PL201600144
PL2016-144

ORDINANCE NO. 2016-

AN ORDINANCE AMENDING CHAPTERS 19 AND 21 OF THE CITY CODE PERTAINING TO THE FLOODPLAIN REGULATIONS AND CODES.

The City Council of the City of Bloomington, Minnesota ordains:

Section 1. That Chapter 19 of the City Code is hereby amended by deleting those words that are contained in brackets [ ] and adding those words that are underlined, to read as follows:

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CHAPTER 19

ZONING

ARTICLE I: GENERAL PROVISIONS

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DIVISION B: DEFINITIONS

§ 19.03 DEFINITIONS.

The following words and terms when used in Chapters 19 and 21 shall have the following meanings unless the context clearly indicates otherwise.

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[~~***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 flow.~~]

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[~~***FLOOD.*** A temporary rise in lake level or stream flow or stage that results in inundation of the areas adjacent to the channel.~~

~~***FLOOD FRINGE.*** The portion of the floodplain outside of the floodway. Those areas designated as floodway fringe as shown on the flood insurance rate map as adopted in § 19.38.02(b) as being within Zone A, AE, Zone AO or Zone AH but being located outside of the floodway or as determined in § 19.38.02(g)(4) and (g)(5).~~

~~***FLOOD INSURANCE RATE MAP (FIRM).*** Flood maps prepared by the Federal Emergency Management Agency which are dated September 2, 2004.~~]

~~***FLOOD PROTECTION ELEVATION.*** An elevation no lower than one foot above the elevation of the regional flood or the most restrictive high-water elevation identified by a public government agency with jurisdiction, plus any increase in flood elevation caused by encroachments on the floodplain which result from the designation of a floodway.~~

~~***FLOODPLAIN*** or ***FLOOD HAZARD (FH) OVERLAY DISTRICT.*** The areas adjoining a watercourse, wetland, lake or waterbody, which have been or hereafter may be covered by the regional flood and that include the floodway and flood fringe areas which are designated Zone A or Zone AE, Zone AO or Zone AH on the flood insurance rate map adopted in § 19.38.02(b).~~

~~***FLOODWAY.*** The bed of a wetland or lake and the channel of the watercourse and those portions of the adjoining floodplains which are reasonably required to carry, store, and discharge the regional flood and are designated as floodway on the flood insurance rate map adopted in § 19.38.02(b) or as determined in §19.38.02(g)(4) and (g)(5).~~]

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[~~***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.~~

~~***REGIONAL FLOOD ELEVATION.*** The maximum high-water level of the regional flood. In instances in which the regional flood elevation is expressed in part as a fraction of a whole number, the ***REGIONAL FLOOD ELEVATION*** shall be interpreted as the next highest whole number (e.g., regional flood elevation = 814.25 feet, the regional flood elevation is interpreted as 815 feet).~~

~~***REGULATORY FLOOD PROTECTION ELEVATION.*** An elevation no lower than two feet above the elevation of the regional flood or the most restrictive high-water elevation identified by a public government agency with jurisdiction, plus any increase in flood elevation caused by encroachments on the floodplain which result from the designation of a floodway.~~]

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[~~***SUBSTANTIAL IMPROVEMENT.*** Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure either before the improvement was started or before a damaged structure being repaired was damaged.~~]

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ARTICLE III: ZONING DISTRICT MAP, ZONING DISTRICTS AND DISTRICT USES

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§ 19.38 OVERLAY ZONING DISTRICTS.

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(b) *Establishment of districts.* The following overlay districts are hereby established:

(1) Planned Development PD;
(2) Flood Hazard FH (section moved to §21.208.01);
(3) Bluff Protection BP-1;
(4) Bluff Development BP-2;
(5) Airport Runway (AR-17) Overlay District; and
(6) Airport Runway (AR-22) Overlay District.

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(d) *Supplemental definitions.* The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise.

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[~~***BASEMENT.*** Any area of a structure, including crawl spaces, having its floor or base subgrade (below ground level) on all four sides, regardless of the depth of excavation below ground level.~~

***

~~***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 flow.~~

***

~~***FLOOD.*** A temporary rise in lake level or stream flow or stage that results in inundation of the areas adjacent to the channel.~~

~~***FLOOD FRINGE.*** The portion of the floodplain outside of the floodway. Those areas designated as floodway fringe as shown on the flood insurance rate map as adopted in § 19.38.02(b) as being within Zone AE, Zone AO or Zone AH but being located outside of the floodway or as determined in § 19.38.02(g)(4) and (g)(5).~~

~~***FLOOD INSURANCE RATE MAP (FIRM).*** Flood maps prepared by the Federal Emergency Management Agency which are dated September 2, 2004.~~

~~***FLOODPLAIN*** or ***FLOOD HAZARD (FH) OVERLAY DISTRICT.*** The areas adjoining a watercourse or lake which have been or hereafter may be covered by the regional flood and that includes the floodway and flood fringe and which are designated Zone A or Zones AE, Zone AO or Zone AH on the flood insurance rate map adopted in § 19.38.02(b).~~

~~***FLOODWAY.*** The bed of a wetland or lake and the channel of a watercourse and those portions of the adjoining floodplains which are reasonably required to carry, store and~~

discharge the regional flood and are designated as floodway on the flood insurance rate map adopted in § 19.38.02(b) or as determined in §19.38.02(g)(4) and (g)(5).

