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# CITY OF LITTLE FALLS

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## BOARD OF ADJUSTMENT/ PLANNING COMMISSION

February 12, 2018





**AGENDA**  
**PLANNING COMMISSION**  
Conference Room, City Hall  
February 12, 2018, 6:30 p.m.

P	A	Member	P	A	Member
		Kleinschmidt, James			Schulte, Ray
		Esse, Robert			Czech, Joe
		Gosiak, Frank			Oleson, Ben (Zoning Administrator)
		Hanfler, Jeremy			Kimman, Greg (City Engineer)
		Schilling, Kara			

**CALL TO ORDER:** Planning Commission Chairperson

**ADOPT THE AGENDA:** February 12, 2018

**APPROVAL OF MINUTES:** January 8, 2018

**PUBLIC HEARINGS:**

- 1) None

**OLD BUSINESS:**

- 1) Discuss Floodplain Ordinance Update

**NEW BUSINESS:**

- 2) Discuss Comprehensive Plan - Updated Land Use Map

**NEXT REGULAR MEETING:** Monday, March 12, 2018

**ADJOURNMENT:**



## STAFF REPORT

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**Item:** Discuss Floodplain Ordinance Update

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**Background Information:** The City's floodplain ordinances had their last significant update in 1993. Since that time, the MN DNR has developed new model floodplain ordinances (2013) and has been encouraging communities to update their ordinances accordingly.

Staff has attached a revised version of the City's current ordinance that identifies the differences with the most recent DNR model ordinance. Some of the changes are relatively minor - such as changing the order of the regulations within the document or wording changes to try and clarify how some of the regulations are intended to be implemented. Others involve suggestions by the DNR as to regulations that may be beneficial, but are not mandatory for local governments to adopt. Several of the DNRs "notes" are located in the right sidebar as you read through the document.

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**Planning Commission/Board of Adjustment Direction:** The model ordinance is presented to allow for Commission members to review the document and identify any comments or concerns it may have. There are several areas with "Optional" noted in the sidebar; these should be discussed to determine how the City would like to address them.

Staff would tentatively plan to schedule a public hearing for the changes at the March Planning Commission meeting, but is looking for confirmation from the Commission that it would like to make these changes.

## SECTION 11.50 FLOODPLAIN MANAGEMENT

Sections 11.50 through 11.63 of this Chapter shall comprise of the provisions of the Floodplain Management Regulations.

### SECTION 11.51 STATUTORY AUTHORIZATION, FINDINGS OF FACT AND PURPOSE

A. Statutory Authorization: The ~~legislature of the State~~ ~~Legislature has, in of~~ Minnesota ~~has, in Minnesota~~ Statutes ~~Chapter~~ 103F ~~and Chapter, 104 and~~ 462, as amended from time to time, delegated the responsibility to local governmental units to adopt regulations designed to minimize flood losses. Therefore, the City Council does ordain as follows:

B. ~~Findings of Fact~~ Purpose:

1. ~~This ordinance regulates development in flood hazard areas of the City of Little Falls. These Potential hazards in Flood Areas: The~~ flood hazard areas ~~of the City~~ are subject to periodic inundation which results in potential loss of life, ~~loss of 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 these Chapters to promote the, all of which adversely affect the~~ public health, safety and general welfare ~~by minimizing these losses and disruptions.~~

2. ~~National Flood Insurance Program Compliance. These chapters are 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.~~

3. ~~These Chapters are 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. Methods Used to Analyze Flood Hazards: The provisions of Sections 11.50 through 11.63 of this Chapter are based upon a reasonable method of analyzing flood hazards which is consistent with the standards established by the Minnesota Department of Natural Resources.~~

~~3. Statement of Purpose: It is the purpose of these provisions to promote the public health, safety and general welfare and to minimize those losses described in Subsection B.1. of this Section, by provisions contained herein.~~

### SECTION 11.52 GENERAL PROVISIONS

A. ~~A. How to Use these Chapters: These Chapters adopts the floodplain maps applicable to the City of Little Falls and includes three floodplain districts: Floodway, Floodway Fringe, and General Floodplain.~~

a. ~~Where Floodway and Flood Fringe districts are delineated on the floodplain maps, the standards in Sections 11.54 and 11.55 will apply, depending on the location of a property.~~

b. Locations where Floodway and Flood Fringe districts are not delineated on the floodplain maps are considered to fall within the General Floodplain district.

B. Lands to Which These Provisions Apply: These ~~provisions Chapters~~ shall apply to all lands within the jurisdiction of the City of Little Falls shown on the official zoning map and/or the attachments thereto as being located within the boundaries of the ~~floodway Floodway, flood fringe Flood Fringe or general floodplain districts~~ General Floodplain Districts.

A.a. The Floodway, Flood Fringe and General Floodplain Districts are overlay districts that are superimposed on all existing zoning districts. The standards imposed in the overlay districts are in addition to any other requirements in these Chapters. In case of a conflict, the more restrictive standards will apply.

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B. Establishment of Official Zoning Map Incorporation of Maps by Reference: The ~~official zoning map following maps;~~ together with all materials attached thereto, ~~is are~~ hereby adopted by reference and declared to be a part of ~~these provisions~~ the Official Zoning Map and these Chapters. The attached materials shall include the ~~flood insurance study~~ Flood Insurance Study for the City of Little Falls prepared by the Federal Insurance Administration dated November 1979, and the ~~Flood Boundary and Floodway Map and~~ Flood Insurance Rate Map dated May 1980, therein. ~~These materials and the~~ official zoning map shall ~~bear~~ be on file at City Hall.

FIRM Panel Number	Effective Date
2706170200B	June 15, 1981
2706170280B	June 15, 1981
FBFM Panel Number	Effective Date
2706170280	June 15, 1981

C. Regulatory Flood Protection Elevation: The regulatory flood protection elevation (RFPE) ~~is shall be~~ an elevation no lower than one foot (1') above the elevation of the regional flood, plus any increase in flood elevation caused by encroachments on the floodplain that result from designation of a floodway.

D. Interpretation: The boundaries of the zoning districts shall be determined by scaling distances on the official zoning map.

1. Where a conflict exists between the floodplain limits illustrated on the official zoning map and actual field conditions, the flood elevations shall 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. In their interpretation and application, the provisions of these sections shall be held to be minimum requirements and shall be liberally construed in favor of the City Council and shall not be deemed a limitation or repeal of any other powers granted by State Statutes.

2. ~~The boundaries of the zoning districts shall be determined by scaling distances on the 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 Planning Commission 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 will be given a reasonable opportunity to present their case to the ~~Planning Commission~~ Board of Adjustment and to submit technical evidence.

E. Abrogation and Greater Restrictions: It is not intended by these ~~Sections~~ Chapters to repeal, abrogate or impair any existing easements, covenants or ~~deed~~ ~~restrictions~~ other private agreements. However, where these ~~Sections~~ Chapters impose greater restrictions, the provisions of these ~~Sections~~ Chapters shall prevail. All other ordinances inconsistent with these Sections are hereby repealed to the extent of the inconsistency only.

F. Warning and Disclaimer of Liability: These Sections do not imply that areas outside the floodplain districts or land uses permitted within such districts will be free from flooding or flood damages. These ~~Sections~~ Chapters do shall not create liability on the part of the City of Little Falls, or any its officers or employees thereof, for any flood damages that result from reliance on these ~~Sections~~ Chapters or any administrative decision lawfully made thereunder.

G. Severability: If any ~~Section~~ section, clause, provision or portion of these ~~Sections~~ Chapters are adjudged unconstitutional or invalid by a court of ~~competent~~ jurisdiction law, the remainder of these ~~Sections~~ Chapters shall not be affected thereby and shall remain in full force.

H. Definitions: Unless specifically defined below, words or phrases used in these Sections shall be interpreted so as to give them the same meaning as they have in common usage and so as to give them their most reasonable application:

ACCESSORY USE OR STRUCTURE: A use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.

BASE FLOOD ELEVATION: The elevation of the "regional flood." The term "base flood elevation" is used in the flood insurance survey.

Commented [B01]: Optional

BASEMENT: Any area of a structure, including crawl spaces, having its floor or base subgrade (below ground level) on all four (4) 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 code, and upon a finding that: 1) certain conditions as detailed in the zoning ordinance exist; and 2) the structure and/or land use conform to the comprehensive land use plan and are compatible with the existing neighborhood.

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

EQUAL DEGREE OF ENCROACHMENT: A method of determining the location of floodway boundaries so that floodplain lands on both sides of a stream are capable of conveying a proportionate share of flood flows.

