PLANNING COMMISSION

APRIL 9, 2018

6:30 O'CLOCK P.M.

Present

AGENDA

- 1. Call to Order
- 2. Minutes of the Previous Meetings March 12, 2018
- 3. Public Hearing Preliminary Plat Kasel Subdivision
- 4. Public Hearing Ordinance 154 Height Limitations
- 5. Ordinance Revisions Floodplain Ordinance and Chapter 152 Design Standards
- 6. Comprehensive Plan Update
- 7. Other Business
- 8. ADJOURN

MINUTES OF PLANNING COMMISSION MEETING March 12, 2018

Pursuant to due call and notice thereof, a regular Planning Commission meeting was held at City Hall on the 12th day of March, 2018 at 6:30 PM

THE FOLLOWING MEMBERS WERE PRESENT: Commissioner Ferris, Commission Torkelson,

Commissioner Tinsley and Commissioner Zelinske, Commissioner Borgstrom.

THE FOLLOWING WERE ABSENT: Commissioners Fitch and Burton

THE FOLLOWING WERE ALSO PRESENT: Administrator Theresa Coleman, City Clerk Rappe, Ron and John Kasel, Rich Massey and Aaron Thompson

CALL TO ORDER: Commissioner Ferris called the meeting to order at 6:30 PM.

MINUTES OF PREVIOUS PLANNING COMMISSION MEETING: Motion to Approve the February 12, 2018 minutes with the change of the last sentence to remove the word "finished" and replace it with "drafted" made by Commissioner Zelinske, second by Commissioner Borgstrom with all voting Aye.

PUBLIC HEARING – VARIANCE – KM SCHOOL PRESS BOX

Staff explained that the variance is for 2 feet to make the height 18 feet.

Open public hearing

Aaron Thompson, representing KM Schools, the school would like a 9 foot main floor to have an 8 foot garage door, and 8 foot upper floor and to get the press box over the top of the bleachers.

Public Hearing closed

Chairman Ferris asked the Commissioners the following questions: Whether they felt there are exceptional, unique or extraordinary circumstances apply to the physical surrounding, shape or topographical conditions of the parcel of land that result in practical difficulties for the owner? No answer.

Whether or not granting the variance will alter the essential character of the locality? – No Whether or not granting the variance will: 1. Impair an adequate supply of light and air to adjacent property? – No

- 2. Substantially increase congestion in adjacent public streets? No
- 3. Endanger the public safety? No
- 4. Substantially diminish or impair property values within the vicinity? No

Whether the variance requested is the minimum variance that would alleviate the practical difficulties? Yes

Whether or not the variance requested is consistent with this chapter and the City's Comprehensive Plan? No answer

Whether or not granting the variance requested provided for a reasonable and practical solution that will eliminate the practical difficulties? Yes

Motion to recommend approval the variance and for an amendment to application to 2 story in an R-1 and at a max of 18 feet, made by Commissioner Zelinske, second by Commissioner Torkelson with all voting Aye.

GENERAL DEVELOPMENT PLAN

Rich Massey spoke on behalf of Ron Kasel. Some neighboring property owners are already occupying portions of these parcels and are interested in buying the lots. A sewer easement is already in place. The owner is creating a conservation corridor (Outlot B) along Maston Creek and Outlot A along the

railroad tracks. Ron Kasel stated that there is a planned ecological corridor that would be a good place for a bike trail.

Commissioner Zelinske asked if Mr. Kasel talked to the DNR. Mr. Massey stated; not yet.

Commissioner Tinsley asked if the lots would only be offered to the contiguous property owner. Mr. Kasel stated they would but they could not combine lots. Mr. Kasel is hoping to sell them to the property owners but does not have confirmation from them all.

Administrator Coleman noted the staff recommendations to create deed restricted Outlots. She clarified that Mr. Kasel plans to retain Outlots A and B.

Mr. Massey has to look further into deed restrictions to see how much can be restricted. The Commissioners were very interested to get a statement from the DNR for their restrictions for this land.

Motion to approve the general development plan as presented and discussed made by Commissioner Borgstrom, second by Commissioner Zelinske with all voting Aye.

ORDINANCE REVISIONS

ADJOURN 7:21PM

Administrator Coleman presented the floodplain ordinance. Since Commissioners do not have this section in their zoning books this will be tabled until the April meeting. Chairman Ferris asked if Shopko was built in the floodplain. Administrator Coleman stated that the retention pond was constructed to handle potential flooding.

COMPREHENSIVE PLAN UPDATE —Administrator Coleman stated that the Comprehensive Plan working Group has a meeting on April 4 to review a draft of the Comp Plan. Hoisington-Koegler is planning a joint meeting with the City Council and Planning Commission on April 16 at 6:00 PM at the Kasson Public Library to walk through the draft plan. A meeting on May 14 at 5:30PM there will be an Open House prior to the Planning Commission meeting at 6:30PM where a public hearing will be held on the Comprehensive Plan. The City Council will then adopt the Comp Plan at either they May 23 or June 13 meeting. The Planning Commission was in consensus that they would like to have their regular meeting on April 9 and a special joint meeting on April 16 with the City Council.

Location was discussed for the May 14 public hearing, Administrator Coleman will see if the high school is available.

OTHER BUSINESS – Commissioner Borgstrom indicated that there was a potential rezone of the block south of Shopko. Commissioner Borgstrom asked the Planning Commission to be prepared for this in the future.

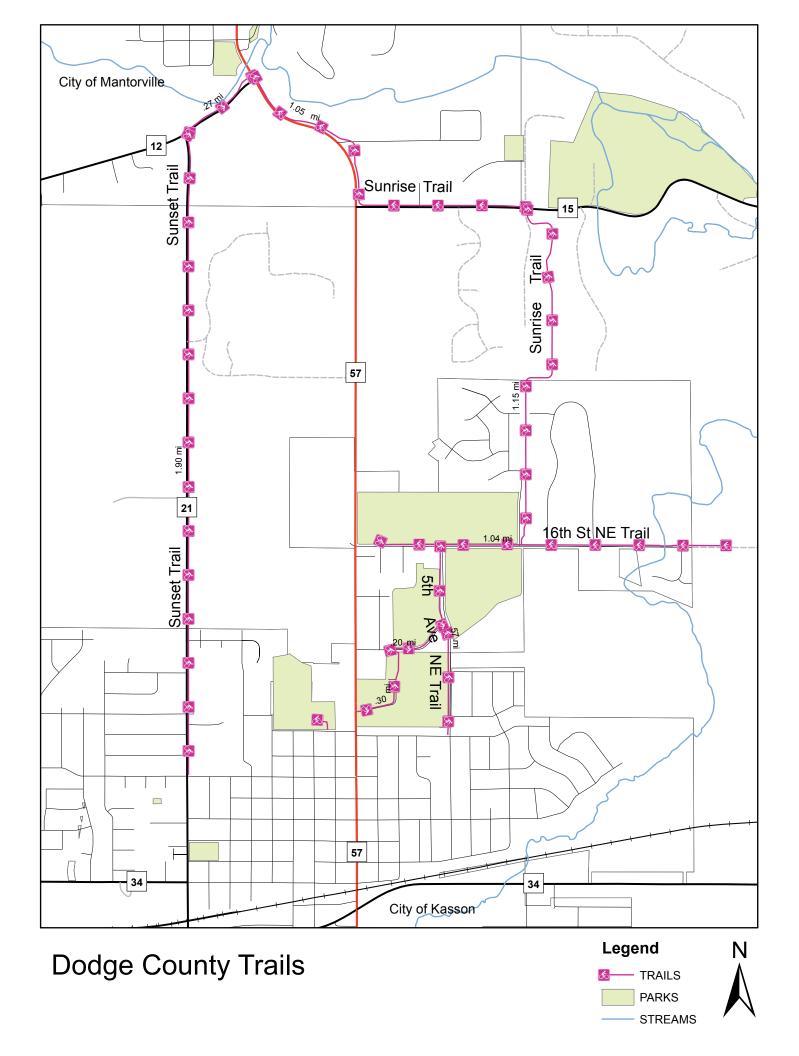
| Attest: | |
|-------------|---|
| | |
| Linda Rappe | Theresa Coleman |
| City Clerk | Zoning Administrator/City Administrator |

Print

Kasson, MN Code of Ordinances

§ 152.023 OPEN SPACE RESERVATIONS.

- (A) Purpose. The provisions of this section are intended by the city to be an exercise of the authority granted pursuant to M.S. § 462.358, Subd. 2(b), as may be amended from time to time, to require that a reasonable portion of any proposed subdivision of residential lands within the city be dedicated to the public or preserved as community parks, playgrounds or open space; or that a reasonable cash payment be received from the subdivider in lieu thereof in order to facilitate development of similar facilities.
- (B) Scope. The provisions of this section shall apply to a person who applies, pursuant to this chapter, for a subdivision or resubdivision (where the resubdivision causes an increased demand on parks) of lands that are classified pursuant to this code as being located in a residential zoning district; or, for a subdivision of lands that are classified as being in a nonresidential district at the time of the application, but are intended to be developed following their subdivision in a manner requiring their designation as a residential zoning district; or lands used for high density housing units that are permitted by other means such as conditional use permits; or lands that are properly zoned or platted for housing developments consisting of three or more units.
- (1) Reservation of future park land. At the discretion of the City Council, upon recommendation of the Planning and Zoning Commission, a subdivider may dedicate more land than would be required by the formulas established by this chapter and receive a written credit against future park land dedication requirements. The credit shall attach to the relieved land and remain with the relieved land, regardless of change in ownership thereof.
- (2) Subdivision changes. In the event a subdivider deviates from the approved preliminary plat in a final plat, or replats property already platted, or where the use of property is changed from a nonresidential use to a residential use, the owner or subdivider shall be obligated to provide additional land or fee to compensate for the increased demand on the park system.
- (3) Final platting of a portion of an approved preliminary plat. Whenever a subdivider applies for approval of a final plat which contains only a portion of the land encompassed in the approved preliminary plat, the subdivider shall be responsible for making a dedication of park land or financial contribution as required, which is proportional to the area of the final plat. The conditions of the allowances shall be in the form and manner prescribed and approved by the county.
- (4) Multi-plat developments. At the sole discretion of the Council, the city may enter into an agreement with the applicant for a development containing multiple plats concerning the timing and sequence of park land dedication. Notwithstanding any provision in this chapter to the contrary, the multiple plat agreement shall determine the time when the required park land dedication for multiple plat developments shall occur.
- (C) "Park land" defined. For purposes of this section, the term COMMUNITY PARK OR PARK LAND shall mean a public recreation facility, designed to give residents of the community the opportunity for the enjoyment of open space, and which may also provide for the use of the residents playground equipment, picnic areas and areas suitable for such uses as ball fields, tennis and basketball courts and skating rinks. Trail corridors providing access from residential areas to neighborhood park facilities may be considered part of the community park system.
 - (D) Minimum amount of dedication.
- (1) The city shall establish by resolution of the City Council the monetary value of the park land dedication. This fee shall be periodically reviewed by the Planning and Zoning Commission, Park Board and City Council. The fee shall be paid prior to recording the final plat of the subdivision. All payments collected shall be placed in the appropriate park acquisition and development fund established for the city.
- (2) The City Council shall reserve the right to negotiate independently with any property owner in the community to acquire land(s) to be used for community parks. The monetary dedications from any or all subdivisions can be used for these acquisitions or to expand existing facilities.
- (3) The city reserves the right to acquire lands within a subdivision, in accordance with the comprehensive land use plan, at the time of platting for a future park or an addition to an existing park. These lands can be donated by the owner as a credit against current or future dedication requirements.
- (4) Following dedication of lands as provided herein, no person shall remove trees, vegetation or topsoil therefrom, nor shall the lands be used for the purpose of stockpiling of earth or construction material, with out written permission from the city.



