



**CITY HALL**

207 Lafayette Street  
P.O. Box 378  
Winona, MN 55987-0378  
FAX: 507/457-8212

December 4, 2014

Planning Commissioners  
Winona, Minnesota 55987

Dear Commissioner:

The next meeting of the Planning Commission will be held on **Monday, December 8, 2014, at 4:30 p.m. in the Wenonah Room** of the Winona City Hall.

1. Call to Order
2. Minutes – November 24, 2014
3. Review of Site Plan Ordinance/Process (Attachment)
4. Discussion – Proposed Amendments – Floodplain and Shoreland Ordinances (Attachment)
5. Other Business
6. Future Action Items

- The Commission will not meet on December 22<sup>nd</sup>. Our next regular meeting will be on January 12, 2015.
- In January, staff plans to begin formulating a plan to update City Zoning and Subdivision Ordinances. As a first step in the process, we will meet with the Commission in defining issues with current ordinances, and in discussing strategies for a study approach. Further information will be forthcoming.

7. Adjournment

Sincerely,

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

Mark Moeller  
City Planner

## PLANNING COMMISSION MINUTES

**DATE:** November 24, 2014

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

**PRESENT:** Chairperson Davis; Commissioners Porter, M. Olson, Ballard, Hahn, Davis, and Buelow

**ABSENT:** Commissioners Boettcher and L. Olson

**STAFF PRESENT:** City Planner, Mark Moeller; 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 10, 2014

The minutes for November 10, 2014 were approved without changes upon motion by Commissioner M. Olson and second by Commissioner Porter.

### Public Hearing – Rezoning Request – Automotive Enterprises LLC – R-1 to B-3

Chairperson Davis asked the petitioner to describe the request. Mr. Dahl stated that the current rezoning proposal is intended to address a number of concerns brought up by neighbors in previous meetings. Mr. Dahl stated that the current plan includes a berm for visual screening and a pedestrian walkway for neighbors to be able to reach the Vila/Highway 61 intersection. Mr. Dahl also stated that the lights will have a dimming option as well as a motion option, emphasized that there will be no outside paging or phone ringing, and clarified that stormwater improvements will take the form of a rain garden – not a retention pond. Next, Mr. Dahl asked Ron May from Winona Nursery to describe the rain garden.

Mr. May stated that the rain garden is not designed to hold water. In fact, the water from a one inch rain event will be gone within a matter of hours – not days. Further, there is an overflow drain pipe set at two feet – so that if a significant amount water accumulates in the garden, it will outflow to the nearby drainageway adjacent to Highway 61.

Next, Chairperson Davis asked for the staff report. Mr. Moeller stated that this staff report was relatively similar to the previous report on this topic. As a result, the following options are available to the Commission:

1. Recommend approval of the application. Under this option, staff recommends that it be conditioned on the following:
  - a. The westerly side of any parcel, that is proposed to be rezoned B-3, shall be retained as R-1. In accordance with City Code Section 43.37 (b), the purpose/intent of this exclusion being to restrict vehicular traffic flow between the Johnstones Addition and the adjoining auto dealer redevelopment site to the east.

## PLANNING COMMISSION MEETING MINUTES

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- b. Vehicular access between the rezoning site and Lake Boulevard shall not be permitted. This condition is consistent with previous commercial zoning approvals located easterly of the current rezoning site.
- c. Require that all land parcels, to be developed/used for the GMC auto dealership, be combined into a single parcel.
- d. Commission approval of any site plan mitigation strategy that would serve to address identified neighborhood impacts resulting from commercial use of rezoning site.

Although any modifications to the present (approved) GMC development site plan will require additional full review by the Commission at a later point, segments (i.e.: Scope and detail of 50' buffer landscaping, silt and pond fence, etc.) could be "locked in" as a condition of zoning approval. In addition to these, the Commission could specify other information it would like to see on full plan when it returns for review.

- e. Provide for the permanent retention and maintenance of the required 50 foot buffer, regardless of future use of the GMC development site.

In order to ensure that the previous requirements are fulfilled/implemented, staff further recommends that they be subject to a development agreement, restrictive covenants, or other document suggested by the City Attorney. Further, such documents should be drafted prior to submittal of the Commission's recommendation to Council (for its subsequent hearing of the request).

2. Recommend denial of the full request in accordance with staff discussion occurring under part 5 (c). This action should include specific reasons for it.
3. Modify all/part of the request.
4. Table the request for further information (other stated purpose).

Next, Chairperson Davis opened the public hearing.

Jim Clauson - 1289 Lakeview Avenue - stated that the proposed floor elevation of the building on the Automotive Enterprises (Dahl) property was at 669' and the top of the proposed berm and fence will be at 677' – as a result, the building will be taller than adjacent residences.

Norm Kostuck - 1297 Lakeview Avenue - stated that the neighborhood still has questions about the berm, light, and noise from the car dealership expansion.

Carol Bell - 787 Johnstone - stated the destruction of homes and trees thus far has increased the lights she sees from nearby car dealerships and has increased the noise she hears from Highway 61.

Harley Antoff - 1330 Parkview Avenue - expressed concerns about water ponding in the rain garden and stated that the current proposal relates to Mr. Dahl's wants versus his needs.

## PLANNING COMMISSION MEETING MINUTES

NOVEMBER 24, 2014

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Sharon Tolleson - 1276 Parkview Avenue - stated that there were already issues with stagnant water in the drainageway adjacent to Highway 61.

Sandy Olson - 1308 Parkview Avenue - stated that she supported denial of the zoning request.

Michelle Duffy - 1286 Lakeview Avenue - stated that she had concerns about visual impacts of expanded dealership.

Todd Bell - 787 Johnstone - stated that there are issues with the visual impacts of lights at existing dealerships.

