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# CITY OF LITTLE FALLS

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## BOARD OF ADJUSTMENT/ PLANNING COMMISSION

April 9, 2018





**AGENDA**  
**PLANNING COMMISSION**  
Conference Room, City Hall  
April 9, 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:** April 9, 2018

**APPROVAL OF MINUTES:** February 12, 2018

**PUBLIC HEARINGS:**

- 1) Amendment to City Code, Chapters 11.50 through 11.59 (Floodplain Management). The purpose of the amendments are to ensure compliance with changes to federal and state law and are based on the model ordinances prepared by the MN Department of Natural Resources. Applicant: City of Little Falls Planning Commission.

**OLD BUSINESS:**

- 1) None

**NEW BUSINESS:**

- 2) None

**NEXT REGULAR MEETING:** Monday, May 14, 2018

**ADJOURNMENT:**



## STAFF REPORT

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**Hearing:** Amendment to City Code, Chapters 11.50 through 11.59 (Floodplain Management). The purpose of the amendments are to ensure compliance with changes to federal and state law and are based on the model ordinances prepared by the MN Department of Natural Resources.

**Applicant:** City of Little Falls Planning Commission.

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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.

The attached draft represents an updated version to what was presented for discussion at the February 2018 meeting, reflecting the comments/decisions made at that meeting as well as additional changes based on an updated model ordinance provided by the DNR since the February meeting.

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**Planning Commission/Board of Adjustment Direction:** The Planning Commission can recommend to the City Council approval, denial or approval with changes of the attached draft language.



## 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 of Minnesota has, in Minnesota Statutes ~~Chapter 103F, 104~~ and ~~Chapter 462, as amended from time to time,~~ delegated the responsibility to local ~~governmental~~ government units to adopt regulations designed to minimize flood losses. Therefore, the City Council of Little Falls, Minnesota, does ordain as follows:

B. ~~Findings of Fact~~ Purpose:

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

~~2. 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.~~

2. National Flood Insurance Program Compliance. This ordinance is adopted to comply with the rules and regulations of the National Flood Insurance Program codified as 44 Code of Federal Regulations Parts 59 -78, as amended, so as to maintain the City's eligibility in the National Flood Insurance Program.

3. This ordinance is also intended to preserve the natural characteristics and functions of watercourses and floodplains in order to moderate flood and stormwater impacts, improve water quality, reduce soil erosion, protect aquatic and riparian habitat, provide recreational opportunities, provide aesthetic benefits and enhance community and economic development.

### SECTION 11.52 GENERAL PROVISIONS

A. Lands to Which These Provisions Apply: ~~These provisions shall apply~~ This ordinance applies to all lands within the jurisdiction of the City ~~shown on the official zoning map and/or the attachments thereto as being located~~ of Little Falls within the boundaries of the Floodway, ~~and Flood Fringe Districts.~~ The boundaries of the zoning districts are determined by scaling distances on the Flood Insurance Rate Map, or as modified in accordance with Section 11.52.A.2 below.

~~1. The Floodway, Flood Fringe and General Floodplain Districts are overlay districts that are superimposed on all existing zoning districts. The standards imposed in the overlay districts are in addition to any other requirements in these Chapters. In case of a conflict, the more restrictive standards will apply.~~

~~2. Where a conflict exists between the floodplain limits illustrated on the official floodplain maps and actual field conditions, the flood fringe or general elevations shall be the governing factor in locating the regulatory floodplain districts limits.~~

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

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

~~C. 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 increase in flood elevation caused by encroachments on the floodplain that result from designation of a floodway.~~

~~D. Interpretation:~~

~~1. 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 be given a reasonable opportunity to present their case to the Planning Commission and to submit technical evidence.~~

~~E~~

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

FBFM Panel Number	Effective Date
2706170280	June 15, 1981

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

D. **Warning and Disclaimer of Liability:** This ordinance does not imply that areas outside the floodplain districts or land uses permitted within such districts will be free from flooding or flood damages. This ordinance does not create liability on the part of the City of Little Falls or its officers or employees for any flood damages that result from reliance on these Chapters or any administrative decision lawfully made hereunder.

E. **Severability:** If any section, clause, provision, or portion of these Chapters is adjudged unconstitutional or invalid by a court of law, the remainder of these Chapters shall not be affected and shall remain in full force.