S COMPLIFE FILE: 2805SP01 DWC

CONTRACTOR SOCIAL PROPERTY CONTRACTOR

PROTECTED WATERS
ARE
PUBLIC.
PY

STATE OF MINNESOTA

DEPARTMENT OF NATURAL RESOURCES

Pursuant to Minnesota Statutes, Section 105.391, Subd. 1, the Commissioner of Natural Resources hereby publishes the final inventory of Protected (i.e. Public) Waters and Wetlands for Dodge County. This list is to be used in conjunction with the Protected Waters and Wetlands Map prepared for Dodge County. Copies of the final map and list are available for inspection at the following state and county offices:

DNR Regional Office, Rochester Dodge SWCD Dodge County Auditor

Dated:

29 Cen 84

STATE OF MINNESOTA
DEPARTMENT OF NATURAL RESOURCES

JOSEPH N. ALEXANDER, Commissioner

Joyan alley

DEPARTMENT OF NATURAL RESOURCES DIVISION OF WATERS FINAL DESIGNATION OF PROTECTED WATERS AND WETLANDS WITHIN DODGE COUNTY, MINNESOTA.

A. Listed below are the townships in Dodge County and the township/range numbers in which they occur.

| Township Name | Township # | Range # |
|---------------|------------|---------|
| Ashland | 106 | 17 |
| Canisteo | 106 | 16 |
| Claremont | 107 | 18 |
| Concord | 108 | 17 |
| Ellington | 108 | 18 |
| Hayfield | 105 | 17 |
| Mantorville | 107 | 16 |
| Milton | 108 | 16 |
| Ripley | 106 | 18 |
| Vernon | 105 | 16 |
| Wasioja | 107 | 17 |
| Westfield | 105 | 18 |

B. PROTECTED WATERS

1. The following are protected waters:

| Number and Name | Section | <u>Township</u> | Range |
|--------------------------------|-------------------|-----------------|-------|
| 20-13: Unnamed 74-1: Rice Lake | 20,21 | 107 | 16 |
| | 6,7;1,11,12,13,14 | 107 | 18;19 |

2. The following natural and altered natural watercourses are protected waters:

| | | From | | | To | |
|------------------------|---------|-----------------|-------|----------------|----------|-------|
| Name | Section | <u>Township</u> | Range | <u>Section</u> | Township | Range |
| *N. Branch Middle Fork | 4 | 108 | 17 | 3 | 108 | 17 |
| Zumbro River (NBMFZR) | 1 | 108 | 17 | 6 | 108 | 16 |
| | 6 | 108 | 16 | 6 | 108 | 16 |
| | 6 | 108 | 16 | 5 | 108 | 16 |
| Middle Fork Zumbro | 19 | 108 | 18 | 12 | 108 | 16 |
| River (MFZR) | 0 | 108 | 18 | 7. | 108 | 17 |
| Unnamed to MFZR | 2 | | | • | 108 | 18 |
| Unnamed to Unnamed | 2 | 108 | 18 | 2 | | |
| Unnamed to MFZR | 8 | 108 | 18 | 16 | 108 | 18 |
| Unnamed to MFZR | 21 | 108 | 17 | 23 | 108 | 17 |
| Milliken Creek | 31 | 108 | 17 | 9 | 108 | 16 |

| | | From | D | a it | To | Danas |
|----------------------------|---------|-----------------|-------|---------|-----------------|-------|
| Name | Section | <u>Township</u> | Range | Section | <u>Township</u> | Range |
| Unnamed to MFZR | 14 | 108 | 16 | 12 | 108 | 16 |
| Harkcom Creek | 33(CSA) | | 16 | 12 | 108 | 16 |
| Tiarkeon Creek | 11 | | | | | |
| South Branch MFZR | 7(Basin | 107 | 18 | 13 | 107 | 16 |
| SBMFZR) | 74-1) | | | | + | |
| Unnamed to SBMFZR | 8(TH 57 |)107 | 16 | 16 | 107 | 16 |
| Unnamed to SBMFZR | 19 | 107 | 17 | 17 | 107 | 17 |
| Lower Branch of Middle | 33 | 107 | 18 | 14 | 107 | 17 |
| Fork Zumbro River (LBMFZR) | | | | | | |
| Unnamed to LBMFZR | 12(Twp | 106 | 18 | 1 | 106 | 18 |
| | Rd.) | | | | | |
| Unnamed to LBMFZR | 17 | 106 | 17 | 32 | 107 | 17 |
| Henslin Creek | 8 | 106 | 17 | 5 | 106 | ·17 |
| Unnamed to SBMFZR | 19 | 107 | 16 | 18 | 107 | 16 |
| Masten Creek | 32(T.H. | 107 | 16 | 22 | 107 | 16 |
| | 14) | | | | | |
| Salem Creek (SC) | 29 | 106 | 16 | 24 | 106 | 16 |
| Unnamed to SC | 7 | 106 | 16 | 23 | 106 | 16 |
| Unnamed to SC | 19 | 106 | 16 | 29 | 106 | 16 |
| Unnamed to SC | 32 | 106 | 16 | 28 | 106 | 16 |
| S. Fk. Zumbro River(SFZR) | 18 | 105 | 16 | 12 | 105 | 16 |
| Unnamed to SFZR | 6 | 105 | 16 | 8 | 105 | 16 |
| Unnamed to SFZR | 23 | 105 | 16 | 12 | 105 | 16 |
| Unnamed to Unnamed | 24 | 105 | 16 | 24 | 105 | 16 |
| Unnamed to North Branch | SE 31 | 105 | 16 | 33 | 105 | 16 |
| Root River | | | | | | |
| Cedar River (CR) | 29 | 105 | 17 | 33 | 105 | 18 |
| Unnamed to CR | 31 | 105 | 17 | 36 | 105 | 18 |
| | 35 | 105 | 18 | 35 | 105 | 18 |
| *Unnamed tributary | 34 | 105 | 17 | 34 | 105 | 17 |
| Unnamed to CR | 23 | 105 | 17 | 29 | 105 | 17 |
| Unnamed to CR | 24 | 105 | 18 | 26 | 105 | 18 |
| Little Cedar River | 16 | 105 | 18 | 28 | 105 | 18 |
| Unnamed to CR | 19 | 105 | 18 | 29 | 105 | 18 |
| Unnamed to CR | 31 | 105 | 18 | 31 | 105 | 18 |

C. WETLANDS

The following are wetlands:

Number and Name Section Township Range
There are none in Dodge County.

^{*}This is corrected from a previous typographic and/or cartographic error.

Staff Planning Review

Kasel Addition

Preliminary Plat; Prepared for Rich Massey

Zoning Administrator

152.023 attached

Comprehensive Plan – "Maintain the current high quality, identify any deficiencies and improve when necessary the recreational areas, programs and facilities for the community."

Dodge County Trail Plan attached

Zoning Clerk

152.077 (D) Every lot shall have access for fire protection, utilities and other necessary services Masten Creek designated as Protected Public Waters

Attorney

Development Agreement providing for deed restrictions, flood plain acknowledgement, and removal of fences, sheds, playsets and other obstructions located on the utility easements.

Chapter 153: Floodplain Management

153.070 (A)

153.070 (B)

City Engineer

I recommend the Commission review and consider the following:

City Ordinances:

Chapter 152: Subdivisions

152.002 (B), (G), (I), (L)

152.007

152.020 (B,1.,C)

152.023 (B,1.), (D,2.)

152.075 (A), (B)

152.077 (D)

152.080

Comp Plan currently in place:

Section III: Transportation, Goals and Policies Section IV: Public Facilities, Parklands Section VI: Land Use, Goals and Policies

Comp Plan currently being drafted:

1-4: Greenstep City

2-19: Parks and Recreation

2-23: Natural Resources And Open Space

4-9: Greenways/Natural Areas

6: Parks, Recreation and Active Living

To summarize; the above items intent is to provide preservation of floodplains, recreation, open space and ultimately protect the public.

Based on this information, I recommend the Commission consider the following:

- 1. Reject the preliminary plat based on not meeting City Ordinances and Comp Plan.
- 2. Approve the preliminary plat as presented with the conditions that Outlots, S,T,F,P be conveyed to the City as park land and Deed restrictions/drainage easements are provided on all private lots.
- 3. Approve the preliminary plat as presented with the conditions that a conservation corridor is provided along Outlots S and T and Deed restrictions/drainage easements are provided on all private lots.

I recommend option #2.

§ 154.052 HEIGHT LIMITATIONS. EXEMPTIONS

The building height limitations established in this chapter for districts shall not, unless otherwise specified in this chapter, apply to the following in the districts where they are listed as permitted uses or are part of the listed permitted principal uses: The following structures are exempted from the height regulations of this chapter when they are associated with a permitted use or a conditional use granted by permit.

- (A) Chimneys and flues;
- (B) Cooling towers;
- (C) Elevator bulk head;
- (D) Fire towers;
- (E) Grain elevators and silos;
- (F) Stacks;
- (G) Water towers;
- (H) Pumping towers;
- (I) Church spires;
- (J) Clock or bell towers;
- (K) Monuments;
- (L) Cupolas and domes which do not contain useable space;
- (M) Steeples;
- (N) Flagpoles;
- (O) Elevator penthouses;
- and (P) Sports press boxes of more than one story, and
- (PQ) Mechanical and electrical appurtenances pertaining to and necessary to the permitted use of the district in which they are located.