Kathy Schuler - 1289 Lakeview Avenue - stated that the houses to the east of Johnstone Street acted as a visual barrier, but now that they've been removed, she can clearly see the existing Dahl dealership.

A gentleman from 1257 West Lake Boulevard stated he had concerns with potential impacts to the rear of the property along Lake Boulevard.

Rick Phillips - 1296 Parkview Avenue - stated that he was totally against the proposed rezoning.

Della Schmidt - Winona Chamber of Commerce - stated that Winona's location in a river valley constrains the amount of developable land resulting in roads, rails, businesses, and residential areas located in proximity to each other. Accordingly, compromises often need to be made. Ms. Schmidt also highlighted the businesses contribution to jobs, tax base, and philanthropy.

Joan Haines - 788 Terrace Lane - stated that she had concerns with how the new development would impact issues with water underneath neighboring houses.

Travis Tiltan - 369 E. Broadway - stated that he will be the manager at the new dealership campus, and if there are issues with noise or lights people can contact him.

Chu Vang - 1266 Parkview Avenue - stated that he is concerned about potential water impacts from the development.

Harley Antoff spoke again, asking about environmental review. Mr. Moeller stated that the project does not trigger an automatic environmental review, but that Mr. Antoff could contact the Environmental Quality Board about other options.

Mr. Moeller then ensured that the letters received by the City were entered into the record. The Commissioners stated that they had received the letters, and Mr. Moeller noted that they are on file with the City.

Next, Chairperson Davis closed the public hearing and brought the discussion back to the Planning Commission. Commissioner Fritz made a motion to deny the rezoning

## PLANNING COMMISSION MEETING MINUTES

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application because of uncertain impacts based upon the B-3 zoning and because the request is inconsistent with the Comprehensive Plan. The motion was seconded by Commissioner M. Olson.

Commissioner Fritz stated that he appreciates the attempts that the petitioner has made to enhance the buffer area, but that carving a couple lots out of a residential neighborhood still isn't appropriate.

Chairperson Porter stated that his opinion, moving the proposed landscape buffer 50-60' further to the west would not have a significant impact on the neighborhood. Mr. Porter also stated that the church, a permitted use in an R-1 zoning district, could also have expanded further to the west under the R-1 zoning that existed prior to the Automotive Enterprises' rezoning requests.

Commissioner Ballard stated that the enlarged rain garden is coming regardless of the rezoning. Mr. Ballard also stated that approval of this rezoning request essentially results in the landscape buffer moving 60' to the west.

Commissioner Hahn expressed issues with the precedent that approval of the rezoning request would set.

At this point, Mr. Moeller clarified that the berm proposed with this rezoning application would actually be above the grade of Johnstone Street. The elevation of the buffer area in the currently approved site plan is at the same grade as the adjacent roadway and property at 794 Johnstone Street. As a result, under the currently approved plan, neighboring properties will be able to see directly through to the auto dealership until the proposed vegetative screening matures.

There being no further comments or questions from the Commissioners, Chairperson Davis called for a vote. The motion to recommend denial of the rezoning passed 4-2 with Commissioners Ballard and Porter casting the nay votes, and Chairperson Davis abstaining.

### **Other Business**

Commissioners asked about the new additions to the Planning Commission agendas that were discussed at previous meetings. Mr. Moeller stated that at the next meeting, staff would bring forward an agenda item which will help address this topic.

### **Adjournment**

There being no further business to come before the Commission, the meeting was adjourned at 6:25 p.m.

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Carlos Espinosa  
Assistant City Planner

# PLANNING COMMISSION

**AGENDA ITEM: 3. Review of Site Plan Ordinance/Process**

**PREPARED BY: Mark Moeller**

**DATE: December 8, 2014**

During a recent meeting, Commissioner Fritz requested that the Commission review and discuss the present process for reviewing required new development site plans within the City. For Commission reference, a copy of the present ordinance, defining requirements/processes for the review of site plans, is attached. In illustrating this process, we have attached documentation, pertaining to our most recent site plan review of a small commercial strip that will include Caribou Coffee (1570 Service Drive).

To give the Commission a sense of the flow of the process, information includes:

- A copy of the application initiating site plan review. This application was accompanied by copies of the plan.
- Letters to neighboring property owners offering an opportunity to review, and comment on the site plan, and to request Commission review, if desired.
- Submittal of the site plan to various City departments, with an invitation to meet, to review the plan.
- A conditional approval letter to the applicant noting departmental meeting concerns and outlining other requirements that may need to be met for plan approval.

Given the current review process, the Commission reviews site plans only when requested to do so by the applicant, staff, or any other party of interest. In presenting this issue, Commissioner Fritz, has suggested amendments to Code Section 44.06 (d) (1) (Site Plan Ordinance) that would facilitate a more active Commission role in the process. As reflected on the last attachment, amendments would serve to:

- Require that the Commission receive a copy of any site plan received for City review.
- Enable any Commissioner to request full Commission review of a site plan.
- Modify Commission meeting requirements. At present, if a request for Commission review is received, review needs to occur within 11 calendar days. Under the amendment, review would occur at the Commission's next regularly scheduled meeting.

