of Adjustment shall clearly identify in writing the specific conditions that existed consistent with the criteria specified in the respective enabling legislation which 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.]~~

- (cc) Public Hearing[s]. Upon filing with the Board of Adjustment of an appeal from a decision of the Zoning Administrator, or an application for a variance, the Board shall hold a public hearing. The consideration of the appeal or application shall be made by the Board of Adjustment in accordance with the provisions of Minnesota Statutes, Section 15.99. Notice of the time, place and purpose of the hearing shall be published in the official newspaper and be mailed to the appellant or applicant and owners of all real property situated wholly or partly within 150 feet of the subject property at least ten (10) days prior to the hearing. ~~[fix a reasonable time for a hearing in accordance with Section 22.21].~~ The Board shall submit mailed notice of the application to the Commissioner of Natural Resources within 10 days of the Board's hearing ~~[in accordance with Minn. R. 6120.6200, subp.1].~~

- (dd) Decisions. Upon the conclusion of the public hearing, ~~[the Board~~

~~shall arrive at a decision on such appeal or variance within 45 days following receipt of the written appeal. In passing upon an appeal,~~ the Board may, so long as such action is in conformity with the provisions of this ordinance, reverse or affirm, wholly or in part, or modify the order, requirement, decision or determination of the Zoning Administrator or other public official. It shall make its decision in writing setting forth the findings of fact and the reasons for its decisions. In granting a variance, the Board shall give due consideration to the provisions of Section [43.75\(c\)\(2\)](#) [~~43.74(d)(4)~~] and may prescribe appropriate conditions and safeguards such as those specified in Section [43.75\(c\)\(3\)](#) [~~43.74(d)(6)~~], which are in conformity with the purposes of this ordinance. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this ordinance punishable under Section [43.77](#) [~~43.76~~]. A copy of all decisions granting variances or special permits under this floodplain management ordinance shall be forwarded [~~by mail~~] to the Commissioner of Natural Resources within ten (10) days of such action [~~in accordance with Minn. R.6120.6200. subp. 1~~]. The notice may be sent by electronic mail or U.S. Mail to the respective DNR area hydrologist.

(ee) Appeals. Appeals from any decision of the Board may be made in accordance with Section [22.21\(g\)](#) [~~22.21(h)~~].

(ff) Flood Insurance Notice and Record Keeping. The Zoning Administrator shall notify the applicant for a variance that: 1) The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage and 2) Such construction below the 100-year or regional flood level increases risks to life and property. Such notification shall be maintained with a record of all variance actions. A community shall maintain a record of all variance actions, including justification for their issuance, and report such variances issued in its annual or biennial report submitted to the Administrator of the National Flood Insurance Program.

~~(d)~~(c) Conditional Uses. The Board of Adjustment City Planning Commission (the Commission) shall hear and decide applications for Conditional Uses permissible under this Ordinance in accordance with the provisions of [Section 41.01](#) [~~Section 22.24~~]. The Planning Commission shall submit by mail to the Commissioner of Natural Resources a copy of the application for a proposed Conditional Use sufficiently in advance so that the Commissioner will receive at least ten days' notice of the hearing. The notice may be sent by electronic mail or U.S. Mail to the respective DNR area hydrologist. A copy of all decisions

granting Conditional Use Permits shall be forwarded by mail to the Commissioner of Natural Resources within ten (10) days of such action. The notice may be sent by electronic mail or U.S. Mail to the respective DNR area hydrologist.