 (Prior Code, § 24-31) (Ord. 728, passed)

CHAPTER 153: FLOODPLAIN MANAGEMENT

Section

General Provisions 153.001 Statutory authorization 153.002 Findings of fact <u>153.003</u> Methods used to analyze flood hazards 153.004 Statement of purpose 153.005 Lands to which chapter applies 153.006 Establishment of official zoning map <u>153.007</u> Regulatory flood protection elevation 153.008 Interpretation 153.009 Abrogation and greater restrictions 153.010 Warning and disclaimer of liability 153.011 Definitions **Establishment of Zoning Districts** 153.025 Districts established <u>153.026</u> Compliance Floodway District (FW) 153.040 Permitted uses 153.041 Standards for floodway permitted uses 153.042 Conditional uses 153.043 Standards for floodway conditional uses Flood Fringe District (FF) 153.055 Permitted uses <u>153.056</u> Standards for flood fringe permitted uses 153.057 Conditional uses 153.058 Standards for flood fringe conditional uses 153.059 Standards for all flood fringe uses

Subdivisions

| <u>153.070</u> | Review criteria |
|-----------------|---|
| 153.071 | Removal of special flood hazard area designation |
| | Public Utilities, Railroads, Roads and Bridges |
| <u>153.085</u> | Public utilities |
| <u>153.086</u> | Public transportation facilities |
| 153.087 | On-site sewage treatment and water supply systems |
| Manufaci | tured Homes and Manufactured Home Parks and Placement of Travel Trailers and Travel Vehicles |
| <u> 153.100</u> | Applicability of provisions of §§ 153.070 and 153.071 |
| <u> 153.101</u> | Placement in floodplain district; anchoring |
| <u> 153.102</u> | Travel trailers and travel vehicles |
| | Nonconforming Uses |
| <u>153.115</u> | Conditions of nonconforming uses |
| | Administration |
| <u>153.130</u> | Zoning Administrator |
| <u>153.131</u> | Permit requirements |
| <u>153.132</u> | Board of Adjustment |
| <u>153.133</u> | Conditional uses |
| <u>153.134</u> | Amendments to zoning map or ordinance |
| 152,000 | Develop |
| 153.999 | Penalty |

GENERAL PROVISIONS

■§ 153.001 STATUTORY AUTHORIZATION.

The legislature of the state has, in M.S. Ch. 462, as may be amended from time to time, delegated the responsibility to local government units to adopt regulations designed to minimize flood losses. Therefore, the City Council does ordain as follows in this chapter.

(Prior Code, § 9.1-1) (Ord. 642, passed →)

■ § 153.002 FINDINGS OF FACT.

The flood hazard areas of the city are subject to periodic inundation which results in potential loss of life, loss of property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

(Prior Code, § 9.1-2) (Ord. 642, passed - -)

■§ 153.003 METHODS USED TO ANALYZE FLOOD HAZARDS.

This chapter is based upon a reasonable method of analyzing flood hazards which is consistent with the standards established by the State Department of Natural Resources.

(Prior Code, § 9.1-3) (Ord. 642, passed - -)

■§ 153.004 STATEMENT OF PURPOSE.

It is the purpose of this chapter to promote the public health, safety and general welfare and to minimize those losses described in § 153.002 by provisions contained herein.

(Prior Code, § 9.1-4) (Ord. 642, passed --)

§ 153.005 LANDS TO WHICH CHAPTER APPLIES.

This chapter shall apply to all lands within the jurisdiction of the city shown on the official zoning map and/or the attachments thereto as being located within the boundaries of the floodway or flood fringe districts.

(Prior Code, § 9.1-5) (Ord. 642, passed)

■§ 153.006 ESTABLISHMENT OF OFFICIAL ZONING MAP.

The official zoning map together with all materials attached thereto is adopted by reference and declared to be a part of this chapter. The attached material shall include the <u>current</u> Flood Insurance Study for the city prepared by the Federal Insurance Administration <u>dated 7 6 1981</u>, and the <u>current</u> Flood Boundary and Floodway Map <u>dated 1 6 1982</u> and <u>current</u> Flood Insurance Rate Map <u>dated 1 6 1982</u> therein. The official zoning map shall be on file in the office of the City Administrator and the office of the Zoning Administrator.

(Prior Code, § 9.1-6) (Ord. 642, passed - -)

■§ 153.007 REGULATORY FLOOD PROTECTION ELEVATION.

The regulatory flood protection elevation shall be an elevation no lower than one foot above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the floodplain that result from designation of a floodway.

(Prior Code, § 9.1-7) (Ord. 642, passed)

■§ 153.008 INTERPRETATION.

- (A) In their interpretation and application, the provisions of this chapter 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.
- (B) The boundaries of the zoning districts shall be determined by scaling distances on the official zoning map. Where interpretation is needed as to the exact location of the boundaries of the district as shown on the official zoning map, as for example where there appears to be a conflict between a mapped boundary and actual field conditions and there is a formal appeal of the decision of the Zoning Administrator, the Board of Adjustment shall make the necessary interpretation. All decisions will be based on elevations on the regional 100-year flood profile and other available technical data. Persons contesting the location of the district boundaries shall be given a reasonable opportunity to present their case to the Board and to submit technical evidence.

(Prior Code, § 9.1-8) (Ord. 642, passed - -)

■§ 153.009 ABROGATION AND GREATER RESTRICTIONS.

It is not intended by this chapter to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, where this chapter imposes greater restrictions, the provisions of this chapter shall prevail. All other ordinances inconsistent with this chapter are repealed to the extent of the inconsistency only.

(Prior Code, § 9.1-9) (Ord. 642, passed—)

■§ 153.010 WARNING AND DISCLAIMER OF LIABILITY.

This chapter does not imply that areas outside the floodplain districts or land uses permitted within the districts will be free from flooding or flood damages. This chapter shall not create liability on the part of the city or any officer or employee thereof for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.

(Prior Code, § 9.1-10) (Ord. 642, passed - -)

№ 153.011 DEFINITIONS.

- For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.
- -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.
- *BASEMENT.* 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. 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 Chapter 154 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.
- **EQUAL DEGREE OF ENCROACHMENT.** A method of determining the location of floodway boundaries so that floodplain lands on both sides of a stream are capable of conveying a proportionate share of flood flows.
- *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. The portion of the floodplain outside of the floodway. FLOOD FRINGE is synonymous with the term FLOODWAY FRINGE used in the Flood Insurance Study for the city.
- **FLOODPLAIN.** The beds proper and the areas adjoining wetlands, lakes or watercourses which have been or hereafter may be covered by the regional flood.
- -FLOODPROOFING. 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 floodplain which are reasonably required to carry or store the regional flood discharge.
- *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 floodplain which may impede, retard or change the direction of the flow of water, either in itself or by eatching or collecting debris carried by the water.
- *PRINCIPAL USE* or *STRUCTURE*. 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 human made obstruction. In an urban area, the segment of a stream or river between two consecutive bridge crossings would most typically constitute a **REACH**.
- -REGIONAL FLOOD. A flood which is representative of large floods known to have occurred generally in the state and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of the 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 floodplain that result from designation of a floodway.

STRUCTURE. Anything constructed or erected on the ground or attached to the ground or onsite utilities, including, but not limited to, buildings, factories, sheds, detached garages, cabins, manufactured homes, travel trailers/vehicles not meeting the exemption criteria specified in § 153.102 and other similar items.

VARIANCE. A modification of a specific permitted development standard required in an official control, including this chapter, 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 hardship, practical difficulty or unique circumstance, as defined and elaborated upon in a community's respective planning and zoning enabling legislation.

(Prior Code, § 9.1-11) (Ord. 642, passed --)

ESTABLISHMENT OF ZONING DISTRICTS

■§ 153.025 DISTRICTS ESTABLISHED.

- (A) *Floodway district*. The floodway district shall include those areas designated as floodway on the Flood Boundary and Floodway Map adopted in § <u>153.006</u>.
- (B) Flood fringe district. The flood fringe district shall include those areas designated as floodway fringe on the Flood Boundary and Floodway Map adopted in § 153.006.

(Prior Code, § 9.1-12) (Ord. 642, passed --)

■§ 153.026 COMPLIANCE.

No new structure or land shall hereafter be used and no structure shall be located, extended, converted or structurally altered without full compliance with the terms of this chapter and other applicable regulations which apply to uses within the jurisdiction of this chapter. Within the floodway and flood fringe districts, all uses not listed as permitted uses or conditional uses in §§ 153.040 through 153.043 and 153.055 through 153.059 shall be prohibited. In addition, a caution is provided here that:

- (A) New manufactured homes, replacement manufactured homes and certain travel trailers and travel vehicles are subject to the general provisions of this chapter and specifically §§ 153.100 through 153.102;
- (B) Modifications, additions, structural alterations or repair after damage to existing nonconforming structures and nonconforming uses of structures or land are regulated by the general provisions of this chapter and specifically § 153.115; and
- (C) As-built elevations for elevated or floodproofed structures must be certified by ground surveys and floodproofing techniques must be designed and certified by a registered professional engineer or architect as specified in the general provisions of this chapter and specifically as stated in §§ 153.130 through 153.134.

(Prior Code, § 9.1-13) (Ord. 642, passed - -)

FLOODWAY DISTRICT (FW)

■§ 153.040 PERMITTED USES.

- (A) General farming, pasture, grazing, outdoor plant nurseries, horticulture, truck farming, forestry, sod farming and wild crop harvesting;
 - (B) Industrial-commercial loading areas, parking areas and airport landing strips;
- (C) Private and public golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting preserves, target ranges, trap and skeet ranges, hunting and fishing areas and single or multiple purpose recreational trails; and
 - (D) Residential lawns, gardens, parking areas and play areas.

(Prior Code, § 9.1-14) (Ord. 642, passed --)

■§ 153.041 STANDARDS FOR FLOODWAY PERMITTED USES.

- (A) The use shall have a low flood damage potential.
- (B) The use shall be permissible in the underlying zoning district if one exists.
- (C) The use shall not obstruct flood flows or increase flood elevations and shall not involve structures, fill, obstructions, excavations or storage of materials or equipment.
 - (D) No farm cultivation is allowed within 100 feet of the normal bank of a river or stream.

(Prior Code, § 9.1-15) (Ord. 642, passed --)

№ 153.042 CONDITIONAL USES.

- (A) Structures accessory to the uses listed in § 153.040 and the uses listed in this section;
- (B) Extraction and storage of sand, gravel and other materials;
- (C) Marinas, boat rentals, docks, piers, wharves and water control structures;
- (D) Railroads, streets, bridges, utility transmission lines and pipelines;
- (E) Storage yards for equipment, machinery or materials;
- (F) Placement of fill;
- —(G) Travel trailers and travel vehicles either on individual lots of record or in existing or new subdivisions or commercial or condominium type campgrounds, subject to the exemptions and provisions of § 153.102; and
- (H) Structural works for flood control such as levees, dikes and floodwalls conducted to any height where the intent is to protect individual structures and levees or dikes where the intent is to protect agricultural crops for a frequency flood event equal to or less than the ten-year frequency flood event.

