

TITLE 12

FLOOD CONTROL

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CHAPTER 1

GENERAL PROVISIONS

SECTION:

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12-1-1: **STATUTORY AUTHORIZATION:** The legislature of the State of Minnesota has, in Minnesota Statutes chapter 103F and 462, delegated the responsibility to local government units to adopt regulations designed to minimize flood losses, (ord. 89-2, 9-11-1989) Therefore the City of Sartell does ordain as follows:

12-1-2: **FINDINGS OF FACT:**

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

B. Analytical Methods: This Title is based upon a reasonable method of analyzing flood hazards which is consistent with the standards established by the Minnesota Department of Natural Resources. (Ord. 89-2, 9-11-1989)

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

12-1-3: **PURPOSE:** It is the purpose of this Title to promote the public health, safety and general welfare and to minimize those losses described in subsection 12-1-2A of this Chapter by the provisions contained herein. (Ord. 89-2, 9-11-1989)

12-1-4: **GENERAL PROVISIONS:** This Title shall apply to all land within the jurisdiction of the City shown on the Official Zoning Map and/or the attachments thereto as being located within the boundaries of the Floodway or Flood Fringe Districts or general Flood Districts.

12-1-5: **OFFICIAL ZONING MAP ADOPTED:**

- A. Establishment of Official Zoning Map: The Official Zoning Map together with all materials attached thereto is hereby adopted by reference and declared to be a part of this Ordinance. The attached material shall include: 1) Flood Insurance Study, Benton County, Minnesota and Incorporated Areas, Flood Insurance Rate Map Index for Benton County, Minnesota and Incorporated Areas with a map number of 27009CINDOA and Flood Insurance Rate Map panels therein for Benton County, Minnesota and Incorporated Areas with map numbers 27009C0165C, 27009C0252C, and 27009C0256C; all of these documents being dated August 16, 2011, 2) Stearns County Flood Insurance Study text and Flood Insurance Rate Map panels numbered 27145C0395E, 27145C0415E, 27145C0610E, 27145C0626E,

27145C0627E, 27145C0628E, 27145C0629E, 27145C0631E, and 27145C0633E, all dated February 16, 2012

- B. **Regulatory Flood Protection Elevation:** The regulatory flood protection elevation shall be an elevation no lower than one foot above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the flood plain that result from designation of a floodway.

12-1-6: **INTERPRETATION:**

- A. **Minimum Requirements:** In their interpretation and application, the provisions of this Title shall be held to be minimum requirements and shall be liberally construed in favor of the governing body and shall not be deemed a limitation or repeal of any other powers granted by States Statute.
- B. **Statute:** The boundaries of the zoning districts shall be determined by scaling distances on the Official Zoning Map. Where interpretation is needed as to the exact location of the boundaries of the district as shown on the Official Zoning Map, as for example where there appears to be a conflict between a mapped boundary and actual field conditions and there is a formal appeal of the decision of the Zoning Administrator, the Board of Adjustment shall make the necessary interpretation. All decisions will be based on elevations on the regional (100-year) flood profile, 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 within the 100-year 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 to submit technical evidence.

12-1 - 7: **AMENDMENTS:**

- A. **Removal Of Flood Plain Designation:** The flood plain designation on the Official Zoning Map shall not be removed from flood plain areas unless it can be shown that the designation is in error or that the area has been filled to or above the elevation of the regulatory flood protection elevation and is contiguous to lands outside the flood plain. Special exceptions to this rule may be permitted by the Commissioner of Natural Resources if the Commissioner determines that, through other measures, lands are adequately protected for the intended use.
- B. **Amendment Of Title:** All amendments to this Title, including amendments to the Official Zoning Map, must be submitted to and approved by the Commission of Natural Resources prior to adoption.
- C. **Amendment Of Official Zoning Map:** Changes in the Official Zoning Map must meet the Federal Emergency Management Agency's (FEMA) technical conditions and criteria and must receive prior FEMA approval before adoption. The Commissioner of Natural Resources must be given ten (10) days' written notice of all hearings, to consider an amendment to this Title, and said notice shall include a draft of the ordinance amendment or technical study under consideration. (Ord. 89-2, 9-11-1989)

12-1-8: **ABROGATION AND GREATER RESTRICTIONS:** It is not intended by this Title to repeal, abrogate or impair any existing easements, covenants or deed restrictions; however, where this Title imposes greater restrictions, the provisions of this Title shall prevail. All other ordinances inconsistent with this Title are hereby repealed to the extent of the inconsistency only. (Ord. 89-2, 9-11-1989)

12-1-9: **WARNING AND DISCLAIMER OF LIABILITY:** This Title does not imply that areas outside the flood plain districts or land uses permitted within such districts will be

free from flooding or flood damages. This Title shall not create liability on the part of the City or any officer or employee thereof for any flood damages that result from reliance on this Title or any administrative decision lawfully made there under. (Ord. 89-2, 9-11-1989)

12-1-10: **SEVERABILITY:** If any section, clause, provision or portion of this Title is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Title shall not be affected thereby. (Ord. 89-2, 9-11-1989)

12-1-11: **ANNEXATIONS:** The Flood Insurance Rate Map panels adopted by reference into Section 12-1-5 above may include floodplain areas that lie outside of the corporate boundaries of the City of Sartell at the time of adoption of this ordinance. If any of these floodplain land areas are annexed into the City of Sartell after the date of adoption of this ordinance, the newly annexed floodplain lands shall be subject to the provisions of this ordinance immediately upon the date of annexation into the City of Sartell.