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

FLOOD: A temporary increase in the flow or stage of a stream, or in the stage of a wetland or lake that results in the inundation of normally dry areas.

FLOOD FREQUENCY: The frequency for which it is expected that a specific flood stage or discharge may be equaled or exceeded.

FLOOD FRINGE: That portion of the floodplain outside of the floodway. "Flood fringe" is synonymous with the term "floodway fringe" used in the flood insurance study for the city.

FLOOD PRONE AREA: Any land susceptible to being inundated by water from any source (see "Flood").

FLOODPLAIN: The beds proper and the areas adjoining a wetland, lake or watercourse which have been or hereafter may be covered by the regional flood.

FLOODPROOFING: 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.

LOWEST FLOOR: The lowest floor of the lowest enclosed area (including basement.) An unfinished or flood resistant enclosure, used solely for parking of vehicles, building access, or storage in an area other than a basement area, is not considered a building's lowest floor.

MANUFACTURED HOME: A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include the term "recreational vehicle".

**Commented [B02]:** Optional – to be used if these are exempted from regulation.

**Commented [B03]:** Optional

**Commented [B04]:** Optional – if these areas are to be regulated even though they aren't mapped as floodplain.

**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 catching or collecting debris carried by such water.

Commented [B05]: Optional

**PRINCIPAL USE OR STRUCTURE:** All uses or structures that are not accessory uses or structures.

**ONE HUNDRED YEAR FLOODPLAIN:** Lands inundated by the "Regional Flood" (see definition)

**REACH:** A hydraulic engineering term to describe a longitudinal segment of a stream or river influenced by a natural or manmade obstruction. In an urban area, the segment of a stream or river between two (2) consecutive bridge crossings would most typically constitute a reach.

Commented [B06]: Optional

**RECREATIONAL VEHICLE:** A vehicle that is built on a single chassis, is 400 square feet or less when measured at the largest horizontal projection, is designed to be self-propelled or permanently towable by a light duty truck, and is designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use. For the purposes of this ordinance, the term recreational vehicle is synonymous with the term "travel trailer/travel vehicle."

**REGIONAL FLOOD:** A flood which is representative of large floods known to have occurred generally in Minnesota and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of 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 (1') 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.

**REPETITIVE LOSS:** Flood related damages sustained by a structure on two separate occasions during a ten year period for which the cost of repairs at the time of each such flood event on the average equals or exceeds 25% of the market value of the structure before the damage occurred.

Commented [B07]: Optional, to be included if this is regulated elsewhere.

**SPECIAL FLOOD HAZARD AREA – a term used for flood insurance purposes synonymous with "One Hundred Year Floodplain."**

**STRUCTURE:** Anything constructed or erected on the ground or attached to the ground or on-site utilities, including, but not limited to, buildings, factories, sheds, detached garages, cabins, manufactured homes, travel trailers/vehicles not meeting the exemption criteria specified in Subsection 11.59.C.1 of this Chapter, and other similar items.

SUBSTANTIAL DAMAGE - means damage of any origin sustained by a structure where the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

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

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

VARIANCE: A modification of a specific permitted development standard required in an official control, including these Sections, 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.

I. Annexations. The Flood Insurance Rate Map panels adopted by reference above may include floodplain areas that lie outside of the corporate boundaries of the City of Little Falls at the time of adoption of these Chapters. If any of these floodplain areas area annexed into the City of Little Falls after the date of adoption of this ordinance, the newly annexed floodplain lands will be subject to the provisions of this ordinance immediately upon the date of annexation.

J. Detachments. The Flood Insurance Rate Map panels adopted by reference above will include floodplain areas that are inside the corporate boundaries of municipalities at the time of adoption of these Chapters. If any of these floodplain land areas are detached from a municipality and come under the jurisdiction of the City of Little Falls after the date of adoption of these Chapters, the newly detached floodplain lands will be subject to the provisions of these Chapters immediately upon the date of detachment.

### **SECTION 11.53 ESTABLISHMENT OF ZONING DISTRICTS**

A. Districts:

1. Floodway District: The floodway district shall include those areas designated as floodway ~~on the flood boundary and floodway map~~ on the Flood Insurance Map adopted in Subsection 11.52.B. of this Chapter.

2. Flood Fringe District: The flood fringe district shall include those areas designated as floodway fringe on the ~~flood boundary and floodway~~Flood Insurance Rate map-Map adopted in Subsection 11.52.B. of this Chapter.

3. General Floodplain District: The general floodplain district shall include those areas designated as ~~unnumbered Zone A or Zones AE, AO, or AH without a floodway zones~~ on the ~~flood insurance rate map~~Flood Insurance Rate Map adopted in Subsection 11.52.B. of this Chapter.

B. Compliance: Within the floodplain districts established in this ordinance, the use of any land, the use, size, type and location of structures on lots, the installation and maintenance of transportation, utility, water supply and waste treatment facilities, and the subdivision of land must comply with the terms of these Chapters and other applicable regulations. ~~All 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 these Sections and other applicable regulations which apply to uses within the jurisdiction of these Sections. Within the floodway, flood fringe and general floodplain districts, all~~ uses not listed as permitted uses or conditional uses in Sections 11.54, 11.55 and 11.56 of this Chapter, respectively, ~~shall be~~are prohibited.

In addition, a caution is provided here that:

1. New ~~and replacement~~ manufactured homes, ~~replacement manufactured homes~~ and certain ~~travel trailers and travel~~recreational vehicles are subject to the general provisions of these Sections and specifically Section 11.59 ~~of this Chapter~~;

2. Modifications, additions, structural alterations, normal maintenance and ~~or~~ repair after damage to existing nonconforming structures and nonconforming uses of structures or land are regulated by the general provisions of these Sections and specifically Section 11.61 of this Chapter;

3. As built elevations for elevated or floodproofed structures must be certified by ground surveys and floodproofing techniques must be designed and certified by a registered professional engineer or architect as specified in the general provisions of these Sections and specifically as stated in Section 11.60 of this Chapter.

#### **SECTION 11.54 FLOODWAY DISTRICT (FW)**

A. Permitted uses: The following uses, subject to the standards set forth in Section 11.54.B, are permitted uses if otherwise allowed in the underlying zoning district or any applicable overlay district:

1. General farming, pasture, grazing, farm fences, outdoor plant nurseries, horticulture, truck farming, forestry, sod farming and wild crop harvesting.

2. Industrial-commercial loading areas, parking areas and airport landing strips.

3. Open space uses, including but not limited to ~~P~~private and public golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting preserves, ~~target ranges, trap and skeet ranges~~, hunting and fishing areas, and single or multiple purpose recreational trails.

4. Residential yards, lawns, gardens, parking areas and play areas.

~~45. Railroads, streets, bridges, utility transmission lines and pipelines, provided that the Department of Natural Resources' Area Hydrologist is notified at least ten days prior to issuance of any permit.~~

B. Standards for Floodway Permitted Uses:

1. The use ~~shall~~ must have a low flood damage potential.

~~2. The use shall be permissible in the underlying zoning district.~~

~~32.~~ The use ~~shall~~ must not obstruct flood flows or cause any increase in flood elevations; and ~~shall~~ must not involve structures, ~~fill~~, obstructions, ~~excavations~~ or storage of materials or equipment.

3. Any facility that will be used by employees or the general public must be designed with a flood warning system that provides adequate time for evacuation if the area is inundated to a depth and velocity such that the depth (in feet) multiplied by the velocity (in feet per second) would exceed a product of four upon occurrence of the regional (1% chance) flood.

C. Conditional uses:

1. Structures accessory to the uses listed in Subsection A of this Section and the uses list in Subsections C.2. through C.8. of this Section.

2. Extraction, fill and storage of sand, gravel and other materials.

3. Marinas, boat rentals, permanent docks, piers, wharves and water control structures.

~~4. Railroads, streets, bridges, utility transmission lines and pipelines.~~

4. Storage yards for equipment, machinery or materials.

5. Construction of fences that obstruct flood flows. Farm fences, as defined, are permitted uses.

~~6. Placement of fill.~~

~~76. Travel Road-ready recreational trailers and travel vehicles meeting the exception standards, either on individual lots of record or in existing or new subdivisions or commercial or condominium type campgrounds, subject to the exemptions and provision of Subsection 11.59.C. of this Chapter.~~

87. Structural works for flood control such as levees, dikes and floodwalls constructed to any height where the intent is to protect individual structures and levees or dikes where the intent is to Levees or dikes intended to protect agricultural crops for a frequency flood event equal to or less than the 10010-year frequency flood event.