~~[Hearings. Upon filing with the Board of Adjustment an application for a Conditional Use Permit. The Board shall submit by mail to the Commissioner of Natural Resources a copy of the application for proposed Conditional Use sufficiently in advance so that the Commissioner will receive at least ten days notice of the hearing.]~~

~~[Decisions. The Board of Adjustment shall arrive at a decision on a conditional use within 45 days. In granting a Conditional Use Permit the Board shall prescribe appropriate conditions and safeguards, in addition to those specified in Section 3.74(d)(6), which are in conformity with the purposes of this ordinance. Violations of such conditions and safeguards, when made a part of the terms under which the Conditional Use Permit is granted, shall be deemed a violation of this ordinance punishable under Section 43.77. A copy of all decisions granting Conditional Use Permits shall be forwarded by mail to the Commissioner of Natural Resources within ten (10) days of such action.]~~

(1) Application ~~[Procedures to be followed by the Board of Adjustment in Passing on Conditional Use Permit Applications within all Flood Plain Districts].~~

(aa) An application for a CUP shall be made in writing signed by the owner of the property for which the conditional use permit is sought on a form provided by the City. The application shall be filed with the City and shall address each of the general requirements in this section and the specific criteria listed under a specific conditional use within a zoning district, as applicable. Following receipt of a CUP application, City staff will provide written notification to the applicant within 15 business days if the application for a CUP is determined to be incomplete and telling the applicant what information is missing. An application determined to be incomplete by City staff, following the above written notice procedure shall not be forwarded to the Planning Commission for consideration until it is resubmitted with the missing information. If an application is determined incomplete by City staff because it that does not contain all required information, the 60-day review period applicable under Minnesota Statutes, section 15.99 shall not restart until an application is resubmitted in the same manner as the original incomplete application.

- (bb) Require the applicant to furnish such of the following information and additional information as deemed necessary by the ~~[Board]~~ Commission for determining the suitability of the particular site for the proposed use: 1) Plans in triplicate drawn to scale showing the nature, location, dimensions, and elevation of the lot, existing or proposed structures, fill, storage of materials, flood-proofing measures, and the relationship of the above to the location of the stream channel; 2) Specifications for building construction and materials, flood-proofing, filling, dredging, grading, channel improvement, storage of materials, water supply and sanitary facilities.
  - (cc) Transmit one copy of the information described in subsection (bb) ~~[(aa)]~~ to the City Engineer for evaluating the proposed project in relation to flood heights and velocities, the seriousness of flood damage to the use, the adequacy of the plans for protection, and other technical matters. The City Engineer may consult with any agency or persons in making such determinations.
  - (dd) Based upon the technical evaluation of the City Engineer, the ~~[Board]~~ Commission shall determine the specific flood hazard at the site and evaluate the suitability of the proposed use in relation to the flood hazard.
- (2) Factors Upon Which the Decision of the ~~[Board of Adjustment]~~ Commission Shall Be Based. In passing upon conditional use applications, the ~~[Board]~~ Commission shall consider all relevant factors specified in other sections of this ordinance, and:
- (aa) The danger to life and property due to increased flood heights or velocities caused by encroachments.
  - (bb) 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.
  - (cc) The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.
  - (dd) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
  - (ee) The importance of the services provided by the proposed facility to the community.

- (ff) The requirements of the facility for a waterfront location.
- (gg) The availability of alternative locations not subject to flooding for the proposed use.
- (hh) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
- (ii) The relationship of the proposed use to the comprehensive plan and flood plain management program for the area.
- (jj) The safety of access to the property in times of flood for ordinary and emergency vehicles.
- (kk) The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site.
- (ll) Such other factors which are relevant to the purposes of this Ordinance.

~~[Time for Acting on Application. The Board shall act on an application in the manner described above within 45 days from receiving the application, except that where additional information is required pursuant to Section 43.74(d)(4) of this ordinance, the Board shall render a written decision within 60 days from the receipt of such additional information.]~~

- (3) Conditions Attached to Conditional Use Permits. Upon consideration of the factors listed above and the purpose of this ordinance, the ~~[Board]~~ **Commission** ~~[shall]~~ **may** attach such conditions to the granting of conditional use permits as it deems necessary to fulfill the purposes of this ordinance. Such conditions may include, but are not limited to, the following:
  - (aa) Modification of waste treatment and water supply facilities.
  - (bb) Limitations on period of use, occupancy, and operation.
  - (cc) Imposition of operational controls, sureties, and deed restrictions.
  - (dd) Requirements for construction of channel

modifications, compensatory storage, dikes, levees, and other protective measures.