CHAPTER 2

DEFINITIONS

SECTION:

12-2-1: Definitions

12-2-1: **DEFINITIONS:** Unless specifically defined below, words or phrases used in this Title shall be interpreted so as to give them the same meaning as they have in common usage and so as to give this Title its most reasonable application:

ACCESSORY USE OR
STRUCTURE:

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

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 Codes and upon a finding that:

A. Certain conditions as detailed in Title 10 of this Code exist; and

B. The structure and/or land use conform to the Comprehensive Land Use Plan if one exists and are compatible with the existing neighborhood.

EQUAL DEGREE OF
ENCROACHMENT:

A method of determining the location of floodway boundaries so that flood plain lands on both sides of a stream are capable of conveying a proportionate share of flood flows.

FLOOD:

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

FLOOD FREQUENCY:

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

FLOOD FRINGE:

That portion of the flood plain outside of the floodway. Flood fringe is synonymous with the term "floodway fringe" used in the flood insurance Studies adopted of this ordinance in section 12-1-5A

FLOOD PLAIN:	The beds proper and the areas adjoining a wetland, lake or watercourse which have been or hereafter may be covered by the regional flood.
FLOODPROOFING:	A combination of structural provisions, changes or adjustments to properties and structures subject to flooding, primarily for the reduction or elimination of flood damages.
FLOODWAY:	The bed of a wetland or lake and the channel of a watercourse and those portions of the adjoining flood plain which are reasonably required to carry or store the regional flood.
LOWEST FLOOR	The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, used solely for parking of vehicles, building access, or storage in an area other than a basement area, is not considered a building's lowest floor.
MANUFACTURED HOME	A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include the term "recreational vehicle."
OBSTRUCTION:	Any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel modification, culvert, building, wire, fence, stockpile, refuse, fill, structure or matter in, long, across or projecting into any channel, watercourse or regulatory flood plain which may impede, retard or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water.
PRINCIPAL USE OR STRUCTURE:	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 obstruction. In an urban area, the segment of a stream or river between two (2) consecutive bridge crossings would most typically constitute a reach.
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 shall be synonymous with the term travel trailer/travel vehicle.

REGIONAL FLOOD	A flood which is representative of Large floods known to have occurred generally in Minnesota and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of the 100-year recurrence interval. Regional flood is synonymous with the term "base flood" used in the Flood Insurance Study.
REGULATORY FLOOD PROTECTION ELEVATION:	The Regulatory Flood Protection Elevation shall be an elevation no lower than one foot (1') above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the flood plain that result from designation of a floodway.
SUBSTANTIAL DAMAGE	Means damage of any origin sustained by a structure where the cost of restoring the structure to it's before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.
SUBSTANTIAL IMPROVEMENT	<p>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:</p> <ul style="list-style-type: none"> (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 an "historic structure," provided that the alteration will not preclude the structure's continued designation as an "historic structure." For the purpose of this Ordinance, "historic structure" shall be as defined in 44 Code of Federal Regulations, Part 59.1.
STRUCTURE:	Anything constructed or erected on the ground or attached to the ground or on-site utilities, including, but not limited to, buildings, factories, sheds, detached garages, cabins, manufactured homes, travel trailers/vehicles not meeting the exemption criteria specified in subsection 12-7-3B of this Title and other similar items.

VARIANCE:

A modification of a specific permitted development standard required in an official control including this Title 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. (Ord. 89-2, 9-11-1989)

CHAPTER 3

ADMINISTRATION

SECTION:

- 12-3-1: Zoning Administrator
 12-3-2: Permit And Certificate Requirements
 12-3-3: Board Of Adjustment

12-3-1: **ZONING ADMINISTRATOR:** A Zoning Administrator or other official designated by the governing body shall administer and enforce this Title. If the Zoning Administrator finds a violation of the provisions of this Title, the Zoning Administrator shall notify the person responsible for such violation in accordance with the procedures stated in Chapter 10 of this Title. (Ord. 89-2, 9-11-1989)

12-3-2: **PERMIT AND CERTIFICATE REQUIREMENTS:**

- A. **Permit Required:** A permit issued by the Zoning Administrator in conformity with the provisions of this Title 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 construction of a dam, fence, or on-site septic system; prior to the use or change of use of a building, structure or land; prior to the change or extension of a nonconforming use; prior to the placement of fill, excavation or materials, or the storage of materials or equipment within the flood plain, and prior to the repair of a structure that has been damaged by flood, fire, tornado.
- B. **Application For Permit:** Application for a permit shall be made in duplicate to the Zoning Administrator on forms furnished by the Zoning Administrator and shall include the following where applicable: plans in duplicate drawn to scale, showing the nature, location, dimensions and elevations of the lot; existing or proposed structures, fill or storage of materials; and the location of the foregoing in relation to the stream channel.
- C. **State And Federal Permits:** Prior to granting a permit or processing an application for a conditional use permit or variance, the Zoning Administrator shall determine that the applicant has obtained all necessary State and Federal permits.
- D. **Certificate Of Zoning Compliance:** it shall be unlawful to use, occupy or permit the use or occupancy of any building or premises or part thereof hereafter created, erected, changed, converted, altered or enlarged in its use or structure until a certificate of zoning compliance shall have been issued by the Zoning Administrator stating that the use of the building or land conforms to the requirements of this Title.
- E. **Construction And Use:** Permits, conditional use permits or certificates of zoning compliance issued on the basis of approved plans and applications authorize only the use, arrangement and construction set forth in such approved plans and applications and no other use, arrangement or construction. Any use, arrangement or construction at variance with that authorized shall be deemed a violation of this Title and punishable as provided by Chapter 10 of this Title.
- F. **Certification:** The applicant shall be required to submit certification by a registered professional engineer, registered architect or registered land surveyor that the finished fill and building elevations were accomplished in compliance with the provisions of this Title. Flood proofing measures shall be certified by a registered professional engineer or registered architect.