Attachments

#### 44.06 SITE PLANS

Site plans shall be required for any development, except the following:

- (1) One and two family dwellings, unless they are part of a cluster development;
- (2) When the Department of Community Development finds that a new development will have minimal impacts on existing conditions of a proposed development site. In making this finding, consideration shall be given to proposed land use, adjoining land uses and zoning, modified storm drainage volumes and patterns, new public utility extensions, parking, driveway, loading, exterior storage areas, and lighting, police and fire protection concerns, development lot slopes, modifications to adjoining streets or street rights-of-way and conformance with the general principles of design listed under (d) below.
  - (a) Required Fees. Any site plan submitted under this section shall be accompanied by the fee as set forth in Section 51.01 herein.
  - (b) Required Information. Plans and specifications shall be drawn to scale and shall be of sufficient clarity to indicate the nature and extent of the work proposed and shall show in detail that it will conform to the provisions of all relevant laws, ordinances, rules and regulations. The site plan shall be signed by the person responsible for preparation of building plans and shall contain the following information:
    - (1) Name and address of the developer;
    - (2) Name and address of the property owner;
    - (3) Survey information including distances with angles or bearings and north points;
    - (4) Small key map;
    - (5) The recommended plan scale is one inch equals 20 feet or larger in size;
    - (6) Zoning classification of the site plan land and the zoning classification of adjacent lands;

- (7) Existing and proposed street curb cut radii and curb cut width;
- (8) Location dimensions and area of existing building(s) to remain or be removed;
- (9) Proposed buildings with location dimensions, area and number of stories, occupancy classification and type of construction pursuant to State Building Code;
- (10) Existing and proposed contours or spot grades;
- (11) Distance on all sides between buildings and property lines and between buildings;
- (12) Building use including number of employees or apartments or family units;
- (13) Area of land in square feet;
- (14) Drainage design for roof areas, parking lot and driveways, showing area for or method of disposal of surface runoff;
- (15) Location of proposed or existing streets and curbs, sidewalks, easements and rights-of-way;
- (16) Location, size and elevation of proposed and existing sanitary sewers, storm sewers, water mains, hydrants, gas lines, underground power and communication lines, catch basins and drywells, along with information as to how new utilities will be connected to existing utilities;
- (17) Location and approximate diameter of proposed or existing trees and other woody stemmed plantings together with the common names of the plantings;
- (18) Limits and location of plantings or physical structures designed to screen vehicle lights preventing illumination of residential areas;
- (19) Limits, location and size of retaining walls and the type of materials to be used in construction;

- (20) Location of parking lots, driveways, parking bays, outside storage, burning, rubbish and garbage areas, loading and unloading areas and surfacing and screening thereof;
  - (21) Directions of vehicular traffic flow to, from and within the area, together with locations of traffic-control signs and markings.
  - (22) Locations, height and type of all outside lighting including street, sign, and security lighting;
  - (23) Locations, size, height and overall dimensions of outside signs;
  - (24) Such other or different information as may be required by the design standards set forth hereinafter or as required elsewhere in this Code.
- (c) Principles of Design. The site plan required by subsection (a) above shall incorporate the following general principles of design:
- (1) Landscaping. All sites shall be landscaped as approved by the Department of Community Development; existing trees shall be preserved where possible; surfaces denuded of vegetation shall be appropriately landscaped or surfaced to prevent soil erosion.
  - (2) Light glare from vehicles. When a parking lot adjoins a residential area, provisions shall be made to screen all vehicle lights to curtail direct illumination of the residential area.
  - (3) Drainage designs. Runoff water from parking lots, roofs and driveways shall not be allowed to cross sidewalks or to run onto private property that is not a part of the site unless easements have been obtained; surface runoff waters shall be directed into municipal facilities; where municipal facilities are not available, a drywell or drainage area owned or controlled by the owner or developer shall be provided; sanitary sewage shall be directed into municipal facilities where such facilities are available; where municipal facilities are not available and

approval of the city engineer is secured, a septic tank shall be provided; retaining walls shall be constructed where necessary for land stabilization.

- (4) Parking lots and loading areas. Parking lots shall be desired to avoid creating large open expanses of paving; parking lots and loading areas shall be designed to avoid the problem of vehicles backing onto streets, alleys and, sidewalks; vehicular traffic flow to, from and within the land containing a parking lot shall be controlled by appropriate traffic-control signs and surface markings; adequate provision shall be made for vehicle egress from the land to the street and ingress to the land; provision shall be made for a safe and convenient circulation pattern within any parking lot consistent with vehicular and pedestrian safety; curb cut radii shall allow safe ingress and egress of vehicles from and to the proper lane of traffic on the street which they adjoin; existing curb cuts and curb cut radii shall be used only if they comply with the standards for proposed curb cuts and curb cut radii; vehicular bumper guards or wheel stops shall be provided to prevent encroachment of vehicles on sidewalks.
- (5) Rubbish, garbage, storage and burning areas. Outside rubbish, garbage, storage and burning areas shall be permanently screened from view to a height of 6 feet and shall be constructed to prevent accidental dispersal of the materials contained therein.
- (6) Parking lot lighting. A parking lot shall be lighted for vehicular and pedestrian safety. In residential areas, the maximum height above ground level of lights shall be 15 feet; maximum foot candles at ground level shall be 1; minimum foot candles at ground level shall be .5; flood and spotlights shall be shielded to prevent glare on adjoining lands. In commercial or industrial areas the maximum height above ground level of lights shall be 30 feet; minimum foot candles at ground level shall be 2 in shopping centers, 1 in self-parking areas, 2 in attended or shelter parking areas and 1 in industrial areas.
- (7) General Site Lighting. Lights should be directed towards the structures or areas to be illuminated. Site lighting shall empty full cut-off style lights, lighting shields or fixtures as appropriate to keep glare on-site and minimize glare onto adjacent properties. The design and placement of lighting

fixtures shall not have an adverse effect upon abutting properties.