(Prior Code, § 9.1-16) (Ord. 642, passed—)

■§ 153.043 STANDARDS FOR FLOODWAY CONDITIONAL USES.

- (A) No structure (temporary or permanent), fill (including fill for roads and levees), deposit, obstruction, storage of materials or equipment or other uses may be allowed as a conditional use that will cause any increase in the stage of the 100-year or regional flood or cause an increase in flood damages in the reach or reaches affected.
- (B) All floodway conditional uses shall be subject to the procedures and standards contained in § 153.133.
 - (C) The conditional use shall be permissible in the underlying zoning district if one exists.
- (D) (1) Fill, dredge spoil and all other similar materials deposited or stored in the floodplain shall be protected from erosion by vegetative cover, mulching, riprap or other acceptable method.
- (2) Dredge spoil sites and sand and gravel operations shall not be allowed in the floodway unless a long-term site development plan is submitted which includes an erosion/sedimentation prevention element to the plan.
- (3) As an alternative, and consistent with division (D)(2) 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 has received an appropriate plan which assures the removal of the materials from the floodway based upon the flood warning time available. The conditional use permit must be title registered with the property in the office of the County Recorder.
 - (E) (1) Accessory structures shall not be designed for human habitation.
- (2) Accessory structures, if permitted, shall be constructed and placed on the building site so as to offer the minimum obstruction to the flow of flood waters.
- (a) Whenever possible, structures shall be constructed with the longitudinal axis parallel to the direction of flood flow.
- (b) So far as practicable, structures shall be placed approximately on the same flood flow lines as those of adjoining structures.
- (3) Accessory structures shall be elevated on fill or structurally dry floodproofed in accordance with the FP-1 or FP-2 floodproofing classifications in the State Building Code. As an alternative, an accessory structure may be 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, the detached garage must be used solely for parking of vehicles and limited storage. All floodproofed accessory structures must meet the following additional standards, as appropriate.
- (a) The structure must be adequately anchored to prevent flotation, collapse or lateral movement of the structure and shall be designed to equalize hydrostatic flood forces on exterior walls.
- (b) Any mechanical and utility equipment in a structure must be elevated to or above the regulatory flood protection elevation or properly floodproofed.

- (F) (1) The storage or processing of materials that are, in time of flooding, flammable, explosive or potentially injurious to human, animal or plant life is prohibited.
- (2) Storage of other materials or equipment may be allowed if readily removable from the area within the time available after a flood warning and in accordance with a plan approved by the governing body.
- (G) Structure 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 M.S. Ch. 105, as may be amended from time to time. Community-wide structural works for flood control intended to remove areas from the regulatory floodplain shall not be allowed in the floodway.
- (H) A levee, dike or floodwall constructed in the floodway shall not cause an increase to the 100-year or regional flood and the technical analysis must assume equal conveyance or storage loss on both sides of a stream.

(Prior Code, § 9.1-17) (Ord. 642, passed - -)

FLOOD FRINGE DISTRICT (FF)

№ 153.055 PERMITTED USES.

- (A) Permitted uses shall be those uses of land or structures listed as permitted uses in the underlying zoning use district(s). If no pre-existing, underlying zoning use districts exist, then any residential or nonresidential structure or use of a structure or land shall be a permitted use in the flood fringe, provided the use does not constitute a public nuisance.
- (B) All permitted uses shall comply with the standards for flood fringe permitted uses listed in § 153.056 and the standards for all flood fringe permitted and conditional uses listed in § 153.059.

(Prior Code, § 9.1–18) (Ord. 642, passed →) § 153.056 STANDARDS FOR FLOOD FRINGE PERMITTED USES.

- (A) All structures, including accessory structures, must be elevated on fill so that the lowest floor including basement floor is at or above the regulatory flood protection elevation. The finished fill elevation for structures shall be no lower than one foot below the regulatory flood protection elevation and the fill shall extend at an elevation at least 15 feet beyond the outside limits of the structure erected thereon.
- (B) As an alternative to elevation on fill, accessory structures that constitute a minimal investment and that do not exceed 500 square feet for the outside dimension at ground level may be internally floodproofed in accordance with § 153.043.
- (C) The cumulative placement of fill where at any one time in excess of 1,000 cubic yards of fill is located on the parcel shall be allowable only as a conditional use, unless the fill is specifically intended to elevate a structure in accordance with division (A) of this section.
- (D) The storage of any materials or equipment shall be elevated on fill to the regulatory flood protection elevation.

(E) The provisions of $\S 153.059$ shall apply.

(Prior Code, § 9.1-19) (Ord. 642, passed ---)

№ 153.057 CONDITIONAL USES.

Any structure that is not elevated on fill or floodproofed in accordance with § <u>153.056</u>(A) or (B) or any use of land that does not comply with the standards in § <u>153.056</u>(C) or (D) shall only be allowable as a conditional use. An application for a conditional use shall be subject to the standards and criteria and evaluation procedures specified in §§ <u>153.058</u>, <u>153.059</u> and <u>153.133</u>.

(Prior Code, § 9.1-20) (Ord. 642, passed—)

■§ 153.058 STANDARDS FOR FLOOD FRINGE CONDITIONAL USES.

- (A) Generally.
- (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 and the like or above-grade, enclosed areas such as crawl spaces or tuck under garages. The base or floor of an enclosed area shall be considered above-grade and not a structure's basement or lowest floor if:
 - (a) The enclosed area is above-grade on at least one side of the structure;
 - (b) Is designed to internally flood and is constructed with flood resistant materials; and
 - (c) Is used solely for parking of vehicles, building access or storage.
- (2) The above-noted alternative elevation methods are subject to the following additional standards.
- (B) *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.
- (C) 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 floodproofing technique. When openings are placed in a structure's walls to provide for entry of flood waters to equalize pressures, the bottom of all openings shall be no higher than one foot 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; and

- (2) 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.
 - (D) Basements. Basements, as defined by § 153.011, shall be subject to the following.
- (1) Residential basement construction shall not be allowed below the regulatory flood protection elevation.
- (2) Nonresidential basements may be allowed below the regulatory flood protection elevation provided the basement is structurally dry floodproofed in accordance with division (C) above.
- (3) All areas of nonresidential structures including basements to be placed below the regulatory flood protection elevation shall be floodproofed in accordance with the structurally dry floodproofing classifications in the State Building Code. Structurally dry floodproofing must meet the FP-1 or FP-2 floodproofing classification in the State Building Code and this shall require making the structure watertight with the walls substantially impermeable to the passage of water with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. Structures floodproofed to the FP-3 or FP-4 classification shall not be permitted.
- (4) When at any one time more than 1,000 cubic yards of fill or other similar material is located on a parcel for the activities as on-site storage, landscaping, sand and gravel operations, landfills, roads, dredge spoil disposal or construction of flood control works, an erosion/sedimentation control plan must be submitted unless the community is enforcing a state approved shoreland management ordinance. In the absence of a state approved shoreland ordinance, the plan must clearly specify methods to be used to stabilize the fill on site for a flood event at a minimum of the 100-year or regional flood event. The plan must be prepared and certified by a registered professional engineer or other qualified individual acceptable to the governing body. The plan may incorporate alternative procedures for removal of the material from the floodplain if adequate flood warning time exists.
 - (E) Storage of materials and equipment.
- (1) The storage or processing of materials that are, in time of flooding, flammable, explosive or potentially injurious to human, animal or plant life is prohibited.
- (2) Storage of other materials or equipment may be allowed if readily removable from the area within the time available after a flood warning and in accordance with a plan approved by the governing body.
 - (F) *Other*. The provisions of § <u>153.059</u> shall also apply.

(Prior Code, § 9.1-21) (Ord. 642, passed—)

(A) Generally. All new principal structures must have vehicular access at or above an elevation not more than two 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.

- (B) 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 the facilities to be used by the employees or the general public shall not be granted in the absence of a flood warning system that provides adequate time for evacuation if the area would be inundated to a depth greater than two feet or be subject to flood velocities greater than four feet per second upon occurrence of the regional flood.
- (C) 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 division (B) above. In considering permit applications, due consideration shall be given to needs of an industry whose business requires that it be located in floodplain areas.
 - (D) Fill.
- (1) Fill shall be properly compacted and the slopes shall be properly protected by the use of riprap, vegetative cover or other acceptable method.
- (2) 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.
- (3) These standards should be investigated prior to the initiation of site preparation if a change of special flood hazard area designation will be requested.
- (E) *Hydraulic capacity*. Floodplain developments shall not adversely affect the hydraulic capacity of the channel and adjoining floodplain of any tributary watercourse or drainage system where a floodway or other encroachment limit has not been specified on the official zoning map.
- (F) *Travel trailers and the like*. Standards for travel trailers and travel vehicles are contained in § <u>153.102</u>.
- (G) *Manufactured homes*. 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.

(Prior Code, § 9.1-22) (Ord. 642, passed --)

SUBDIVISIONS

📙 § 153.070 REVIEW CRITERIA.

- (A) No land shall be subdivided which is unsuitable for the reason of flooding, inadequate drainage, water supply or sewage treatment facilities.
- (B) All lots within the floodplain districts shall contain a building site at or above the regulatory flood protection elevation. All subdivisions shall have water and sewage treatment facilities that comply with the provisions of this chapter 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.
- (C) For all subdivisions in the floodplain, the floodway and flood fringe boundaries, 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.

(Prior Code, § 9.1-23) (Ord. 642, passed - -)

■§ 153.071 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. The cost of obtaining a Letter of Map Amendment shall be the responsibility of the developer.

(Prior Code, § 9.1-24) (Ord. 642, passed --)

PUBLIC UTILITIES, RAILROADS, ROADS AND BRIDGES \$ 153.085 PUBLIC UTILITIES.

All public utilities and facilities such as gas, electrical, sewer and water supply systems to be located in the floodplain shall be floodproofed in accordance with the State Building Code or elevated to above the regulatory flood protection elevation.

(Prior Code, § 9.1-25) (Ord. 642, passed --)

§ 153.086 PUBLIC TRANSPORTATION FACILITIES.

Railroad tracks, roads and bridges to be located within the floodplain shall comply with §§ 153.040 through 153.043 and 153.055 through 153.059. 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 the 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.

(Prior Code, § 9.1-26) (Ord. 642, passed - -)

■§ 153.087 ON-SITE SEWAGE TREATMENT AND WATER SUPPLY SYSTEMS.