- G. First Floor Elevation Record: The Zoning Administrator shall maintain a record of the elevation of the lowest floor (including basement) of all new structures and alterations or additions to existing structures in the flood plain. The Zoning Administrator shall also maintain a record of the elevation to which structures and alterations or additions to structures are flood proofed. (Ord. 89-2, 9-11-1989)
- H. Notifications for Watercourse Alterations. The Zoning Administrator shall notify, in writing 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 Natural Resources. A copy of said notification shall also be submitted to the Chicago Regional Office of the Federal Emergency Management Agency (FEMA).
- I. Notification to FEMA 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.

12-3-3: **BOARD OF ADJUSTMENT:**

- A. Rules; Powers: The Board of Adjustment shall adopt rules for the conduct of business and may exercise all of the powers conferred on such boards by State law.
- B. Administrative Review: The Board shall hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official in the enforcement or administration of this Title.
- C. Variances: The Board may authorize upon appeal in specific cases such relief or variance from the terms of this Title as will not be contrary to the public interest and only for those circumstances such as hardship, practical difficulties or circumstances unique to the property under consideration, as provided for in the respective enabling legislation for planning and zoning for cities or counties as appropriate. In the granting of such variance, the Board of Adjustment shall clearly identify, in writing, the specific conditions that existed consistent with the criteria specified in the respective enabling legislation which justified the granting of the variance. No variance shall have the effect of allowing in any district uses prohibited in that district; permit a lower degree of flood protection than the regulatory flood protection elevation for the particular area or permit standards lower than those required by State law. The following additional variance criteria of the Federal Emergency Management Agency 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 (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.
 - (3) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

- D. Hearings; Notice: Upon filing with the Board of Adjustment of an appeal from a decision of the Zoning Administrator or an application for a variance, the Board shall fix a reasonable time for a hearing and give due notice to the parties in interest as specified by law. The Board shall submit by mail to the Commissioner of Natural Resources a copy of the application for proposed variances sufficiently in advance so that the Commissioner will receive at least ten (10) days' notice of the hearing.
- E. Decisions: The Board shall arrive at a decision on such appeal or variance within thirty (30) days. In passing upon an appeal, the Board may, so long as such action is in conformity with the provisions of this Title, reverse or affirm, wholly or in part, or modify the order, requirement, decision or determination of the Zoning Administrator or other public official. It shall make its decision in writing setting forth the findings of fact and the reasons for its decisions. In granting a variance the Board may prescribe appropriate conditions and safeguards such as those specified in Section 12-8-7, which are in conformity with the purposes of this Title. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Title punishable under Chapter 10. A copy of all decisions granting variances shall be forwarded by mail to the Commission of Natural Resources within ten (10) days of such action, (Ord. 89-2, 9-11-1989)
- F. Appeals: Appeals from any decision of the Board may be made as specified in this community's official controls and also Minnesota Statutes. (Ord. 89-2, 9-11-1989; 1997 Code)
- G. Flood Insurance Notice; Record Keeping:
1. Notification: The Zoning Administrator shall notify the applicant for a variance that:
 - a. The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as twenty five dollars (\$25.00) for one hundred dollars (\$100.00) of insurance coverage; and
 - b. Such construction below the 100-year or regional flood level increases risks to life and property.
 2. Maintenance Of Records: Such notification shall be maintained with a record of all variance actions. A community shall maintain a record of all variance actions, including justification for their issuance, and report such variances issued in its annual or biennial report submitted to the administrator of the National Flood Insurance Program. (Ord. 89-2, 9-11-1989)

CHAPTER 4

FLOOD PLAIN ZONING DISTRICTS

SECTION:

- 12-4-1 : Districts Established
 12-4-2: Compliance

2-4-1 : **DISTRICTS ESTABLISHED:**

- A. Floodway District (FW): The Floodway District shall include those areas designated as floodway on the Flood Insurance Rate Map Panels adopted in Section 12-1-5 of this Title.
- B. Flood Fringe District (FF): The Flood Fringe District shall include those areas designated as floodway fringe. The Flood Fringe District shall include those areas shown as floodway fringe on the panels adopted in Section 12-1-5 and those Zone AE areas located outside of the floodway on the Flood Insurance Rate Map panels adopted in Section 12-1-5 of this Ordinance.

