

151.085 Statutory Authorization, Findings Of Fact, And The Like

1. *Statutory authorization.* The legislature of the state has, in M.S. Chs. 103F and 462, as they may be amended from time to time, delegated the responsibility to local government units to adopt regulations designed to minimize flood losses. Therefore, the City Council of the city does ordain as follows.
2. *Findings of fact.*
 1. *Generally.* 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.
 2. *Methods used to analyze flood hazards.* This subchapter is based upon a reasonable method of analyzing flood hazards which is consistent with the standards established by the State Department of Natural Resources.
3. *Statement of purpose.* It is the purpose of this subchapter to promote the public health, safety, and general welfare and to minimize those losses described in division (B)(1) above by provisions contained herein.
4. *Amendments.*
 1.
 1. The floodplain designation on the official zoning map shall not be removed from floodplain areas unless it can be shown that the designation is in error or that the area has been filled to or above the elevation of the regional flood and is contiguous to lands outside the floodplain.
 2. Special exceptions to this rule may be permitted by the Commissioner of Natural Resources if Commissioner determines that, through other measures, lands are adequately protected for the intended use.
 2.
 1. All amendments to this subchapter, including amendments to the official zoning map, must be submitted to and approved by the Commissioner of Natural Resources prior to adoption. Changes in the official zoning map must meet the Federal Emergency Management Agency's (FEMA) technical conditions and criteria and must receive prior FEMA approval before adoption.
 2. The Commissioner of Natural Resources must be given 10 days' written notice of all hearings to consider an amendment to this subchapter and said notice shall include a draft of the ordinance amendment or technical study under consideration.

(2013 Code, § 11.56) (Ord. 567, passed 3-16-2000)

151.086 General Provisions

1. *Lands to which subchapter applies.* This subchapter shall apply to all lands within the jurisdiction of the city shown on the official zoning map and/or the attachments thereto as being located within the boundaries of the Floodway or Flood Fringe Districts.
2. *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 subchapter. The attached material shall include the flood insurance study for the city prepared by the Federal Insurance Administration, dated September 29, 1978 therein, the letter of map revision, issued by the Federal Emergency Management and dated October 23, 1997, and all of the attachments thereto relating to revisions to the flood boundary and floodway map, flood insurance rate map, and floodway data

table. The official zoning map shall be on file in the office of the City Clerk and the Community Development Department.

3. *Regulatory flood protection elevation.* The regulatory flood protection elevation shall be an elevation no lower than one foot above the elevation of the regional flood, plus any increases in flood elevation caused by encroachments on the floodplain that result from designation of a floodway.
4. *Interpretation.*
 1. In their interpretation and application, the provisions of this subchapter shall be held to be minimum requirements and shall be liberally construed in favor of the governing body and shall not be deemed a limitation or repeal of any other powers granted by state statutes.
 2. The boundaries of the zoning districts shall be determined by scaling distances on the official zoning map. Where interpretation is needed as to the exact location of the boundaries of the district as shown on the official zoning map, as for example where there appears to be a conflict between a mapped boundary and actual field conditions and there is a formal appeal of the decision of the Zoning Administration, the Board of Adjustment shall make the necessary interpretation. All decisions will be based on elevations on the regional 100-year flood profile and other available technical data. Persons contesting the location of the district boundaries shall be given a reasonable opportunity to present their case to the Board and to submit technical evidence.
5. *Abrogation and greater restrictions.* It is not intended by this subchapter to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions; however, where this subchapter imposes greater restrictions, the provisions of this subchapter shall prevail. All other subchapters inconsistent with this subchapter are hereby repealed to the extent of inconsistency only.
6. *Warning and disclaimer of liability.* This subchapter 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 subchapter 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 subchapter or any administrative decision lawfully made hereunder.
7. *Definitions.* For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ACCESSORY USE OR STRUCTURES. 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 sub-grade (below ground level) on all 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:

1. Certain conditions as detailed in the zoning ordinance exist; and
2. The structure and/or land use conform to the comprehensive land use plan if one exists and are compatible with the existing neighborhood.