D. Standards for Floodway Conditional Uses:

**Commented [B08]:** Optional – the City can decide which uses it wants to allow as conditional or if they would prefer to prohibit.

**Commented [B09]:** Optional – don't need to allow farm fences.

**Commented [B010]:** Optional. DNR recommends treating RVs as conditional uses so that road access and warning systems are carefully reviewed to ensure public safety in times of flooding.

1. All Uses: ~~No structure (temporary or permanent), fill (including fill for roads and levees), deposit, obstruction, storage of materials or equipment, or other uses may be allowed as a conditional use that will~~ A conditional use must not cause any increase in the ~~stage of the 100-year or regional flood~~ elevations, or cause an increase in flood damages in the reach or reaches affected.

~~2. Procedures and Standards: All floodway conditional uses shall be subject to the procedures and standards contained in Subsection 11.60.D. of this Chapter.~~

~~3. Permissible in Zoning District: The conditional use shall be permissible in the underlying zoning district.~~

~~42. Fill; Storage of Materials and Equipment:~~

~~a. 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.~~

~~b. Fill, dredge spoil and all other similar materials deposited or stored in the floodplain shall~~ must be protected from erosion by vegetative cover, mulching, riprap or other acceptable method. Permanent sand and gravel operations and similar uses must be covered by a long-term site development plan.

~~c. Temporary placement of fill, other materials, or equipment which would cause an increase to the stage of the 1% chance or regional flood may only be allowed if the City of Little Falls has approved a plan that assures removal of the materials from the floodway based upon the flood warning time available.~~

~~b. 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.~~

~~c. As an alternative, and consistent with Subsection D.4.b. of this Section, dredge spoil disposal and sand and gravel operations may allow temporary on-site storage of fill or other materials which would have caused an increase to the stage of the 100-year or regional flood, but only after the City Council has received an appropriate plan which assures the removal of the materials from the floodway based upon the flood warning time available. The conditional use permit must be title registered with the property in the office of the Morrison County Recorder.~~

~~53. Accessory Structures:~~

~~a. Accessory structures must not be designed for human habitation. Accessory structures shall not be designed for human habitation.~~

~~b. Accessory structures, if permitted, shall be constructed and placed on the building site so as to offer the minimum obstruction to the flow of floodwaters.~~

~~1. Whenever possible, structures shall~~ must be constructed with the longitudinal axis parallel to the direction of flood flow; and

**Commented [B011]:** Required, if fill is allowed in the floodway.

**Commented [B012]:** Optional - don't need to allow for fill in the floodway.

2. So far as practicable, structures ~~shall~~ **must** be placed approximately on the same flood flow lines as those of adjoining structures.

c. Accessory structures ~~shall~~ **must** be elevated on fill or structurally dry floodproofed in accordance with the FP-1 or FP-2 floodproofing classifications in the State Building Code. ~~As an alternative, an accessory structure may be floodproofed to the FP-3 or FP-4 floodproofing classification in the State Building Code, provided the accessory structure constitutes a minimal investment, does not exceed five hundred (500) square feet in size and for a detached garage, the detached garage must be used solely for parking of vehicles and limited storage.~~ All floodproofed accessory structures must meet the following additional standards, ~~as appropriate~~:

1. The structure must be adequately anchored to prevent flotation, collapse or lateral movement of the structure and shall be designed to equalize hydrostatic flood forces on exterior walls; and

2. Any mechanical and utility equipment in a structure must be elevated to or above the regulatory flood protection elevation or properly floodproofed.

~~d. Service utilities, such as electrical and heating equipment, within these structures must be elevated to or above the regulatory flood protection elevation or properly floodproofed;~~

~~e. Structures must be elevated on fill or structurally dryproofed in accordance with the FP1 or FP2 floodproofing classifications in the State Building Code. All floodproofed structures must be adequately anchored to prevent flotation, collapse or lateral movement and designed to equalize hydrostatic flood forces on exterior walls.~~

~~f. As an alternative, an accessory structure may be internally/wet floodproofed to the FP3 or FP4 floodproofing classification in the State Building Code, provided the accessory structure constitutes a minimal investment and does not exceed 576 square feet in size. A detached garage may only be used for parking of vehicles and limited storage. All structures must meet the following standards:~~

~~1. To allow for equalization of hydrostatic pressure, there must be a minimum of two "automatic" openings in the outside of walls of the structure, with a total net area of not less than one square inch for every square foot of enclosed area subject to flooding; and~~

~~2. There must be openings on at least two sides of the structure and the bottom of all openings must be no higher than one foot above the lowest adjacent grade to the structure. Using human intervention to open a garage door prior to flooding will not satisfy this requirement for automatic openings.~~

~~6. Storage of Materials and Equipment:~~

~~a. 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.~~

**Commented [B013]:** Only necessary if accessory structures are to be allowed in the floodway.

**Commented [B014]:** Optional language allowing for wet floodproofing of small accessory structures that constitute a minimal investment



~~b. Storage of other materials or equipment may be allowed if readily removable from the area within the time available after a flood warning and in accordance with a plan approved by the City Council.~~

~~74. Structural Works for Flood Control: Structural works for flood control that will change the course, current or cross section of protected wetlands or public water shall be subject to the provisions of Minnesota Statutes 103G.245. Communitywide structural works for flood control intended to remove areas from the regulatory floodplain shall not be allowed in the floodway.~~

**Commented [B015]:** Optional provision providing notice that work in public waters requires a DNR permit.

~~85. Levee, Dike or Floodwall: A levee, dike or floodwall constructed in the floodway shall must not cause an increase to the ~~100-year~~ 1% chance or regional flood, ~~and~~ The technical analysis must assume equal conveyance or storage loss on both sides of a stream.~~

~~6. Floodway developments must not adversely affect the hydraulic capacity of the channel and adjoining floodplain of any tributary watercourse or drainage system.~~

#### **SECTION 11.55 FLOOD FRINGE DISTRICT (FF)**

A. Permitted Uses: Permitted uses shall be those uses of land or structures listed as permitted uses in the underlying zoning use district(s) that comply with the standards of Section 11.55.B. ~~If no preexisting, 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 such use it does not constitute a public nuisance. All permitted uses shall comply with the "Standard for Flood Fringe Permitted Uses" listed in Subsection B of this Section and the "Standard for all Flood Fringe Uses" listed in Subsection F of the Section.~~

**Commented [B016]:** Not generally necessary since Little Falls has underlying zoning districts everywhere, but may want to keep in case of future annexation or changes to the zoning districts.

B. Standards for Flood Fringe Permitted Uses:

1. All structures, including accessory structures, must be elevated on fill so that the ~~lowest floor, as defined, including basement floor~~ is at or above the regulatory flood protection elevation. The finished fill elevation for structures ~~shall~~ must be no lower than one foot (1') below the regulatory flood protection elevation and the fill ~~shall~~ must extend at ~~such the same~~ elevation at least fifteen feet (15') beyond the outside limits of the structure ~~erected thereon.~~

**Commented [B017]:** "Lowest floor" is defined as the lowest floor of the lowest enclosed areas, including basements, crawl spaces, etc.

2. Accessory structures. As an alternative to ~~elevation on the fill~~ requirements of Section 11.55.A, accessory structures accessory to the uses identified in Section 11.55.A may be permitted to be internally/wet floodproofed to the FP3 or FP4 floodproofing classifications in the State Building Code, provided that:

~~a. The accessory structure constitutes that constitute~~ a minimal investment, ~~and that do does~~ not exceed five hundred ~~seventy-six (500576)~~ square feet in size, and is only used for parking and storage for the outside dimension at ground level, may be internally floodproofed in accordance with Subsection 11.54.D.5.e. of this Chapter.

b. All portions of floodproofed accessory structures below the Regulatory Flood Protection Elevation must be: (i) adequately anchored to prevent flotation, collapse or lateral movement and designed to equalize hydrostatic flood forces on



exterior walls, (ii) be constructed with materials resistant to flood damage, and (iii) must have all service utilities be water-tight or elevated to above the regulatory flood protection elevation.

c. Designs for meeting this requirement must either be certified by a registered professional engineer or meet or exceed the following criteria:

1. To allow for equalization of hydrostatic pressure, there must be a minimum of two "automatic" openings in the outside of walls of the structure, with a total net area of not less than one square inch for every square foot of enclosed area subject to flooding; and

2. There must be openings on at least two sides of the structure and the bottom of all openings must be no higher than one foot above the lowest adjacent grade to the structure. Using human intervention to open a garage door prior to flooding will not satisfy this requirement for automatic openings.