(A) Where public utilities are not provided:

- (1) On-site water supply systems must be designed to minimize or eliminate infiltration of floodwaters into the systems; and
- (2) New or replacement on-site sewage treatment systems must be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters and they shall not be subject to impairment or contamination during times of flooding.
- (B) 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.

(Prior Code, § 9.1-27) (Ord. 642, passed)

MANUFACTURED HOMES AND MANUFACTURED HOME PARKS AND PLACEMENT OF TRAVEL TRAILERS AND TRAVEL VEHICLES

§ 153.100 APPLICABILITY OF PROVISIONS OF §§ 153.070 AND 153.071.

New manufactured home parks and expansions to existing mobile manufactured home parks shall be subject to the provisions placed on subdivisions by §§ 153.070 and 153.071.

(Prior Code, § 9.1-28) (Ord. 642, passed --)

№ 153.101 PLACEMENT IN FLOODPLAIN DISTRICT; ANCHORING.

- (A) The placement of new or replacement manufactured homes in existing manufactured home parks or on individual lots of record that are located in floodplain districts will be treated as a new structure and may be placed only if elevated in compliance with §§ 153.055 through 153.059. If vehicular road access for pre-existing manufactured home parks is not provided in accordance with § 153.059(A), then replacement manufactured homes will not be allowed until the property owner(s) develops a flood warning emergency plan acceptable to the governing body.
- (B) 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.

(Prior Code, § 9.1-29) (Ord. 642, passed)

\$ 153.102 TRAVEL TRAILERS AND TRAVEL VEHICLES.

- (A) Travel trailers and travel vehicles are exempt from the provisions of this chapter if they are placed in any of the areas listed in division (C) of this section and further they meet the following criteria:
- (1) Have current licenses required for highway use;
- (2) Are highway ready, meaning on wheels or the internal jacking system, are attached to the site only by quick disconnect type utilities commonly used in campgrounds and trailer parks and the travel trailer/travel vehicle has no permanent structural type additions attached to it; and

- (3) The travel trailer or travel vehicle and associated use must be permissible in any preexisting, underlying zoning use district.
- (B) Areas exempted for placement of travel/recreational vehicles:
- (1) Individual lots or parcels of record;
- (2) Existing commercial recreational vehicle parks or campgrounds; and
- (3) Existing condominium-type associations.
- (C) Travel trailers and travel vehicles exempted in division (B) of this section lose this exemption when development occurs on the parcel exceeding \$500 for a structural addition to the travel trailer/travel vehicle or an accessory structure such as a garage or storage building. The travel trailer/travel vehicle and all additions and accessory structures will then be treated as a new structure and shall be subject to the elevation/floodproofing requirements and the use of land restrictions specified in §§ 153.040 through 153.043 and 153.055 through 153.059.
- (D) New commercial travel trailer or travel vehicle parks or campgrounds and new residential type subdivisions and condominium associations and the expansion of any existing similar use exceeding five units or dwelling sites shall be subject to the following:
- (1) Any new or replacement travel trailer or travel vehicle will be allowed in the floodway or flood fringe districts provided the trailer or vehicle and its contents are placed on fill above the regulatory flood protection elevation and proper elevated road access to the site exists in accordance with § 153.059(A). Any fill placed in a floodway for the purpose of elevating a travel trailer shall be subject to the requirements of §§ 153.040through 153.043.
- (2) All new or replacement travel trailers or travel vehicles not meeting the criteria of division (D)(1) above may, as an alternative, be allowed as a conditional use if in accordance with the following provisions and the provisions of § 153.133. The applicant must submit an emergency plan for the safe evacuation of all vehicles and people during the 100 year flood. The 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 § 153.087.

(Prior Code, § 9.1-30) (Ord. 642, passed)

NONCONFORMING USES

№ 153.115 CONDITIONS OF NONCONFORMING USES.

A structure or the use of a structure or premises which was lawful before the passage or amendment of the ordinance codified in this chapter, but which is not in conformity with the provisions of this chapter, may be conditioned subject to the following conditions.

(A) No use shall be expanded, changed, enlarged or altered in a way which increases its nonconformity.

- (B) 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 floodproofing techniques (i.e., FP-1 through FP-4 floodproofing classifications) allowed in the State Building Code, except as further restricted in division (E) of this section.
- (C) The cost of any structural alterations or additions to any nonconforming structure over the life of the structure shall not exceed 50% 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 floodplain 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% of the current market value of the structure, then the structure must meet the standards of
- §§ <u>153.040</u> through <u>153.043</u> and <u>153.055</u> through <u>153.059</u> for new structure depending upon whether the structure is in the floodway or flood fringe, respectively.
- (D) If any nonconforming use is discontinued for 12 consecutive months, any future use of the building premises shall conform to this chapter. The assessor shall notify the Zoning Administrator in writing of instances of nonconforming uses which have been discontinued for a period of 12 months.
- (E) If any nonconforming use or structure is destroyed by any means, including floods, to an extent of 50% or more of its market value at the time of destruction, it shall not be reconstructed except in conformity with the provisions of this chapter. The applicable provisions for establishing new uses or new structures in
- §§ <u>153.040</u> through <u>153.043</u> and <u>153.055</u> through <u>153.059</u> will apply depending upon whether the use or the floodway or flood fringe districts respectively.

(Prior Code, § 9.1-31) (Ord. 642, passed --)

ADMINISTRATION

■§ 153.130 ZONING ADMINISTRATOR.

A Zoning Administrator designated by the governing body shall administer and enforce this chapter. If the Zoning Administrator finds a violation of the provisions of this chapter, the Zoning Administrator shall notify the person responsible for the violation in accordance with the procedures stated in § 153.999.

(Prior Code, § 9.1-32) (Ord. 642, passed --)

№ \$ 153.131 PERMIT REQUIREMENTS.

(A) *Permit required*. A permit issued by the Zoning Administrator in conformity with the provisions of this chapter shall be secured prior to the erection, addition or alteration of any building, structure or portion thereof, prior to the use or change of use of a building, structure or land; prior to the change or extension of a nonconforming use; and prior to the placement of fill, excavation of materials or the storage of materials or equipment within the floodplain.

- (B) Application 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.
- (C) 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.
- (D) Certificate of zoning compliance for a new, altered or nonconforming use. It shall be unlawful to use, occupy or permit the use or occupancy of any building or premises or part thereof hereafter created, erected, changed, converted, altered or enlarged in its use or structure until a certificate of zoning compliance shall have been issued by the Zoning Administrator stating that the use of the building or land conforms to the requirements of this chapter.
- (E) 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 the 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 chapter, and punishable as provided by § 153.999.
- (F) *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 chapter. Floodproofing measures shall be certified by a registered professional engineer or registered architect.
- (G) Record of first floor elevation. The Zoning Administrator shall maintain a record of the elevation of the lowest floor (including basement) of all new structures and alterations or additions to existing structures in the floodplain. The Zoning Administrator shall also maintain a record of the elevation to which structures and alterations or additions to structures are floodproofed.

(Prior Code, § 9.1-33) (Ord. 642, passed—) Penalty, see § 153.999

■§ 153.132 BOARD OF ADJUSTMENT.

- (A) *Rules*. The Board of Adjustment shall adopt rules for the conduct of business and may exercise all of the powers conferred on the boards by state law.
- (B) *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 chapter.
- (C) *Variances*. The Board may authorize, upon appeal in specific cases, the relief or variances from the terms of this chapter as will not be contrary to the public interest and only for those circumstances such as hardship, practical difficulties or circumstances unique to the property under consideration, as provided for in the respective enabling legislation for planning and

zoning for cities or counties as appropriate. In the granting of the 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.

- (D) *Hearings*. Upon filing with the Board of Adjustment decision of the Zoning Administrator, or an application for a variance, the Board shall fix a reasonable time for a hearing and give due notice to the parties in interest as specified by law. The Board shall submit by mail to the Commissioner of Natural Resources a copy of the application for proposed variances sufficiently in advance so that the Commissioner will receive at least ten days notice of the hearing.
- (E) *Decisions*. The Board shall arrive at a decision on the appeal or variance within 45 days. In passing upon an appeal, the Board may, so long as the action is in conformity with the provisions of this chapter, 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 may prescribe appropriate conditions and safeguards such as those specified in § 153.133(F), which are in conformity with the purposes of this chapter. 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 chapter punishable under § 153.999. A copy of all decisions granting variances shall be forwarded by mail to the Commissioner of Natural Resources within ten days of the action.
- (F) Appeals. Appeals from any decision of the Board may be made and as specified in this community's official controls and also state statutes.
 - (G) Flood insurance notice and record keeping.
 - (1) The Zoning Administrator shall notify the applicant for a variance that:
- (a) The issuance of a variance to construct a structure below the base flood level will result in increased premium for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage; and
- (b) The construction below the 100-year or regional flood level increases risks to life and property.
- (2) The 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 the variances issued in its annual or biennial report submitted to the Administrator of the National Flood Insurance Program.

(Prior Code, § 9.1-34) (Ord. 642, passed - -)

№ § 153.133 CONDITIONAL USES.

The City Planning and Zoning Commission shall hear and decide applications for conditional uses permissible under this chapter. Applications shall be submitted to the Zoning Administrator who shall forward the application to the Planning and Zoning Commission for consideration.