**HF.** **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.

**BASEMENT- Base Flood** – the flood having a one percent chance of being equaled or exceeded in any given year.

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

**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 codes and upon a finding that:

**EQUAL DEGREE OF ENCROACHMENT:** (a) Certain conditions as detailed in the zoning ordinance exist.

(b) The structure and/or land use conform to the comprehensive land use plan if one exists and are compatible with the existing neighborhood.

**Critical Facilities** – facilities necessary to a community’s public health and safety, those that store or produce highly volatile, toxic or water-reactive materials, and those that house occupants that may be insufficiently mobile to avoid loss of life or injury. Examples of critical facilities include hospitals, correctional facilities, schools, daycare facilities, nursing homes, fire and police stations, wastewater treatment facilities, public electric utilities, water plants, fuel storage facilities, and waste handling and storage facilities.

**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.

**FLOOD: Farm Fence** – A fence as defined by Minn. Statutes Section 344.02, Subd. 1(a)-(d). An open type fence of posts and wire is not considered to be a structure under these Chapters. 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~~ the portion of the floodplain Special Flood Hazard Area (one percent annual chance flood) located outside of the floodway. "Flood fringe" is synonymous with the term "floodway fringe" used in the applicable Flood Insurance Study(ies) for ~~the city~~ City of Little Falls, Minnesota.

**FLOODPLAIN: Flood Insurance Rate Map** – An official map on which the Federal Insurance Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community. A FIRMS that has been made available digitally is called a Digital Flood Insurance Rate Map (DFIRM).

**Flood Prone Area** – any land susceptible to being inundated by water from any source.

**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.

**OBSTRUCTION: 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; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of 44 Code of Federal Regulations, Part 60.3.

**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.”

**New Construction** - Structures, including additions and improvements, and placement of manufactured homes, for which the start of construction commenced on or after the effective date of these Chapters.

**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.

**PRINCIPAL USE OR STRUCTURE: One Hundred Year Floodplain** – lands inundated by the “Regional Flood” (see definition).

**Principal Use or Structure** – all uses or structures that are not accessory uses or structures.

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

**REGIONAL FLOOD: 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 these Chapters, 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 the 1% chance or 100-year recurrence interval. “Regional flood” is synonymous with the term “base flood” used in ~~the~~ flood insurance study.

**Regulatory Flood Protection Elevation**: ~~The regulatory flood protection elevation shall be (RFPE) -~~ an elevation ~~no lower~~ not less 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.

**STRUCTURE: 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.

**Special Flood Hazard Area** – a term used for flood insurance purposes synonymous with “One Hundred Year Floodplain.”

**Start of Construction** – includes substantial improvement, and means the actual start of construction, repair, reconstruction, rehabilitation, addition, placement or other improvement that occurred before the permit’s expiration date. The actual start is either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, foundations, or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

**Structure** - anything constructed or erected on the ground or attached to the ground or on-site utilities, including, but not limited to, buildings, factories, sheds, detached garages, cabins, manufactured homes, ~~travel trailers/recreational~~ vehicles not meeting the exemption criteria specified in ~~Subsection~~Section 11.59.C.1B.2 of ~~this Chapter, these~~ Chapters and other similar items.

~~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.~~

**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 these Chapters, “historic structure” is as defined in 44 Code of Federal Regulations, Part 59.1.

G. Annexations: The Flood Insurance Rate Map panels adopted by reference into Section 11.52.B above may include floodplain areas that lie outside of the corporate boundaries of the City of Little Falls at the time of adoption of this ordinance. If any of these floodplain land areas are 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.

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

#### **A. Districts:**

1. Floodway District: ~~The Floodway District shall include~~includes those areas ~~designated within Zones A2, A7 delineated within floodway areas as floodways shown on the Flood boundary~~Insurance Rate Maps and floodway map~~Flood Boundary and Floodway Maps~~ adopted in Subsection 11.52.B. of this Chapter.

2. Flood Fringe District: The Flood Fringe District ~~shall include those~~includes areas ~~designated as floodway fringe within Zones A2, A7 on the Flood boundary~~Insurance Rate Map and floodway map~~Flood Boundary and Floodway Maps~~ adopted in Subsection 11.52.B. of this Chapter, but located outside of the floodway.

