

# Washington County Development Code

## CHAPTER NINE FLOODPLAIN MANAGEMENT REGULATIONS

ORDINANCE 211  
EFFECTIVE UPON PASSAGE  
BY THE COUNTY BOARD  
ON JUNE 5, 2018 AND  
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# REVISED WASHINGTON COUNTY DEVELOPMENT CODE

## CHAPTER NINE

### FLOODPLAIN MANAGEMENT REGULATIONS

**ORDINANCE NO. 211**

**REVISED WASHINGTON COUNTY  
DEVELOPMENT CODE**

Pursuant to MSA Ch 394, Washington County has adopted official controls for areas and activities enumerated below. These official controls are compiled into and hereafter known as the Revised Washington County Development Code which consists of the following chapters each adopted through Ordinance.

- |      |               |  |
|------|---------------|--|
| (1)  | Chapter One   | Administration   |
| (2)  | Chapter Two   | Zoning Regulations   |
| (3)  | Chapter Three | Subdivision Regulations  |
| (4)  | Chapter Four  | Subsurface Sewage Treatment System Regulations                       |
| (5)  | Chapter Five  | Lower St. Croix River Bluffland and Shoreland Management Regulations |
| (6)  | Chapter Six   | Shoreland Management Regulations                                     |
| (7)  | Chapter Seven | Mining Regulations   |
| (8)  | Chapter Eight | Buffer Regulations   |
| (9)  | Chapter Nine  | Floodplain Management Regulations                                    |
| (10) | Chapter Ten   | Official Map Regulation and Designation                              |

REVISED WASHINGTON COUNTY DEVELOPMENT CODE

CHAPTER NINE

FLOODPLAIN MANAGEMENT REGULATIONS`

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*Summaries in this column are for commentary and/or interpretive purposes only.*

**REVISED WASHINGTON COUNTY DEVELOPMENT CODE**

**CHAPTER NINE**

**FLOODPLAIN MANAGEMENT REGULATIONS**

This Chapter of the Washington County Development Code shall be known as the Washington County Floodplain Management Regulations and may be referred to within this Chapter as "this Chapter" or this "Ordinance". This floodplain regulation applies in the unincorporated areas of the County and is adopted by Washington County Ordinance No. 211 pursuant to the authorization and policies contained in Minnesota Statutes, Chapter 103 F, and the planning and zoning enabling legislation in Minnesota Statutes, Chapter 394.

**SECTION 1. INTENT AND PURPOSE**

*Intent is to protect health, safety and welfare by regulating flood hazard areas.*

- 1.1** It is the intent of Washington County to regulate flood hazard areas within unincorporated areas of the County which are subject to periodic inundation causing hazard to life and property, disruption of commerce and governmental services, unsanitary conditions, interruption of transportation and communication, extraordinary public expenditures for flood protection and relief and impairment of the tax base, all of which adversely affect the public health, safety and general welfare of the residents of Washington County. Based on these intentions, the purpose of these regulations are to:
- (1) Protect the public health, safety, and general welfare.
  - (2) Conserve and enhance natural resources, and maintain a high standard of environmental quality.
  - (3) Preserve the capacity of floodplains to carry and discharge regional floods.
  - (4) Preserve and enhance the quality of surface waters.
  - (5) Regulate the placement of sanitary and waste disposal facilities on lots.
  - (6) Regulate the placement of structures and facilities in flood prone areas.
  - (7) Be consistent with the Federal Emergency Management Agency (FEMA) rules codified as 44 Code of Federal Regulations, Parts 59-78, as amended by participating and maintaining eligibility in the National Flood Insurance Program.
  - (8) Guide development, not prohibit it.

**SECTION 2. SCOPE AND APPLICABILITY**

*Applies to lands within the unincorporated areas of Washington County that are located within the floodplain as defined in:*

*Flood Insurance Study and Flood Insurance Rate Map.*

*This Chapter is in addition to, not in lieu of other Chapters.*

*Uses are permitted only if not prohibited in any established zoning district.*

*The most restrictive conditions or higher standards shall prevail.*

*Provisions of this Ordinance are minimums and shall be liberally construed in favor of the governing body.*

*Interpretation and determination of Zoning District Boundaries.*

- 2.1 This Ordinance applies to all lands within the unincorporated areas of Washington County, Minnesota shown as being located within the floodplain in the documents titled "Flood Insurance Study, Washington County, Minnesota and Incorporated Areas," the "Flood Insurance Rate Map, Map Indexes numbered 27163CIND1A and 27163CIND2A," and all Flood Insurance Rate Map Panels noted therein on the above noted Flood Insurance Rate Map Indexes that are listed as applicable to the unincorporated areas of Washington County, Minnesota; all of these documents being prepared by the Federal Emergency Management Agency (FEMA) and Dated February 3, 2010. The aforementioned documents are hereby adopted by reference and declared to be a part of this Ordinance and shall be kept on file in the office of the County Auditor and the Washington County Zoning Administrator.
- 2.2 The provisions of this Ordinance are in addition to, rather than in lieu of, regulations imposed by other Chapters of the Development Code or other applicable Washington County Ordinances.
- 2.3 The primary uses in Section 6.1 and the conditional uses allowed in Section 6.2 of this Ordinance are permitted only if not prohibited by any established underlying zoning district.
- 2.4 Where any provision of this Ordinance is either more restrictive or less restrictive than any provision of the other Chapters of the Washington County Development Code or any other law, ordinance, statute, resolution, or regulation of any kind, the provisions which are more restrictive, or which impose higher standards or requirements shall prevail.
- 2.5 Interpretation.
  - (1) In their interpretation and application, the provisions of this Ordinance shall be held to be the minimum requirements and shall be liberally construed in favor of the governing body and shall not be deemed a limitation or repeal of any other powers granted by Minnesota State Statutes.
  - (2) The boundaries of the Shoreland Management Overlay District and St. Croix River Management Overlay District are determined by using the information shown on the Zoning Overlay District Map and/or the information contained within any applicable descriptions. Where interpretation is needed as to the exact location of the boundaries of the district as shown on the Zoning Overlay District Map, as for example where there appears to be a conflict between a mapped boundary and actual field conditions and there is a formal appeal of the decision of the Zoning Administrator, the Board of Adjustment and Appeals shall make the necessary interpretation. All decisions will be based on elevations on the regional (100-year) flood profile, the ground elevations that existed on the site at the time the community adopted its initial floodplain ordinance or on the date of the first National Flood Insurance Program map showing the area in the floodplain if earlier, and other available technical data. Persons contesting the location of the district boundaries shall be given a reasonable opportunity to present their case to the Board of Adjustment and Appeals and to submit technical evidence.