- (A) *Hearings*. Upon filing with the Planning and Zoning Commission an application for a conditional use permit, the Planning and Zoning Commission 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.
- (B) *Decisions*. The City Council shall arrive at a decision on a conditional use within 30 days. In granting a conditional use permit, the City Council shall prescribe appropriate conditions and safeguards, in addition to those specified in division (F) of this section, which are in conformity with the purposes of this chapter. Violations of the 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 chapter punishable under § 153.999. A copy of all decisions granting conditional use permits shall be forwarded by mail to the Commissioner of Natural Resources within ten days of the action.
- (C) Procedures to be followed by the City Council in passing on conditional use permit applications within all floodplain districts.
- (1) Require the applicant to furnish such of the following information and additional information as deemed necessary by the City Council for determining the suitability of the particular site for the proposed use:
- (a) Plans in triplicate drawn to scale showing the nature, location, dimensions and elevation of lot, existing or proposed structures, fill, storage of materials, floodproofing measures and the relationship of the above to the location of the stream channel; and
- (b) Specifications for building construction and materials, floodproofing, filling, dredging, grading, channel improvement, storage of materials, water supply and sanitary facilities.
- (2) Transmit one copy of the information described in division (C)(1) above to a designated engineer or other expert person or agency for technical assistance, where necessary, in 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.
- (3) Based upon the technical evaluation of the designated engineer or expert, the City Council shall determine the specific flood hazard at the site and evaluate the suitability of the proposed use in relation to the flood hazard.
- (D) Factors upon which the decision of the City Council shall be based. In passing upon conditional use applications, the City Council shall consider all relevant factors specified in other sections of this chapter, and:
- (1) The danger to life and property due to increased flood the velocities caused by encroachments;

- (2) The danger that materials may be swept onto other lands or downstream to the injury of others or they may block bridges, culverts or other hydraulic structures;
- (3) The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination and unsanitary conditions;
- (4) The susceptibility of the proposed facility and its contents to flood damage and the effect of the damage on the individual owner;
 - (5) The importance of the services provided by the proposed facility to the community;
 - (6) The requirements of the facility for a waterfront location;
 - (7) The availability of alternative locations not subject to flooding for the proposed use;
- (8) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future;
- (9) The relationship of the proposed use to the comprehensive plan and floodplain management program for the area;
- (10) The safety of access to the property in times of flood for ordinary and emergency vehicles;
- (11) The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters expected at the site; and
 - (12) Other factors which are relevant to the purposes of this chapter.
- (E) *Time for acting on application*. The City Council shall act on an application in the manner described above within 30 days from receiving the application, except that where additional information is required pursuant to division (D) of this section. The City Council shall render a written decision within 30 days from the receipt of the additional information.
- (F) Conditions attached to conditional use permits. Upon consideration of the factors listed above and the purpose of this chapter, the City Council shall attach the conditions to the granting of conditional use permits as it deems necessary to fulfill the purposes of this chapter. The conditions may include, but are not limited to, the following:
 - (1) Modification of waste treatment and water supply facilities;
 - (2) Limitations on period of use, occupancy and operation;
 - (3) Imposition of operational controls, sureties and deed restrictions;
- (4) Requirements for construction of channel modifications, compensatory storage, dikes, levees and other protective measures; and
- (5) Floodproofing measures, in accordance with the State Building Code and this chapter. The applicant shall submit a plan or document certified by a registered professional engineer or architect that the floodproofing measures are consistent with the regulatory flood protection elevation and associated flood factors for the particular area.

- (A) The floodplain designation on the official zoning map shall not be removed from floodplain areas unless it can be shown that the designation is in error or that the area has been filled to or above the elevation of the regional flood lands outside the floodplain. Special exceptions to this rule may be permitted by the Commissioner of Natural Resources if he or she determines that, through other measures, lands are adequately protected for the intended use.
- (B) All amendments to this chapter, including amendments to the official zoning map, must be submitted to and approved by the Commissioner of Natural Resources prior to adoption. Changes in the official zoning map must meet the Federal Emergency Management Agency's (FEMA) technical conditions and criteria and must receive prior FEMA approval before adoption. The Commissioner of Natural Resources must be given ten days' written notice of all hearings to consider an amendment to the ordinance codified in this chapter and the notice shall include a draft of the ordinance amendment or technical study under consideration.

(Prior Code, § 9.1-36) (Ord. 642, passed --)

№ § 153.999 PENALTY.

- (A) Violation of the provisions of this chapter 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 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 a 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 of action to correct the violation to the degree possible.
- (3) The Zoning Administrator shall notify the suspected party of the requirements of this chapter 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 on 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:

- (a) Issue an order identifying the corrective actions that must be made within a specific time period to bring the use or structure into compliance with the official controls; or
- (b) 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) 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 chapter 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 chapter.

(Prior Code, § 9.1-37) (Ord. 642, passed --)

DESIGN STANDARDS

■§ 152.070 GENERALLY.

The subdivision design standards contained in this chapter are to assure that the style, character and form of new developments will conform to minimum requirements promoting the health, safety and general welfare of the public. In addition to these regulations and to ensure that future developments are consistent with the growth objectives and goals of the community, subdivisions shall conform to the comprehensive development plan of the municipality, or any part thereof, and the official map, zoning ordinance and any other applicable ordinances of the municipality.

(Prior Code, § 20.1-25) (Ord. 524, passed --; Ord. 651, passed --; Ord. 772, passed --)

■§ 152.071 STREET DESIGN.

The street system of a proposed subdivision shall be designed to facilitate adequate traffic circulation within the subdivision and from the subdivision to adjacent areas. Street arrangements, character, width, grade, location, sight distance and surface material shall be related to existing or planned streets, topography, convenience and safety and their intended ultimate function.

- (A) The arrangement of arterial streets in a subdivision shall conform to the official street map and provide for the continuation or projection of existing streets in adjacent areas; or conform to a plan approved by the Planning and Zoning Commission where topographic or other conditions make continuance or conformance to existing streets impracticable.
- (B) Collector streets shall be properly related to arterial streets and designed in a manner so as to supplement the arterial street system, but not serve in lieu thereof.
- (C) Local streets shall be designed to benefit from the topography, to discourage through traffic and to provide the minimum amount of streets necessary for safe access to adjacent properties. The use of curvilinear and cul-de-sac streets may be allowed where necessary, but are to be discouraged.
- (D) Where the subdivision abuts upon, or contains an existing or proposed highway, major thoroughfare or railroad right-of-way, the Planning and Zoning Commission may require reverse frontage lots with appropriate screen plantings in the non-access roads parallel to and on either side of the highway, major thoroughfare or railroad right-of-way providing access to adjacent properties and affording separation of through and local traffic.
- (E) Proposed streets designed to have one end permanently closed shall not exceed 400 feet in length, except where the Planning and Zoning Commission has approved additional length due to property limitations or large lot size. Cul-de-sac development is discouraged and will only be considered as an exception, due to topography.
- (F) Turnarounds shall be provided at the permanently closed end of all streets and shall have a minimum right-of-way radius of 60 feet and a minimum radius of 48 feet to face of curb.
- (G) In areas of the city where geographical and topographical characteristics exist that would not be economically or feasibly served by standard subdivision criteria, the city may allow or

require larger, more spacious lots and allow or require these areas to be served by an "open-ditch" street design.

| Table #1 |
|-----------------------|
| Minimum Street Design |

| 3 | |
|------------------------|---------|
| Rights-of-way | |
| Alley | 30 feet |
| Arterial | 80 feet |
| Collector | 66 feet |
| Commercial development | 66 feet |
| Frontage | 66 feet |
| Industrial development | 66 feet |
| Local street | 66 feet |
| Surface width | |
| Curb and gutter | |
| Alley | 20 feet |
| Arterial | 44 feet |
| Collector | 36 feet |
| Commercial development | 36 feet |
| Frontage | 36 feet |
| Industrial development | 36 feet |
| Local street | 36 feet |
| Open ditch | |
| Alley | 20 feet |
| Arterial | 48 feet |
| Collector | 24 feet |
| Commercial development | 24 feet |

| Frontage | 24 feet | | |
|---|---|--|--|
| Industrial development | 24 feet | | |
| Local street | 24 feet | | |
| Base specifications | As specified by City Engineer and the City Council | | |
| Minimum horizontal cu | rve radii | | |
| Alley | 200 feet | | |
| Arterial | 850 feet | | |
| Collector | 400 feet | | |
| Commercial development | 100 feet | | |
| Frontage | 200 feet | | |
| Industrial development | 400 feet | | |
| Local | 200 feet | | |
| Minimum tangent betwe | een curves | | |
| Alley | 100 feet | | |
| Arterial | 200 feet | | |
| Collector | 150 feet | | |
| Commercial development | 100 feet | | |
| Frontage | 100 feet | | |
| Industrial development | 150 feet | | |
| Local | 100 feet | | |
| Minimum grade | | | |
| Alley | 0.4% | | |
| Arterial | 0.4% | | |
| Collector | 0.4% | | |
| Commercial development | 0.4% | | |
| Frontage | 0.4% | | |
| Alley Arterial Collector Commercial development Frontage Industrial development Local Minimum grade Alley Arterial Collector Commercial development | 100 feet 200 feet 150 feet 100 feet 100 feet 100 feet 150 feet 0.4% 0.4% 0.4% 0.4% | | |

| Industrial development | 0.4% |
|-------------------------|---|
| Local | 0.4% |
| Maximum grade | |
| Alley | 10% |
| Arterial | 5% |
| Collector | 7% |
| Commercial development | 7% |
| Frontage | 10% |
| Industrial development | 5% |
| Local | 10% |
| Pavement specifications | As specified by the City Engineer and City Council; in mixed use districts, use the most restrictive standard |

(Prior Code, § 20.1-26) (Ord. 524, passed - -; Ord. 651, passed - -; Ord. 772, passed - -)

■§ 152.072 OPEN DITCH STREET DESIGN.

The following improvements will be required for all open ditch street sections within the corporate limits of the city.

- (A) Water and sanitary sewer services must be extended to a point equal to or beyond the top of ditch backslopes.
- (B) Surface drainage facilities and appurtenances as required by the City Engineer. All driveway drainage structures must be designed to a Q50 standard. All public street drainage structures must be designed to a Q100 standard.
- (C) Aggregate base as required by the City Engineer. Minimum standards are ten inches compacted base finished to a width of 28 feet.
- (D) Roadway surface of bituminous or concrete. Minimum standards are four inches compacted with a total surfaced width of 24 feet.
- (E) Ditch sections to be approved by the City Engineer. Minimum standards are two-foot ditch, six-foot wide bottom and inslope/backslope grade not greater than four to one.
 - (F) Seeding, mulching and sodding or other restoration as required by the City Engineer.

(Prior Code, § 20.1-27) (Ord. 772, passed - -)

凤§ 152.073 INTERSECTIONS.

- (A) All streets shall intersect at right angles or as close thereto as possible. No street shall intersect another at an angle of less than 70 degrees. More than two streets intersecting at the same location shall be prohibited. Street jogs with centerline offsets shall be avoided.
- (B) When the Planning and Zoning Commission finds it necessary for reason of safety and the protection of property, property lines at street intersections shall be rounded with a radius of 15 feet. The Planning and Zoning Commission may permit comparable cords in lieu of the rounded corners.

(Prior Code, § 20.1-28) (Ord. 524, passed --; Ord. 651, passed --; Ord. 772, passed --)

№ § 152.074 ALLEYS.

Alleys shall be required in all commercial and industrial districts, except that the Planning and Zoning Commission may waive this requirement where the commercial or industrial district is designed as a comprehensive unit and adequate provisions for service access, off-street loading and unloading areas and parking space is a part of the overall development plan.

- (A) Dead-end alleys are prohibited, except where natural or other features makes it impossible to continue them. Where dead-end alleys are unavoidable, they shall be provided with adequate turnaround facilities at the dead-end as determined by the Planning and Zoning Commission.
- (B) Alleys shall not be permitted in any residential areas unless a secondary means of access to certain property is necessary due to topography or other exceptional circumstances.
 - (C) Design standards for alleys are contained in <u>Table #1</u> of § <u>153.071</u>.