3. The cumulative placement of fill or similar material on a parcel must not exceed where at any one time in excess of one thousand (1,000) cubic yards of fill is located on the parcel shall be allowable only as a conditional use, unless said fill is specifically intended to elevate a structure in accordance with Subsection B.1 of this Section.

4. The storage of any materials or equipment shall be elevated on fill to the regulatory flood protection elevation.

5. All service utilities, including ductwork, must be elevated or water-tight to prevent infiltration of floodwaters.

6. All fill must be properly compacted and the slopes must be properly protected by the use of riprap, vegetative cover or other acceptable method.

7. All new principal structures must have vehicular access at or above an elevation not more than two feet below the regulatory flood protection elevation, or must have a flood warning/emergency evacuation plan acceptable to the City of Little Falls.

8. Accessory uses such as yards, railroad tracks, and parking lots may be at an elevation lower than the regulatory flood protection elevation. However, any facilities used by employees or the general public must be designed with a flood warning system that provides adequate time for evacuation if the area is inundated to a depth and velocity such that the depth (in feet) multiplied by the velocity (in feet per second) would exceed a product of four upon occurrence of the regional (1% chance) flood.

9. Manufactured homes and recreational vehicles must meet the standards of Section XXX of this ordinance.

~~5. The provisions of Subsection E of this Section shall apply.~~

C. Conditional Uses: The following uses and activities may be allowed as conditional uses, if allowed in the underlying zoning district(s) or any applicable overlay district, following the procedures in Section XXX of this ordinance.

**Commented [B018]:** Optional.

**Commented [B019]:** Optional, but is mandatory for subdivisions, which include manufactured home parks and recreational vehicle parks/campgrounds.

1. Storage of any material or equipment below the regulatory flood protection elevation.

2. The cumulative placement of more than 1,000 cubic yards of fill when the fill is not being used to elevate a structure in accordance with Section 11.55.B.1 of this ordinance.

3. The use of methods to elevate structures above the regulatory flood protection elevation, including stilts, pilings, parallel walls, or above-grade, enclosed areas such as crawl spaces or tuck under garages, shall meet the standards in Section XXXX.

~~Any structure that is not elevated on fill or floodproofed in accordance with Subsection B.1. of this Section, or any use of land that does not comply with the standards in Subsections B.3. through B.4. of this Section, 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 Subsections D. through E. of this Section and Subsection 11.60.D. of this Chapter.~~

D. Standards for Flood Fringe Conditional Uses:

1. The standards listed in Section 11.55.B.4 through B.9 apply to all conditional uses.

2. Residential basements, as defined by Section 2.614 of this ordinance, are not allowed below the regulatory flood protection elevation.

3. All areas of nonresidential structures, including basements, to be placed below the regulatory flood protection elevation must be structurally dry floodproofed, meeting the FP1 or FP2 floodproofing classification in the State Building Code, which requires making the structure watertight with the walls substantially impermeable to the passage of water and with structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.

4. The placement of more than 1,000 cubic yards of fill or other similar material on a parcel (other than for the purpose of elevating a structure to the regulatory flood protection elevation) must comply with an approved erosion/sedimentation control plan.

(a) The plan must clearly specify methods to be used to stabilize the fill on site for a flood event at a minimum of the regional (1% chance) flood event.

(b) The plan must be prepared and certified by a registered professional engineer or other qualified individual acceptable to the City of Little Falls.

(c) The plan may incorporate alternative procedures for removal of the material from the floodplain if adequate flood warning time exists.

5. Storage of materials and equipment below the regulatory flood protection elevation must comply with an approved emergency plan providing for removal of such materials within the time available after a flood warning.

**Commented [BO20]:** These are all optional and can be altered based on the City's desires.

6. Alternative Elevation Methods: Alternative elevation methods other than the use of fill may be utilized to elevate a structure's lowest floor above the regulatory flood protection elevation. ~~These alternative methods may include the use of stilts, pilings, parallel walls, etc., or above grade, enclosed areas such as crawl spaces 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) it is designed to internally flood and is constructed with flood resistant materials; and c) it is used solely for parking of vehicles, building access or storage. The above noted alternative elevation methods are subject to the following additional standards:

a. Design and Certification: The structure's design and as built condition must be certified by a ~~register~~ 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. Structure shall be subject to a nonconversion agreement upon the issuance of any permit.

b. Specific Standards for Above Grade, Enclosed Areas: Above grade, fully enclosed areas such as crawl spaces or tuck-under garages must be designed to internally flood and the design plans must stipulate:

1. The minimum area of openings in the walls where internal flooding is to be used as a floodproofing technique. ~~When There shall be a minimum of two openings on at least two sides of the structure and are placed in a structure's walls to provide for entry of floodwaters to equalize pressures,~~ the bottom of all openings shall be no higher than one foot (1') above grade. The automatic openings shall have a minimum net area of not less than one square inch for every square foot of enclosed area subject to flooding unless a registered professional engineer or architect certifies that a smaller area would suffice. The automatic openings ~~Openings~~ may be equipped with screens, louvers, valves, or other coverings or devices; provided, that they permit the automatic entry and exit of flood waters without any form of human intervention; and-

2. That the enclosed area will be designed of flood resistant materials in accordance with the FP-3 or FP-4 classifications in the State Building Code and shall be used solely for building access, parking of vehicles or storage.

~~2. Basements: "Basements" as defined by Subsection 11.52.H. of the Chapter, shall be subject to the following:~~

~~a. Residential basement construction shall not be allowed below the regulatory flood protection elevation.~~

~~b. Nonresidential basements may be allowed below the regulatory flood protection elevation, provided the basement is structurally dry floodproofed in accordance with Subsection D.3. of this Section.~~

~~3. Floodproofing Nonresidential Structures: All areas of nonresidential structures including basements to be placed below the regulatory flood protection elevation shall be floodproofed in accordance with the structurally dry floodproofing classifications in the State Building Code. 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 and with structure 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. Erosion/Sedimentation Control Plan: When at any one time more than one thousand (1,000) cubic yards of fill or other similar material is located on a parcel for such activities as on-site storage, landscaping, sand and gravel operations, landfills, roads, dredge spoil disposal or construction of flood control works, an erosion/sedimentation control plan must be submitted, unless the community is enforcing a state approved shoreland management ordinance. In the absence of a state approved shoreland ordinance, the plan must clearly specify methods to be used to stabilize the fill on site for a flood event at a minimum of the 100 year or regional flood event. The plan must be prepared and certified by a registered professional engineer or other qualified individual acceptable to the City Council. The plan may incorporate alternative procedures for removal of the material from the floodplain if adequate flood warning time exists.~~

~~5. Storage of Materials and Equipment:~~

~~a. 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.~~

~~b. Storage of other materials or equipment may be allowed if readily removable from the area within the time available after a flood warning and in accordance with a plan approved by the City Council.~~

~~6. Further Provisions: The provisions of Subsection E of this Section shall also apply.~~

~~E. Standards for All Flood Fringe Uses:~~

~~1. Vehicular Access: All new principal structures must have vehicular access at or above an elevation not more than two feet (2') below the regulatory flood protection elevation. If a variance to this requirement is granted, the City Council must specify limitations on the period of use or occupancy of the structure for times of flooding and only after determining that adequate flood warning time and local flood emergency response procedures exist.~~

~~2. Commercial Uses: Accessory land uses, such as yards, railroad tracks and parking lots may be at elevations lower than the regulatory flood protection elevation. However, a permit for such 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 (2');~~

or be subject to flood velocities greater than four feet (4') per second upon occurrence of the regional flood.

— 3. ~~Manufacturing and Industrial Uses:~~ Measures shall be taken to minimize interference with normal plant operations, especially along streams having protracted flood durations. Certain accessory land uses, such as yards and parking lots, may be at lower elevations subject to requirements set out in Subsection E.2. of this Section. ~~In considering permit applications, due consideration shall be given to needs of an industry whose business requires that it be located in floodplain areas.~~

— 4. ~~Fill Compaction and Slope Protection:~~ Fill shall be properly compacted and the slopes shall be properly protected by the use of riprap, vegetative cover or other acceptable method. The Federal Emergency Management Agency (FEMA) has established criteria for removing the special flood hazard area designation for certain structures properly elevated on fill above the 100-year flood elevation. FEMA's requirements incorporated specific fill compaction and side slope protection standards for multi-structure or multi-lot developments. These standards should be investigated prior to the initiation of site preparation if a change of special flood hazard area designation will be requested.