12-4-2: **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 constructed of this Title and other applicable regulations which apply to uses within the jurisdiction of this Title. Within the Floodway and Flood Fringe Districts, all uses not listed as permitted uses or conditional uses in Articles A and B of this Chapter, respectively, shall be prohibited. In addition, a caution is provided here that:

- A. Manufactured Homes; Recreational Vehicles: New manufactured homes, replacement manufactured homes and certain recreational trailers and travel vehicles are subject to the general provisions of this Title and specifically Chapter 7 of this Title;
- B. Nonconforming Structures Or Uses: Modifications, additions, structural alteration, normal maintenance and repair or repair after damage to existing nonconforming structures and nonconforming uses of structures or land are regulated by the general provisions of this Title and specifically Chapter 9 of this Title; and
- C. As-Built Elevations: As-built elevations for elevated or flood proofed structures must be certified by ground surveys and flood proofing techniques must be designated and certified by a registered professional engineer or architect as specified in the general provisions of this Title and specifically as stated in Chapter 3 of this Title. (Ord. 89-2, 9-11-1989)

CHAPTER 4

FLOOD PLAIN ZONING DISTRICTS

ARTICLE A. FLOODWAY DISTRICT (FW)

SECTION:

- 12-4A-1: Permitted Uses
- 12-4A-2: Standards For Permitted Uses
- 12-4A-3: Conditional Uses
- 12-4A-4: Standards For Conditional Uses

12-4A-1: **PERMITTED USES:**

- A. General farming, pasture, grazing, outdoor plant nurseries, horticulture, truck farming, forestry, sod farming and wild crop harvesting.
- B. Industrial-commercial loading areas, parking areas and airport landing strips.
- C. Private and public golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting preserves, target ranges, trap and skeet ranges, hunting and fishing areas, and single or multiple purpose recreational trails.
- D. Residential lawns, gardens, parking areas and play areas, (ord.89-2)

12-4A-2: **STANDARDS FOR PERMITTED USES:**

- A. The use shall have a low flood damage potential.
- B. The use shall be permissible in the underlying zoning district if one exists.
- C. The use shall not obstruct flood flows or increase flood elevations and shall not involve structures, fill, obstructions, excavation or storage of materials or equipment. (Ord. 89-2, 9-11-1989)

12-4A-3: **CONDITIONAL USES:**

- A. Structures accessory to the uses listed in Section 12-4A-1 of this Article and the uses listed in subsections B through H of this Section below.
- B. Extraction and storage of sand, gravel and other materials.
- C. Marinas, boat rentals, docks, piers, wharves and water control structures.
- D. Railroads, streets, bridges, utility transmission lines and pipelines.
- E. Storage yards for equipment, machinery or materials.
- F. Placement of fill or the construction of fences.
- G. Recreational vehicles, travel trailers and travel vehicles either on individual lots of record or in existing or new subdivisions or commercial or condominium type campgrounds, subject to the exemptions and provisions of Section 12-7-3 of this Title.

- H. Structural works for flood control such as levees, dikes and floodwalls constructed to any height where the intent is to protect individual structures and levees or dikes where the intent is to protect agricultural crops for a frequency flood event equal to or less than the 10-year frequency flood event. (Ord. 89-2, 9-11-1989)

12-4A-4: **STANDARDS FOR CONDITIONAL USES:**

- A. All Uses: No structure (temporary or permanent), fill (including fill for roads and levees), deposit, obstruction, storage of materials or equipment or other uses may be allowed as a conditional use that will cause any increase in the stage of the 100-year or regional flood or cause an increase in flood damages in the reach or reaches affected.

- B. Procedures And Standards: All floodway conditional uses shall be subject to the procedures and standards contained in Chapter 8 of this Title,

- C. Underlying Zoning District: The conditional use shall be permissible in the underlying zoning district if one exists.

- D. Fill:

- 1. Fill, dredge spoil and all other similar materials deposited or stored in the flood plain shall be protected from erosion by vegetative cover, mulching, riprap or other acceptable method.

- 2. Dredge spoil sites and sand and gravel operations shall not be allowed in the floodway unless a long-term site development plan is submitted which includes an erosion/sedimentation prevention element to the plan.

- 3. As an alternative, and consistent with subsection D2 immediately above, dredge spoil disposal and sand and gravel operations may allow temporary, on-site storage of fill or other materials which would have caused an increase to the stage of the 100-year or regional flood but only after the governing body has received an appropriate plan which assures the removal of the materials from the floodway based upon the flood warning time available. The conditional use permit must be title registered with the property in the office of the proper County Recorder.

- E. Accessory Structures:

- 1. Accessory structures shall not be designed for human habitation.

- 2. Accessory structures, if permitted, shall be constructed and placed on the building site so as to offer the minimum obstruction to the flow of flood waters.

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

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

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

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

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

c. To allow for the equalization of hydrostatic pressure, there must be a minimum of two "automatic" openings in the outside walls of the structure having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding. There must be openings on at least two sides of the structure and the bottom of all openings must be no higher than one foot above the lowest adjacent grade to the structure. Using human intervention to open a garage door prior to flooding will not satisfy this requirement for automatic openings.

F. Storage Of Materials And Equipment:

1. The storage or processing of materials that are, in time of flooding, flammable, explosive or potentially injurious to human, animal or plant life is prohibited.

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

G. Flood Control Structural Works: Structural works for flood control that will change the course, current or cross section of protected wetlands or public waters shall be subject to the provisions of Minnesota Statutes chapter 105. Community wide structural works for flood control intended to remove areas from the regulatory flood plain shall not be allowed in the floodway.