(Prior Code, § 20.1-29) (Ord. 524, passed ; Ord. 651, passed ; Ord. 772, passed)

■§ 152.075 EASEMENTS.

Easements for public utilities may be required by the Planning and Zoning Commission, Park Board, City Engineer and essential public utilities. Where the easements are determined to be necessary, they shall be provided along the rear and side lot lines and shall be a minimum of ten feet in width with a minimum five feet of the easement on each adjacent property being divided.

- (A) Where a watercourse, drainage way channel or stream traverses a subdivision, there shall be provided a storm water easement for drainage right-of-way conforming substantially with the lines of the watercourse. If it is deemed advisable by the Planning and Zoning Commission, the watercourse or drainage way may be re-established to conform with the proposed street pattern, in which case suitable storm drainage or retention facilities shall be installed as directed by the City Engineer.
- (B) Upon consideration of the particular type of development proposed in the subdivision, and especially in large scale neighborhood unit developments, the Planning and Zoning Commission may require the dedication or reservation of areas of sites suitable to the needs created by the development for schools, parks, trails and other neighborhood purposes as may be described as future goals within the comprehensive development plan.

(Prior Code, § 20.1-30) (Ord. 524, passed - -; Ord. 772, passed - -)

■§ 152.076 -CONSTRUCTION SETBACK REQUIREMENTS FROM PIPELINES.

- (A) *Purpose*. The purpose of this section is to increase public safety by requiring that new development be set back from pipeline locations.
- (B) *Applicability*. This section applies to new residential and other development. It does not apply to development that has occurred or for which development permits have been issued before the effective date of the ordinance codified in this section.
- (C) *Setback*. Buildings and places of public assembly subject to this section shall not be constructed closer to the pipeline than the boundary of the pipeline easement.
- (D) *Variances*. Variance procedures adopted by the city under M.S. §§ 366.10 to 366.19, 394.21 to 394.37, or 462.351 to 462.365, as may be amended from time to time, shall apply.

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(Prior Code, § 20.1-31) (Ord. 658, passed ; Ord. 772, passed )
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№ \$ 152.077 LOTS.

The size, width, shape and orientation of lots and the building setback line shall be appropriate for the type of development and use contemplated.

- (A) Parcel remnants smaller in area than allowed by zoning are not allowed and must be made part of another lot.
 - (B) Lot dimensions shall conform to <u>Chapter 154</u>.
 - (C) Side lot lines shall be as near to right angles or radial to street lines as possible.
 - (D) Every lot shall have access for fire protection, utilities and other necessary services.
- (E) Lots shall not be so excessive in depth that they block desirable access to adjacent property. The Planning and Zoning Commission may require dedication of land for future streets in excessively deep lots.

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(Prior Code, § 20.1-32) (Ord. 524, passed --; Ord. 772, passed --)
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№ § 152.078 BLOCKS.

The length, width and shape of blocks shall be determined with due regard to the following:

- (A) The provision of adequate building sites suitable to the particular need of the type of use contemplated;
 - (B) Zoning requirements as to lot size and dimensions;
 - (C) Needs for convenient access, circulation, control and safety of traffic;
 - (D) Limitations and opportunities afforded by topography and other natural features; and
 - (E) Block lengths shall not exceed 800 feet.

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(Prior Code, § 20.1-33) (Ord. 524, passed --; Ord. 772, passed --)
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■§ 152.079 WALKWAYS.

All public walkways shall be constructed in conformance with Chapter 94.

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(Prior Code, § 20.1-34) (Ord. 524, passed - -; Ord. 772, passed - -)
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$ 152.080 TRAILS; LINEAR PARKS.
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A dedicated right of way and/or park right of way that can be made up of various design types for recreational use.

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(Prior Code, § 20.1-35) (Ord. 772, passed --)
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■§ 152.081 STORM SEWER.

All storm sewer improvements/construction shall be constructed in conformance with Chapters $\underline{52}$ and $\underline{53}$.

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(Prior Code, § 20.1-36) (Ord. 524, passed --; Ord. 772, passed --)
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■§ 152.999 PENALTY.

- (A) Any subdivider who violates, omits, neglects or refuses to comply with the provisions or the enforcement of this chapter or who sells, offers for sale, or leases any portion of land which is in violation of this chapter, shall be guilty of a misdemeanor.
- (B) Each day that a violation is committed, or permitted to exist, shall constitute a separate offense. The imposition of any fine or sentence shall not exempt the offender from compliance with the requirements of this chapter, and the city may pursue, by appropriate actions or proceedings, any or all additional remedies.

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(Prior Code, § 20.1-10) (Ord. 524, passed --; Ord. 772, passed --)
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APPENDIX A: RESIDENTIAL DEVELOPMENTS

The issues to be addressed for new residential developments are:

- (A) Annexation (if required);
- (B) Rezoning (if required);
- (C) Platting:
 - (1) General development plan;
 - (2) Preliminary plat; and
 - (3) Final plat.
- (D) Public improvements:
 - (1) Petition:

- (a) Submittal; and
- (b) Acceptance.
- (2) Preliminary assessment hearing;
- (3) Project development:
 - (a) Design;
 - (b) Bid; and
 - (c) Contract.
- (4) Final assessment hearing.

Current city policy requires the developer to pay all costs associated with project development from project inception to the installation of public infrastructure. This includes the fees charged by any professional consultants. The city reserves the right to approve the selection of professional consultants.

(Prior Code, Appendix) (Ord. 772, passed --)

APPENDIX B: COMMERCIAL/INDUSTRIAL DEVELOPMENTS

The possible issues to be addressed for new commercial or industrial developments are:

- (A) Annexation (if required);
- (B) Rezoning (if required);
- (C) Platting:
 - (1) General development plan;
 - (2) Preliminary plat; and
 - (3) Final plat.
- (D) Tax increment financing:
 - (1) Application;
 - (2) Project development; and
 - (3) Agency authorization.
- (E) Grant/loan programs;
- (F) Public improvements:
 - (1) Petition:
 - (a) Submittal; and

- (b) Acceptance.
- (2) Preliminary assessment hearing;
- (3) Project development:
 - (a) Design;
 - (b) Bid; and
 - (c) Construct.
- (4) Final assessment hearing.
- (G) Grant/loan audits when required.

Current city policy requires the developer to pay all costs associated with project development from project inception to the installation of public infrastructure. This includes the fees charged by any professional consultants. The city reserves the right to approve the selection of professional consultants.

(Prior Code, Appendix) (Ord. 772, passed --)

ORDINANCE NUMBER

Chapter 153: RESTRICTIVE FLOODPLAIN MANAGEMENT ORDINANCE

NOTE: This sample ordinance is intended for communities that have limited existing and potential development within the floodplain and that meet the following criteria:

- 1) Floodplains should be currently undeveloped (or include provisions for nonconformities, as shown in the sample);
- 2) Floodplains should not have areas proposed for development (e.g., subdivided parcels, access roads and utilities, etc.); and
- 3)—There should be building sites outside of the floodplain on each parcel of developable land along the lake/wetland, stream or river.

The wording of the ordinance is geared towards cities, but may be adapted for counties or townships.

SECTION 1.0 STATUTORY AUTHORIZATION AND PURPOSE:

1.1 **Statutory Authorization:** The legislature of the State of Minnesota has, in Minnesota Statutes Chapter 103F and Chapter 462, delegated the responsibility to local government units to adopt regulations designed to minimize flood losses.

1.2 Purpose:

- 1.21 This ordinance regulates development in the flood hazard areas of (Community). the City of Kasson. These flood hazard areas are subject to periodic inundation, which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base. It is the purpose of this ordinance to promote the public health, safety, and general welfare by minimizing these losses and disruptions.
- 1.22 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.
- 1.23 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.

SECTION 2.0 GENERAL PROVISIONS:

- 2.1 **Lands to Which Ordinance Applies:** This ordinance applies to all lands within the jurisdiction of the City of <u>Kasson</u> shown on the Flood Insurance Rate Maps adopted in Section 2.2 as being located within the boundaries of the Floodplain District.
- 2.2 Adoption of Flood Insurance Study and Maps: The Flood Insurance Study dated July 6, 1981,
 County, Minnesota and Incorporated Areas, and Flood Insurance Rate Maps, County, Minnesota and Incorporated Areas, with map numbers (list all effective maps) dated January 6, 1982 and ; all

December 2013

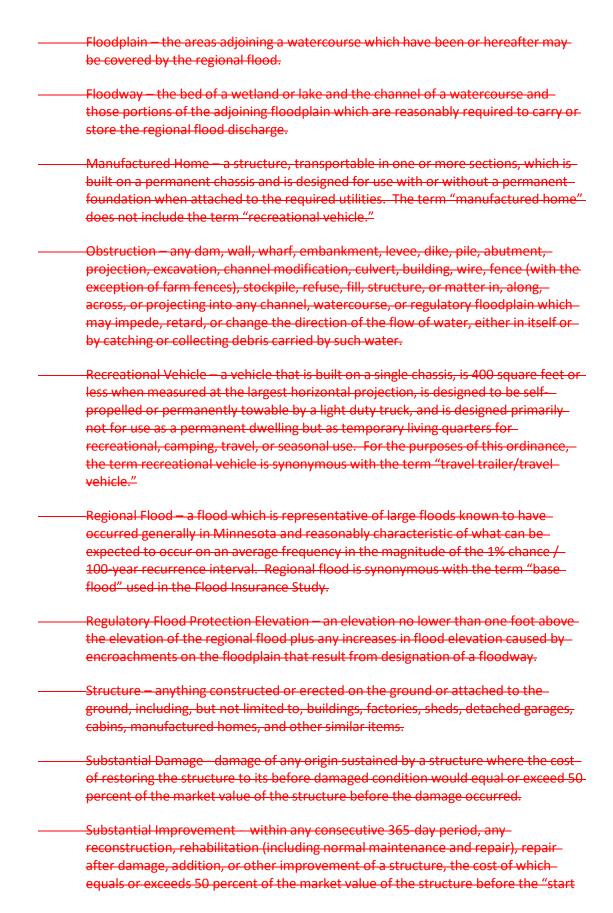
of these documents being dated______and prepared by the Federal Emergency Management Agency, are hereby adopted by reference and declared to be a part of this ordinance and the Official Zoning Map. These materials are on file in the (list location where maps will be filed-i.e., City Clerk's office).