LOWEST FLOOR. The lowest floor of the lowest enclosed area (including basement).

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.]

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[***RECREATIONAL VEHICLE.*** For purposes of meeting § 19.38.02, a***RECREATIONAL VEHICLE*** shall be that which 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 section, 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 the state and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of the 1% annual chance (100-year flood) interval regional flood is synonymous with the term "base flood" used in the flood insurance study.

REGIONAL FLOOD ELEVATION. The maximum high-water level of the regional flood. In instances in which the ***REGIONAL FLOOD ELEVATION*** is expressed in part as a fraction of a whole number, the ***REGIONAL FLOOD ELEVATION*** shall be interpreted as the next highest whole number (e.g., regional flood elevation + 814.25 feet, the regional flood elevation is interpreted as 815 feet).

REGULATORY FLOOD PROTECTION ELEVATION. An elevation no lower than one foot above the elevation of the regional flood or the most restrictive high-water elevation identified by a public government agency with jurisdiction, plus any increases in flood elevation caused by encroachments on the floodplain that result from designation of a floodway.]

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[***SUBSTANTIAL DAMAGE.*** Damage of any origin sustained by a structure within the (FH) Overlay District, where the cost of restoring the structure to its before damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred.

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

~~(1) 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; or~~

~~(2) 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 section, ***HISTORIC STRUCTURE*** shall be as defined in C.F.R. part 59.1.]~~

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§ 19.38.02 [~~FLOOD HAZARD (FH) OVERLAY DISTRICTS~~]RESERVED.

[~~(a) *Intent.* The Flood Hazard Overlay District is established to protect the public health, safety and general welfare; to minimize the extent of floods and flood losses; to assure the appropriate use of land; to regulate uses which are dangerous to health, safety and property in time of flooding or which cause excessive increases in flood heights and velocities; and to provide an overlay zoning district within any of the primary zoning districts. National Flood Insurance Program compliance: this section is adopted to comply with the rules and regulations of the National Flood Insurance Program codified as 44 C.F.R. parts 59 through 78, as amended, so as to maintain the community's eligibility in the National Flood Insurance Program.~~

~~(b) *Applicability.* This section 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 (FH) Overlay, including those areas within the floodway, flood fringe or floodplain as delineated on the *Flood Insurance Study, Volume 1 of 2 and Volume 2 of 2, Hennepin County, Minnesota, and all Jurisdictions* and the flood insurance rate map panels numbered 27053C0432 E, 27053C0434 E, 27053C0442 E, 27053C0451 E, 27053C0452 E, 27053C0453 E, 27053C0454 E, 27053C0456 E, 27053C0457 E, 27053C0458 E, 27053C0459 E, 27053C0461 E, 27053C0462 E, 27053C0466 E, 27053C0467 E, 27053C0476 E, 27053C0477 E, 27053C0478 E and 27053C0479 E for the city dated September 2, 2004, as developed by the Federal Emergency Management Agency "FEMA."~~

~~(c) *Permitted uses.* Within the Flood Hazard Overlay District, only the following uses having a low flood damage potential and not obstructing flood flows shall be permitted to the extent that the use is not prohibited by a provision of the primary zoning district~~

and provided that the use does not require structures, fill or storage of materials or equipment:

(1) Agriculture, limited;
(2) Public governmental uses not involving principal or accessory structures;
(3) Parks, playgrounds, golf courses and tennis courts not involving principal or accessory structures; and
(4) Public utility installations, but not buildings or electric substations.

(d) *Conditional uses.* Within the Flood Hazard Overlay District, only the following conditional uses having a low flood damage potential may be granted to the extent that the use is not prohibited by any provision of the primary zoning district:

(1) Uses having principal structures located in the flood fringe;
(2) Uses having structures accessory to open space;
(3) Uses having structures accessory to public government uses and public utility installations, and located in the flood fringe;
(4) Uses requiring placement of fill;
(5) Extraction of sand, gravel and other materials, including dredging;
(6) Marinas, storage of boats, boat rentals, docks, piers, wharves and water-control structures;
(7) Railroads, streets, bridges, utility transmission lines and pipelines;
(8) Reserved; and
(9) Flood-control uses such as dams, levees, dikes and flood walls.