Ord. No. 3893 3/13/2012

- (d) Administrative Procedures. The following procedures shall apply to review of a site plan:
- (1) Upon receipt of a site plan, the Community Development Department shall (within one day) submit copies of the site plan to the City Engineer, Public Works Department, Police Department and Fire Department. In addition, mailed notice offering an opportunity to review said plan shall be given to property owners within 100 feet of the property upon which the proposed development is to be located. A person who has submitted a site plan, a reviewing department head, or any other party of interest may file, with the Department of Community Development, a written request for review of the site plan by the Planning Commission. Such a request shall be made within seven (7) calendar days of the date of the mailed notice and shall state specific reasons for Planning Commission review. If specific reasons are not stated, the request will not be considered by the Planning Commission. The Commission shall review the site plan within eleven (11) calendar days following receipt of the written request. Failure to review the plan within this time period shall result in automatic approval of the plan. A request shall serve to stay the issuance of required development permits until final action by the Commission has been taken. The decision of the Planning Commission shall be incorporated into a site plan and shall be a condition of any permit or certificate issued pursuant to this section.
  - (2) Following review and approval of a site plan, no departure from the plan shall be permitted without the express written consent of the Department of Community Development which shall consult with concerned department heads prior to rendering a decision. A substantial change to an approved site plan shall result in resubmittal of the plan and the procedure for review and approval or disapproval shall be the same as for the initial application.
  - (3) The Department of Community Development shall not issue a final certificate of occupancy until the development complies with all provisions of the site plan.

- (4) The Department of Community Development may issue a temporary certificate of occupancy where the approved site plan has been substantially complied with but the owner or developer is prevented from complete compliance by reason of occurrences beyond his control. Prior to issuance of the temporary certificate of occupancy, the owner or developer following consultation with the Director of Community Development or his/her designated representative and City Engineer shall file with the city clerk a corporate bond or certified check to the city and for the use of the city in a sum sufficient to cover the cost of completion of the unfinished items required by the approved site plan. The bond or check shall be executed by the owner or developer and shall be approved by the city attorney. The condition of the bond or check shall be that if the owner or developer shall comply with the approved site plan and provide the unfinished items, and shall fully indemnify and save the city harmless from all cost and damage which it may suffer by reason of failure of the owner or developer to do so, and shall fully reimburse and repay the city all outlay and expense which it may incur in making good any default of the owner or developer, and shall pay all persons who have contracts directly with the owner or developer for labor, equipment or materials, and shall indemnify and save harmless the city from any and all costs, damage and expense occasioned by or arising directly or indirectly out of supplying all labor, equipment or materials necessary for compliance and provision of the unfinished items, terms of the bond or checks, if action is brought on the bond or check, including reasonable attorney fees in any case where such action is successfully maintained and will appear in and defend and pay and satisfy any final judgment, if any is obtained, in any suits or actions arising out of supplying all labor, equipment or materials necessary for compliance and provision of the unfinished items, or occasioned by any act or omission on the part of the owner or developer, their sub-contractors, agents, employees and servants, then the obligation shall be null and void. A further condition of a bond, check, or escrow shall be that the penalty shall attach and the surety shall be liable if the owner or developer shall not have complied with the condition of the bond or check within one year after date of its execution. As an alternative to filing a bond or check, the owner or developer may, by written agreement with the City Manager, establish an escrow of money. Such agreement shall provide that the money shall be invested in the name of the city in a savings account in a

local financial institution for the benefit of the city and depositor. The depositor shall be entitled to any interest earned by the money while it is invested. The agreement shall set forth the conditions stated in the ordinance and that the escrow agent shall pay the entire sum together with interest to the depositor if he meets the conditions. The agreement shall also set forth that the city shall be entitled to the principal and the depositor to the interest if the conditions are not met. The agreement shall state that the agreement is made pursuant to section 44.06 of the City Code of Winona, 1979. Any fees for service charged by an escrow agent shall be paid by the owner-depositor.

- (5) The planning commission may grant a variance to any provision of this section where owing to special conditions the literal enforcement of its provisions or requirements will result in practical difficulty or hardship. However, in all cases, the spirit of the section shall be observed to the greatest extent possible.

Ord. No. 2920 03/21/88

**SITE PLAN APPLICATION**  
**COMMUNITY DEVELOPMENT, CITY OF WINONA, MINNESOTA 55987**  
**P.O. BOX 378 507/457-8250 FAX: 507/457-8212**

SITE ADDRESS: 1570 Service Dr

<b>Property Owner:</b>		<b>Contractor:</b>	
Company/Individual	<u>VEH Properties</u>	Company/Individual	<u>TJR Supply</u>
Contact Person	<u>Tim Van Eijl</u>	Contact Person	<u>Tim Van Eijl</u>
Mailing Address	<u>707 Rose St</u>	Mailing Address	<u>707 Rose St</u>
City/State/Zip	<u>La Crosse WI 54603</u>	City/State/Zip	<u>La Crosse WI 54603</u>
E-Mail	<u>Tim@VEHproperties.com</u>	E-Mail	<u>Tim@VEHproperties.com</u>
Office Phone	<u>608-385-5371</u>	Office Phone	<u>608-385-5371</u>
Mobile Phone		Mobile Phone	
<b>Permit Applicant:</b>		<b>Engineer/Architect:</b>	
Company/Individual	<u>VEH Properties</u>	Company/Individual	<u>Larson Architect</u>
Contact Person	<u>Tim Van Eijl</u>	Contact Person	<u>Mike Busgatz</u>
Mailing Address	<u>707 Rose St</u>	Mailing Address	<u>200 Mason St #3</u>
City/State/Zip	<u>La Crosse WI 54603</u>	City/State/Zip	<u>Onalaska WI 54650</u>
E-Mail	<u>Tim@VEHproperties.com</u>	E-Mail	<u>Mike@LarsonArchitect.com</u>
Office Phone	<u>608-385-5371</u>	Office Phone	<u>608-780-8269</u>
Mobile Phone		Mobile Phone	

- NOTE:** The Contractor and Applicant assume all responsibility for compliance with approved site plan.  
**NOTE:** Any project involving the disturbance of over one acre of land is subject to an NPDES permit and stormwater management plan.  
**NOTE:** Any project that will generate 200+ semi-truck trips per day or increase the amount of semi-traffic on a non-truck route by more than 20% is required to complete a Transportation Impact Analysis prior to submitting this application. If applicable, contact the Community Development Department to set up a pre-application meeting.