H. Levee, Dike Or Floodwall: A levee, dike or floodwall constructed in the floodway shall not cause an increase to the 100-year or regional flood and the technical analysis must assume equal conveyance or storage loss on both sides of a stream. (Ord. 89-2, 9-11-1989)

CHAPTER 4
FLOOD PLAIN ZONING DISTRICTS

ARTICLE B. FLOOD FRINGE DISTRICT (FF)

SECTION:

12-4B-1:	Permitted Uses
12-4B-2:	Standards For Permitted Uses
12-4B-3:	Conditional Uses
12-4B-4:	Standards For Conditional Uses
12-4B-5:	Standards For All Uses

12-4B-1: **PERMITTED USES:** Permitted uses shall be those uses of land or structures listed as permitted uses in the underlying zoning use districts. If no preexisting, underlying zoning use districts exist, then any residential or nonresidential structure or use of a structure or land shall be a permitted use in the flood fringe provided such use does not constitute a public nuisance. All permitted uses shall comply with the standards for flood fringe permitted uses listed in Section 12-4B-2 of this Article and the standards for all flood fringe permitted and conditional uses listed in Section 12-4B-5 of this Article. (Ord. 89-2, 9-11-1989)

12-4B-2: **STANDARDS FOR PERMITTED USES:**

- A. All structures, including accessory structures, must be elevated on fill so that the lowest floor including basement floor is at or above the regulatory flood protection elevation. The finished fill elevation for structures shall be no lower than one foot (1') below the regulatory flood elevation and the fill shall extend at such elevation at least fifteen feet (15') beyond the outside limits of the structure erected thereon.
- B. As an alternative to elevation on fill, accessory structures that constitute a minimal investment and that do not exceed five hundred (500) square feet for the largest horizontal extension may be internally flood proofed in accordance with subsection 12-4A-4E3 of this Chapter.
- C. The storage of any materials or equipment shall be elevated on fill to the regulatory flood protection elevation.
- D. The provisions of Section 12-4B-5 of this Article shall apply. (Ord. 89-2, 9-11-1989)

12-4B-3: **CONDITIONAL USES:** Any structure that is not elevated on fill or flood proofed in accordance with subsection 12-4B-2A of this Article or any use of land that does not comply with the standards in subsections 12-4B-2C and D of this Article shall only be allowable as a conditional use. An application for a conditional use shall be subject to the standards and criteria and evaluation procedures specified in Sections 12-4B-4 and 12-4B-5 of this Article and Chapter 8 of this Title. (Ord. 89-2, 9-11-1989)

12-4B-4: **STANDARDS FOR CONDITIONAL USES:**

- A. **Alternative Elevation Methods:** Alternative elevation methods other than the use of fill may be utilized to elevate a structure's lowest floor above the regulatory flood protection elevation. These alternative methods may include the use of stilts, pilings, parallel walls, etc., or above-grade, enclosed areas such as crawl spaces or tuck-under garages. The base or floor of an area shall be considered above-grade and not a structure's basement or lowest floor if the enclosed area: 1) is above-grade on at least one side of the structure; 2) is designed to, internally flood and is constructed with flood resistant materials; and 3) is used solely for parking of vehicles, building access or storage. The above-noted alternative elevation methods are subject to the following additional standards:

1. Design And Certification: The structure's design and as-built condition must be certified by a registered professional engineer or architect as being in compliance with the general design standards of the State Building Code and, specifically, that all electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities must be at or above the regulatory flood protection elevation or be designed to prevent flood water from entering or accumulating within these components during times of flooding.

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

a. The minimum area of automatic openings in the walls where internal flooding is to be used as a flood proofing technique. When openings are placed in a structure's wall to provide for entry of flood waters to equalize pressures, the bottom of all openings shall be no higher than one foot (1') above grade. Openings may be equipped with screens, louvers, valves or other coverings or devices provided that they permit the automatic entry and exit of flood water without any form of human intervention.

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

B. Basements: "Basements", as defined in Section 12-2-1 of this Title, shall be subject to the following:

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

2. Nonresidential basements may be allowed below the regulatory flood protection elevation provided the basement is structurally dry flood proofed in accordance with subsection C of this Section.

C. Flood proofing: All areas of nonresidential structures including basements to be placed below the regulatory flood protection elevation 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 or FP-2 flood proofing classification in the State Building Code and this shall require making the structure watertight with the walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. Structures flood proofed to the FP-3 or FP-4 classification shall not be permitted.

D. Fill: 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 governing body. The plan may incorporate alternative procedures for removal of the material from the flood plain if adequate flood warning time exists.

E. Storage Of Materials And Equipment:

1. The storage or processing of materials that are, in time of flooding, flammable, explosive or potentially injurious to human, animal or plant life is prohibited.

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

F. Additional Provisions Apply: "The provisions of Section 12o4B-5 of this Article shall also apply. (Ord. 89-2, 9-11-1989)

12-4B-5: **STANDARDS FOR ALL USES:**

A. 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 Board of Adjustment must specify limitations on the period of use or occupancy of the structure for times of flooding and only after determining that adequate flood warning time and local flood emergency response procedures exist.