- (ee) Flood-proofing measures, in accordance with the State Building Code and this ordinance. The applicant shall submit a plan or document certified by a registered professional engineer or architect that the flood-proofing measures are consistent with the Regulatory Flood Protection Elevation and associated flood factors for the particular area.

#### **43.76 [43.75] NONCONFORMING USES.**

- (a) 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 43.67(h) of this ordinance, are subject to the provisions of Sections 1 – 5 below.

- (1) No such structure, use, or occupancy shall be expanded, changed, enlarged, or altered in a way which increases its nonconformity. Expansion or enlargement of uses, structures or occupancies within the Floodway District is prohibited.
- (2) Any alteration or addition to a nonconforming structure or nonconforming use which would result in increasing the flood damage potential of that structure or use shall be protected to the Regulatory Flood Protection Elevation in accordance with any of the elevation on fill or flood-proofing techniques ( i.e., FP-1 through FP-4 floodproofing classifications) allowable in the State Building Code, except as further restricted in (3) below.
- (3) The cost of any structural alterations or additions to any nonconforming structure over the life of the structure shall not exceed 50 percent of the market value of the structure unless the conditions of this section are satisfied. The cost of all structural alterations and additions constructed since the adoption of the community's initial flood plain controls must be calculated into today's current cost which will include all costs such as construction materials and a reasonable cost placed on all manpower or labor. If the current cost of all previous and proposed alterations and additions exceeds 50 percent of the current market value of the structure, then the structure must meet the standards of Section 43.69 or 43.70 of this ordinance for new structures depending upon whether the structure is in the Floodway or Flood Fringe, respectively.
- (4) If any nonconforming use is discontinued for 12 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 which have been discontinued for a period of 12 months.

- (5) If any nonconformity is substantially damaged, as defined in Section 43.67(h) of this ordinance, it shall not be reconstructed except in conformity with the provisions of this ordinance. The applicable provisions for establishing new uses or new structures in Section 43.69 or 43.70 will apply depending upon whether the use or structure is in the Floodway or Flood Fringe, respectively.
- (6) [~~If any nonconforming use or structure is destroyed by any means, including floods, to an extent of 50 percent or more of its market value at the time of destruction, it shall not be reconstructed except in conformity with the provisions of this ordinance. The applicable provisions for establishing new uses or new structures in Sections 43.69, 43.70 or 43.71 will apply depending upon whether the use or structure is in the Floodway, Flood Fringe or General Flood Plain District, respectively.]  
Any substantial improvement, as defined in Section 43.67(h) of this ordinance, to a nonconforming structure requires that the existing structure and any additions must meet the requirements of Section 43.69 or 43.70 of this ordinance for new structures, depending upon whether the structure is in the Floodway or Flood Fringe District.~~

#### **43.77 [43.76] PENALTIES FOR VIOLATION.**

- (a) Violation of the provisions of this ordinance or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or conditional uses) shall constitute a misdemeanor and shall be punishable as defined by law.
- (b) Nothing herein contained shall prevent the City of Winona from taking such other lawful action as is necessary to prevent or remedy any violation. Such actions may include but are not limited to:
  - (1) In responding to a suspected ordinance violation, the Zoning Administrator and local government may utilize the full array of enforcement actions available to it including but not limited to prosecution and fines, injunctions, after-the-fact permits, orders for corrective measures or a request to the National Flood Insurance Program for denial of flood insurance availability to the guilty party. The community must act in good faith to enforce these official controls and to correct ordinance violations to the extent possible so as not to jeopardize its eligibility in the National Flood Insurance Program.