— 5. ~~Effect on 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.

— 6. ~~Further Provisions:~~ Standards for travel trailer and travel vehicles are contained in Subsection 11.59.C. of this Chapter.

— 7. ~~Anchoring:~~ 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.

## **SECTION 11.56 GENERAL FLOODPLAIN DISTRICT**

### **A. Permitted Uses:**

1. The uses listed in Subsection 11.54.A. of this ~~Chapter ordinance, Floodway District Permitted Uses, shall be~~ permitted uses.

2. All other uses ~~shall be~~ subject to the floodway/flood fringe evaluation criteria ~~pursuant to Subsection B specified in Section 11.56.B below. of this Section.~~ Section 11.54 of this Chapter shall apply if the proposed use is ~~in-determined to be in the floodway district~~ Floodway District, and Section 11.55 of this Chapter shall apply if the proposed use is in the ~~flood fringe district~~ Flood Fringe District.

### **B. Procedures for Floodway and Flood Fringe Determination ~~within General Floodplain District:~~**

1. Upon receipt of an application for a ~~conditional-use permit~~ or other approval within the General Floodplain District ~~for a use within the general floodplain district,~~ the

Zoning Administrator must obtain, review and reasonably utilize any regional flood elevation and floodway data available from any regional flood elevation and floodway data available from a federal, state, or other source. applicant shall be required to furnish such of the following information as is deemed necessary by the Zoning Administrator for the determination of the regulatory flood protection elevation and whether the proposed use is within the floodway or flood fringe district:

\_\_\_\_\_ a. A typical valley cross section showing the channel of the stream, elevation of land areas adjoining each side of the channel, cross sectional areas to be occupied by the proposed development, and high water information;

\_\_\_\_\_ b. Plan (surface view) showing elevations or contours of the ground; pertinent structure, fill or storage elevations; size, location and spatial arrangement of all proposed and existing structures on the site; location and elevation of streets; photographs showing existing land uses and vegetation upstream and downstream; and soil type;

\_\_\_\_\_ c. Profile showing the slope of the bottom of the channel or flow line of the stream for at least five hundred feet (500') in either direction from the proposed development.

2. If regional flood elevation and floodway data are not readily available, the applicant must furnish additional information, as needed, to determine the regulatory flood protection elevation and whether the proposed use would fall within the Floodway or Flood Fringe district. Information must be consistent with accepted hydrological and hydraulic engineering standards and the standards in Section 11.56.B.3 below. The applicant shall be responsible to submit one copy of the above information to a designated engineer or other expert person or agency for technical assistance in determining whether the proposed use is in the floodway or flood fringe district and to determine the regulatory flood protection elevation. Procedures consistent with Minnesota Regulations 1983, parts 6120.5000 through 6120.6200, shall be followed in this expert evaluation. The designated professional engineer or expert is strongly encouraged to discuss the proposed technical evaluation methodology with the respective Department of Natural Resources' Area Hydrologist prior to commencing the analysis. The designated professional engineer or expert shall:

3. The determination of floodway and flood fringe must include the following components, as applicable:

a. Estimate the peak discharge of the regional (1% chance) flood.

b. Calculate the water surface profile of the regional flood based upon a hydraulic analysis of the stream channel and overbank areas.

c. Compute the floodway necessary to convey or store the regional flood without increasing flood stages more than one half foot (~~0.5'~~0.5'). A lesser stage increase than one half foot (0.5') shall be required if, as a result of the additional stage increase, increased flood damages would result. An equal degree of encroachment on both sides of the stream within the reach shall be assumed computing floodway boundaries.

3. The Zoning Administrator ~~will review the submitted information and assess~~ ~~shall present~~ the technical evaluation ~~and findings of the designated professional engineer or expert to the City Council.~~ The City Council ~~must formally accept the technical evaluation and the recommended floodway-Floodway and/or flood fringe districtFlood Fringe District.~~ The assessment ~~must include the cumulative effects of previous floodway encroachments.~~ The Zoning Administrator ~~may seek technical assistance from a designated engineer or other expert person or agency, including boundary or deny the permit application.~~ The City Council ~~prior to official action, may submit the application and all supporting data and analysis to the Federal Emergency Management Agency, the Department of Natural Resources.~~ Based on this assessment, the Zoning Administrator may approve or deny the application, or the Planning Commission for review and comment.

4. Once the ~~floodway-Floodway~~ and ~~flood fringeFlood Fringe District~~ boundaries have been determined, the City Council ~~shall refer the matter back to the Zoning Administrator, who shall must~~ process the permit application consistent with the applicable provisions of Sections 11.54 and 11.55 of this Chapter.

**11.57: SUBDIVISIONS LAND DEVELOPMENT STANDARDS:**  

A. In General: Recognizing that flood prone areas may exist outside of the designated floodplain districts, the requirements of this section apply to all land within the City of Little Falls.

B. Review CriteriaSubdivisions: No land ~~shall~~ may be subdivided which is unsuitable for ~~the reasons~~ of flooding or; inadequate drainage, water supply or sewage treatment facilities. Manufactured home parks and recreational vehicle parks or campgrounds are considered subdivision under this ordinance.

1. All lots within the floodplain districts ~~shall~~ must be able to contain a building site outside of the Floodway District at or above the regulatory flood protection elevation.

2. All subdivisions ~~must shall have water and sewage treatment facilities that comply with the provisions of these sections and~~ have road access both to the subdivision and to the individual building sites no lower than two feet (2') below the regulatory flood protection elevation, unless a flood warning emergency plan for the safe evacuation of all vehicles and people during the regional (1% chance) flood has been approved by the City Council. The plan must be prepared by a registered engineer or other qualified individual, and must demonstrate that adequate time and personnel exist to carry out the evacuation.

3. For all subdivisions in the floodplain, the ~~floodway-Floodway~~ and ~~flood fringeFlood Fringe District~~ boundaries, the regulatory flood protection elevation and the required elevation of all access roads, ~~shall~~ must be clearly labelled on all required subdivision drawings and platting documents.

**Commented [B021]:** Optional, if the City wants to regulate flood prone areas that are not within a mapped floodplain area.

~~4. In the General Floodplain District, applicants must~~ **B. Floodway/Flood Fringe Determinations In General Floodplain District:** ~~In the general floodplain district, applicants shall~~ provide the information required in subsection ~~11.56.B~~ of this chapter to determine the ~~100-year regional~~ flood elevation, the ~~floodway~~ **Floodway** and ~~flood fringe district~~ **Flood Fringe District** boundaries and the regulatory flood protection elevation for the subdivision site.

~~5. Subdivision proposals must be reviewed to assure that:~~

~~(a) All such proposals are consistent with the need to minimize flood damage within the flood prone area;~~

~~(b) All public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage, and~~

~~(c) Adequate drainage is provided to reduce exposure of flood hazard.~~

**C. Building Sites.** If a proposed building site is in a flood prone area, all new construction and substantial improvements (including the placement of manufactured homes) must be:

~~1. Designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.~~

~~2. Constructed with material and utility equipment resistant to flood damage.~~

~~3. Constructed by methods and practices that minimize flood damage, and~~

~~4. Constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.~~

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

## **SECTION 11.58 PUBLIC UTILITIES, RAILROADS, ROAD AND BRIDGES**

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

**Commented [BO22]:** Optional, in conjunction with 11.57-A

**Commented [BO23]:** Optional, in conjunction with 11.57-A



B. Public Transportation Facilities: Railroad tracks, roads and bridges to be located within the floodplain ~~shall must~~ comply with Section 11.54 and 11.55 of this Chapter. ~~These transportation facilities must be elevated~~ ~~Elevation~~ to the regulatory flood protection elevation ~~shall be provided~~ where failure or interruption of these ~~transportation~~ facilities would result in danger to the public health or safety, or where such facilities are essential to the orderly functioning of the area. Minor or auxiliary roads or railroads may be constructed at a lower elevation where failure or interruption of transportation services would not endanger the public health or safety.