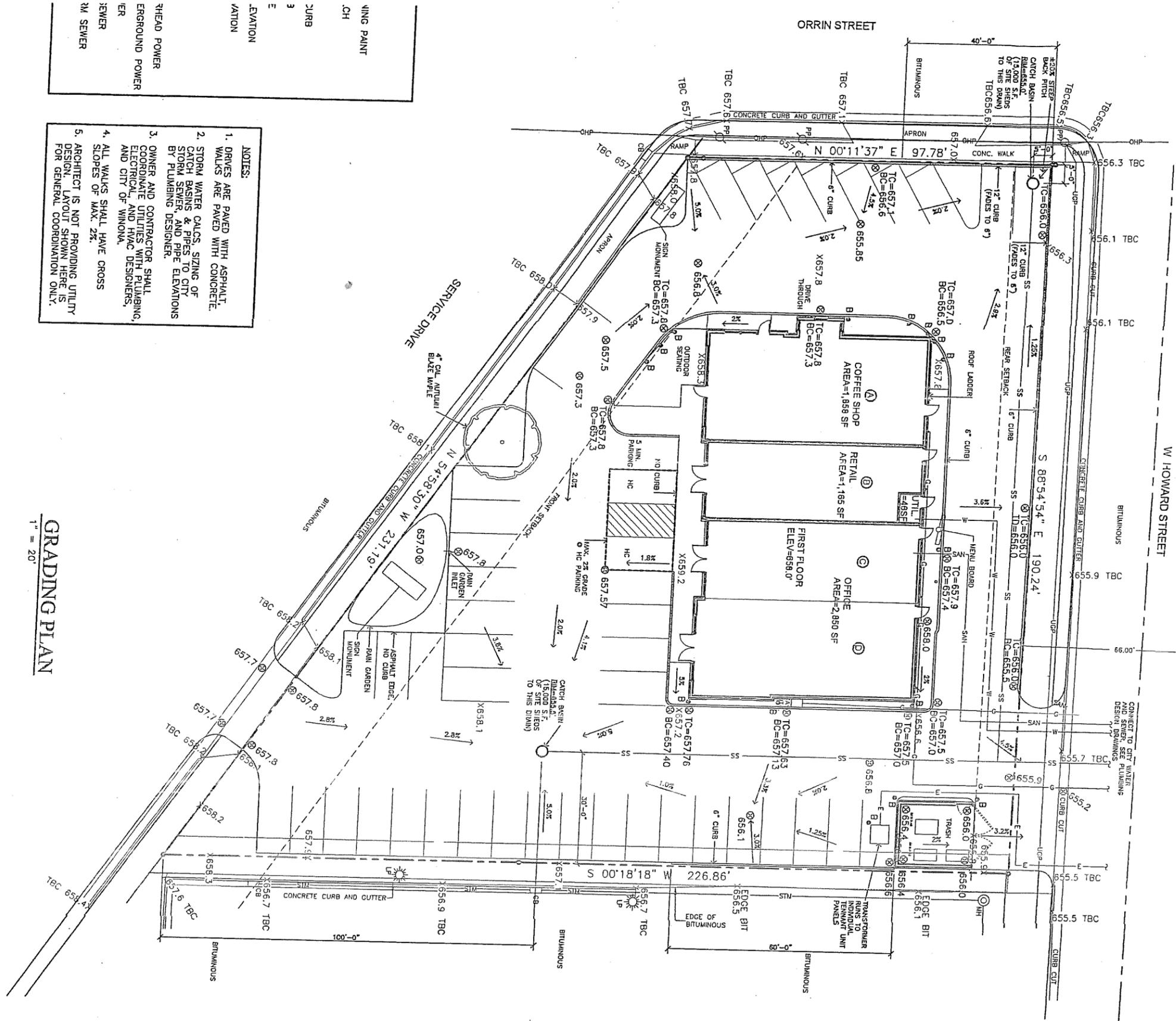
Site plans will not be accepted without the following information:

- Six hard copies of the site plan at a scale of 1" = 20' showing at a minimum the information required under Section 44.06(b) of the Winona City Code (other side of page). Failure to include this information may result in a need to submit six additional copies.
- Type of Development: Commercial
- Payment of the \$137.50 fee.

Tim Van Eijl  
 Signature of Applicant

\_\_\_\_\_  
 Signature of Land Owner  
 (If different from applicant)

<b>For Staff Use Only</b>		
Date Received: <u>7/15/14</u>	Site Plan # <u>747</u>	Receipt # <u>370788</u>
Parcel #: _____	Zoning: _____	Property Size: _____
<b>LEGAL DESCRIPTION OF PROPERTY:</b> _____		



WING PAINT  
CH  
CURB  
E  
ELEVATION  
ATION  
HEAD POWER  
ERGROUND POWER  
ER  
SEWER  
XW SEWER

- NOTES:
1. DRIVES ARE PAVED WITH ASPHALT. WALKS ARE PAVED WITH CONCRETE.
  2. STORM WATER CALCS, SIZING OF CATCH BASINS & PIPES TO CITY STORM SEWER, AND PIPE ELEVATIONS BY PLUMBING DESIGNER.
  3. OWNER AND CONTRACTOR SHALL COORDINATE UTILITIES WITH PLUMBING, ELECTRICAL, AND HVAC DESIGNERS, AND CITY OF WINONA.
  4. ALL WALKS SHALL HAVE CROSS SLOPES OF MAX. 2%.
  5. ARCHITECT IS NOT PROVIDING UTILITY DESIGN. LAYOUT SHOWN HERE IS FOR GENERAL COORDINATION ONLY.