3. General Floodplain District: The General Floodplain District ~~shall include~~includes those areas ~~designated as unnumbered A zones within (Zone A or Zones AE/AO/AH) (that do not have a floodway delineated) as shown~~ on the Flood Insurance Rate Map adopted in Subsection 11.52.B. of this Chapter.

~~B. — Compliance: No new structure or land shall hereafter be used and no structure shall be located, extended, converted or structurally altered without full compliance with the terms of 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 prohibited. In addition, a caution is provided here that:~~

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

~~2. — Modifications, additions, structural alterations or repair after damage to existing nonconforming structures and nonconforming uses of structures or land are regulated by the general provisions of 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.~~

~~B. Applicability: Where Floodway and Flood Fringe districts are delineated on the floodplain maps, the standards in Sections 11.54 or 11.55 will apply, depending on the location of a property. Locations where Floodway and Flood Fringe districts are not delineated on the floodplain maps are considered to fall within the General Floodplain district. Within the General Floodplain district, the Floodway District standards in Section 11.54 apply unless the floodway boundary is determined, according to the process outlined in these chapters.~~

### **SECTION 11.535 REQUIREMENTS FOR ALL FLOODPLAIN DISTRICTS**

~~A. Permit Required: A permit must be obtained from the Zoning Administrator to verify a development meets the standards outlined in these Chapters prior to conducting the following activities:~~

~~1. 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 these Chapters.~~

~~2. The use or change of use of a building, structure, or land.~~

~~3. The construction of a dam, on-site septic system, or fence.~~

~~4. The change or extension of a nonconforming use.~~

~~5. The repair of a structure that has been damaged by flood, fire, tornado, or any other source.~~

~~6. The placement of fill, excavation of materials, or the storage of materials or equipment within the floodplain.~~

~~7. Relocation or alteration of a watercourse (including new or replacement culverts and bridges), unless a public waters work permit has been applied for.~~

~~8. Any other type of "development" as defined in these Chapters.~~

~~B. 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 floatation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;~~

~~2. Constructed with materials 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.~~

B. Flood Capacity. In no cases shall floodplain development adversely affect the efficiency or unduly restrict the capacity of the channels or floodways of any tributaries to the main stream, drainage ditches, or any other drainage facilities or systems.

C. 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.

~~D. Critical Facilities, as defined in these Chapters, are prohibited in all floodplain districts.~~

**Commented [B01]:** Previous discussion was to take this optional element of the DNR model ordinance out for now.

**Commented [B02]:** Previous discussion was to not disallow these. Prohibiting them is optional as per DNR Model Ordinance.

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

A. Permitted uses:

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

1. General farming, pasture, grazing, farm fences only when legally existed prior to April 1, 2018, 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~~ 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.

5. 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.

6. Travel-ready recreational vehicles meeting the exception standards in Section 11.59.C. of this Chapter.

**Commented [B03]:** In DNR model ordinance. Previous discussion was to disallow these, recognizing that some may exist as future annexation occurs. New language to clarify that is proposed here.

**Commented [B04]:** Optional in DNR Model Ordinance. Previous discussion was to allow travel-ready recreational vehicles as a permitted use and not require a conditional use.

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.~~

~~3. 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.

~~C. Conditional uses:~~

~~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: The following uses may be allowed as conditional uses following the standards and procedures set forth in these Chapters and further subject to the standards set forth in Section 11.54.D, if otherwise allowed in the underlying zoning district or any applicable overlay district.~~

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 soil, 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.~~

~~5. Storage yards for equipment, machinery, or materials.~~

~~5. Construction of fences that obstruct flood flows, including farm fences.~~

6. Placement of fill.

~~7. Travel trailers and travel vehicles, either on individual lots of record or in existing or new subdivisions or commercial or condominium type campgrounds, subject to the exemptions and provision of Subsection 11.59.C. of this Chapter.~~

8. ~~Structural works for flood control such as levees, Levees or dikes and floodwalls constructed to any height where the intent is to protect individual structures and levees or dikes where the intent is intended~~ to protect agricultural crops for a frequency flood event equal to or less than the ~~100~~10-year frequency flood event.

D. Standards for Floodway Conditional Uses:

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~~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.~~

**Commented [B05]:** These would be permitted as a conditional use.

**Commented [B06]:** Optional in DNR Model Ordinance. Previous discussion was to allow travel-ready recreational vehicles as a permitted use and not require a conditional use. Moved up above to be listed as a permitted use.