- (2) When an ordinance violation is either discovered by or brought to the attention of the Zoning Administrator, the Zoning Administrator shall immediately investigate the situation and document the nature and extent of the violation of the official control. As soon as is reasonably possible, this information will be submitted to the appropriate Department of Natural Resources and Federal Emergency Management Agency Regional office along with the community's plan of action to correct the violation to the degree possible.
- (3) The Zoning Administrator shall notify the suspected party of the requirements of this 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 Community. If the construction or development is already completed, then the Zoning Administrator may either 1) issue an order identifying the corrective actions that must be made within a specified time period to bring the use or structure into compliance with the official controls, or 2) notify the responsible party to apply for an after-the-fact permit development approval within a specified period of time not to exceed 30-days.
- (4) [~~5~~] 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 2. That this ordinance shall take effect upon its publication.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Mayor

Attested By:

\_\_\_\_\_  
City Clerk

# Minnesota Department of Natural Resources

Division of Ecological and Water Resources  
Box 25, 500 Lafayette Road • St. Paul, MN • 55155-4025



October 15, 2014

The Honorable Mark Peterson  
Mayor, City of Winona  
207 Lafayette Street  
Winona, MN 55987-0378

Dear Mayor Peterson,

## CONDITIONAL STATE APPROVAL OF FLOODPLAIN ORDINANCE & REQUIRED NEXT STEPS

The Department of Natural Resources (DNR) received via email on October 10, 2014, a proposed amended floodplain management ordinance for the City of Winona. The amendments are being adopted to incorporate the Winona County Flood Insurance Rate Map panels that apply to annexed parts of the City, and to incorporate ordinance text revisions mandated by the Federal Emergency Management Agency (FEMA) for communities participating in the National Flood Insurance Program (NFIP).

### Conditional Approval

The draft floodplain management ordinance substantially complies with the state floodplain management rules (MR 6120.5000 to 6120.6200) and, to the best of my knowledge, with the floodplain management standards of the Federal Emergency Management Agency. However, there are a few provisions in the existing ordinance that appear to have been deleted in the current draft. These are:

- Section 43.67 (d)(3) – the requirement that the DNR Commissioner is given 10-days written notice of hearings to consider amendments to the floodplain ordinance
- Section 43.75 (c) – the requirements that notice of public hearings to consider conditional uses and decisions granting conditional use permits be forwarded to the DNR within 10 days of the hearing or following the decision.

The specific language changes needed are included in the attached mark-up of the draft ordinance amendment (e-mailed to staff).

In accordance with Minnesota Statutes, Chapter 103F, I approve your draft floodplain management ordinance conditionally, provided that the above changes are made and that the following steps are completed.

Following are the steps for completing and receiving final DNR approval for the City's ordinance.

- The City Council adopts the ordinance, following the typical hearing procedure;
- City staff publish a summary of the adopted ordinance in the newspaper of record;
- City staff sends hard copies of the information listed in the attached "Ordinance Certification Checklist" to the DNR. These include one copy each of the adopted ordinance, signed and stamped with the community seal and the affidavit of publication. Please send these documents to the State Floodplain Coordinator, Ceil Strauss, at the address above in the header; and
- Once she receives and verifies these materials, Ms. Strauss will prepare a final letter of approval and transmit the letter, with copies of the materials to Mr. John Devine at FEMA's Chicago Regional Office. You will receive a copy of the final approval letter.



The Honorable Mark Peterson  
October 15, 2014  
Page 2

Please note that any future amendments of this ordinance or change in the designation of flood prone areas require prior DNR approval. In addition, you are required to send copies of hearing notices and final decisions on floodplain-related variance, conditional uses, and ordinance amendments to the DNR. Please send those to Ceil Strauss at the above address. Feel free to contact her with any questions on this ordinance or related matters, at (651) 259-5713 or [ceil.strauss@state.mn.us](mailto:ceil.strauss@state.mn.us).