GRADING PLAN  
1" = 20'

I hereby certify that this plan was prepared by me or under my direct supervision and that I am a duly

WINONA MALL

FIGURE



**CITY HALL**

207 Lafayette Street  
P.O. Box 378  
Winona, MN 55987-0378  
FAX: 507/457-8212

July 18, 2014

Dear Property Owner:

The City of Winona, Community Development Department, has received an application for approval of a site plan. The plan has been submitted by **VEH Properties** and proposes to **construct a retail center at 1570 Service Drive**.

Pursuant to City Code Section 44.06(d), the purposes of this communication are to inform you of this pending project and to offer you an opportunity to inspect the plan during normal business hours (7:00 a.m. to 4:30 p.m.) of the Community Development Office, Room 210, City Hall, 207 Lafayette Street. For your convenience, a reduced copy of the plan is enclosed. Following your review of the plan, you have the right to request that the Planning Commission review it. This request must be in writing, must include specific reasons for the request, and must be received, by the Community Development Office, no later than seven (7) calendar days from the date of this letter. Following receipt of the request, the Commission will consider it within eleven (11) calendar days. At that time, you will be given an opportunity to present your concerns/comments to the Commission.

For more information, please feel free to contact the Community Development Office at (507) 457-8250.

Sincerely,

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

Mark Moeller  
City Planner

<u>PIN</u>	<u>PROPERTY A</u>	<u>OWNER FIRS</u>	<u>OWNER_ADDR</u>	<u>OWNER_CITY</u>	<u>OWNER_STAT</u>	<u>OWNER_ZIP</u>
320800150	471 WAYNE ST	CHRISTOPHER W BEST & CHRISTON J BEST	471 WAYNE ST	WINONA	MN	55987
320800180	1558 10TH ST W	HAROLD E SCHUPPENHAUER & DONINA M SCHUPPENHAUER	1558 10TH ST W	WINONA	MN	55987
320800190	1564 10TH ST W	ROBERT C SHOUP & ROSEMARY T SHOUP	1564 10TH ST W	WINONA	MN	55987
320800210	1570 10TH ST W	GENE I OLSTAD & JULIANE S OLSTAD	1570 10TH ST W	WINONA	MN	55987
320800220	1576 10TH ST W	LINDA M HOIALMEN	1576 10TH ST W	WINONA	MN	55987
320800370	1558 SERVICE DR	DELAWARE 1558 LLC	1406 SALEM LN SW	ROCHESTER	MN	55902
320800400	1570 SERVICE DR	ROBERT A HEMKER & NANCY A HEMKER	32588 COUNTY RD 12	WINONA	MN	55987
320800420	1551 10TH ST W	MORGAN ENTERPRISES INC	1558 SERVICE DR	WINONA	MN	55987
3227002510	463 ORRIN ST	NAZARENE CHURCH VEH Properties	469 ORRIN ST	WINONA	MN	55987
			707 ROSE STREET	LA CROSSE	WI	54603

# MEMORANDUM

## DEPARTMENT OF COMMUNITY DEVELOPMENT

**TO:** Jason Theusch, Assistant Fire Chief

Public Works Department  
Keith Nelson, Director  
Brian DeFrang, City Engineer  
Bob Dunn, Water Department  
Paul Drazkowski, Sewer Department

**FROM:** Mark Moeller, City Planner

**DATE:** July 15, 2014

**SUBJECT:** Site Plan # 747 – VEH Properties – Construct a Retail Center

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Attached is the site plan from **VEH Properties** to **construct a retail center at 1570 Service Drive.**

A meeting of the Site Plan Review Committee has been scheduled for **Thursday, July 17, 2014 at 1:30 p.m. in the Dakota Room, second floor, of the Winona City Hall** to review the plan.

Attachments



**CITY HALL**

207 Lafayette Street  
P.O. Box 378  
Winona, MN 55987-0378  
FAX: 507/457-8212

July 29, 2014

Tim Van Eijl  
VEH Properties  
707 Rose Street  
La Crosse, WI 54603

RE: Site Plan Proposal – 1570 Service Drive – Winona

Dear Mr. Van Eijl:

The City of Winona has completed its review of your site plan submittal relating to construction of a retail center at 1570 Service Drive. Given that review, the plan has been approved subject to the following comments/requirements:

- Each retail/office component, within the complex, will need to be served by its own water meter.
- Proposed water and sewer lines, serving the complex, can be constructed in a straight line from Howard Street mains. There is no reason to jog these into the site as presently shown.
- As part of demolishing the existing building, the present 1" water line will need to be abandoned. The tap for the present line could be used as the location for the proposed 4" water line.
- Although the plan implies a storm sewer main on Howard Street, the City Engineer advises that the nearest main location is at the Orrin Street/Service Drive area. The City Engineer (Brian DeFrang – 507-457-8269) should be advised before utility work begins.
- Given residential use of land north of the development, lighting used to illuminate building/parking areas on that side, will need to be arranged to reflect light "away from" the residential area.
- Although proposed landscaping consists of a single tree and raingarden at the south border, an additional vegetative screen will be required along the Howard Street boulevard. The form of this screening should include a minimum of 2-3 street trees combined with deciduous and/or evergreen shrubs with planned mature heights of 5-6 feet. A plan, reflecting this requirement, will be required prior to issuance of a building permit for the project.