*Effect on existing easements, covenants, or deed restrictions.*

*Flooding in areas outside the floodplain districts.*

*This Ordinance does not create liability for Washington County.*

*Remainder of Ordinance is not affected if any portion is found to be invalid.*

*Unless specifically defined here, interpretation of words and phrases shall be consistent with common usage.*

- 2.6 This Ordinance is not intended to repeal, abolish, or impair any existing easements, covenants, or deed restrictions. However, where this Ordinance imposes greater restrictions, the provisions of this Ordinance shall prevail.
- 2.7 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 Washington County or any officer or employee thereof for any flood damages that result from reliance on this Ordinance or any administrative decision lawfully made thereunder.
- 2.8 If any section, clause, provision, or portion of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance is not affected thereby.

**SECTION 3: DEFINITIONS**

- 3.1 Unless specifically defined below, words or phrases used in this Ordinance shall be interpreted so as to give them the same meaning as they have in common usage and so as to give this Ordinance its most reasonable application.
  - (1) **Accessory Building:** A detached single-story building used or intended to be used for the storage of personal property or for agricultural purposes.
  - (2) **Basement:** Any area of a structure, including crawl spaces, having its floor or base subgrade (below ground level) on all four sides, regardless of the depth of excavation below ground level.
  - (3) **Conditional Use:** Certain uses, while generally not suitable in a particular zoning district may under some circumstances be suitable if certain conditions are met.
  - (4) **Development:** Any manmade changes 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.
  - (5) **Farm Fence:** A fence as defined by Minn. Statute, Section 344.02, Subd. 1 (a) – (d). A farm fence is not considered to be a structure under this Ordinance.
  - (6) **Fill:** Soil, earth, sand, gravel, rock or any similar material that is deposited, placed, pushed or transported. Fill does not include crushed concrete.
  - (7) **Flat Pool Elevation:** The ordinary high water level for reservoirs and flowages which is the operating level established and also referred to as the normal summer pool.
  - (8) **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.

- (9) **Flood Fringe:** That portion of the floodplain outside the Floodway. As used in this Ordinance, Flood Fringe is also synonymous with the term "General Floodplain." Flood Fringe is used in the Flood Insurance Study for Washington County, Minnesota and incorporated areas.
- (10) **Flood Frequency:** The frequency for which it is expected that a specific flood stage or discharge may be equaled or exceeded.
- (11) **Flood Insurance Rate Map (FIRM):** 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 FIRM that has been made available digitally is called a Digital Flood Insurance Rate Map (DFIRM).
- (12) **Flood Insurance Study (FIS):** A Flood Insurance Study is a compilation and presentation of flood risk data for specific watercourses, lakes, and coastal flood hazard areas within a community.
- (13) **Floodplain:** The beds and the areas adjoining a wetland, lake or watercourse which have been or hereafter may be covered by the regional flood.
- (14) **Flood-Proofing:** A combination of structural provisions, changes, or adjustments to properties and structures subject to flooding, primarily for the reduction or elimination of flood damages.
- (15) **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 the regional flood discharge.
- (16) **General Floodplain:** See Flood Fringe
- (17) **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.
- (18) **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."
- (19) **New Construction:** Structures, including additions and improvements, and placement of manufactured homes, for which construction commenced on or after the effective date of this ordinance.
- (20) **Obstruction:** Any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel modification, culvert, building, wire, fence, stockpile of crushed concrete or other material, 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.

- (21) **Ordinary High Water Level:** The boundary of public waters and wetlands delineating the highest water elevation which has been maintained for a sufficient period of time to leave evidence upon the landscape; visually, that point where the natural vegetation commonly changes from predominantly aquatic to predominantly terrestrial (also known as the ordinary high water mark). For watercourses, the ordinary high water level is the elevation of the top of the bank of the channel. For reservoirs and flowage, the ordinary high water level is the operating elevation of the flat pool elevation. On lakes with an established ordinary high water level by the Minnesota Department of Natural Resources, that elevation is considered the ordinary high water level.
- (22) **Principal Use or Structure:** The predominant use or structure rather than an accessory use or structure.
- (23) **Recreational Vehicle:** A vehicle that is built on a single chassis, is 400 square feet or less when measured at the largest horizontal projection, is designed to be self-propelled or permanently towable by a light duty truck, and is designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use. For the purposes of this Ordinance, the term recreational vehicle is synonymous with the terms travel trailer or travel vehicle.
- (24) **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 100-year recurrence interval. Regional flood is synonymous with the term "base flood" used in the Flood Insurance Study.
- (25) **Regulatory Flood Protection Elevation:** The Regulatory Flood Protection Elevation is an elevation no lower than two (2) feet above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the floodplain.
- (26) **Special Flood Hazard Area:** A term that is synonymous with "One Hundred Year Floodplain" and used for flood insurance purposes.
- (27) **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.

- (28) **Structure:** Something built or constructed; used interchangeably with “building” for purposes of this Development Code. Recreational vehicles that are not in compliance with Section 6.3 of this Ordinance will be considered a structure and must comply with all standards in this Ordinance for new structures placed in the floodplain.
- (29) **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 fifty (50) percent of the market value of the structure before the damage occurred.
- (30) **Substantial Improvement:** 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 fifty (50) percent of the market value of the structure before the “start of construction” of the improvement. This term includes structures which have incurred “substantial damage” regardless of the actual repair work performed. The term does not, however, include:
- (A) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions.
- (B) Any alteration of a “historic structure” provided that the alteration will not preclude the structure’s continued designation as a “historic structure”. For the purpose of this Ordinance, “historic structure” is as defined in 44 Code of Federal Regulations, Part 59.1.
- (31) **Variance:** A variance is the modification or variation of the requirements of the Development Code where it is determined that by reason of exceptional circumstances, the strict enforcement of the regulations would cause practical difficulties (Note: for floodplain related variances the FEMA criteria is “exceptional hardship” rather than “practical difficulties”). Refer to Section 12.5 of this Ordinance for floodplain related variances.

## SECTION 4: ADMINISTRATION

### 4.1 Accordance with Chapter One.

Administration of this Chapter, including issuance of variances, shall be in accordance with Chapter One of the Washington County Development Code.