Also note that this approval pertains only to the floodplain ordinance amendments, not to the related minor shoreland ordinance amendments we received on October 10, 2014. While our office in St. Paul will continue to be the main contact for the floodplain ordinance update, your DNR Area Hydrologist Corey Hanson is your main contact for shoreland ordinance review and approvals. (We've forwarded the amendment to him for review.) Mr. Hanson will also continue to be your main contact for day to day assistance with administering your floodplain management ordinance and questions about other DNR water-related programs and permits. Feel free to contact Mr. Hanson at (507) 206-2854 or [corey.hanson@state.mn.us](mailto:corey.hanson@state.mn.us).

The DNR greatly appreciates your community's cooperation and initiative in providing for the reduction of flood damages through the adoption and administration of this ordinance.

Sincerely,



Jennifer Shillcox  
Land Use Section Supervisor

Enclosure (Ordinance Certification Checklist)

ec: Mark Moeller, City Planner  
John Devine, FEMA  
Corey Hanson, Area Hydrologist  
Terri Yearwood, DNR Eco-Waters Regional Manager  
Jeanne Daniels, DNR Eco-Waters South District Manager

## Mark Moeller

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**From:** Rhees, Suzanne (DNR) [suzanne.rhees@state.mn.us]  
**Sent:** Thursday, December 04, 2014 4:42 PM  
**To:** Mark Moeller  
**Cc:** Carlos Espinosa; Lucy McMartin  
**Subject:** RE: Conditional approval for City of Winona floodplain ordinance amendment  
**Attachments:** Ordinance\_Certification\_Checklist.pdf

Hi Mark,

Looking at the latest draft, it looks as if all the requirements are now covered. After you schedule the public hearing, you'll want to follow the attached checklist that identifies the final documents to be sent to us.

Thanks,

*Suzanne S. Rhees, AICP*

Floodplain and Land Use Planner

DNR Division of Ecological & Water Resources

500 Lafayette Road | St. Paul | MN 55155-4032

(o) 651-259-5677

(m) 612-875-1345

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**From:** Mark Moeller [mailto:MMoeller@ci.winona.mn.us]  
**Sent:** Tuesday, December 02, 2014 8:51 AM  
**To:** Rhees, Suzanne (DNR)  
**Cc:** Carlos Espinosa; Lucy McMartin  
**Subject:** FW: Conditional approval for City of Winona floodplain ordinance amendment

Hi Suzanne,

Given that our City Planning Commission will be discussing proposed Floodplain and Shoreland Ordinance changes on Monday (12-8), we have made corrections requested in your offices conditional letter of approval of October 15. Those changes, along with the conditioned approval letter, are attached for your review. If those changes are not acceptable, please advise as soon as convenient. Otherwise, we will include those changes in the final draft. Given a presumption that the Commission will find amendments appropriate on Monday, we will plan to schedule its hearing for January 12. Again, appreciate the help with this.

Thanks,

Mark

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**From:** Roseann Shaw [mailto:rsshaw@flaherty-hood.com]  
**Sent:** Monday, December 01, 2014 4:19 PM  
**To:** Mark Moeller  
**Cc:** Christopher Hood  
**Subject:** RE: Conditional approval for City of Winona floodplain ordinance amendment

Mark: Attached is a revised ordinance. The revisions are on page 4 and pages 26-27. The revisions are highlighted. Let us know if you think this covers the DNR's concerns. If you feel it does, I will change the highlighting to red and send you another copy of the ordinance. Roseann

## Mark Moeller

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**From:** Jiwani, Suzanne (DNR) [Suzanne.Jiwani@state.mn.us]  
**Sent:** Tuesday, January 06, 2015 1:52 PM  
**To:** Olson, Dan L (DNR); Mark Moeller  
**Cc:** Strauss, Ceil C (DNR); Hanson, Corey A (DNR); Heyse, William (William.Heyse@fema.dhs.gov) (William.Heyse@fema.dhs.gov)  
**Subject:** RE: Address in Winona?