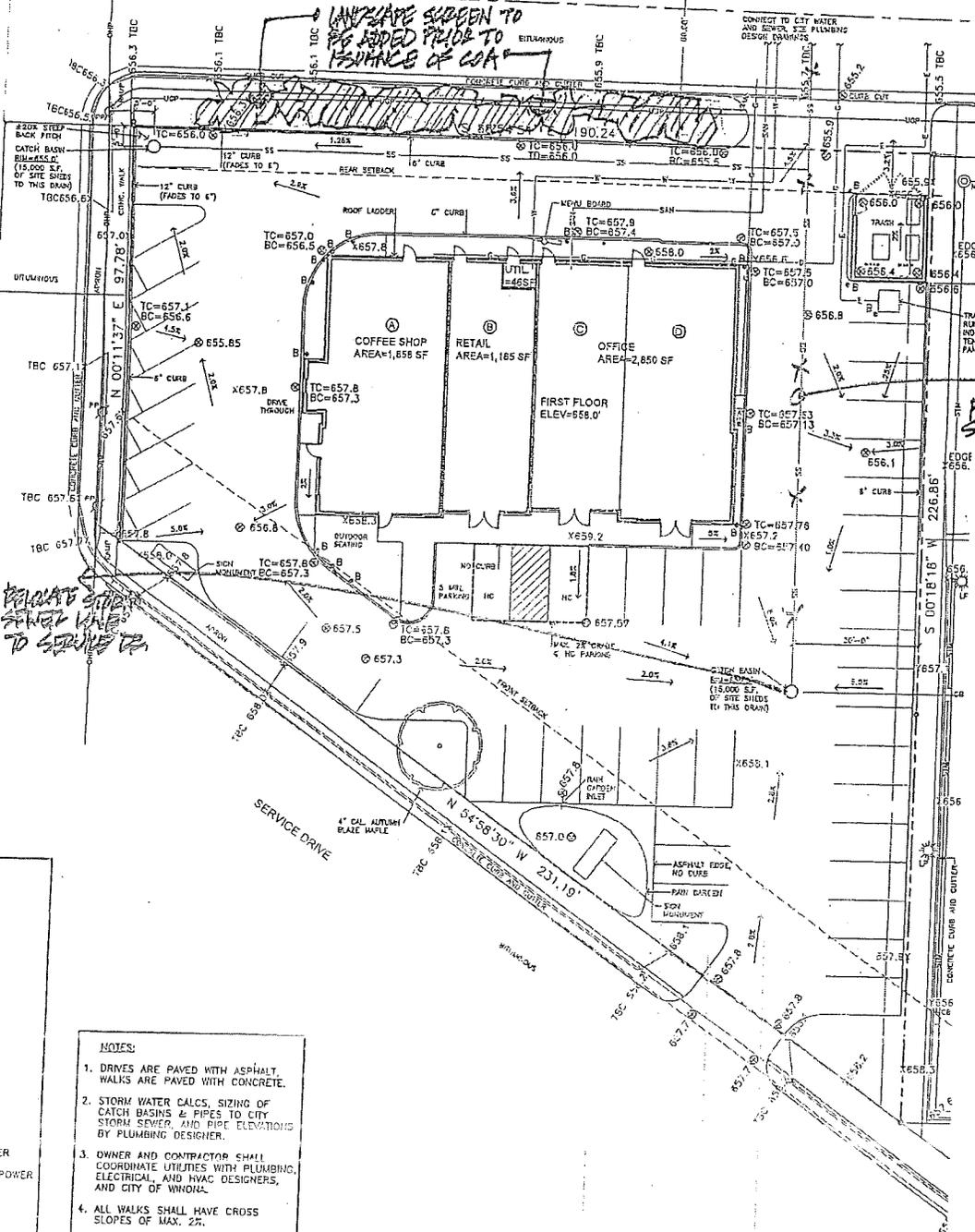
Should you have questions of this letter, please feel free to contact me at your convenience.

Sincerely,

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

Mark Moeller  
City Planner

W HOWARD STREET



- NOTES:**
1. DRIVES ARE PAVED WITH ASPHALT. WALKS ARE PAVED WITH CONCRETE.
  2. STORM WATER CALCS, SIZING OF CATCH BASINS & PIPES TO CITY STORM SEWER, AND PIPE ELEVATIONS BY PLUMBING DESIGNER.
  3. OWNER AND CONTRACTOR SHALL COORDINATE UTILITIES WITH PLUMBING, ELECTRICAL, AND HVAC DESIGNERS, AND CITY OF HOWARD.
  4. ALL WALKS SHALL HAVE CROSS SLOPES OF MAX. 2%.
  5. ARCHITECT IS NOT PROVIDING UTILITY DESIGN. LAYOUT SHOWN HERE IS FOR GENERAL COORDINATION ONLY.

**GRADING PLAN**  
1" = 20'

DELETE PROPOSED ST. SIGN - THIS LOCATION

PRIVATE STREET SIGNAGE TO SERVICE

N 54°58'30" W 231.19'

AJNT  
IN  
POWER  
AND POWER  
WER

- (d) Administrative Procedures. The following procedures shall apply to review of a site plan:
- (1) Upon receipt of a site plan, the Community Development Department shall (within one day) submit copies of the site plan to the City Engineer, Public Works Department, Police Department ~~and~~ Fire Department, and the Planning Commission. In addition, mailed notice offering an opportunity to review said plan shall be given to property owners within 100 feet of the property upon which the proposed development is to be located. A person who has submitted a site plan, a reviewing department head, any member of the Planning Commission, or any other party of interest may file, with the Department of Community Development, a written request for review of the site plan by the Planning Commission. Such a request shall be made within seven (7) calendar days of the date of the ~~mailed~~ notice and shall state specific reasons for Planning Commission review. If specific reasons are not stated, the request will not be considered by the Planning Commission. The Commission shall review the site plan ~~within eleven (11) calendar days~~ at its next regularly scheduled meeting following receipt of the written request. Failure to review the plan within this time period shall result in automatic approval of the plan. A request shall serve to stay the issuance of required development permits until final action by the Commission has been taken. The decision of the Planning Commission shall be incorporated into a site plan and shall be a condition of any permit or certificate issued pursuant to this section.