*Administration of this Chapter shall be in accordance with Chapter One.*

*Permit required prior to various types of construction and work, change or extension of non-conforming use, fill and excavating, and storage within the floodplain.*

*Permitted floodplain developments will be reviewed to ensure that they are reasonably safe from flooding.*

*Zoning Administrator shall verify that the necessary State and Federal permits have been obtained.*

*Licensed engineer, architect or land surveyor shall certify elevations. Zoning Administrator shall maintain records of elevations.*

*Zoning Administrator shall notify adjacent communities and DNR prior to authorizing changes to watercourses.*

**4.2 Permit Required.**

- (1) A permit issued by the Zoning Administrator in conformity with the provisions of this Ordinance shall be secured prior to the erection, addition, modification, rehabilitation (including normal maintenance and repair), 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 construction of a dam, fence, or on-site septic system; prior to the change or extension of a non-conforming use; prior to the repair of a structure that has been damaged by flood, fire, tornado or any other source; and prior to the placement of fill, excavation of materials, or the storage of materials or equipment within the floodplain.
- (2) All permitted floodplain developments shall be reviewed to ensure that sites are reasonably safe from flooding. All permitted developments shall utilize:
  - (A) Anchoring to prevent flotation, collapse, or lateral movement.
  - (B) Flood-resistant materials.
  - (C) Construction methods that minimize flood damage.
  - (D) Design and/or location of services and utilities that prevents water entry.

**4.3 State and Federal Permits.**

Prior to granting a permit or processing an application for a variance, the Zoning Administrator shall verify that the applicant has obtained all necessary State and Federal permits.

**4.4 Certification and Record of Elevations.**

The applicant is required to submit certification by a licensed professional engineer, licensed architect, or licensed land surveyor that the finished fill and building elevations were established in compliance with the provisions of this Ordinance. The Zoning Administrator shall maintain a record of the elevation to which structures and alterations or additions to structures are floodproofed and the elevations of the lowest floor (including basement) for all new structures and alterations or additions to existing structures in the floodplain district.

**4.5 Notification for Watercourse Alterations.**

The Zoning Administrator shall notify, in riverine situations, adjacent communities and the Commissioner of the Department of Natural Resources prior to the community authorizing any alteration or relocation of a watercourse. If the applicant has applied for a permit to work in the beds of public waters pursuant to Minnesota Statute, Chapter 103G, this shall suffice as adequate notice to the Commissioner of the Department of Natural Resources. A copy of said notification shall also be submitted to the Chicago Regional Office of the Federal Emergency Management Agency (FEMA).

*Zoning Administrator shall notify FEMA of change in 100-year flood elevation.*

**4.6 FEMA Notification When Physical Changes Increase or Decrease the 100-year Flood Elevation.**

As soon as is practicable, but not later than six (6) months after the date such supporting information becomes available, the Zoning Administrator shall notify the Chicago Regional Office of FEMA of the changes by submitting a copy of said technical or scientific data.

**SECTION 5. ESTABLISHMENT OF FLOODPLAIN DISTRICT**

*Floodway includes areas designated on the FIRM, areas below the OHW and as determined in accordance with Section 9.1.*

**5.1 Floodplain District.**

The following areas are considered to be within the Floodplain District.

- (1) Floodway. The Floodway includes those areas designated as Floodway on the Flood Insurance Rate Map adopted in Section 2.1 of this Ordinance. The Floodway also includes those floodplain areas below the ordinary high water level on lakes and those floodplain areas below the ordinary high water elevation of the St. Croix River downstream of the southern corporate limits of the City of Stillwater. For the remaining floodplain areas subject to this Ordinance, the Floodway boundaries shall be determined in accordance with Section 9.1 of this Ordinance.
- (2) General Floodplain (Flood Fringe). The General Floodplain includes all remaining floodplain areas not designated as a Floodway in Section 5.1 (1) above.

*General Floodplain includes remaining floodplain areas not designated as Floodway.*

**5.2 Compliance.**

Structures or land shall not be used and structures shall not be located, constructed, extended, converted, or structurally altered without full compliance with the terms of this Ordinance and other applicable regulations which apply to uses within the jurisdiction of this Ordinance. All uses not listed as a permitted use within the Floodway or a permitted use or conditional use within the General Floodplain are prohibited.

*Structures and land shall be in compliance with this Ordinance. Uses not listed are prohibited.*

**5.3 Modifications, Additions, Alterations, Maintenance, Repair.**

Modifications, additions, structural alterations, normal maintenance and repair, or repair after damage to existing non-conforming structures and non-conforming uses of structures or land are regulated by the general provisions of this Ordinance and specifically Section 13.

*Changes to structures and land are regulated by this Ordinance.*

**5.4 Flood Proofing.**

As-built elevations for elevated or flood proofed structures shall be certified by a licensed land surveyor, and flood proofing techniques shall be designed and certified by a licensed professional engineer or architect as specified in the general provisions of this Ordinance and specifically as stated in Section 8 of this Ordinance.

*Elevations shall be certified by a land surveyor and flood proofing shall be certified by an engineer or architect.*

**SECTION 6. FLOODWAY AND GENERAL FLOODPLAIN USES**

*Uses within the Floodway*

**6.1 Uses Within the Floodway.**

- (1) Uses within the Floodway are limited to:
  - (A) Agricultural uses such as general farming, pasture, grazing, forestry, sod farming, farm fences that do not obstruct flood flows, and wild crop harvesting all of which do not involve structures, fill or storage of materials or equipment.
  - (B) All other uses within the Floodway are prohibited.

*Uses restricted to those which don't obstruct flood flows.*

*All other uses prohibited.*

*Uses within the General Floodplain.*

**6.2 Uses Within the General Floodplain (Flood Fringe).**

- (1) Permitted uses:
  - (A) Agricultural uses such as general farming, pasture, grazing, forestry, sod farming, farm fences that do not obstruct flood flows, and wild crop harvesting all of which do not involve structures, fill or storage of materials or equipment.
- (2) Uses which may be permitted within the General Floodplain (Flood Fringe) with a Conditional Use Permit:
  - (A) Private and public recreational uses such as golf courses, tennis courts, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, hunting and fishing areas and single or multiple purpose trails.
  - (B) Accessory buildings.
  - (C) Single-family residential structures.
  - (D) Parking lots.
  - (E) Chain link fences and rigid fences constructed of wood or concrete and/or any other type of fence that has the potential to obstruct flood flows.
  - (F) 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, and meeting the requirements Section 8.5.
  - (G) Flood-proofed nonresidential structures placed below the Regulatory Flood Protection Elevation and meeting the requirements of Section 8.6.