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

~~4. Fill:~~

~~2. Fill: Storage of Materials and Equipment:~~

~~a. 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.~~

~~b. Dredge spoil sites and Permanent sand and gravel operations shall not be allowed in the floodway unless and similar uses must be covered by 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~~

~~b. Temporary placement of fill, other materials, or equipment which would have caused~~cause ~~an increase to the stage of the 100 year 1% percent chance or regional flood, but may only after be allowed if the Little Falls City Council has received an appropriate approved a plan which that 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.~~

**Commented [B07]:** Required – if fill is allowed in the floodway.

5. Accessory Structures:

~~a. Accessory structures shall, as defined by these Chapters, may be permitted, provided that:~~

~~a. Structures are not be designed~~intended ~~for human habitation.;~~

~~b. Accessory structures, if permitted, shall~~ b. Structures will have a low flood damage potential;

~~c. Structures will be constructed and placed on the building site so as to offer the minimum~~minimal ~~obstruction to the flow of floodwaters.~~flood waters;

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

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

~~e. Accessory structures shall be elevated~~ 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 dry floodproofed in accordance with the FP-1FP1 or FP-2FP2 floodproofing classifications in the State Building Code. All floodproofed structures must be adequately anchored to prevent

**Commented [B08]:** Optional – don't need to allow for fill in the floodway.

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 FP-3FP3 or FP-4FP4 floodproofing classificationclassifications 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. 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 the equalization of hydrostatic pressure, there must be a minimum of two “automatic” openings in the outside walls of the structure must be adequately anchored, with a total net area of not less than one square inch for every square foot of enclosed area subject to prevent flotation, collapse or lateral movementflooding; and

2). There must be openings on at least two sides of the structure and shall be designedthe bottom of all openings must be no higher than one foot above the lowest adjacent grade to equalize hydrostatic flood forces on exterior walls; andthe structure. Using human intervention to open a garage door prior to flooding will not satisfy this requirement for automatic openings.

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

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.

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.

7. Structural Works for Flood Control:

g. Structural works for flood control that will change the course, current or cross section of protected wetlands or public water shall bewaters are subject to the provisions of Minnesota Statutes, Section 103G.—Communitywide structural works for flood control intended to remove areas from the regulatory floodplain shall not be allowed in the floodway.245.

8.— Levee, Dike or Floodwall:—

h. A levee, dike or floodwall constructed in the floodway shallmust not cause an increase to the 100-year1% chance or regional flood, and. The technical analysis must assume equal conveyance or storage loss on both sides of a stream.

i. 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 bear~~ those uses of land or structures ~~listed as permitted uses allowed~~ in the underlying zoning ~~use districts, district(s) that comply with the standards in Sections 11.55.B.~~ If no ~~preexisting~~pre-existing, underlying zoning ~~use~~ districts exist, then any residential or nonresidential structure, or use of a structure or land, ~~shall be is~~ 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.~~

B. Standards for Flood Fringe Permitted Uses:

1. All structures, including accessory structures, must be elevated on fill so that the lowest floor ~~including basement floor, as defined,~~ is at or above the regulatory flood protection elevation. The finished fill elevation for structures ~~shall must~~ be no lower than one foot ~~(+)~~ below the regulatory flood protection elevation and the fill ~~shall must~~ extend at ~~such the same~~ elevation at least ~~fifteen~~15 feet ~~(+5)~~ beyond the outside limits of the structure ~~erected thereon.~~

2. Accessory Structures. As an alternative to ~~elevation on the~~ fill, ~~accessory requirements of Section 11.55.B.2,~~ 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 constitute:~~

~~a minimal investment and that do not exceed five hundred (500) square feet. To allow for the equalization of hydrostatic pressure, there must be a minimum of two “automatic” openings in the outside dimension at ground level, may be internally floodproofed in accordance with Subsection 11.54.D.5.e. 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~~

~~b. 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 Chapter requirement for automatic openings.~~

3. The cumulative placement of fill ~~where at any one time in excess of one thousand (or similar material on a parcel must not exceed 1,000) cubic yards of fill is located on the parcel shall be allowable only as a conditional use,~~ unless ~~said the~~ fill is specifically intended to elevate a structure in accordance with ~~Subsection B.1 of this Section~~Section 11.55.A of these Chapters, or if allowed as a conditional use under Section 11.55.C below.