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

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

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

FLOOD FRINGE. The portion of the floodplain outside of the floodway. FLOOD FRINGE is synonymous with the term FLOODWAY FRINGE used in the flood insurance study for the city.

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

FLOOD-PROOFING. A combination of structural provision, changes, or adjustments to properties and structures subject to flooding, primarily for the reduction or elimination of flood damages.

FLOODWAY. The bed of a wetland or lake and the channel of a watercourse and those portions of the adjoining floodplain which are reasonably required to carry or store the regional flood discharge.

OBSTRUCTION. Any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel modification, culvert, building, wire, fence, stockpile, refuse, fill, structure, or matter in, along, across, or projecting into any channel, watercourse, or regulatory floodplain which may impede, retard, or change the direction of the flow of water, either in itself or by 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 human-made obstruction. In an urban area, the segment of a stream or river between 2 consecutive bridge crossings would most typically constitute a REACH.

REGIONAL FLOOD. A flood which is representative of large floods known to have occurred generally in the state and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of the 100-year recurrence interval. **REGIONAL FLOOD** is synonymous with the term **BASE FLOOD** used in the flood insurance study.

REGULATORY FLOOD PROTECTION ELEVATION. An elevation no lower than one foot above the elevation, of the regional flood, plus any increases in flood elevation caused by encroachments on the floodplain that result from designation of a floodway.

STRUCTURE. Anything constructed or erected on the ground or attached to the ground or 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 § 151.092(C) and other similar items.

VARIANCE. A modification of a specific permitted development standard required in an official control including this subchapter 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.

(2013 Code, § 11.56) (Ord. 567, passed 3-16-2000; Ord. 568, passed 5-25-2000)

151.087 Establishment Of Zoning Distric

1. Districts.

1. *Floodway District.* The Floodway District shall include those areas designated as floodway on the flood boundary and floodway map adopted in § 151.086(B).
2. *Flood Fringe District.* The Flood Fringe District shall include those areas designated as floodway fringe on the flood boundary and floodway map adopted in § 151.086(B).

2. Compliance.

1. No new structure or land shall hereafter be used and no structure shall be located, extended, converted, or structurally altered without full compliance with the terms of this subchapter and other applicable regulations which apply to uses within the jurisdiction of this subchapter. Within the Floodway and Flood Fringe Districts, all uses not listed as permitted uses or conditional uses in §§ 151.088 and 151.089 that follow, respectively, shall be prohibited.
2. In addition, a caution is provided herein that:
 1. New manufactured home, replacement manufactured homes and certain travel trailers and travel vehicles are subject to the general provisions of this subchapter and specifically § 151.092; and
 2. Modifications, additions, structural alterations, or repair after damage to existing nonconforming structures and nonconforming uses of structures of land are regulated by the general provisions of this subchapter and specifically § 151.094.
3. As-built elevations for elevated or flood-proofed structures must be certified by ground surveys and flood-proofing techniques must be designed and certified by a registered professional engineer or architect as specified in the general provisions of this subchapter and specifically as stated in § 151.093.

(2013 Code, § 11.56) (Ord. 567, passed 3-16-2000)