*Agricultural uses which don't obstruct flood flows are allowed.*

*Recreational uses, accessory buildings, single-family residential structures, parking lots, fences, alternative structure elevation methods, and flood proofed nonresidential structures placed below the RFPE may be allowed within the General Floodplain with a Conditional Use Permit.*

*Recreational vehicles are exempt with specific conditions.*

### 6.3 Exemption.

Recreational vehicles are exempt from the provisions of this Ordinance if they are placed on developed single-family residential parcels and are legally permitted by other chapters of the Washington County Development Code, have current licenses required for highway use and are highway ready meaning on wheels or on an internal jacking system. Development or improvement on the parcel or any attachment to the recreational vehicle that hinders the removal of the recreational vehicle to a flood-free location is prohibited.

## SECTION 7. UTILITIES, RAILROADS, ROADS AND BRIDGES IN THE FLOODPLAIN DISTRICT

*Public utilities within the floodplain shall be floodproofed or elevated.*

### 7.1 Public Utilities.

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

*Railroads, roads and bridges within the floodplain must comply with this Ordinance.*

### 7.2 Public Transportation Facilities.

Railroad tracks, roads, and bridges to be located within the floodplain must comply with this Ordinance. These transportation facilities must be elevated to the regulatory flood protection elevation where failure or interruption of these 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.

## SECTION 8. STANDARDS FOR GENERAL FLOODPLAIN (FLOOD FRINGE) PRIMARY USES AND CONDITIONAL USES

*Fill shall be compacted and protected.*

*FEMA criteria should be investigated prior to site preparation.*

### 8.1 Fill.

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

*Storage or processing of hazardous materials is prohibited.*

### 8.2 Storage of Materials and Equipment.

- (1) The storage or processing of materials that are flammable, explosive, or potentially injurious to human, animal, or plant life is prohibited.

*Storage of other materials or equipment may be allowed if removable.*

- (2) Storage of other materials or equipment may be allowed if readily removable from the area within the time available after a flood warning or if placed on fill to the Regulatory Flood Protection Elevation.

*Uses which adversely affect the capacity of drainage systems are prohibited.*

**8.3 Effect on Drainage Systems.**

Any use which will adversely affect the capacity of any drainage ditch or drainage facility of system or the channels or Floodways of any tributary to the main stream is prohibited.

*Lowest floor of all structures shall be at or above the RFPE. Finished fill shall be no lower than 1 foot below the RFPE.*

**8.4 Regulatory Flood Protection Elevation.**

All structures, including accessory structures, additions to existing structures and manufactured homes shall be constructed on fill so that the basement floor or first floor if there is no basement, is at or above the Regulatory Flood Protection Elevation. The finished fill elevation shall be no lower than one (1) foot below the Regulatory Flood Protection Elevation and shall extend at such elevation at least fifteen (15) feet beyond the limits of the structure constructed thereon.

*Alternative methods to elevate the lowest floor above the RFPE within the General Floodplain may be utilized, subject to a CUP.*

**8.5 Alternative Structure Elevation Methods.**

Alternative elevation methods other than the use of fill may be utilized within the General Floodplain (Flood Fringe) and subject to a Conditional Use Permit, to elevate a structure's lowest floor above the Regulatory Flood Protection Elevation. 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 is considered above-grade and not a structure's basement or lowest floor if: the enclosed area is above-grade on at least one side of the structure; is designed to internally flood and is constructed with flood resistant materials; and is used solely for parking of vehicles, building access or storage.

*Design and as-built must be certified by an engineer or architect.*

- (1) The above-noted alternative elevation methods are subject to the following standards:

*Electrical and mechanical systems must be at or above the RFPE or flood-proofed.*

- (A) Design and Certification. The structure's design and as-built condition must be certified by a licensed professional engineer or architect as being in compliance with the general design standards of the State Building Code. 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 from entering or accumulating within these components during times of flooding.

*The design of above-grade enclosed areas must meet these requirements.*

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

- 1. A minimum area of "automatic" openings in the walls where internal flooding is to be used as a floodproofing technique.

*The enclosed area must be designed with flood resistant materials.*

*Residential basements shall be at or above the RFPE.*

*Nonresidential basements may be below the RFPE within the General Floodplain if dry and flood-proofed.*

*Erosion/sedimentation control plan must be submitted when 50 cubic yards of fill is proposed.*

There shall be a minimum of two openings on at least two sides of the structure and the bottom of all openings shall be no higher than one (1) foot above grade. The automatic openings shall have a minimum net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding unless a licensed 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 without any form of human intervention; and

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

(2) Basements, as defined by Section 3.1 of this Ordinance, are subject to the following:

(A) Residential basement construction shall be at or above the regulatory flood protection elevation.

(B) As an alternative to Section 8.4, nonresidential basements may be allowed below the Regulatory Flood Protection Elevation provided the basement is structurally dry and flood-proofed in accordance with Section 8.6 of this Ordinance.

**8.6 Structures Placed Below the Regulatory Flood Protection Elevation.**

All areas of nonresidential structures including basements to be placed below the Regulatory Flood Protection Elevation within the General Floodplain (Flood Fringe) are subject to a Conditional Use Permit and shall be flood-proofed in accordance with the structurally dry flood-proofing classifications in the State Building Code. Structurally dry flood-proofing must meet the FP-1 and FP-2 flood-proofing classification in the State Building Code, and this shall require making the structure watertight with the walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

**8.7 Erosion and Sediment Plan.**

An erosion/sedimentation control plan must be submitted if a cumulative total of fifty (50) cubic yards of fill is proposed to be located on the parcel. 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 licensed professional engineer or other qualified individual acceptable to the Zoning Administrator. The plan may incorporate alternative procedures for removal of the material from the floodplain if adequate flood warning time exists.

*Uses that do not have access at or above an elevation 3 feet below the RFPE are prohibited except by variance.*

**8.8 Vehicular Access.**

Uses that do not have vehicular access at or above an elevation three (3) feet below the Regulatory Flood Protection Elevation to lands outside of the floodplain are prohibited unless granted a variance by the Board of Adjustment and Appeals. In granting a variance, the Board of Adjustment and Appeals shall specify limitations on the period of use or occupancy of the use and only after determining that adequate flood warning time and local emergency response and recovery procedures exist.

*Some improvements below the RFPE are permitted provided the facility has a flood warning system.*

**8.9 Improvements Below the Regulatory Flood Protection Elevation.**

Utilities, roads, yards, railroad tracks, and parking lots may be at elevations below 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 and velocity such that when multiplying the depth (in feet) times velocity (in feet per second) the product number exceeds four (4) upon occurrence of the regional flood. In considering permit applications, due consideration shall be given to needs of an industry whose business requires that it be located in the floodplain areas.