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

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

D. 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 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.

E. Hydraulic Capacity: Flood plain developments shall not adversely affect the hydraulic capacity of the channel and adjoining flood plain of any tributary watercourse or drainage system where a floodway or other encroachment limit has not been specified on the Official Zoning Map.

F. Recreational Vehicles: Standards for recreational trailers and travel vehicles are contained in Section 12-7-3 of this Title.

G. Manufactured Homes: All manufactured homes must be securely anchored to an adequately anchored foundation system that resists flotation, collapse and lateral movement. Methods of anchoring may include, but are not 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. (Ord. 89-2, 9-11-1989)

CHAPTER 5

SUBDIVISIONS AND DEVELOPMENTS

SECTION:

- 12-5-1 : Intent
- 12-5-2: Review Criteria
- 12-5-3: Removal Of Special Flood Hazard Area Designation

12-5-1: **INTENT:** This Chapter is not intended as a substitute for a comprehensive City or County subdivision ordinance. It can, however, be used as an interim control until the comprehensive subdivision ordinance can be amended to include necessary flood plain management provisions. (Ord. 89-2, 9-11-1989)

12-5-2: **REVIEW CRITERIA:** No land shall be subdivided which is unsuitable for the reason of flooding, inadequate drainage, water supply or sewage treatment facilities. All lots within the flood plain districts shall contain a building site at or above the regulatory flood protection elevation. All subdivisions shall have water and sewage treatment facilities that comply with the provisions of this Title and have road access both to the subdivision and to the individual building sites no lower than two feet (2') below the regulatory flood protection elevation. For all subdivisions in the flood plain, the floodway and flood fringe boundaries, the regulatory flood protection elevation and the required elevation of all access roads shall be clearly labeled on all required subdivision drawings and platting documents. (Oral. 89-2, 9-11-1989)

12-5-3: **REMOVAL OF SPECIAL FLOOD HAZARD AREA DESIGNATION:** The Federal Emergency Management Agency (FEMA) has established criteria for removing 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. (Ord. 89-2, 9-11-1989)

CHAPTER 6

PUBLIC UTILITIES, RAILROADS, ROADS AND BRIDGES

SECTION:

- 12-6-1: Public Utilities
- 12-6-2: Public Transportation Facilities
- 12-6-3: On-Site Sewage Treatment And Water Supply Systems

12-6-1: **PUBLIC UTILITIES:** All public utilities and facilities such as gas, electrical, sewer and water supply systems to be located in the flood plain shall be flood proofed in accordance with the State Building Code or elevated to above the regulatory flood protection elevation. (Ord. 89-2, 9-11-1989)

12-6-2: **PUBLIC TRANSPORTATION FACILITIES:** Railroad tracks, roads and bridges to be located within the flood plain shall comply with Articles A and B of Chapter 4 of this Title. Elevation to the regulatory flood protection elevation shall be provided where failure or interruption of these transportation facilities would result in danger to the public health or safety or where such facilities are essential to the orderly functioning of the area. Minor or auxiliary roads or railroads may be constructed at a lower elevation where failure or interruption of transportation services would not endanger the public health or safety. (Ord. 89-2, 9-11-1989)

12-6-3: **ON-SITE SEWAGE TREATMENT AND WATER SUPPLY SYSTEMS:**

A. Infiltration Of Flood Waters: Where public utilities are not provided:

1. Water Supply Systems: On-site water supply systems must be designed to minimize or eliminate infiltration of flood waters into the systems; and
2. Sewage Treatment Systems: New or replacement on-site sewage treatment systems must be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters and they shall not be subject to impairment or contamination during times of flooding,

B. Compliance: Any sewage treatment system designed in accordance with the State's current statewide standards for on-site sewage treatment systems shall be determined to be in compliance with this Section. (Ord. 89-2, 9-11-1989)

CHAPTER 7

**MANUFACTURED HOMES,
AND RECREATIONAL VEHICLES**

SECTION:

- 12-7-1: Manufactured Home Parks
- 12-7-2: Manufactured Homes
- 12-7-3: Recreational Vehicles

12-7-1: **MANUFACTURED HOME PARKS:** New manufactured home parks and expansions to existing manufactured home parks shall be subject to the provisions placed on subdivisions by Chapter 5 of this Title. (Oral. 89-2, 9-11-1989)

2-7-2: **MANUFACTURED HOMES:**

A. Placement: The placement of new or replacement manufactured homes in existing manufactured home parks or on individual lots of record that are located in flood plain districts will be treated as a new structure and may be placed only if elevated in compliance with Article B of Chapter 4 of this Title. If vehicular road access for preexisting manufactured home parks is not provided in accordance with subsection 12-4B-5A of this Title, then replacement manufactured homes will not be allowed until the property owner(s) develops a flood warning emergency plan acceptable to the governing body.

B. 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. (Ord. 89-2,9-11-1989)

12-7-3 **RECREATIONAL VEHICLES:**

A. Applicability: Recreational vehicles that do not meet the exemption criteria specified in subsection B below shall be subject to the provisions of this Title and as specifically spelled out in subsections D and E of this Section.

B. Exemption: Recreational vehicles are exempt from the provisions of this Title if they are placed in any of the areas listed in subsection C below and further they meet the following criteria:

1. Have current licenses required for highway use.
2. Are highway ready, meaning on wheels or the internal jacking system; are attached to the site only by quick disconnect type utilities commonly used in campgrounds and trailer parks; and the travel trailer/travel vehicle has no permanent structural type additions attached to it.
3. The recreational vehicle and associated use must be permissible in any preexisting, underlying zoning use district.