151.088 Floodway Distric

1. *Permitted uses.*
 1. General farming, pasture, grazing, outdoor plant nurseries, horticulture, truck farming, forestry, sod farming, and wild crop harvesting;
 2. Industrial-commercial loading areas, parking areas, and airport landing strips;
 3. Private and public golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks wildlife and nature preserves, game farms, fish hatcheries, shooting preserves, target ranges, trap and skeet ranges, hunting and fishing areas, and single- or multiple-purpose recreational trails; and
 4. Residential lawns, gardens, parking areas, and play areas.
2. *Standards for floodway permitted uses.*
 1. The use shall have a low flood damage potential.
 2. The use shall be permissible in the underlying zoning district if one exists.
 3. The use shall not obstruct flood flows or increase flood elevations and shall not involve structures, fill, obstructions, excavations, or storage of materials or equipment.
3. *Conditional uses.*
 1. Structures accessory to the uses listed in division (A) above and the uses listed in divisions (C)(2) through (C)(8) below;
 2. Extraction and storage of sand, gravel, and other materials;
 3. Marinas, boat rentals, docks, piers, wharves, and water-control structures;
 4. Railroads, streets, bridges, utility transmission lines, and pipelines;
 5. Storage yards for equipment, machinery, or materials;
 6. Placement of fill;
 7. Travel trailers and travel vehicles either on individual lots of record or in existing or new subdivisions or commercial or condominium type campgrounds, subject to the exemptions and provisions of § 151.092(C); and
 8. 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 ten-year frequency flood event.

4. *Standards for floodway conditional uses.*

1. 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.
2. All floodway conditional uses shall be subject to the procedures and standards contained in § 151.093(D).
3. The conditional uses shall be permissible in the underlying zoning district if one exists.
- 4.

1. Fill, dredge spoil, and all other similar materials deposited or stored in the floodplain shall be protected from erosion by vegetative cover, mulching, riprap, or other acceptable method.
2. Dredge spoil sites and sand and gravel operations shall not be allowed in the floodway unless a long-term site development plan is submitted which includes and erosion/sedimentation prevention element to the plan.
3. As an alternative, and consistent with division (D)(4)(b) above, dredge spoil disposal and sand and gravel operations may allow temporary, on-site storage of fill or other materials which would have caused an increase to the stage of the 100-year or regional flood, but only after the governing body has received an appropriate plan which assures the removal of the materials from the floodway based upon the flood warning time available. The conditional use permit must be title registered with the property in the office of the County Recorder.

5.

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.
 1. Whenever possible, structures shall be constructed with the longitudinal axis parallel to the direction of flood flow; and
 2. So far as practicable, structures shall be placed approximately on the same flood flow lines as those of adjoining structures.

3.

1. 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 500 square feet in size, and for a detached garage, the detached garage must be used solely for parking of vehicles and limited storage.
2. All flood-proofed accessory structures must meet the following additional standards, as appropriate:
 1. The structure must be adequately anchored to prevent flotation, collapse, or lateral movement of the structure and shall be designed to equalize hydrostatic flood forces on exterior walls; and
 2. Any mechanical and utility equipment in a structure must be elevated to or above the regulatory flood protection elevation or properly flood-proofed.

6.

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.
7. 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 M.S. Ch. 103G, as it may be amended from time to time. Community-wide structural works for flood control intended to remove areas from the regulatory floodplain shall not be allowed in the floodway.
8. 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.

(2013 Code, § 11.56) (Ord. 567, passed 3-16-2000)

151.089 Flood Fringe District (FF)

1. *Permitted uses.* Permitted uses shall be those uses of land or structures listed as permitted uses in the underlying zoning use district(s). If no pre-existing, underlying zoning use districts exist, then any residential or nonresidential structure or use of a structure or land shall be a permitted use in the Flood Fringe provided such use does not constitute a public nuisance. All permitted uses shall comply with the standards for flood fringe permitted uses listed in division (B) below and the standards for all flood fringe uses listed in division (E) below.
2. *Standards for flood fringe permitted uses.*
 1. All structures, including accessory structures, must be elevated on fill so that the lowest floor including basement floor is at or above the regulatory flood protection elevation. The finished fill elevation for structures shall be no lower than one foot below the regulatory flood protection elevation and the fill shall extend at such elevation at least 15 feet beyond the outside limits of the structure erected thereon.
 2. As an alternative to elevation on fill, accessory structures that constitute a minimal investment and that do not exceed 500 square feet for the outside dimension at ground level may be internally flood-proofed in accordance with § 151.088(D)(5).
 3. The cumulative placement of fill where at any one time in excess of 1,000 cubic yards of fill is located on the parcel shall be allowable only as a conditional use, unless said fill is specifically intended to elevate a structure in accordance with division (B)(1) above.
 4. The storage of any materials or equipment shall be elevated on fill to the regulatory flood protection elevation.
 5. The provisions of division (E) below shall apply.
3. *Conditional uses.* Any structure that is not elevated on fill or flood-proofed in accordance with divisions (B)(1) and (B)(2) above or any use of land that does not comply with the standards in divisions (B)(3) and (B)(4) above, 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 divisions (D) and (E) below and § 151.093(D).
4. *Standards for flood fringe conditional uses.*
 1. Alternative elevation methods other than the use of fill may be utilized to elevate a structure's lowest floor above the regulatory flood protection elevation. These alternative methods may include the use of stilts, pilings, parallel walls, and the like, or above-grade, enclosed areas such as crawl spaces or tuck under garages. The base or floor of an enclosed area shall be considered above-grade and not a structure's basement or lowest floor if:
 1. If the enclosed area is above-grade on at least one side of the structure;
 2. It is designed to internally flood and is constructed with flood resistant materials; and