*Water supply systems must have protection from flood water infiltration.*

**8.10 Where Public Utilities Are Not Provided.**

- (1) On-site water supply systems must be designed to minimize or eliminate infiltration of flood waters into the systems.
- (2) New or replacement on-site sewage treatment systems must be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters and shall not be subject to impairment or contamination during times of flooding. Any sewage treatment system designed in accordance with the State's current statewide standards for on-site sewage treatment systems are determined to be in compliance with this section.
- (3) On-site systems in the floodplain area are regulated by Chapter Four of the Washington County Development Code, Subsurface Sewage Treatment System Regulations, Section 18.2, Floodplain Areas.

*Sewage treatment systems must be protected from the effects of flooding.*

*Sewage treatment systems regulated by Chapter Four*

**8.11 Manufactured Homes.**

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

*Manufactured homes must be securely anchored to a foundation.*

## SECTION 9. FLOODPLAIN EVALUATION ALLOWED UNDER THIS ORDINANCE

### 9.1 Development Plans and Hydrologic/Hydraulic Analysis.

*Site development plans and hydrologic/hydraulic analysis required for manufactured home parks/subdivisions within the floodplain district.*

Upon receipt of an application for a permit or manufactured home park/subdivision approval within the floodplain district, the Zoning Administrator shall require the applicant to furnish sufficient site development plans and a hydrologic/hydraulic analysis by a qualified engineer or hydrologist. These plans shall include: (1) the specifics on the nature of the development, (2) whether the proposed use is in the Floodway or outside the Floodway and (3) the Regulatory Flood Protection Elevation for the site. Uses determined to be in the Floodway are subject to Section 6.1 of this Ordinance. Uses located outside the Floodway are considered General Floodplain and subject to the provision of Section 5.1(2) and 6.2 of this Ordinance. Procedures consistent with Minnesota Rules Parts 6120.5600 (Technical Standards and Requirements for Floodplain Evaluation) and 6120.5700 (Minimum Floodplain Management Standards for Local Ordinances) and Sections 11.2-11.4 of this Ordinance shall be followed during the technical evaluation and review for the development proposal.

### 9.2 Minnesota Department of Natural Resources Hydrologist Review.

*Zoning Administrator shall submit information to DNR Area Hydrologist.*

The Zoning Administrator shall submit one copy of all information required by Section 9.1 of this Ordinance to the respective Minnesota Department of Natural Resources' Area Hydrologist for review and comment at least twenty (20) days prior to the granting of a permit or manufactured home park development/subdivision approval by the community. The Zoning Administrator shall notify the respective Department of Natural Resources' Area Hydrologist within ten (10) days after a permit or manufactured home park development/subdivision approval is granted.

## SECTION 10. SUBDIVISIONS

### 10.1 Requirements and Restrictions.

*Proposed subdivisions will be reviewed to assure that flood damage is minimized, utilities and facilities minimize flood damage and adequate drainage is provided.*

- (1) Proposed subdivisions shall be reviewed to assure that:
  - (A) Flood damage is minimized within the flood prone area;
  - (B) 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 to flood hazard.
- (2) Subdivisions shall be reviewed in accordance with Chapter Three, Subdivision Regulations of the Washington County Development Code or in accordance with the local township subdivision regulations as applicable. Each lot or parcel must contain sufficient area outside of the Floodway for fill placement necessary for elevating a home, accessory structures, sewage systems, road

*Unsuitable land shall not be subdivided. Subdivisions shall be in accordance with Chapter*

*3 or township regulations. Each parcel shall have sufficient area outside the floodway and shall have adequate access.*

access and related activities. All subdivisions shall have road access to the subdivision and to the individual building sites no lower than three (3) feet below the Regulatory Flood Protection Elevation. Subdivision of land that is unsuitable for development due to flooding, inadequate drainage, or inadequate water supply or sewage treatment facilities is prohibited.

*Required elevations shall be included on appropriate platting documents. Applicant shall provide required flood information.*

**10.2 Elevation Requirements.**

For all subdivisions in the General Floodplain District, the Regulatory Flood Protection Elevation and the required elevation of all access roads shall be clearly labeled on all required subdivision drawings and platting documents. The applicant shall provide the information required in Section 9.1 of this Ordinance to determine the 100-year flood elevation, the Floodway and General Floodplain District boundaries and the Regulatory Flood Protection Elevation for the subdivision site.

*FEMA criteria for removing special flood hazard designation should be investigated prior to site preparation.*

**10.3 Removal of Special Flood Hazard Area Designation.**

The Federal Emergency Management Agency (FEMA) has established criteria for removing the special flood hazard area designation for certain structures properly elevated on fill above the 100-year flood elevation. FEMA's requirements incorporate specific fill compaction and side slope protection standards for multi-structure or multi-lot developments. These standards should be investigated prior to the initiation of site preparation if a change of special flood hazard area designation will be requested.

**SECTION 11. CONDITIONAL USES**

*Conditional uses are subject to review and approval per the Development Code.*

**11.1 Conditional Use Permit Requirements.**

Conditional uses allowed outside the Floodway areas of the floodplain are subject to review and approval procedures and criteria and conditions for review of conditional uses established in Chapter One, Administration, Section 9, and Chapter Two, Zoning Regulations, of the Washington County Development Code. In addition, the Planning Advisory Commission shall consider the following before granting a Conditional Use Permit:

*Issues that will be considered by the Planning Advisory Commission when considering Conditional Use Permit requests.*

- (1) The danger to life and property due to increased flood heights or velocities caused by encroachments.
- (2) The danger that materials may be swept onto other lands or downstream to the injury of others.
- (3) The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.
- (4) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
- (5) The importance of the services provided by the proposed facility to the community.

- (6) The requirements of the facility for a waterfront location.
- (7) The availability of alternative locations not subject to flooding for the proposed use.
- (8) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
- (9) The relationship of the proposed use to the Comprehensive Plan and floodplain management program for the area.
- (10) The safety of access to the property in times of flood for ordinary and emergency vehicles.
- (11) The expected heights, velocity, duration, rate or rise, and sediment transport of the floodwaters expected at the site.
- (12) Such other factors relevant to the purposes of this Ordinance.

### 11.2 Regulatory Flood Protection Elevation and Floodway Requirements.

In addition to the application requirements in Chapter One of the Washington County Development Code, Section 9, Conditional Uses, the applicant is required to furnish the following information as is deemed necessary by the Zoning Administrator for the determination of the Regulatory Flood Protection Elevation and whether the proposed use is within the Floodway or non-Floodway portion of the floodplain.