C. Areas Exempted For Placement:

- 1 .Individual lots or parcels of record.
2. Existing commercial recreational vehicle parks or campgrounds.
3. Existing condominium type associations.

- D. Loss Of Exemption: Recreational vehicles exempted in subsection B of this Section lose this exemption when development occurs on the parcel exceeding \$500 for a structural addition to the recreational vehicle or an accessory structure such as a garage or storage building. The recreational vehicle and all additions and accessory structures will then be treated as a new structure and shall be subject to the elevation/flood proofing requirements and the use of land restrictions specified in Articles A and B of Chapter 4 of this Title. There shall be no development or improvement of the parcel or attachment to the recreational vehicles that hinders the removal of the recreational vehicle to a flood free location should flooding occur.
- E. Restrictions: New commercial recreational vehicle parks or campgrounds and new residential type subdivisions and condominium associations and the expansion of any existing similar use exceeding five (5) units or dwelling sites shall be subject to the following:
1. Any new or replacement recreational vehicle will be allowed in the floodway or flood fringe districts provided said recreational 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 12-4B-5A of this Title. Any fill placed in a floodway for the purpose of elevating a travel trailer shall be subject to the requirements of Article A, Chapter 4 of this Title.
 2. All new or replacement recreational vehicles not meeting the criteria of subsection E1 of this Section may, as an alternative, be allowed as a conditional use if in accordance with the following provisions and the provisions of Chapter 8 of this Title. The applicant must submit an emergency plan for the safe evacuation of all vehicles and people during the 100-year flood. Said plan shall be prepared by a registered engineer or other qualified individual and shall demonstrate that adequate time and personnel exist to carry out the evacuation. All attendant sewage and water facilities for new or replacement recreational vehicles must be protected or constructed so as to not be impaired or contaminated during times of flooding in accordance with Section 12-6-3 of this Title. (Ord. 89-2, 9-11-1989)

CHAPTER 8

CONDITIONAL USES

SECTION:

- 12-8-1: Application For Permit
- 12-8-2: Hearing; Notice
- 12-8-3: Decisions
- 12-8-4: Procedure Of Governing Body
- 12-8-5: Factors Considered
- 12-8-6: Time For Acting On Application
- 12-8-7: Additional Conditions

12-8-1: **APPLICATION FOR PERMIT:** The governing body shall hear and decide applications for conditional uses permissible under this Title. Applications shall be submitted to the Zoning Administrator who shall forward the application to the governing body for consideration, (Ord. 89-2, 9-11-1989)

12-8-2 **HEARING; NOTICE:** Upon filing with the governing body an application for a conditional use permit, the governing body shall submit by mail to the Commissioner of Natural Resources a copy of the application for proposed conditional use sufficiently in advance so that the Commissioner will receive at least ten (10) days' notice of the hearing. (Ord. 89-2, 9-11-1989)

12-8-3: **DECISIONS:** The governing body shall arrive at a decision on a conditional use within thirty (30) days. In granting a conditional use permit the governing body shall prescribe appropriate conditions and safeguards, in addition to those specified in Section 12-8-7, which are in conformity with the purposes of this Title. Violations of such conditions and safeguards, when made a part of the terms under which the conditional use permit is granted, shall be deemed a violation of this Title punishable under Chapter 10 of this Title. 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. (Ord. 89-2, 9-11-1989)

12-8-4: **PROCEDURE OF GOVERNING BODY:** The following procedure shall be followed by the governing body in passing on conditional use permit applications within all flood plain districts:

A. **Required Information:** The applicant is required to furnish such of the following information and additional information as deemed necessary by the governing body for determining the suitability of the particular site for the proposed use:

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

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

B. **Refer Copy For Technical Review:** Transmit 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 seriousness of flood damage to the use, the adequacy of the plans for protection and other technical matters.

C. **Governing Body Determination:** Based upon the technical evaluation of the

designated engineer or expert, the governing body shall determine the specific flood hazard at the site and evaluate the suitability of the proposed use in relation to the flood hazard. (Ord.89-2, 9-11-1989)

12-8-5: **FACTORS CONSIDERED:** In passing upon conditional use applications, the governing body shall consider all relevant factors specified in other sections of this Title, and:

- A. The 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 and the ability of these systems to prevent disease, contamination and unsanitary conditions.
- D. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
- E. The importance of the services provided by the proposed facility to the community.
- F. The requirements of the facility for a waterfront location.
- G. The availability of alternative locations not subject to flooding for the proposed use.
- H. The compatibility of the proposed use with existing development anticipated in the foreseeable future.
- I. The relationship of the proposed use to the Comprehensive Plan and 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 flood waters expected at the site.
- L. Such other factors which are relevant to the purposes of this Title. (Ord. 89-2, 9-11-1989)

12-8-6: **TIME FOR ACTING ON APPLICATION:** The governing body shall act on an application in the manner described above within thirty (30) days from receiving the application, except that where additional information is required pursuant to Section 12-8-4 of this Title. The governing body shall render a written decision at the earliest possible date upon receiving such additional information. (Ord. 89-2, 9-11-1989)

12-8-7: **ADDITIONAL CONDITIONS:** Upon consideration of the factors listed above and the purpose of this Title, the governing body shall attach such conditions to the granting of conditional use permits as it deems necessary to fulfill the purposes of this Title. Such conditions may include, but are not limited to, the following:

- A. Modification of waste treatment and water supply facilities.
- B. Limitations on period of use, occupancy and operation.
- C. Imposition of operational controls, sureties and deed restrictions.
- D. Requirements for construction of channel modifications, compensatory storage,

dikes, levees and other protective measures.