3. It is used solely for parking of vehicles, building access or storage. The above-noted alternative elevation methods are subject to the following additional standards.
 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 equipments 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:
 1. The minimum area of openings in the walls where internal flooding is to be used as a flood-proofing technique. When openings are placed in a structure's walls to provide for entry of flood waters to equalize pressures, the bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings, or devices; provided, that they permit the automatic entry and exit of flood waters; and
 2. The enclosed area will be designed of flood resistant materials in accordance with the FP-3 or FP-4 Classifications in the State Building Code and shall be used solely for building access, parking of vehicles or storage.
2. Basements, as defined by § 151.086(G), 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 division (D)(3) below.
3. 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 water-tight 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.
4. When at any one time more than 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 floodplain if adequate flood warning time exists.

5.
 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.
6. The provisions of division (E) below shall also apply.
5. *Standards for all flood fringe uses.*
 1. *Generally.* All new principal structures must have vehicular access at or above an elevation not more than 2 feet below the regulatory flood protection elevation. If a variance to this requirement is granted, the Board of Adjustment must specify limitations on the period of use or occupancy of the structure for time of flooding and only after determining that adequate flood warning time and local flood emergency response procedures exist.
 2. *Commercial uses.* Accessory land uses, such as yards, railroad tracks, and parking lots may be at elevations lower than the regulatory flood protection elevation; however, a permit for such facilities to be used by the employees or the general public shall not be granted in the absence of a flood warning system that provides adequate time for evacuation if the area would be inundated to a depth greater than 2 feet or be subject to flood velocities greater than 4 feet per second upon occurrence of the regional flood.
 3. *Manufacturing and industrial uses.* Measures shall be taken to minimize interference with normal plat operations especially along streams having protracted flood durations. Certain accessory land uses such as yards and parking lots may be at lower elevations subject to requirements set out in division (E)(2) above. In considering permit applications, due consideration shall be given to needs of an industry whose business requires that it be located in floodplain areas.
 4. *Slope protection.* Fill shall be properly compacted and the slopes shall be properly protected by the use of riprap, vegetative cover, or other acceptable method. The Federal Emergency Management Agency (FEMA) has established criteria for removing the special flood hazard area designation for certain structures properly elevated on fill above the 100-year flood elevation. FEMA's requirements incorporate specific fill compaction and side slope protection standards for multi-structure or multi-lot developments. These standards should be investigated prior to the initiation of site preparation if a change of special flood hazard area designation will be requested.
 5. *Floodplain developments.* Floodplain developments shall not adversely affect the hydraulic capacity of the channel and adjoining floodplain of any tributary watercourse or drainage system where a floodway or other encroachment limit has not been specified on the official zoning map.
 6. *Standards for travel trailers.* Standards for travel trailers and travel vehicles are contained in § 151.092(C).
 7. *Securing 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.