- 2.3 **Interpretation:** The boundaries of the Floodplain District are determined by scaling distances on the Flood Insurance Rate Map.
 - 2.31 Where a conflict exists between the floodplain limits illustrated on the official zoning map and actual field conditions, the flood elevations must be the governing factor. The Zoning Administrator must interpret the boundary location based on 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, and other available technical data.
 - 2.32 Persons contesting the location of the district boundaries will be given a reasonable opportunity to present their case to the (*Planning Commission / Board of Adjustment*) City Council and to submit technical evidence.
- 2.4 **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 prevail. All other ordinances inconsistent with this ordinance are hereby repealed to the extent of the inconsistency only.
- 2.5 Warning and Disclaimer of Liability: This ordinance does not imply that areas outside the floodplain districts or land uses permitted within such districts will be free from flooding or flood damages. This ordinance does not create liability on the part of the (City/County) of Kasson or any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.
- 2.6 **Severability:** If any section, clause, provision, or portion of this ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected thereby.
- 2.7 **Definitions:** Unless specifically defined below, words or phrases used in this ordinance must 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.

Base Flood Elevation – The elevation of the "regional flood," as defined. The term "base flood elevation" is used in the flood insurance survey.

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

Farm Fence — A fence as defined by Minn. Statute §344.02 Subd. 1(a)-(d). An opentype fence of posts and wire is not considered to be a structure under thisordinance. Fences that have the potential to obstruct flood flows, such as chain linkfences and rigid walls, are not permitted in the Floodplain District.



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" is as defined in 44 Code of Federal Regulations, Part 59.1.

SECTION 3.0 ESTABLISHMENT OF FLOODPLAIN DISTRICT

- 3.1 **Areas Included:** The Floodplain District for the (City/County) of Kasson includes those areas designated as (Hist relevant Zones shown on maps, i.e. A or AE zones) Zones A, AO,A1-A30,A99, or -A3E on the Flood Insurance Rate Maps adopted in Section 2.2. The Floodplain District is an overlay district to all existing land use districts. The requirements of this ordinance apply in addition to other legally established regulations of the community. Where this ordinance imposes greater restrictions, the provisions of this ordinance apply.
- 3.2 **Compliance:** No new structure or land shall hereafter be used and no structure shall be constructed, located, extended, converted, or structurally altered without full compliance with the terms of this ordinance and other applicable regulations. Within the Floodplain District, all uses not listed as permitted uses in Section 4.0 are prohibited.

SECTION 4.0 PERMITTED USES AND STANDARDS IN THE FLOODPLAIN DISTRICT:

- 4.1 **Permitted Uses:** The following uses are permitted within the Floodplain District without a permit to the extent that they are allowed in any underlying zoning district and not prohibited by any other ordinance and provided they do not require structures, fill, obstructions, excavations, drilling operations, storage of materials or equipment or any other form of development—as—defined in Section 2.712 of this ordinance.
 - 4.11 Agricultural uses such as general farming, pasture, grazing, forestry, sod farming, and wild crop harvesting. Farm fences that do not obstruct flood flows are permitted.
 - 4.12 Outdoor plant nurseries and horticulture.
 - 4.13 Private and public recreational uses such as golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and

- nature preserves, game farms, shooting preserves, target ranges, trap and skeet ranges, hunting and fishing areas, and single or multiple purpose recreational trails.
- 4.14 Lawns, gardens, parking areas, and play areas.
- 4.15 Railroads, streets, bridges, utility transmission lines, pipelines and other public utilities, provided that the Department of Natural Resources is notified at least ten (10) days prior to issuance of any permit.

4.2 Standards for Permitted Uses:

- 4.21 The use must have low flood damage potential.
- 4.22 The use must not 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. This provision applies to structures (temporary or permanent), fill (including fill for roads and levees), deposits, obstructions, storage of materials or equipment, and all other uses.
- 4.23 Floodplain developments must not adversely affect the hydraulic capacity of the channel and adjoining floodplain of any tributary watercourse or drainage system.
- 4.24 Public utilities facilities, roads, railroad tracks and bridges to be located within the floodplain must be designed in accordance with Sections 4.22 and 4.23 above, or must obtain a Conditional Letter of Map Revision meeting the requirements of 44 CFR 603(d).
 - (a) When failure or interruption of these public facilities would result in danger to the public health or safety or where such facilities are essential to the orderly functioning of the area, such facilities must be elevated to the regulatory flood protection elevation.
 - (b) Where failure or interruption of service would not endanger public health or safety, minor or auxiliary roads, railroads or utilities may be constructed at a lower elevation.
- 4.25 New or replacement water supply systems and sanitary sewage systems must be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.

SECTION 5.0 ADMINISTRATION

- 5.1 **Zoning Administrator:** A Zoning Administrator or other official designated by the <u>(Governing Body i.e., City Council, County Board)</u> will administer and enforce this ordinance. If the Zoning Administrator finds a violation of the provisions of this ordinance, the Zoning Administrator must notify the person responsible for such violation in accordance with the procedures stated in Section 6.0 of the ordinance.
- 5.2 **Development Approvals:** Any construction, enlargement, alteration, repair, improvement, moving or demolition of any building or structure must comply with the requirements of this ordinance. No mining, dredging, filling, grading, paving, excavation, obstruction, drilling operation

or other form of development as defined in Section 2.0 of this ordinance are allowed, other than the uses permitted in Section 4.1.

5.3 Variances:

- 5.31 An application for a variance to the provisions of this ordinance will be processed and reviewed in accordance with applicable state statutes and <u>(list any standards in the existing Zoning Ordinance)</u>.
- 5.32 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.
- 5.33 The following additional variance criteria of the Federal Emergency Management Agency must be met:
 - (a) Variances must not be issued by a community within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.
 - (b)—Variances may 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.
 - (c) Variances may only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- 5.34—The (City Council or Board of Adjustment) must submit hearing notices for proposed variancesto the Department of Natural Resources sufficiently in advance to provide 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.
- 5.35 A copy of all decisions granting variances must be forwarded to the Commissioner of the Department of Natural Resources within ten days of such action. The notice may be sent by electronic mail or U.S. Mail to the respective DNR area hydrologist.
- 5.36—The Zoning Administrator must 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 base or regional flood level increases risks to life and property
- 5.37 The community must maintain a record of all variance actions, including justification for their issuance, and must report such variances in its annual or biennial report to the Administrator of the National Flood Insurance Program, when requested by the Federal Emergency Management Agency.
- 5.5 **Notifications for Watercourse Alterations:** Before authorizing any alteration or relocation of a river or stream, the Zoning Administrator must notify adjacent communities. If the applicant has

- applied for a permit to work in public waters pursuant to Minnesota Statute, Chapter 103G.245, this will suffice as adequate notice. A copy of the notification must also be submitted to the Chicago Regional Office of the Federal Emergency Management Agency (FEMA).
- 5.6 **Notification to FEMA When Physical Changes Increase or Decrease Base Flood Elevations:** As soon as is practicable, but not later than six (6) months after the date such supporting information becomes available, the Zoning Administrator must notify the Chicago Regional Office of FEMA of the changes by submitting a copy of said technical or scientific data.

SECTION 6.0 NONCONFORMITIES

- 6.1 **Continuance of Nonconformities:** A use, structure, or occupancy of land which was lawful before the passage or amendment of this ordinance but which is not in conformity with the provisions of this ordinance may be continued subject to the following conditions. Historic structures, as defined in Section 2.733(b) of this ordinance, are subject to the provisions of Sections 6.11 6.15 of this ordinance.
 - 6.11 A nonconforming use, structure, or occupancy must not be expanded, changed, enlarged, or altered in a way that increases its nonconformity.
 - 6.12 The cost of all structural alterations or additions to any nonconforming structure over the life of the structure may not exceed fifty (50) percent of the market value of the structure unless the conditions of this Section are satisfied. The cost of all structural alterations and additions must include all costs such as construction materials and a reasonable cost placed on all manpower or labor. If the cost of all previous and proposed alterations and additions exceeds fifty (50) percent of the market value of the structure, then the structure must meet the standards of this ordinance for new structures.
 - 6.13 If any nonconforming use, or any use of a nonconforming structure, is discontinued for 12 consecutive months, any future use of the premises must conform to this ordinance. The Assessor must notify the Zoning Administrator in writing of instances of nonconformities that have been discontinued for a period of 12 months.
 - 6.14 If any nonconformity is substantially damaged, as defined in Section 2.722 of this ordinance, it may not be reconstructed except in conformity with the provisions of this ordinance
 - 6.15 Any substantial improvement, as defined in Section 2.723 of this ordinance, to a nonconforming structure requires that the existing structure and any additions must meet the requirements of this ordinance for new structures.

SECTION 7.0 PENALTIES AND ENFORCEMENT

- 7.1 **Violation Constitutes a Misdemeanor:** 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) constitutes a misdemeanor and is punishable as defined by law.
- 7.2 **Other Lawful Action:** Nothing in this ordinance restricts the <u>(Community)City of Kasson</u> from taking such other lawful action as is necessary to prevent or remedy any violation. If the responsible party does not appropriately respond to the Zoning Administrator within the specified period of time, each additional day that lapses will constitute an additional violation of this ordinance and will be prosecuted accordingly.

7.3 **Enforcement**: In responding to a suspected Ordinance Ordinance Violation, the Zoning Administrator and City Council 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 City must act in good faith to enforce these official controls and to correct ordinance violations to the extent possible so as not to jeopardize its eligibility in the National Flood Insurance Program.

SECTION 8.0 AMENDMENTS

- 8.1 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 if the Commissioner determines that, through other measures, lands are adequately protected for the intended use.
- 8.2 Amendments Require DNR and FEMA 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 approve the amendment prior to community approval.
- 8.3 **Map Amendments 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 2.2 of this ordinance.

EFFECTIVE DATE: This ordinance shall be in full force and effect from and after its passage and approval and publication, as required by law and/or charter.

| Adopted by the_Board/City Council (Community Name) | |
|--|--|
| | Γhisof_, (Day) (Month) (Year) |
| | , County Board Chairperson/Mayor of Elected Official) |
| Attest:_, County | Administrator/City Clerk (Name of Community Official) |
| Stamp With Com | munity Seal: |

Comprehensive Plan Update

- 1. APRIL 4 Working Group Meeting #5.
 - a. A draft plan will be ready to provide them by March 28th.
- 2. Meeting Schedule.
 - a. April 16 Joint Meeting of the City Council, the Planning Commission council and and the Working Group at Kasson Public Library to walk through the draft plan. Draft plan will be released online for public review.
 - b. May 14 5:30 p.m. Open House prior to the Planning Commission 6:30 p.m. Public Hearing on the Comprehensive Plan.
 - c. May 23 or June 13: City Council Adoption of the Comprehensive Plan.