## PLANNING COMMISSION

**AGENDA ITEM: 4. Discussion – Proposed Amendments to Floodplain & Shoreland Ordinances**

**PREPARED BY: Mark Moeller**

**DATE: December 8, 2014**

Throughout the course of the past year, staff has been working with DNR officials in an effort to update the City's Floodplain Ordinance. As reflected on the attached draft document, proposed amendments will serve a number of purposes including:

- The inclusion (adoption) of Flood Insurance Rate Maps (FIRM) relating to recently annexed lands. Prior to annexation, flood plain jurisdictions rest with Winona County. However, following annexations, those jurisdictions transfer to the City. Current amendments are designed to formalize these required transfers.
- 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.

Given the ordinance amendment process, the DNR has issued a "conditional" State approval letter stating that, subject to two corrections, the attached draft ordinance complies with State floodplain management rules and FEMA standards. Language highlighted in yellow on pages 4, 26, and 27 is designed to address both conditions of the approval letter.

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.

Finally, for Commission reference/discussion, we are attaching proposed amendments to administrative procedures of the City Shoreland Ordinance. Again, the changes are designed to reflect recent changes to the conditional use permit process.

Should the Commission find that proposed Floodplain and Shoreland Ordinances are appropriate, a public hearing to consider the revised floodplain ordinance will be established in January. (Note: A formal hearing of Shoreland amendments will not be required.)

Attachments

# 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 Devinc at FEMA's Chicago Regional Office. You will receive a copy of the final approval letter.

[www.dnr.state.mn.us](http://www.dnr.state.mn.us)

AN EQUAL OPPORTUNITY EMPLOYER



PRINTED ON RECYCLED PAPER CONTAINING A MINIMUM OF 10% POST-CONSUMER WASTE

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)

cc: 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

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) [43.74(e)(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-proofed 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](#) [spades] 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(e)].
- (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 [43.74] 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 [43.74] 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 aAny 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 22.24]. 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

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

The City of Winona does ordain:

Section 1. That Section 69.03 of Chapter 69 of the City Code of Winona, Minnesota, 1979, which Chapter is entitled "Shoreland Management", be amended as follows:

“69.03 ADMINISTRATION

A. Notifications to the Department of Natural Resources

1. Notice of Public Hearings. Copies of all notices of any public hearings to consider variances, amendments, or conditional uses under local shoreland management controls must be sent to the commissioner or the commissioner's designated representative (~~and~~). The notice may be sent by electronic mail or U.S. Mail to the respective DNR area hydrologist. If sent by U.S. Mail, it shall be postmarked at least ten days before the hearings. Notices of hearings to consider proposed subdivisions/plats must include copies of the subdivision/plat in accordance with Minn. R. 6120.3900.

2. Notice of Amendments, Variances and Conditional Uses. A copy of approved amendments and subdivisions/plats, and final decisions granting variances or conditional uses under local shoreland management controls must be sent to the commissioner or the commissioner's designated representative (~~and~~). The notice may be sent by electronic mail or U.S. Mail to the respective DNR area hydrologist. If sent by U.S. Mail, it shall be postmarked within ten days of final action in accordance with Minn. R. 6120.3900.

B. Variances

1. Conditions. Variances may only be granted in accordance with Minnesota Statutes, Chapter 462.357, as applicable. A variance may not circumvent the general purposes and intent of this chapter. No variance may be granted that would allow any use that is prohibited in the zoning district in which the subject property is located. Conditions may be imposed in the granting of a variance to ensure compliance and to protect adjacent properties and the public interest. In considering a variance request, the board of adjustment must also consider the criteria contained in Minn. R.

6120.3900, subp.3.

2. Board of Adjustment. The board of adjustment shall hear and decide requests for variances in accordance with the rules that it has adopted for the conduct of business. When a variance is approved after the Department of Natural Resources has formally recommended denial in the hearing record, the notification of the approved variance required in Section 69.03 above shall also include the board of adjustment's summary of the public record/testimony and the findings of facts and conclusions which supported the issuance of the variance.

3. Existing Developments. For existing developments, the application for variance must clearly demonstrate whether a conforming sewage treatment system is present for the intended use of the property. The variance, if issued, must require reconstruction of a nonconforming sewage treatment system.

### C. Conditional Uses

Conditional uses allowable within shoreland areas shall be subject to the review and approval procedures, and criteria and conditions for review of conditional uses established by the City. The 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. An application for a Conditional Use Permit (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 within the applicable zoning district and the specific criteria listed below, as applicable. Following receipt of a CUP application, City staff will provide written notification to the applicant within 15 business days of the City's receipt of the application 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. The following additional evaluation criteria and conditions apply within shoreland areas:

1. Evaluation criteria. A thorough evaluation of the waterbody and the topographic, vegetation, and soils conditions on the site must be made to ensure:
  - a. the prevention of soil erosion or other possible pollution of public waters, both during and after construction;
  - b. the visibility of structures and other facilities as viewed from public waters is limited;
  - c. the site is adequate for water supply and on-site sewage

treatment; and

d. the types, uses, and numbers of watercraft that the project will generate are compatible in relation to the suitability of public waters to safely accommodate these watercraft.

2. Conditions Attached to Conditional Use Permits. The Commission or the City Council [City of Winona], upon consideration of the criteria listed above and the purposes of this chapter and the Zoning Code, shall attach such conditions to the issuance of the conditional use permits as it deems necessary to fulfill the purposes of this chapter. Such conditions may include, but are not limited to, the following:

- a. increased setbacks from the ordinary high water level;
- b. limitations on the natural vegetation to be removed or the requirement that additional vegetation be planted; and
- c. special provisions for the location, design, and use of structures, sewage treatment systems, watercraft launching and docking areas, and vehicle parking areas."

Section 2. That this ordinance shall take effect upon its publication.

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

\_\_\_\_\_  
Mayor

Attested By:

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