(2013 Code, § 11.56) (Ord. 567, passed 3-16-2000; Ord. 568, passed 5-25-2000) Penalty, see § 151.999

151.090 Subdivisions

1. *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 floodplain

districts shall contain a building site at or above the regulatory flood protection elevation. All subdivisions shall have water and sewage treatment facilities that comply with the provisions of this subchapter and have road access both to the subdivision and to the individual building sites no lower than 2 feet below the regulatory flood protection elevation. For all subdivisions in the floodplain, the floodway and flood fringe boundaries, the regulatory flood protection elevation, and the required elevation of all access roads shall be clearly labeled on all required subdivision drawings and platting documents.

2. *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.

(2013 Code, § 11.56) (Ord. 567, passed 3-16-2000)

151.091 Public Utilities, Railroad, Roads, And Bridges

1. *Public utilities.* All public utilities and facilities such as gas, electrical, sewer, and water supply systems to be located in the floodplain shall be flood-proofed in accordance with the State Building Code or elevated to above the regulatory flood protection elevation.
2. *Public transportation facilities.* Railroad tracks, roads, and bridges to be located within the floodplain shall comply with §§ 151.088 and 151.090. 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.
3. *On-site sewage treatment and water supply systems.* Where public utilities are not provided:
 1. On-site water supply systems must be designed to minimize or eliminate infiltration of flood waters into the systems; and
 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 they 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 shall be determined to be in compliance with this subchapter.

(2013 Code, § 11.56) (Ord. 567, passed 3-16-2000)

151.092 Manufactured Homes And Manufactured Home Parks And Placement Of Travel Trailers And Travel Vehicles

1. New manufactured home parks and expansions to existing mobile manufactured home parks shall be subject to the provisions placed on subdivisions by § 151.090.
2. The placement of new or replacement manufactured homes in existing manufactured home parks or on individual lots of record that are located in floodplain districts will be treated as a new structure and may be placed only if elevated in compliance with § 151.089. If vehicular road access for pre-existing manufactured home parks is not provided in accordance with § 151.089, then replacement manufactured homes will not be allowed until the property owner(s) develops a flood warning emergency plan acceptable to the governing body. 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.

3. Travel trailers and travel vehicles that do not meet the exemption criteria specified in division (C)(1) below shall be subject to the provisions of this subchapter and as specifically spelled out in divisions (C)(3) and (C)(4) below.
 1. *Exemption.* Travel trailers and travel vehicles are exempt from the provisions of this subchapter if they are placed in any of the areas listed in division (C)(2) 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; and
 3. The travel trailer or travel vehicle and associated use must be permissible in any pre-existing, underlying zoning use district.
 2. *Areas exempted for placement of travel/recreational vehicles.*
 1. Individual lots or parcels of record;
 2. Existing commercial recreational vehicle parks or campgrounds; and
 3. Existing condominium type associations.
 3. *Travel trailers and travel vehicles; exemptions.* Travel trailers and travel vehicles exempted in division (C)(1) above lose this exemption when development occurs on the parcel exceeding \$500 dollars for a structural addition to the travel trailer/travel vehicle or an accessory structure such as a garage or a storage building. The travel trailer/travel vehicle and all additions and accessory structures will then be treated as a new structure and shall be subject to the elevation/flood-proofing requirements and the use of land restrictions specified in §§ 151.088 and 151.089.
 4. *New commercial travel trailers.* New commercial travel trailer or travel vehicle parks or campgrounds and new residential type subdivisions and condominium associations and the expansion of any existing similar use exceeding 5 units or dwelling sites shall be subject to the following:
 1. Any new or replacement travel trailer or travel vehicle will be allowed in the Floodway or Flood Fringe Districts provided said trailer or vehicle and its contents are placed on fit above the regulatory flood protection elevation and proper elevated road access to the site exists in accordance with § 151.089(E)(1). Any fill placed in a floodway for the purpose of elevating a travel trailer shall be subject to the requirements of § 151.088.
 2. All new or replacement travel trailers or travel vehicles not meeting the criteria of division (C)(4)(a) above may, as an alternative, be allowed as a conditional use if in accordance with the following provisions and the provisions of § 151.093(D). 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 travel trailers or other recreational vehicles must be protected or constructed so as to not be impaired or contaminated during times of flooding in accordance with § 151.091(C).