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

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

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 Council.

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 these Chapters.

C. ~~Conditional Uses: Any~~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 11.4 of these Chapters.

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 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 11.55.B.1 of these Chapters.

2. 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 and criteria and evaluation procedures specified in Subsections in Section 11.55.D. through E. of this Section and Subsection 11.60.D. of this Chapter.

D. Standards for Flood Fringe Conditional Uses:

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

2. Residential basements, as defined by these Chapters, 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 Council.

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.

6. Alternative elevation methods : ~~Alternative elevation methods~~ other than the use of fill may be utilized to elevate a ~~structure's~~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: ~~a1)~~ the enclosed area is above-grade on at least one side of the structure; ~~b2)~~ it is designed to internally flood and is constructed with flood resistant materials; and ~~e3)~~ 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 ~~floodwater~~flood water from entering or accumulating within these components during times of flooding. Structure shall be subject to a nonconversion agreement with upon the issuance of any permit.

~~b. Specific Standards for~~

~~b) 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 are placed in a structure's walls to provide for entry of floodwaters to equalize

~~pressures, on at least two sides of the structure and~~ 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 net area would suffice. The automatic openings may be equipped with screens, louvers, valves, or other coverings or devices; provided, that they permit the automatic entry and exit of ~~floodwaters.~~ 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~~FP3 or ~~FP-4~~FP4 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~~Section 11.54.A. ~~of this Chapter shall be these Chapters, Floodway District Permitted Uses, are permitted uses.~~

2. All other uses ~~shall be~~are subject to the floodway/flood fringe evaluation criteria ~~pursuant to Subsection specified in Section 11.56.B. of this Section, below. Section 11.54 of this Chapter shall apply~~applies if the proposed use is determined to be in the Floodway District, ~~and, Section 11.55 of this Chapter shall apply~~applies if the proposed use is determined to be in the 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 for a use or other approval~~ within the General Floodplain District, the 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 must obtain, review and reasonably utilize any regional flood elevation and whether the proposed use is within the floodway data available from a federal, state, or flood fringe district; other source.~~

~~a. A typical valley cross section showing the channel of the stream, 2. If regional flood 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. 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 data are not readily available, or the application involves a project exceeding the lesser of five~~

~~acres or 50 lots, the applicant must furnish additional information, as needed, to determine the regulatory flood protection elevation. Procedures and whether the proposed use would fall within the Floodway or Flood Fringe District. Information must be 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 accept hydrological and hydraulic engineering standards and the standards in 11.56.B.3 below.~~

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 (0.5) foot (-0.5'). A lesser stage increase than ~~one half 0.5 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 ~~must~~ be assumed in computing floodway boundaries.

~~3.4. The Zoning Administrator shall present will review the technical evaluations submitted information and findings of the designated professional engineer or expert to the City Council. The City Council must formally accept assess the technical evaluation and the recommended Floodway and/or Flood Fringe District 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 assessment must include the cumulative effects of previous floodway encroachments. The Zoning Administrator may seek technical assistance from a designated engineer or other expert person or agency, including the Department of Natural Resources or the Planning Commission for review and comment. Based on this assessment, the Zoning Administrator may approve or deny the application.~~

5. Once the Floodway and Flood Fringe District boundaries have been determined, the 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 Section 11.54 and 11.55 of this Chapter these Chapters

#### **11.57: SUBDIVISIONS:**

A. ~~Review Criteria:~~ No land shall ~~may~~ be subdivided which is unsuitable for ~~the reason reasons~~ of flooding; or inadequate drainage, water supply or sewage treatment facilities. Manufactured home parks and recreational vehicle parks or campgrounds are considered subdivisions under these Chapters.

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 ~~shall have water and sewage treatment facilities that comply with the provisions of these sections and~~must 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 and Flood Fringe District boundaries, the regulatory flood protection elevation and the required elevation of all access roads, ~~shall~~ must be clearly ~~labelled~~labeled on all required subdivision drawings and platting documents.

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

~~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.~~

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.