Mark,

There are 2 separate items in your e-mail.

- 1) After the preliminary DFIRMS are issued, we (DNR, FEMA, FEMA's consultant) will work with the county to set up an afternoon meeting with local officials and early evening Open House for the general public. At the afternoon meeting, we will go over the remaining schedule: review and appeal process, appeal resolution, updated ordinance map adoption process. At the evening Open House we will have stations where people can see how the maps affect their property and roving staff to answer questions. A 90-day appeal period will start about 2-3 months after this meeting. Then appeals will be resolved. Depending on the number and complexity of the appeals this ranges from 3 months to 6 years. The maps will be finalized and the Letter of Final Determination issued. The communities have 6 months to adopt the maps in an updated ordinance.
- 2) The second issue is when the preliminary maps will come out. We are working with FEMA's consultant to resolve some QC issue on the hydraulic modeling and floodplain delineation. But the preliminary maps will not be issued until FEMA determines the status of the Mississippi River and Gilmore Creek levees protecting the City of Winona. If FEMA determines that the levee probably meets FEMA's levee criteria, they will issue a Provisional Accredited Levee note for the levee. Winona would then have 2 years to have a Professional Engineer certify that the levee meets the FEMA criteria. Once a PAL is issued, the final map process and the levee certification process run on separate schedules. But the updated map process won't start without the PAL determination.

I hope this information is helpful.

Suzanne Jiwani, PE, CFM  
Floodplain Mapping Engineer  
Minnesota Dept of Natural Resources  
500 Lafayette Road  
St. Paul, MN 55155  
651-259-5681

## Topics to Examine for Zoning Ordinance Update

1. Drawings/examples. Simplify complex and run-on writing in ordinances through use of bullet points/numbering, etc.
2. Take out redundancies and unutilized sections.
3. Make ordinance easy to reference and navigate.
4. Update parking requirements (for senior housing – non-convalescent, downtown, state licensed residential facilities, etc.).
5. Landscaping requirements
6. Permit carriage houses, grandmother facilities, accessory dwelling units.
7. Logging Ordinance/tree cutting ordinance.
8. Site Planning ordinance – make it stronger – add requirement for combination of parcels – define scope of conditions that may be added to a site plan approval, define process to enforce those conditions (e.g. development agreement).
9. Remove business/services as a “prohibited use” in M-2 zoning.
10. Design guidelines and form-based code for downtown area.
11. Adjust setbacks for Downtown Buildings (M-1 and M-2) zoning. Update outdated downtown manufacturing zones (i.e. rezone to commercial).
12. Appeal of Site Plan decisions made by Planning Commission. E.g. appeal to Council.
13. Address 300 foot parking distance requirement.
14. Zoning requirements for “wild animals” – including bees, snakes, and rabbits.
15. Revise standards for business and services uses in M-1 zoning district to be clearer.
16. Time limits for recording subdivisions – e.g. 5 years. If 5 years expires – may require new application and any new regulations enacted would apply.
17. Revise list of permitted/conditional uses in M-1 and M-2 districts. Revise required setbacks accordingly.
18. Clarify zoning enforcement – e.g. reference administrative citation process.
19. Address tourist homes (non- owner occupied rental for 1 week or less) – make not subject to 30% rule
20. Clarify “Termination of rights” language under nonconformity ordinance. Clarify that this section applies to nonconformities in general – not just nonconforming use.
21. Specify time limits on all approvals (Variances, Site Plans, subdivisions).
22. Ordinance to require project proposers pay for EAW preparation costs.
23. Create special setbacks for uncovered handicapped entrances/ramps. Clarify that covered handicapped ramps must comply with setbacks.
24. Define scope of conditions that may be added to a rezoning request. Define how those conditions will be enforced (e.g. development agreement).