151.093 Administration

1. *Zoning Administrator.* A Zoning Administrator or other official designated by the governing body shall administer and enforce this subchapter. If the Zoning Administrator finds a violation of the provisions of this subchapter, the Zoning Administrator shall notify the person responsible for such violation in accordance with the procedures stated in § 151.999.
2. *Permit requirements.*
 1. *Permit required.* A permit issued by the Zoning Administrator in conformity with the provisions of this subchapter shall be secured prior to the erection, addition, or alteration of any building, structure, or portion thereof, prior to the use or change of use of a building, structure, or land; prior to the change or extension of a nonconforming use; and prior to the placement of fill, excavation of materials, or the storage of materials or equipment within the floodplain.
 2. *Application for permit.* Application for a permit shall be made 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.
 3. *State and federal permits.* Prior to granting a permit or processing an application for a conditional use permit or variance, the Zoning Administrator shall determine that the applicant has obtained all necessary state and federal permits.
 4. *Certificate of zoning compliance for a new, altered, or nonconforming use.* It shall be unlawful to use, occupy, or permit the use or occupancy of any building or premises or part thereof hereafter created, erected, changed, converted, altered, or enlarged in its use or structure until a certificate of zoning compliance shall have been issued by the Zoning Administrator state that the use of the building or land conforms to the requirements of this subchapter.
 5. *Construction and use to be provided on applications, plans, and the like.* 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 user, arrangement, or construction at variance with that authorized shall be deemed a violation of this subchapter, and punishable as provided by § 151.999.
 6. *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 subchapter. Flood-proofing measures shall be certified by a registered professional engineer or registered architect.
 7. *Record of first floor elevation.* The Zoning Administrator shall maintain a record of the elevation of the lowest floor (including basement) of all new structures and alterations or additions to existing structures in the floodplain. The Zoning Administrator shall also maintain a record of the elevation to which structures and alterations or additions to structures are flood-proofed.
3. *Board of Adjustment.*
 1. *Rules.* 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.
 2. *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 subchapter.
 3. *Variances.* The Board may authorize upon appeal in specific cases such relief or variance from the terms of this subchapter 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.

4. *Hearings.* 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 10 days' notice of the hearing.
5. *Decisions.* The Board shall arrive at a decision on such appeal or variance within 120 days. In passing upon an appeal, the Board may, so long as such action is in conformity with the provisions of this subchapter, 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 division (D)(6) below which are in conformity with the purposes of this subchapter. 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 subchapter punishable under § 151.999. A copy of all decisions granting variances shall be forwarded by mail to the Commissioner of Natural Resources within 10 days of such action.
6. *Appeals.* Appeals from any decision of the Board may be made, and as specified in this community's official controls and also state statutes.
7. *Flood insurance notice and record-keeping.*
 1. 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 will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage; and
 2. Such construction below the 100-year or regional flood level increases risks to life and property.
 2. 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.
4. *Conditional uses.* The City Board of Adjustment and Appeals shall hear and decide applications for conditional uses permissible under this subchapter. Applications shall be submitted to the Zoning Administrator who shall forward the application to the Board of Adjustment and Appeals for consideration.
 1. *Hearings.* Upon filing with the Board of Adjustment and Appeals an application for a conditional use permit, the Board of Adjustment and Appeals 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 Commission will receive at least 10 days' notice of the hearing.
 2. *Decisions.* The Board of Adjustment and Appeals shall arrive at a decision on a conditional use permit within 120 days. In granting a conditional use permit, the Board of Adjustment

and Appeals shall prescribe appropriate conditions and safeguards, in addition to those specified in division (D)(6) below, which are in conformity with the purposes of this subchapter. 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 subchapter punishable under § 151.999. A copy of all decisions granting conditional use permits shall be forwarded by mail to the Commissioner of Natural Resources within ten days of such action.