## **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.

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

C. On Site Sewage Treatment and Water Supply Systems: Where public utilities are not provided: 1) On-site water supply systems must be designed to minimize or eliminate infiltration of ~~floodwaters~~flood waters into the systems and are subject to the provisions in Minnesota Rules Chapter 4725.4350, as amended; and 2) New or replacement on-site sewage treatment systems must be designed to minimize or eliminate infiltration of ~~floodwaters~~flood waters into the systems and discharges from the systems into ~~floodwaters, and flood waters~~, they ~~shall~~must not be subject to impairment or contamination during times of flooding. ~~Any sewage treatment system designed, and are subject to the provisions 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~~Minnesota Rules Chapter 7080.2270, as amended.

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

A. Manufactured Homes: New manufactured home parks and expansions to existing manufactured home parks ~~shall be subject to the provisions placed on subdivisions by Section 11.57 of this Chapter.~~

~~B. — The placement of new or replacement manufactured homes in are prohibited in any floodplain district. For 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., the following requirements apply:~~

~~1. All~~Placement or replacement of manufactured home units is prohibited in the Floodway District.

~~2. Placement or replacement of manufactured home units in the Flood Fringe District is subject to the requirements of Section 11.55 of these Chapters and the following standards.~~

~~a. New and replacement~~ manufactured homes must be elevated in compliance with Section 11.54 of these Chapters 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 ~~to be~~ limited to, use of over-

the top or frame ties to ground anchors. This requirement is in addition to applicable state or local anchoring requirements for resisting wind forces.

~~C. Travel trailers 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~~

~~b. New or replacement manufactured homes in existing manufactured home parks must meet the vehicular access requirements for subdivisions in Section 11.58 of these Chapters.~~

~~B. Recreational Vehicles: New recreational vehicle parks or campgrounds and expansions to existing recreational vehicle parks or campgrounds are prohibited in any floodplain district. Placement of recreational vehicles in existing recreational vehicle parks or campgrounds in the floodplain must meet the requirements below.~~

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

~~a. Have Individual lots or parcels of record.~~

~~b. Existing commercial recreational vehicle parks or campgrounds.~~

~~c. Existing condominium-type associations.~~

~~2. Criteria for Exempt Recreational Vehicles:~~

~~a. The vehicle must have a current licenses license required for highway use.~~

~~b. Are The vehicle must be 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 recreational vehicle has parks.~~

~~c. No permanent structural type additions may be attached to the vehicle.~~

~~e. The travel trailer or travel vehicle and associated use must be permissible in any preexisting underlying zoning use district.~~

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

~~a. Individual lots or parcels of record.~~

~~b. Existing commercial recreational vehicle parks or campgrounds.~~

~~c. Existing condominium-type associations.~~

~~3. 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

~~\_\_\_\_\_ d. Accessory structures that they constitute a minimal investment, do not hinder the removal of the vehicle should flooding occur, and meet the standards outlined in Sections 11.535.B and 11.55.B.2. may be permitted in the Flood Fringe District, provided that they constitute a minimal investment, do not hinder the removal of the vehicle should flooding occur, and meet the standards outlined in Sections 11.535.B and 11.55.B.2.~~

~~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.~~

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

~~\_\_\_\_\_ a. Any new or replacement travel trailer or travel vehicle will be allowed in the floodway or flood fringe districts, provided said trailer or vehicle and its contents are placed on fill above the regulatory flood protection elevation and proper elevated road access to the site exists in accordance with 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 new or replacement travel trailers or travel vehicles not meeting the criteria of Subsection C.4.a. of this Section may, as an alternative, be allowed as a conditional use if in accordance with the following provisions and the provisions of Subsection 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.~~

## SECTION 11.60 ADMINISTRATION

A. — ~~Zoning Administrator: \_\_\_\_\_ Duties:~~ A Zoning Administrator or other official ~~designed~~designated by the City Council shall ~~must~~ administer and enforce these provisions. ~~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.~~Chapters.

B. Permit Application Requirements:

**Commented [B09]:** Previous discussion was to not allow accessory structures in RV campgrounds, as would otherwise be allowed in DNR model ordinance.