C. On-Site ~~Water Supply and~~ Sewage Treatment ~~and Water Supply~~ Systems: Where public utilities are not provided: 1) ~~on~~ On-site water supply systems must be designed to minimize or eliminate infiltration of flood waters into the systems ~~and are subject to the provisions of Minnesota rules chapter 5725.4350, as amended~~; and 2) ~~new~~ New or replacement on-site sewage treatment systems must be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, ~~and they shall must~~ not be subject to impairment or contamination during times of flooding, ~~and are subject to the provisions in Minnesota Rules Chapter 7080.2270, as amended.~~ ~~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.~~

### **SECTION 11.59 MANUFACTURED HOMES AND ~~MANUFACTURED HOME PARKS AND PLACEMENT OF TRAVEL TRAILERS AND TRAVEL VEHICLES~~**

A. Manufactured Homes: New manufactured home parks, ~~and~~ expansions to existing manufactured home parks, ~~and new or replacement manufactured home units on lots of record are prohibited in the Floodway District. If allowed in the Flood Fringe District, these uses are subject to the requirements of Section 11.55 of this Chapter and the following standards: shall be subject to the provisions placed on subdivisions by Section 11.57 of this Chapter.~~

**Commented [B024]:** This wording is mandatory – prohibiting manufactured homes in the Floodway District.

**Commented [B025]:** Need to decide if manufactured homes are allowed at all in the floodplain. If not, this and following sections can be removed.

B. Placement of Manufactured Homes: ~~The placement of new~~ New and ~~or~~ replacement manufactured homes in the Flood Fringe District must comply with the following standards:

1. New and replacement manufactured homes must be elevated in compliance with Section 11.55 of this Chapter and must be securely anchored to an adequately anchored foundation system that resists flotation, collapse and lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state or local anchoring requirements for resisting wind forces.

2. New or replacement manufactured homes in existing manufactured home parks must meet the vehicular access requirements for subdivisions in Section 11.57. 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 Section 11.55 of this Chapter. If vehicular road access for preexisting manufactured home parks is not provided in accordance with Subsection 11.55.E.1. of this Chapter, then replacement manufactured homes will not be allowed until the property owner develops a flood warning emergency plan acceptable to the City Council.

1. All manufactured homes must be securely anchored to an adequately anchored foundation system that resists flotation, collapse and lateral movement. Methods of anchoring may include, but are not to be limited to, use of over the top or frame ties to ground anchors. This requirement is in addition to applicable State or local anchoring requirements for resisting wind forces.

C. Recreational Vehicles: Placement of recreational vehicles in the floodplain must meet the exemption criteria below or be treated as new structures meeting the requirements of this ordinance. Travel trailers and travel vehicles that do not meet the exemption criteria specified in Subsection C.1. of this Section shall be subject to the provisions of this Chapter and as specifically spelled out in Subsections 11.59.C.3. through C.4. of this Section:

1. ~~Exemption: Travel trailers and travel~~Recreational vehicles are exempt from the provisions of this Chapter if they are placed in any of the following areas listed in Subsection C.2. of this Section, and further, they meet the following and meet the criteria listed in Section 11.59.C.2:

a. ~~Individual lots or parcels of record. Have current licenses required for highway use;~~

b. ~~Existing commercial recreational vehicle parks or campgrounds. Are highway ready, meaning on wheels or the internal jacking system is 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.~~

c. ~~Existing condominium-type associations. The travel trailer or travel vehicle and associated use must be permissible in any preexisting underlying zoning use district.~~

2. ~~Criteria for Exempt Recreational Vehicles: Areas Exempted for Placement of Travel Recreational Vehicles:~~

a. ~~The vehicle must have a current license required for highway use. Individual lots or parcels of record.~~

b. ~~The vehicle must be highway-ready, meaning on wheels or the internal jacking system, attached to the site only by quick disconnect type utilities commonly used in campgrounds and recreational vehicle parks. Existing commercial recreational vehicle parks or campgrounds.~~

c. ~~No permanent or structural type additions may be attached to the vehicle. Existing condominium type associations.~~

d. ~~The vehicle and associated use must be permissible in any pre-existing, underlying zoning district.~~

e. Accessory structures are not permitted within the Floodway District. Any accessory structure in the Flood Fringe District must be constructed of flood-resistant materials and be securely anchored, meeting the requirements applicable to manufactured homes in this Chapter.

**Commented [BO26]:** Recreational vehicles could, instead, be explicitly prohibited in floodplain districts.

**Commented [BO27]:** Optional. Recreational vehicles in campgrounds may be allowed within the Floodway District, if defined as a permitted or conditional use, but DNR recommends they be treated as a temporary use, without accessory structures and with an emergency plan in place.

f. An accessory structure must constitute a minimal investment.

3. Requirements and Restrictions on Lost Exemptions: Travel trailers and travel vehicles exempted in Subsection C.1. of this Section lose this exemption when development occurs on the parcel exceeding five hundred dollars (\$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 Section 11.54 and 11.55 of this Chapter. No development or improvement on the parcel or attachment to the recreational vehicle is allowed that would hinder the removal of the vehicle should flooding occur.

Commented [B028]: Optional

4. New Parks, Developments: New commercial ~~travel trailer or travel recreational~~ vehicle parks or campgrounds, ~~and new residential type~~ subdivisions ~~and or~~ condominium associations, and the expansion of any existing similar ~~existing~~ use exceeding five (5) units or dwelling sites may be allowed, ~~shall be~~ subject to the following:

a. Any new or replacement ~~travel trailer or travel recreational~~ vehicle ~~site in the will be allowed in the floodway or flood fringe Flood Fringe District, the districts,~~ provided said trailer or recreational vehicle and its contents ~~are must be~~ placed on fill at or above the regulatory flood protection elevation and ~~proper elevated adequate~~ road access to the site ~~exists must be provided~~ in accordance with Subsection 11.55.E.1. of this Chapter. ~~No fill placed in the floodway to meet the requirements of this Section shall increase flood stages of the 100 year or regional flood.~~

b. ~~All Any~~ new or replacement ~~travel trailers or travel vehicles~~ site located in the Floodway District or as an alternative to (a) above in the Flood Fringe District, not meeting the criteria of Subsection C.4.a. of this Section may, as an alternative, be may be allowed as a conditional use ~~if in~~ accordance with the following provisions and the provisions of ~~Subsection~~ Section 11.50.D. of this Chapter. ~~The applicant must submit an emergency plan for the safe evacuation of all vehicles and people during the 100 year flood. Said plan shall be prepared by a registered professional engineer or 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 Subsection 11.58.C. of this Chapter.~~

(1) The applicant must submit an emergency plan for the safe evacuation of all vehicles and people acceptable to the City of Little Falls, as specified in Section 7.22. The plan must demonstrate that adequate time and personnel exist to carry out an evacuation, and that the exemption provisions of Section 9.31 of this Chapter will be met; and

(2) All attendant sewage and water facilities for new or replacement recreational vehicles must be protected or constructed so as to not be impaired or contaminated during times of flooding in accordance with Section 8.3 of this Chapter.

(3) Any fill placed in the floodway to meet the requirements of this section must not increase the flood stage of the regional (1% chance) flood.

#### **SECTION 11.60 ADMINISTRATION**

A. Zoning Administrator: A Zoning Administrator or other official designed by the City Council ~~shall~~must administer and enforce ~~these provisions~~this Chapter. ~~If the Zoning Administrator finds a violation of the provisions of these Sections, the Zoning Administrator shall notify the person responsible for such violation in accordance with the procedures stated in Section 11.62 of this Chapter.~~

#### B. Permit Requirements:

1. Permit Required: A permit must be obtained from ~~issued by~~ the Zoning Administrator ~~in conformity with the provisions of this Chapter shall be secured~~ prior to conducting the following activities:

(a) the erection, addition, ~~modification, rehabilitation,~~ or alteration of any building, structure or portion thereof. Normal maintenance and repair also requires a permit if such work, separately or in conjunction with other planned work, constitutes a substantial improvement as defined in this ordinance;

(b) ~~prior to~~ the use or change of use of a building, structure or land;

(c) ~~prior to~~ the construction of a dam, fence, or on-site septic system, although a permit is not required for a farm fence as defined in this ordinance;

(d) the change or extension of a nonconforming use;

(e) the repair of a structure that has been damaged by flood, fire, tornado, or ~~any other source;~~

(f) ~~and prior to~~ the placement of fill, excavation of materials, or the storage of materials or equipment within the floodplain;:-

(g) ~~relocation or alteration of a watercourse, unless a public waters work permit has been applied for;~~

(h) any other type of "development" as defined in this ordinance.

2. Application for Permit: ~~Application for a permit shall be made~~Permit applications must be submitted to the Zoning Administrator on forms ~~furnished~~provided by the Zoning Administrator. The permit application must include the following as applicable:

(a) ~~, and shall include the following, where applicable: a) a site plans showing all pertinent dimensions, existing or proposed buildings, structures, and significant natural features having an influence on the permit; drawn to scale showing the nature, location, dimensions and elevations of the lot; b)~~

(b) location of existing or proposed structures, fill or storage of materials; ~~and~~ e) the location of the foregoing in relation to the stream channel;:-

Commented [B029]: Optional

(c) copies of any required municipal, county, state or federal permits or approvals;

(d) other relevant information requested by the Zoning Administrator as necessary to properly evaluate the permit application.