- (1) A typical valley cross-section showing the channel of the stream, elevation of land areas adjoining each side of the channel, cross-sectional areas to be occupied by the proposed development, and high water information.
- (2) 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 elevations of streets; photographs showing existing land uses and vegetation upstream and downstream; and soil type.
- (3) Profile showing the slope of the bottom of the channel or flow line of the stream for at least five hundred (500) feet in either direction from the proposed development.

### 11.3 Floodplain Technical Evaluation.

The applicant is responsible for submitting 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 non-Floodway portion of the floodplain and to determine the Regulatory Flood Protection Elevation. Procedures consistent with Minnesota Rules Parts 6120.5000 - 6120.6200 shall be followed in this expert evaluation. The designated engineer or expert is strongly encouraged to discuss the proposed technical evaluation methodology with the

*Additional information that must be submitted by applicants seeking a Conditional Use Permit includes:*

*Cross-sections, elevations and high water information;*

*Plan view with elevations and contours, structures and streets. Photos and soil type;*

*Profile of the channel or stream.*

*Applicant must submit information to an expert for technical assistance.*

*The expert shall:*

*Estimate peak flood discharge;*

*Calculate water surface profile;*

*Compute the required Floodway.*

respective Department of Natural Resources' Area Hydrologist prior to commencing the analysis. The designated engineer or expert shall:

- (1) Estimate the peak discharge of the regional flood.
- (2) Calculate the water surface profile of the regional flood based upon a hydraulic analysis of the stream channel and over-bank areas.
- (3) Compute the Floodway necessary to convey or store the regional flood without increasing flood stages more than one-half (1/2) foot. A stage increase less than one-half (1/2) foot is required if, as a result of the additional stage increase, increased flood damages would result. An equal degree of encroachment on both sides of the stream within the reach shall be assumed in computing Floodway boundaries.

**11.4 Planning Advisory Commission Review of Technical Evaluation.**

*The Zoning Administrator shall present the expert's information to the PAC for consideration.*

The Zoning Administrator shall present the technical evaluation and findings of the designated engineer or expert to the Planning Advisory Commission for consideration based on the following process:

*The PAC must accept the information or deny the permit.*

- (1) The Planning Advisory Commission must formally accept the technical evaluation and the recommended Floodway or non-Floodway boundary or deny the permit application.

*The PAC shall submit information to FEMA or the DNR.*

- (2) Prior to official action, the Planning Advisory Commission shall submit the application and all supporting data and analyses to the Federal Emergency Management Agency (FEMA) or the Department of Natural Resources for review and/or comment.

*The PAC shall refer back to the Zoning Administrator for processing of the CUP*

- (3) Once the Floodway and non-Floodway boundaries have been determined, the Planning Advisory Commission shall refer the matter back to the Zoning Administrator who shall process the Conditional Use Permit application consistent with the applicable provisions of Sections 6, 7 and 8 of this Ordinance.

**11.5 Procedures to be Followed by the Planning Advisory Commission in Forwarding on Conditional Use Permit Applications within All Floodplain Districts.**

*The applicant shall:*

*Submit plans drawn to scale showing required information;*

*Submit specifications for the project;*

*Submit any necessary additional information;*

- (1) The applicant shall submit 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:
  - (A) 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; and
  - (B) Specifications for building construction and materials, floodproofing, filling, dredging, grading, channel improvement, storage of materials, water supply and sanitary facilities.

*Submit information to an expert for assistance.*

*Zoning Administrator shall determine the flood hazard and suitability of the proposed use.*

*Zoning Administrator shall submit a copy of the CUP application to the DNR.*

*The Planning Advisory Commission may attach conditions to a Conditional Use Permit.*

*Zoning Administrator shall forward to the DNR, copies of actions granting Conditional Use Permits.*

- (2) The applicant shall submit one copy of the information described in subsection (A) to a designated engineer or other expert person or agency for technical assistance, where necessary, in evaluating the proposed project in relation to flood heights and velocities, the extent of flood damage to the use, the adequacy of the plans for protection, and other technical matters.
- (3) Based upon the technical evaluation of the designated engineer or expert, the 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.

#### **11.6 Conditional Use Permit Application Submitted to DNR Commissioner.**

Upon receipt of a completed application for a Conditional Use Permit, the Zoning Administrator shall submit by mail to the Commissioner of The Minnesota Department of Natural Resources a copy of the application for proposed conditional uses sufficiently in advance so that the Commissioner will have at least ten (10) days' notice of the hearing.

#### **11.7 Conditions Attached to Conditional Use Permits.**

Upon consideration of the factors listed above and the purposes of this Ordinance, and the Washington County Development Code, the Planning Advisory Commission may attach such conditions to the granting of Conditional Use Permits as it deems necessary to fulfill the purposes of this Ordinance. Such conditions may include, but are not limited to, the following:

- (1) Modification of waste disposal and water supply facilities.
- (2) Limitations on period of use, occupancy, and operation.
- (3) Imposition of operational controls, sureties, and deed restrictions.
- (4) Requirements for construction of channel modification, dikes, levees, and other protective measures.
- (5) Floodproofing measures, in accordance with the State Building Code. The applicant shall submit a plan or document certified by a licensed professional engineer or architect that the floodproofing measures are consistent with the Regulatory Flood Protection Elevation and associated flood factors for the particular area.

#### **11.8 Conditional Use Permits Forwarded to DNR Commissioner.**

The Zoning Administrator shall forward to the Commissioner of the Minnesota Department of Natural Resources, by U.S. Mail, a copy of all actions granting Conditional Use Permits within ten (10) days of such action.

**SECTION 12. VARIANCES**

**12.1 Administration of Variances.**

Administration of variances is in accordance with Chapter One, Section 6 of the Washington County Development Code.

**12.2 Board of Adjustment and Appeals Determination of Variance.**

Variances from the provisions of this Ordinance may be authorized where the Board of Adjustment and Appeals has determined the variance will not be contrary to the public interest and the spirit and intent of this Ordinance. Variances shall not allow a prohibited use or permit a lower degree of flood protection than the Regulatory Flood Protection Elevation.

*Variances shall not allow prohibited uses or a lower degree of flood protection than the RFPE.*

**12.3 Submittal to DNR Commissioner.**

The Zoning Administrator shall submit by mail to the Commissioner of the Minnesota Department of Natural Resources a copy of the application for a proposed variance sufficiently in advance so that the Commissioner will have at least ten (10) days' notice of the hearing. A copy of all actions granting a variance shall be forwarded by mail to the Commissioner of The Minnesota Department of Natural Resources within ten (10) days of such action.

*Zoning Administrator shall submit copies of variance applications and variances granted to the DNR.*

**12.4 Variance Records and Reporting.**

The Zoning Administrator shall maintain a record of all variance actions, including justification for their issuance, and report such variances issued in its annual or biennial report submitted to the Administrator of the National Flood Insurance Program.