~~1. Permit Required: A permit issued by the Zoning Administrator in conformity with the provisions of this Chapter shall be secured prior to the erection, addition or alteration of any building, structure or portion thereof; prior to the use or change of use of a building, structure or land; prior to the change or extension of a nonconforming use; and prior to the placement of fill, excavation of materials, or the storage of materials or equipment within the floodplain.~~

~~2. Application for Permit: Application for a permit shall be made to the Zoning Administrator on forms furnished by the Zoning Administrator, and shall include the following, where applicable: a) plans drawn to scale~~

~~1. Application for Permit. Permit applications must be submitted to the Zoning Administrator on forms provided by the Zoning Administrator. The permit application must include the following as applicable:~~

~~a. A site plan showing the nature, location, all pertinent dimensions and elevations of the lot; b), existing or proposed buildings, structures, and significant natural features having an influence on the permit.~~

~~b. Location of fill or storage of materials; and c) the location of the foregoing in relation to the stream channel.~~

~~3. State and Federal Permits: Prior to granting a permit or processing an application for a conditional use permit or variance,~~

~~c. Copies of any required municipal, county, state or federal permits or approvals.~~

~~d. Other relevant information requested by the Zoning Administrator shall determine that the applicant has obtained all as necessary State and Federal permits to properly evaluate the permit application.~~

~~4. Certificate of Zoning Compliance for a New, Altered or Nonconforming Use: 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 Administrator stating that the use of the building or land conforms to the requirements of these sections.~~

~~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. 2. 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. Chapters. Floodproofing measures shall must be certified by~~

a registered professional engineer or registered architect. Accessory structures designed in accordance with Section 11.55.B.2 of these Chapters are exempt from certification, provided sufficient documentation is provided.

7.3. 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 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 Chapters.

4. 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~~and alterations ~~and~~or additions to structures are floodproofed.

#### C. Planning Commission and City Council

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. Variances: 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

5. Notifications for Watercourse Alterations. Before authorizing any alteration or relocation of a river or stream, the Zoning Administrator must notify adjacent communities. If the applicant has applied for a permit to work in public waters pursuant to Minnesota 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).

6. 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. Variances:

1. Variance Applications. An application for a variance to the provisions of these Chapters will be processed and reviewed in accordance with applicable State Statutes

~~and Chapter 11 of the respective enabling legislation for planning and zoning for cities or counties as appropriate. In recommending the granting of such Little Falls City Code.~~

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

~~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.~~

~~7. 3. Additional Variance Criteria. The following additional variance criteria of the Federal Emergency Management Agency must be satisfied:~~

~~a. Variances must not be issued by the City within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.~~

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

~~c. Variances may only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.~~

~~4. Flood Insurance Notice and Recordkeeping: The Zoning Administrator shall must notify the applicant for a variance that: a1) 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 b2) Such construction below the 100 yearbase 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.~~

~~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:~~

~~5. General Considerations. The City may consider the following factors in granting variances and imposing conditions on variances and conditional uses in floodplains:~~

~~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.~~

~~\_\_\_\_\_ 4. Factors Upon Which Recommendation of the Planning Commission and Decisions of City Council Shall Be Based: 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 danger to life and property due to increased flood heights or velocities caused by encroachments:~~

~~\_\_\_\_\_ 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~~ minimize the potential for disease, contamination and unsanitary conditions.;

d. The susceptibility of ~~the~~ any 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~~ flood plain 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~~flood waters expected at the site.

~~1. Such other factors which are relevant to the purposes of these sections.~~

~~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.~~

~~6. 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.~~

D. Conditional Uses:

~~1. Administrative Review. An application for a conditional use permit under the provisions of these Chapters will be processed and reviewed in accordance with Chapter 11 of the zoning ordinance/code.~~

~~2. Factors Used in Decision-Making. In passing upon conditional use applications, the City Council must consider all relevant factors specified in other sections of these Chapters, and those factors identified in Section 11.60.C.5 of these Chapters.~~

~~3. 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. Chapters.~~ Such conditions may include, but are not limited to, the following:

a. Modification of waste treatment and water supply facilities.

~~b. — b.~~Limitations on period of use, occupancy, and operations~~operation.~~

~~c. — c.~~ Imposition of operational controls, sureties, and deed restrictions.

~~d.~~ d. Requirements for construction of channel modifications, compensatory storage, dikes, levees, and other ~~protection~~protective measures.

e. Floodproofing measures, in accordance with the State Building Code and these ~~Sections~~Chapters. 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.

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-A. Continuance of Nonconformities: A use, structure, or the use~~occupancy of a structure or premises ~~and~~ which was lawful before the passage or amendment of these ~~Sections, Chapters~~ but which is not in conformity with the provisions of these ~~Sections, Chapters~~ may be continued subject to the following conditions: Historic structures, as defined in these Chapters, are subject to the provisions of Sections 11.61.A.1-6 below.