~~3. State and Federal Permits: Prior to granting a permit or processing an application for a conditional use permit or variance, the Zoning Administrator shall determine that the applicant has obtained all necessary State and Federal permits.~~

~~4.3. Certificate of Zoning Compliance for a New, Altered or Nonconforming Use: No building, land or structure may be occupied or used in any manner until a ~~It shall~~ be unlawful to use, occupy or permit the use of 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 has been issued by the Zoning Administrator stating that the use of the building or land conforms to the requirements of ~~these sections~~ this Chapter.~~

~~5. Construction and Use to be as Provided on Applications, Plans, Permits, Variances and Certificates of Zoning Compliance: Permits conditional use permits or certificates of zoning compliance issued on the basis of approved plans and applications authorize only the use, arrangement and construction set forth in such approved plans and applications, and no other use, arrangement or construction. Any use, arrangement or construction at variance with that authorized shall be deemed a violation of these sections, and punishable as provided by Section 11.62 of this Chapter.~~

~~6.4. 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 ~~these sections~~ this Chapter. Floodproofing measures ~~shall~~ must be certified by a registered professional engineer or registered architect.~~

~~7.5. Record of First Floor Elevation: The Zoning Administrator ~~shall~~ must 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~~ must also maintain a record of the elevation to which structures or alterations and additions to structures are floodproofed.~~

~~6. Notifications of 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 Statutes, Section 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).~~

~~7. Notification to FEMA when Physical Changes Increase or Decrease Base Flood Elevations. As soon as is practicable, but not later than six months after the date such supporting information becomes available, the Zoning Administrator must notify the Chicago Regional Office of FEMA of the changes by submitting a copy of the relevant technical or scientific data.~~

C. Planning Commission and City Council Variances:

~~1. Rules: The Planning Commission may recommend to the City Council the adoption of rules for the conduct of business and may exercise all of the powers conferred on such commission and/or the City Council by State law.~~

~~2. Administrative Review: The Planning Commission and/or City Council shall hear, and the City Council shall decide, appeals where is alleged there is error in any order, requirement decision or determination made by an administrative official in the enforcement or administration of these sections.~~

3. Variance Applications: An application for a variance to the provisions of this Chapter will be processed and reviewed in accordance with applicable state statutes and sections of the Little Falls City Code.

2. Adherence to State Floodplain Management Standards. A variance must not allow a use that is not allowed in that district, permit a lower degree of flood protection than the regulatory flood protection elevation for the particular area, or permit standards lower than those required by state law.

3. Additional Variance Criteria. The following additional criteria of the Federal Emergency Management Agency must be satisfied:

(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 results.

(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 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. The Planning Commission may recommend to the City Council, who may authorize upon appeal in specific cases, such relief or variance from the terms of these sections 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 recommending the granting of such variance, the Planning Commission 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, before forwarding such a recommendation to the City Council, who may grant such variances. 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.

**Commented [B030]:** Required verbatim by FEMA (use of "exceptional hardship" vs. state statute requirement of "practical difficulty")

~~4. Hearings: Upon filing with the Planning Commission of an appeal from a decision of the Zoning Administrator, or an application for a variance, the Planning Commission and/or City Council shall fix a reasonable time for hearing and give due notice to the parties in interest as specified by law. The City 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 (10) days' notice of the hearing.~~

~~5. Decisions: Decisions of the City on variance requests shall be consistent with the requirements of Minnesota Statutes 15.99, as amended. In granting a variance, the City Council may prescribe appropriate conditions and safeguards such as these specified in Subsection D.6. of this Section, which are in conformity with the purposes of these sections. 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 these sections punishable under Section 11.62 of this Chapter. A copy of all decisions granting a variance shall be forwarded by mail to the Commissioner of Natural Resources within ten (10) days of such action.~~

~~6. Appeals: Appeals from any decision of the City Council may be made as specified in this City Code and Minnesota Statutes.~~

~~74. Flood Insurance Notice and Recordkeeping: The Zoning Administrator shall must notify the applicant for a variance that: a) the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as twenty-five dollars (\$25) for one hundred dollars (\$100) of insurance coverage; and b) such construction below the 100-year base or regional flood level increases risks to life and property. Such notification shall must be maintained with a record of all variance actions. A community shall maintain a record of all variance actions, including justification for their issuance and report such variances issued in its annual of biennial report submitted to the Administrator of the National Flood Insurance Program.~~

Commented [B031]: Required by FEMA

~~D. Conditional Uses: The Planning Commission and/or City Council shall hear and the City Council shall decide applications for conditional uses permissible under these sections. Applications shall be submitted to the Zoning Administrator, who shall forward the application to the City Council for consideration.~~

~~1. Hearings: Upon filing with the Zoning Administrator an application for a conditional use permit, the City 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 received at least ten (10) days' notice of the hearing.~~

~~2. Decisions: Decisions of the City on conditional use requests shall be consistent with the requirements of Minnesota Statutes 15.99, as amended. In granting a conditional use permit, the City Council shall prescribe appropriate conditions and safeguards, in addition to those specified in Subsection D.6. of this Section, which are in conformity with the purposes of these sections. Violations of such conditions and safeguards, when made a part of the terms under which the conditional use permit is granted, shall be deemed a violation of these sections punishable under Section 11.62 of~~



this Chapter. A copy of all decisions granting conditional use permits shall be forwarded by mail to the Commissioner of Natural Resources within ten (10) days of such action.

~~3. Procedures: The procedures to be followed by the Planning Commission and City Council in passing on conditional use permit applications within all floodplain districts:~~

~~a. Require the applicant to furnish such of the following information and additional information as deemed necessary by the Zoning Administrator for determining the suitability of the particular site for the proposed use:~~

~~1. Plans drawn to scale showing the nature, location dimensions and elevation of the lot, existing or proposed structures, fill, storage of materials, floodproofing measures and the relationship of the above to the location of the stream channel.~~

~~2. Specifications for building construction and materials, floodproofing, filling, dredging, grading, channel improvement, storage of materials, water supply and sanitary facilities.~~

~~b. Transmit one copy of the information described in Subsection D.3.a. of this Section to a designated professional 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.~~

~~c. Based upon the technical evaluation of the designated professional engineer or expert, the Zoning Administrator shall determine the specific flood hazard at the site and evaluate the suitability of the proposed use in relation to the flood hazard.~~

~~45. Factors Upon Which Recommendation of the Planning Commission and Decisions of City Council Shall Be Based~~General Considerations: The City of Little Falls may consider the following factors in granting variances and imposing conditions on variances and conditional uses in floodplains: In passing upon conditional use applications, the Planning Commission and City Council shall consider all relevant factors specified in other provisions of these sections, and:

a. The potential danger to life and property due to increased flood heights or velocities caused by encroachments.

b. 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.

c. The proposed water supply and sanitation systems, if any, and the ability of these systems to prevent disease, contamination and unsanitary conditions.

d. The susceptibility of the proposed facility-use and its contents to flood damage and the effect of such damage on the individual owner.

e. The importance of the services to be provided by the proposed facility-use to the community.



f. The requirements of the facility for a waterfront location.

g. The availability of viable alternative locations for the proposed use that are not subject to flooding ~~for the proposed use.~~

h. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.

i. The relationship of the proposed use to the Comprehensive Land Use Plan and Floodplain Management Program for the area.

j. The safety of access to the property in times of flood for ordinary and emergency vehicles.

k. The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters expected at the site.

l. Such other factors which are relevant to the purposes of these sections.

Commented [B032]: Optional

6. Submittal of Hearing Notices to the Department of Natural Resources (DNR). The Zoning Administrator must submit hearing notices for proposed variances to the DNR 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.

7. Submittal of Final Decisions to the DNR. A copy of all decisions granting variances must be forwarded to the DNR within ten days of such action. The notice may be sent by electronic mail or U.S. Mail to the respective DNR area hydrologist.

8. Record-Keeping. The Zoning Administrator must maintain a record of all variance actions, including justification for their issuance, and must report such variances in an annual or biennial report to the Administrator of the National Flood Insurance Program, when requested by the Federal Emergency Management Agency.