3. *Procedures followed by the Board of Adjustment and Appeals.*

1. Require the applicant to furnish such of the following information and additional information as deemed necessary by the Board of Adjustment and Appeals 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; and
 2. Specifications for building construction and materials, flood-proofing, filling, dredging, grading, channel improvement, storage of materials, water supply, and sanitary facilities.
2. Transmit one copy of the information described in division (D)(3)(a) above to a designated engineer or other expert person or agency for technical assistance, where necessary, in evaluating the proposed project in relation to flood heights and velocities, the seriousness of flood damage to the use, the adequacy of the plans for protection, and other technical matters; and
3. Based upon the technical evaluation of the designated engineer or expert, the Board of Adjustment and Appeals shall determine the specific flood hazard at the site and evaluate the suitability of the proposed use in relation to the flood hazard.

4. *Factors upon which the decision of the Board of Adjustment and Appeals shall be based.*
In passing on conditional use applications, the Board of Adjustment and Appeals shall consider all relevant factors specified in other sections of this subchapter:

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 or they may block bridges, culverts, or other hydraulic structures;
3. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions;
4. The susceptibility of the proposed facility and its contents to flood damage and the effect of 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 of rise, and sediment transport of the flood waters expected at the site; and
12. Such other factors which are relevant to the purposes of this subchapter.

5. *Time for acting on application.* The Board of Adjustment and Appeals shall act on an application in the manner described above within 120 days from receiving the application, except where additional information is required pursuant to division (D)(4) above. The Board of Adjustment and Appeals shall render a written decision within 60 days from the receipt of such additional information.
6. *Conditions attached to conditional use permits.*
 1. Upon consideration of the factors listed above and the purpose of this subchapter, the Board of Adjustment and Appeals shall attach such conditions to the granting of conditional use permits as it deems necessary to fulfill the purposes of this subchapter.
 2. Such conditions may include, but are not limited to, the following:
 1. Modification of waste treatment and water supply facilities;
 2. Limitations on period of use, occupancy, and operation;
 3. Imposition of operational controls, sureties, and deed restrictions;
 4. Requirements for construction of channel modifications, compensatory storage, dikes, levees, and other protective measures; and
 5. Flood-proofing measures, in accordance with the State Building Code and this subchapter. 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 associates flood factors for the particular area.

(2013 Code, § 11.56) (Ord. 567, passed 3-16-2000; Ord. 568, passed 5-25-2000) Penalty, see § 151.999

151.094 Nonconforming Uses

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

1. No such use shall be expanded, changed, enlarged, or altered in a way which increases its nonconformity.
2. 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 division (C) below.
3. The cost of any structural alterations or additions to any nonconforming structure over the life of the structure shall not exceed 50% of the market value of the structure unless the conditions of this subchapter are satisfied. The cost of all structural alterations and additions constructed since the adoption of the community's initial floodplain controls must be calculated into today's current cost which will include all costs such as construction materials and a reasonable cost placed on all manpower or labor. If the current cost of all previous and proposed alterations and additions exceeds 50% of the current market value of the structure, then the structure must meet the standards of §§ 151.088 and 151.089 for new structures depending upon whether the structure is in the floodway or flood fringe, respectively.
4. If any nonconforming use is discontinued for 12 consecutive months, any future use of the building premises shall conform to this subchapter. The assessor shall notify the Zoning Administrator in writing of instances of nonconforming uses which have been discontinued for a period of 12 months.
5. If any nonconforming use or structure is destroyed by any means, including floods, to an extent of 50% or more of its market value at the time of destruction, it shall not be reconstructed except in

conformity with the provisions of this subchapter. The applicable provisions for establishing new uses or new structures in §§ 151.088 and 151.090 will apply depending upon whether the use or structure is in the floodway or flood fringe, respectively.

(2013 Code, § 11.56) (Ord. 567, passed 3-16-2000) Penalty, see § 151.999