*Zoning Administrator shall maintain records and submit a report to the National Flood Insurance Program.*

**12.5 FEMA Variance Criteria.**

The following additional variance criteria of the Federal Emergency Management Agency (FEMA) must be satisfied:

- (1) Variances shall not be issued by a community within any designated regulatory Floodway if any increase in flood levels during the base flood discharge would result.
- (2) Variances shall only be issued by a community upon
  - (A) A showing of good and sufficient cause
  - (B) A determination that failure to grant the variance would result in exceptional hardship to the applicant (note: "exceptional hardship" criteria is only applicable for floodplain related variances. See 44 Code of Federal Regulations and/or FEMA Publication P-993, page 13 for what constitutes exceptional hardship), and
  - (C) A determination that the granting of a variance will not result in

*Additional FEMA variance criteria that must be met.*

*Variances that increase flood levels in a Floodway shall not be issued.*

*Variances shall only be issued if:*

*Showing of good and sufficient cause;*

*Lack of variance constitutes practical difficulties;*

*Variance will not increase negative impact.*

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.

- (3) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

**12.6 Flood Insurance Notice and Record Keeping.**

The Zoning Administrator shall notify the applicant for a variance that:

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

*Zoning Administrator will notify variance applicants about likely costs and risks of building in flood-prone areas and will keep records of such notification.*

**SECTION 13. NONCONFORMITIES**

**13.1 Existing Nonconforming Structures and Uses.**

A structure or the use of a structure or premises which was lawful before the passage or amendment of this Ordinance but which is not in conformity with the provisions of this Ordinance may be continued subject to the following conditions:

- (1) Such use shall not be expanded, changed, enlarged, or altered in a manner which increases its nonconformity.
- (2) Any structural alteration to a nonconforming structure or nonconforming use which would result in increasing the flood damage potential of that structure or use shall be protected to the Regulatory Flood Protection Elevation in accordance with any of the elevations on fill or floodproofing techniques (i.w., FP-1 through FP-4, Floodproofing Classifications) allowable in the State Building Code. An addition to outside dimensions of a non-conforming structure must be elevated to the Regulatory Flood Protection Elevation in accordance with Section 8.4 of this Ordinance. Structural alterations and additions to non-conforming structures are further restricted in Sections 13.1(3) and 13.1(6) of this Ordinance.
- (3) The cost of all structural interior and exterior alterations or additions to any non-conforming structure over the life of the structure shall not exceed fifty (50) percent of the market value of the structure unless the conditions of this Section are satisfied. The cost of all structural alterations and additions constructed since the adoption of the community's initial floodplain controls must be converted to today's current cost which will include all costs such

*Nonconforming structures and uses that were lawful prior to this Ordinance may be continued under certain conditions.*

*Nonconforming uses shall not be increased.*

*Changes to nonconforming structures and uses which increase flood damage potential shall be protected to the RFPE.*

*Cost of changes to a nonconforming structure shall not exceed 50% of market value without compliance with this Section. If costs exceed 50% the structure must*

*meet standards of Section 8*

as construction materials and a reasonable cost placed on all manpower or labor. If the current cost of all previous and proposed alterations and additions exceeds fifty (50) percent of the current market value of the structure, the structure must meet the standards of Section 8 of this Ordinance for new structures.

*If a nonconforming structure or use is 50% destroyed it cannot be reconstructed unless it complies with this Ordinance.*

- (4) If any nonconforming use of a structure or land or nonconforming structure is destroyed by any means, including floods, to an extent of fifty (50) percent or more of its market value at the time of destruction, it shall not be reconstructed except in conformity with the provisions of this Ordinance. The Zoning Administrator may issue a permit for reconstruction if the use is located outside the Floodway and upon reconstruction is adequately elevated on fill in conformity with the provisions of this Ordinance.

*A nonconforming use or structure within the Floodway that is 50% destroyed cannot be reconstructed.*

- (5) If any nonconforming use or structure is destroyed by any means, including floods, to an extent of fifty (50) percent or more of its market value at the time of destruction within the Floodway, it shall not be reconstructed.

*Substantial improvements to nonconforming structures must comply with this Ordinance.*

- (6) If any combination of exterior additions to, and interior rehabilitation, reconstruction, alteration, or other improvement of an existing non-conforming structure meets the criteria of a "substantial improvement" as defined in Section 3.1 (24) of this Ordinance, the existing non-conforming structure and any addition thereto must meet the requirements of Section 4 and/or Section 5 of this Ordinance for new structures, as applicable.

- (7) Historic structures, as defined in Section 3.1(23) (B) of this Ordinance, are subject to the provisions of Sections 13.1 (1)-(5) of this Ordinance.

**SECTION 14. ENFORCEMENT**

**14.1 Violations, Failure to Comply.**

*Violation of this Ordinance is a misdemeanor. Failure to respond constitutes an additional violation.*

Enforcement of this Ordinance shall be in accordance with Chapter One, Section 15 of the Washington County Development Code. A violation of the provisions of this Ordinance or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with variances) shall constitute a misdemeanor. If the responsible party does not appropriately respond to the Zoning Administrator within the specified period of time, each additional day that lapses shall constitute an additional violation of this Ordinance and shall be prosecuted accordingly.

**SECTION 15. AMENDMENTS**

**15.1 Requirements for Ordinance Amendments.**

*Amendments to this Ordinance shall be submitted to the DNR.*

All amendments to this Ordinance, including revisions to the Official Floodplain Map, shall be submitted to and approved by the Commissioner of the Minnesota Department of Natural Resources prior to adoption. The floodplain designation on the Official Floodplain Map shall not be removed unless the area is filled to an

*Floodplain designation*

shall not be removed unless the area is filled and is contiguous to non-floodplain land.

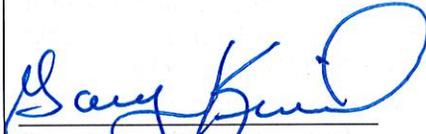
Changes to Floodplain Map must be approved by FEMA

elevation at or above the Regulatory Flood Protection Elevation and is contiguous to lands outside of the floodplain. Changes in the Floodplain Map must meet the Federal Emergency Management Agency's (FEMA) Technical Conditions and Criteria and must receive prior FEMA approval before adoption. The Commissioner of the Department of Natural Resources must be given ten (10) days written notice of all hearings to consider an amendment to this Ordinance and said notice shall include a draft of the Ordinance amendment or technical study under consideration.