~~1. A. No such nonconforming use shall, structure, or occupancy must not~~ be expanded, changed, enlarged, or altered in a way ~~which~~that increases its ~~nonconformity~~flood damage potential or degree of obstruction to flood flows except as provided in 12.12 below. Expansion or enlargement of uses, structures or occupancies within the Floodway District is prohibited.

~~B. 2.~~ Any addition or structural alteration ~~or addition~~ to a nonconforming structure or nonconforming use ~~which~~that would result in increasing ~~the~~its flood damage potential ~~of that structure or use shall~~must be protected to the regulatory flood protection elevation in accordance with any of the ~~techniques used to elevate~~elevation on fill or floodproofing, ~~techniques~~ (i.e. ~~FP 1 through FP 4, FP1 thru FP4~~ floodproofing classifications), ~~allowable in the State Building Code, except as further restricted in Subsection C. of this Section 11.61.A.4 below.~~

~~C. The cost of any structural alterations or additions to any nonconforming~~

3. If any nonconforming use, or any use of a nonconforming structure, is discontinued for more than one year, any future use of the premises must conform to these Chapters.

~~4. If any 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 include all costs such as construction materials and 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, experiences a substantial improvement as defined in these Chapters, then the entire structure must meet the standards of Section 11.54 or 11.55 of this Chapter these Chapters for new structures, depending upon whether the structure is in the Floodway or Flood Fringe, respectively District, respectively. If the current proposal, including maintenance and repair during the previous 365 days, plus the costs of any previous alterations and additions since the first Flood Insurance Rate Map exceeds 50 percent of the market value of any nonconforming structure, the entire structure must meet the standards of Section 11.54 or 11.55 of these Chapters.~~

~~D. If any nonconforming use is discontinued for twelve (12) consecutive months, any future use of the building premises shall conform to these Sections.~~

~~E. If any nonconforming use or structure 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~~

~~5. If any nonconformity is substantially damaged, as defined in these Chapters, it shall may not be reconstructed except in conformity with the provisions of these Sections. Chapters. The applicable provisions for establishing new uses or new structures in Section Sections 11.54, 11.55 or 11.56 of this Chapter 55 will apply depending upon whether the use or structure is in the Floodway, flood fringe or general floodplain district Flood Fringe, respectively.~~

~~6. If any nonconforming use or structure experiences a repetitive loss, as defined in these Chapters, it must not be reconstructed except in conformity with the provisions of these Chapters.~~

#### **SECTION 11.62 PENALTIES FOR VIOLATION**

A. Violation Constitutes a Misdemeanor: Violation of the provisions of these ~~Sections~~ Chapters or failure to comply with any of ~~the its~~ 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 in these Chapters~~ restricts the City from taking such other lawful action as is necessary to prevent or remedy any violation. ~~Such actions may include, but are~~ If the responsible party does not limited 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.

**Commented [B010]:** Previous discussion was to take out this optional language. This would mean that repetitive loss structures could be allowed without any special approvals.

~~1. C. Violations of the provisions of these Chapters will be investigated and resolved in accordance with the provisions of Chapter 11 of the City Code. In responding to a suspected ordinance violation, the Zoning Administrator and the City Council may utilize the full array of enforcement actions available to it, including but not limited to, prosecution and fines, injunctions, after-the-fact permits, orders for corrective measures or a request to the National Flood Insurance Program for denial of flood insurance availability to the guilty party. The communityCity 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~~**must** 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 ~~protection~~**elevation** and is contiguous to lands outside the floodplain. Special exceptions to this rule may be permitted by the Commissioner of ~~the Department of~~**the Department 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~~**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 the Department of Natural Resources (DNR) prior to adoption. Changes in the official zoning map The Commissioner must meet approve the amendment prior to City of Little Falls approval.~~

~~C. Map Revisions Require Ordinance Amendments: The floodplain district regulations must be amended to incorporate any revisions by the Federal Emergency Management Agency's (FEMA) technical conditions and criteria, and must receive prior FEMA approval before adoption. The Commission Agency to the floodplain maps adopted in Section 11.52.B of Natural Resources must 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 these Chapters.~~