~~5. Time for Acting on Application: The City Council shall act on an application in the manner described above within sixty (60) days from receiving the application, except that where additional information is required pursuant to Subsection D.4. of this Section, the City Council shall render a written decision within sixty (60) days from the receipt of such additional information.~~

#### D. Conditional Uses

1. Administrative Review. An application for a conditional use permit under the provisions of this Chapter will be processed and reviewed in accordance with the requirements of the Little Falls City Code.

2. Factors used in Decision-Making. In passing upon conditional use applications, the City must consider all relevant factors specified in other sections of the City Code, and those factors identified in Section 11.60.C.5 of this Chapter.

Commented [B033]: Optional

~~36. Conditions Attached to Conditional Use Permits: Upon consideration of the factors listed above and the purposes of these Sections, the City Council shall may attach such conditions to the granting of conditional use permits as it deems necessary~~

to fulfill the purposes of ~~these Sections~~ this Chapter. Such conditions may include, but are not limited to the following:

- a. Modification of waste treatment and water supply facilities.
- b. Limitations on period of use, occupancy and operations.
- c. Imposition of operational controls, sureties and deed restrictions.
- d. Requirements for construction of channel modifications, compensatory storage, dikes, levees and other protection measures.
- e. Floodproofing measures, in accordance with the State Building Code and these Sections. The applicant ~~shall~~ must 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.

Commented [B034]: Optional

4. Submittal of Hearing Notices to the Department of Natural Resources (DNR). The Zoning Administrator must submit hearing notices for proposed conditional uses to the DNR 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. Submittal of Final Decisions to the DNR. A copy of all decisions granting conditional uses must be forwarded to the DNR within ten days of such action. The notice may be sent by electronic mail or U.S. Mail to the respective DNR area hydrologist.

## **SECTION 11.61 ~~NONCONFORMING USES~~ NONCONFORMITIES**

A. Continuation 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 these Chapters may be continued subject to the following conditions. Historic structures, as defined in these Chapters, are subject to the provisions of the following sections:

1. A nonconforming use, structure or occupancy must not be expanded, changed, enlarged, or altered in a way that increases its nonconformity. Expansion or enlargement of uses, structures, or occupancies within the Floodway District is prohibited. the use of a structure or premises which was lawful before the passage or amendment of these Sections, but which is not in conformity with the provisions of these Sections, may be continued subject to the following conditions:

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

2.B. Any structural alteration or addition to a nonconforming structure or nonconforming use which would result in increasing the flood damage potential of that structure or use shall be protected to the regulatory flood protection elevation in

accordance with any of the techniques used to elevate on fill or floodproofing, (i.e. FP-1 through FP-4 floodproofing classifications), allowable in the State Building Code, except as further restricted in Subsection ~~3.~~ of this Section.

~~3.C.~~ The cost of any structural alterations or additions to any nonconforming structure over the life of the structure shall not exceed fifty percent (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~~ must include all costs such as construction materials and ~~a~~ reasonable costs placed on all manpower or labor. If the current cost of all previous and proposed alterations and additions exceeds fifty percent (50%) of the current market value of the structure, then the structure must meet the standards of Section 11.54 or 11.55 of this Chapter for new structures, depending upon whether the structure is in the ~~floodway~~ Floodway or ~~flood fringe~~ Flood Fringe District, respectively.

Commented [B035]: Optional

~~D.~~ If any nonconforming use is discontinued for ~~twelve (12) consecutive months~~ more than one year, any future use of the building premises ~~shall~~ must conform to these ~~Sections~~ Chapters. ~~The Assessor must notify the Zoning Administrator in writing of instances of nonconformities that have been discontinued for a period of more than one year.~~

Commented [B036]: Optional

~~E.~~ If any ~~nonconforming use or structure~~ nonconformity is substantially damaged, as defined by these Chapters, ~~is destroyed by any means, including floods, to an extent of fifty percent (50%) or more of its market value at the time of destruction, it shall~~ may not be reconstructed except in conformity with the provisions of these Sections. The applicable provisions for establishing new uses or new structures in Section 11.54, 11.55 or 11.56 of this Chapter will apply depending upon whether the use or structure is in the ~~floodway~~ Floodway, ~~Flood Fringe~~ Flood Fringe or ~~general floodplain district~~, respectively.

~~F.~~ If any nonconforming use or structure experiences a repetitive loss, as defined by these Chapters, it must not be reconstructed except in conformity with the provisions of ~~these Chapters.~~

Commented [B037]: Optional

~~G.~~ Any substantial improvement, as defined by these Chapters, to a nonconforming structure requires that the existing structure and any additions must meet the requirements of Sections 11.54 and 11.55 of these Chapters for new structures, depending upon whether the structure is in the Floodway or Flood Fringe District.

#### SECTION 11.62 PENALTIES FOR VIOLATION

A. Violation Constitutes a Misdemeanor: Violation of the provisions of these Sections or failure to comply with any of the requirements (including violations of conditions and safeguards established in connection with grants of variances or conditional uses) ~~shall~~ constitute a misdemeanor and ~~shall~~ will be punishable as defined by law.

B. Other Lawful Action: Nothing herein contained shall prevent the City 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 these Chapters and will be prosecuted accordingly. Such actions may include, but are not limited to:~~

~~C. Enforcement: Violations of the provisions of these Chapters will be investigated and resolved in accordance with the provision of the relevant Sections of the City Code. In responding to a suspected violation, the Zoning Administrator and City Council may use 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.~~

~~1. In responding to a suspected ordinance violation, the Zoning Administrator and the City may utilize the full array of enforcement actions available to it, including but not limited to, prosecution and fines, injunctions, after the fact permits, orders for corrective measures or a request to the National Flood Insurance Program for denial of flood insurance availability to the guilty party. The community must act in good faith to enforce these official controls and to correct ordinance violations to the extent possible so as not to jeopardize its eligibility in the National Flood Insurance Program.~~

~~2. When an ordinance violation is either discovered by or brought to the attention of the Zoning Administrator, the Zoning Administrator shall immediately investigate the situation and document the nature and extent of the violation of the official control. As soon as is reasonably possible, this information will be submitted to the appropriate department of Natural Resources and Federal Emergency Management Agency regional office, along with the community's plan of action to correct the violation to the degree possible.~~

~~3. The Zoning Administrator shall notify the suspected party of the requirements of these Sections and all other official controls, and the nature and extent of the suspected violation of these controls. If the structure and/or use is under construction or development, the Zoning Administrator may order the construction or development immediately halted until a proper permit or approval is granted by the community. If the construction or development is already completed, then the Zoning Administrator may either: a) issue an order identifying the corrective actions that must be made within a specified time period to bring the use or structure into compliance with the official control; 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 thirty (30) days.~~

~~4. If the responsible party does not appropriately respond to the Zoning Administrator with the specified period of time, each additional day that lapses shall constitute an additional violation of these provisions 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 these Sections.~~

### **SECTION 11.63 AMENDMENTS**

A. 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 regional regulatory flood flood protection elevation and is contiguous to lands outside the floodplain. Special exceptions to this rule may be permitted by the Commissioner of Natural Resources (DNR) if ~~he the Commissioner~~ determines that, through other measures, lands are adequately protected for the intended use.

B. Amendments Require DNR Approval: All amendments to ~~Section 11.50 through 11.63 of this Chapter entitled “Floodplain Management”, including amendments to the official zoning map in the floodplain area, these Chapters~~ must be submitted to and approved by the Commissioner of Natural Resources (DNR) prior to adoption. ~~Changes in the official zoning map must meet the Federal Emergency Management Agency’s (FEMA) technical conditions and criteria, and must receive prior FEMA approval before adoption. The Commissioner of Natural Resources must approve the amendment prior to City approval. be given ten (10) days’ written notice of all hearings to consider an amendment to Sections 11.50 through 11.63, and said notice shall include a draft of the ordinance amendment or technical study under consideration.~~

C. Map Revisions Require Ordinance Amendments. The floodplain district regulations must be amended to incorporate any revisions by the Federal Emergency Management Agency to the floodplain maps adopted in these Chapters.



## STAFF REPORT

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**Item:** Discuss Comprehensive Plan – Updated Land Use Map

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**Background Information:** The City's current Comprehensive Plan contains a map that lays out the anticipated/desired future land uses for different parts of the city and surrounding areas. As part of the process of updating the Comprehensive Plan, this map will need to be reviewed and updated.

An initial map will be presented that is intended to be more consistent with recent and past changes the City has made to its zoning map. While this will not necessarily be the final map, it is intended as a starting point for discussion.

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**Planning Commission/Board of Adjustment Direction:** No action is needed. This is for discussion purposes only.