**SECTION 16. EFFECTIVE DATE**

The regulations contained in this Ordinance shall become effective immediately upon passage by the County Board and upon publication according to law.

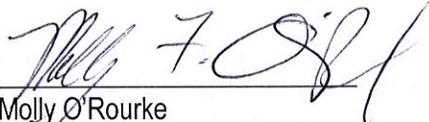
Passed by the Board of County Commissioners of Washington County, Minnesota, this 5<sup>th</sup> day of June, 2018.



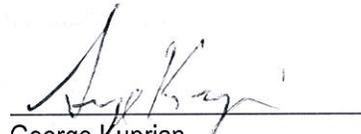
Gary Kriesel, Chair  
Board of County Commissioners

Attest:

Approved as to form:



Molly O'Rourke  
Washington County Administrator



George Kuprian  
Assistant Washington County Attorney

Ordinance prepared by:

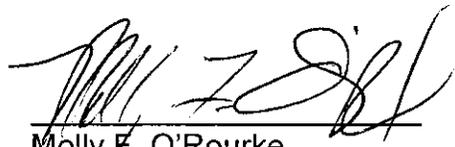
Washington County  
Public Works Department  
11660 Myeron Road North  
Stillwater, MN 55082

STATE OF MINNESOTA        )  
  )  
COUNTY OF WASHINGTON    )

I, Molly F. O'Rourke, qualified County Administrator for the County of Washington, State of Minnesota, do hereby certify that I have compared the foregoing copy of Resolution No. 2018-054 with the original minutes of the proceedings of the Board of Commissioners, Washington County, Minnesota, at its session on the 5th day of June, 2018, now on file in my office and have found the same to be a true and correct copy thereof.

Witness my hand and official seal at Stillwater, Minnesota, this 27th day of June, 2018.



  
\_\_\_\_\_  
Molly F. O'Rourke  
County Administrator

DATE June 5, 2018  
MOTION  
BY COMMISSIONER Miron

DEPARTMENT Public Works  
SECONDED BY  
COMMISSIONER Karwoski

**REPEAL OF CURRENT ZONING/LAND USE ORDINANCES AND ADOPTION OF NEW  
ZONING/LAND USE ORDINANCES.  
AND  
REPEAL OF EXISTING DEVELOPMENT CODE AND ADOPTION OF THE REVISED  
DEVELOPMENT CODE**

**ZONING/LAND USE ORDINANCE NUMBERS 203, 204, 205, 206, 207, 208, 209, 210, 211 & 212**

**WHEREAS**, Washington County is authorized to carry on County planning and zoning activities in the unincorporated areas of the County pursuant to Minn. Stat. Chapt. 394; and

**WHEREAS**, the Washington County Comprehensive Plan was adopted by the Washington County Board of Commissioners on April 22, 1997 and became effective October 1, 1997 as Washington County Ordinance No. 124, amended on September 7, 2010 to the Washington County Comprehensive Plan 2030 as Washington County Ordinance No. 184, and amended on August 16, 2016 as Washington County Ordinance 198; and

**WHEREAS**, pursuant to Minn. Stat. 473.865 the Washington County Comprehensive Plan is the implement by which the County's regulation of land use is devolved through adoption of official controls under Chapter 394.

**WHEREAS**, the current official controls as reflected in the Washington County Development Code were adopted by the Washington County Board of Commissioners and became effective on October 20, 1997 as Washington County Ordinance No. 127; and

**WHEREAS**, all the townships in Washington County have assumed regulatory control of land use through adoption of the Comprehensive Land Use Plans under the 2030 Regional Development Framework pursuant to the authority contained in Minn. Stat. 473.861 and the County's relinquishment of such controls; and

**WHEREAS**, such transformation has been found by the Metropolitan Council to conform to the regional system plans for transportation, water, resources management and parks; and

**WHEREAS**, the Township's plans are consistent with the Washington County 2030 Comprehensive Plan and are compatible with the plans of adjacent and affected jurisdictions; and

**WHEREAS**, the recasting of the County's official controls necessitate revision of the Washington County Development Code; and

**WHEREAS**, the forty-three (43) current zoning/land use ordinances, attached as Exhibit A, are determined to be anachronistic and must be repealed; and

**WHEREAS**, ten (10) new zoning/land use ordinances, attached as Exhibit B, must be enacted; and

**WHEREAS**, the existing Washington County Development Code must be repealed and the ten (10) new zoning/land use ordinances must be codified as the Revised Washington County Development Code.

**WHEREAS**, on April 24, 2018 a public hearing was held before the Washington County Planning Advisory Commission (PAC) to consider an action to do the following: 1) repeal the existing forty-three (43) zoning/land use ordinances as set forth in Exhibit A; 2) the adoption of ten (10) new zoning/land use ordinances as set forth in Exhibit B; and 3) repeal the existing Washington County Development Code and adopt a revised Washington County Development Code attached as Exhibit C.

**WHEREAS**, on April 24, 2018 the PAC recommended the Washington County Board of Commissioners approve the following: 1) the repealing of the forty-three (43) existing zoning/land use ordinances as set forth in Exhibit A; 2) adoption of ten (10) new zoning/land use ordinances attached as Exhibit B; 3) repealing of the existing Washington County Development Code and adoption of the Revised Washington County Development Code as set forth in Exhibit C.

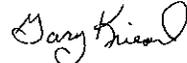
**WHEREAS**, the records of the public hearing consists of the minutes of both the Washington County Board of Commissioners and the Planning Advisory Commission meetings, staff reports, a presentation by the Washington County Public Works Department, and comments from members of the public.

**NOW, THEREFORE IT BE RESOLVED**, that the Washington County Board of Commissioners hereby adopts the findings and recommendations of the Washington County Planning Advisory Commission.

**BE IT FURTHER RESOLVED**, based upon the hearing record, the Washington County Board of Commissioners hereby repeals the existing forty-three (43) zoning/land use ordinances attached and incorporated herein as Exhibit A.

**BE IT FURTHER RESOLVED**, the Washington County Board of Commissioners hereby adopts the ten (10) new zoning/land use ordinances attached as Exhibit B, which is attached hereto and incorporated herein.

**BE IT FURTHER RESOLVED**, the Washington County Board of Commissioners hereby codifies the ten (10) new zoning/land use ordinances into the Revised Washington County Development Code as fully set forth in Exhibit C, which is attached hereto and incorporated herein.

ATTEST:   
COUNTY ADMINISTRATOR  
  
COUNTY BOARD CHAIR

	YES	NO
MIRON	X	___
KARWOSKI	X	___
KRIESEL	X	___
LAVOLD	X	___
WEIK	X	___