- E. Flood proofing measures in accordance with the State Building Code and this Title. The applicant shall submit a plan or document certified by a registered professional engineer or architect that the flood proofing measures are consistent with the regulatory flood protection elevation and associated flood factors for the particular area. (Ord. 89-2, 9-11-1989)

CHAPTER 9

NONCONFORMING USES

SECTION:

12-9-1: Nonconforming Structure Or Use

12-9-1: **NONCONFORMING STRUCTURE OR USE:** A structure or the use of a structure or premises which was lawful before the passage or amendment of this Title but which is not in conformity with the provision of this Title may be continued subject to the following conditions:

- A. **Increase In Nonconformity:** No such use shall be expanded, changed, enlarged or altered in a way which increases its nonconformity.
- B. **Alteration Or Addition:** Any alteration or addition to a nonconforming structure or nonconforming use which would result in increasing the flood damage potential of that structure or use shall be protected to the regulatory flood protection elevation in accordance with any of the elevation on fill or flood proofing techniques (i.e., FP-1 through FP-4 flood proofing classifications) allowable in the State Building Code, except as further restricted in subsection E and C below.
- C. **Cost Of Structural Alterations:** The cost of any structural alterations or additions to any nonconforming structure over the life of the structure shall not exceed fifty percent (50%) of the market value of the structure unless the conditions of this Section are satisfied, The cost of all structural alterations and additions constructed since the adoption of the community's initial flood plain controls must be calculated into today's current cost which will include all costs such as construction materials and a reasonable cost placed on all manpower or labor. If the current cost of all previous and proposed alterations and additions exceeds fifty percent (50%) of the current market value of the structure, then. the structure must meet the standards of Articles A and B, Chapter 4 of this Title, for new structures depending upon whether the structure is in the floodway or flood fringe, respectively.
- D. **Discontinued Use:** If any nonconforming use is discontinued for twelve (12) consecutive months, any future use of the building premises shall conform to this Title. The proper assessor shall notify the Zoning Administrator in writing of instances of nonconforming uses which have been discontinued for a period of twelve (12) months.
- E. **Destruction:** If any nonconforming use or structure is substantially damaged , it shall not be reconstructed except in conformity with the provisions of this Title. The applicable provisions for establishing new uses or new structures in Chapter 4, Articles A or B of this Title, will apply depending upon whether the use or structure is in the Floodway or Flood Fringe District, respectively. (Ord. 89-2, 9-11-1989)
If a substantial improvement occurs, as defined in Section 12-2-1 of this Ordinance, from any combination of a building addition to the outside dimensions of the existing building or a rehabilitation, reconstruction, alteration, or other improvement to the inside dimensions of an existing nonconforming building, then the building addition and the existing nonconforming building must meet the requirements of this Ordinance for new structures, depending upon whether the structure is in the Floodway or Flood Fringe District, respectively.

CHAPTER 10

VIOLATION; PENALTY

SECTION:

- 12-10-1: Violation
12-10-2: Additional Remedies

12-10-1: **VIOLATION:** Violation of the provisions of this Title or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or conditional uses) shall constitute a misdemeanor and shall be punishable as defined by law. (Oral. 89-2, 9-11-1989)

12-10-2: **ADDITIONAL REMEDIES:** Nothing herein contained shall prevent the governing body from taking such other lawful action as is necessary to prevent or remedy any violation. Such actions may include but are not limited to:

- A. **Actions Available:** In responding to a suspected ordinance violation, the Zoning Administrator and local government may utilize the full array of enforcement actions available to it, including but not limited to prosecution and fines, injunctions, after-the-fact permits, orders for corrective measures or a request to the National Flood Insurance Program for denial of flood insurance availability to the guilty party. The community must act in good faith to enforce these official controls and to correct ordinance violations to the extent possible so as not to jeopardize its eligibility in the National Flood insurance Program.
- B. **Investigation; Transmit Information To State And Federal Agencies:** 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.
- C. **Action By Zoning Administrator:** The Zoning Administrator shall notify the suspected party of the requirements of this Title and all other official controls and the nature and extent of the suspected violation of these controls. If the structure and/or use is under construction or development, the Zoning Administrator may order the construction or development immediately halted until a proper permit or approval is granted by the community. If the construction or development is already completed, then the Zoning Administrator may either:
1. Issue an order identifying the corrective actions that must be made within a specified time period to bring the use or structure into compliance with the official controls; or
 2. Notify the responsible party to apply for an after-the-fact permit/development approval within a specified period of time not to exceed thirty (30) days.
- D. **Failure To Respond:** 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 Title and shall be prosecuted accordingly. The Zoning Administrator shall also, upon the lapse of the specified response period, notify the landowner to restore the land to the condition which existed prior to the violation of this Title. (Ord. 89-2, 9-11-1989)