(e) *Interim uses.*

(1) Storage of equipment, machinery or materials related to on-site construction activities.

(f) *Prohibited uses.* All uses not listed as permitted uses or conditional uses in the Flood Hazard Overlay District, and specifically manufactured home parks, or RV parks are prohibited.

(g) *Procedures.* The following rules and procedures for the determination of flood characteristics, record keeping, notification of governmental agencies, granting of conditional uses and variances and amendment of these provisions shall be observed.

(1) The State Department of Natural Resources shall be notified by the city at least ten days in advance of any public hearing for a conditional use within the floodplain or variance to floodplain requirements and shall be notified within ten days of any official action taken under the provisions of this section. Additionally, no amendments to the floodplain regulations shall be made without written approval of the State Department of Natural Resources.
(2) The issuance of a variance or conditional use permit for any use shall not allow for a lower degree of flood protection than that established within the floodplain regulations.
(3) The issuing authority shall maintain a record of the elevation of the first floor, including basements, and the elevation to which the structure is floodproofed

of all new structures or additions to structures in the Flood Hazard (FH) Overlay District.

(4) In determining the regulatory flood protection elevation, and floodway and flood fringe boundaries of a proposed use for a conditional use permit in the Flood Hazard (FH) Overlay District, the issuing authority may require the applicant to submit the following information and any additional information as deemed necessary to make a decision:

(A) Five copies of a typical valley cross section showing the channel, cross-sectional areas to be occupied by the proposed development and high-water information;

(B) Five copies of plan views showing elevations or contours of surface features; fill or storage elevations; size, location and spatial arrangement of all existing and proposed structures; location and elevations of streets; photographs showing existing land uses and vegetation upstream and downstream; and soil type;

(C) Five copies of profiles showing the slope of the bottom of the channel or flow line of the stream for at least 500 feet in either direction from the proposed development; and

(D) Five copies of an approved administrative plat or standard plat showing the limits of the floodplain, floodway and the regional flood elevation height.

(5) One copy of the above information shall be transmitted to the appropriate watershed district or designated expert for review and recommendation regarding determination of the flood protection elevation and the extent of the floodway at the site. Procedures consistent with Minnesota Regulations NR-86-87 shall be followed in making this determination. When determined necessary, the watershed district or designated expert shall estimate the peak discharge of the regional flood, calculate the water surface profile of the regional flood based upon a hydraulic analysis of the stream channel and over-bank area, and compute the floodway necessary to convey the regional flood without increasing flood stages more than one-half foot. An equal degree of encroachment on both sides of the stream within the reach shall be assumed. Utilizing the recommendation of the appropriate watershed district or designated expert, the issuing authority shall determine the extent of the floodway and the flood protection elevation. A lesser stage increase than one-half foot shall be required if, as a result of the additional stage increase, increased flood damages would result. An equal degree of encroachment on both sides of the stream within the reach shall be assumed in computing floodway boundaries.

(6) Notifications for watercourse alterations: the Public Works Department shall notify, in riverine situations, adjacent communities and the Commissioner of the Department of Natural Resources prior to the city 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 M.S. Chapter 103G, as it may be amended from time to time, 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).

(7) Notification to FEMA when physical changes increase or decrease the 100-year flood elevation: as soon as is practicable, but not later than six months after the date such supporting information becomes available, the Community Development Department shall notify the Chicago Regional Office of FEMA of the changes by submitting a copy of said technical or scientific data.

(8) Variance procedures: in addition to the variance procedures allowed pursuant to § 2.98.01, the following additional variance criteria of the Federal Emergency Management Agency must be satisfied.

(A) 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;

(B) 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.

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

(9) Flood insurance notice and record keeping. The Community Development Department shall notify the applicant for a variance that: 1) the issuance of a variance to construct a structure below the regulatory flood protection elevation may result in increased premium rates for flood insurance; and 2) such construction below the 100-year or regional flood level increases risks to life and property. Such notification shall be maintained with a record of all variance actions. The Department of Community Development 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.

(10) Conditional use permit applications within all floodplain districts.

(A) Require the applicant to furnish the following information and additional information as deemed necessary by the Department of Community Development for determining the suitability of the particular site for the proposed use:

(i) 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

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

(B) Transmit one copy of the information described in subsection (g)(10)(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.

(C) Based upon the technical evaluation of the designated engineer or expert, the Department of Community Development shall determine the specific flood hazard at the site and evaluate the suitability of the proposed use in relation to the flood hazard.

(D) In addition to the standard conditional use permit findings in §21.501.04(e), the City Council must also make the following findings prior to issuing a conditional use permit in a Flood Hazard Overly District:

(i) No encroachment, including temporary or permanent structures; fill, deposit or obstruction; new construction or substantial improvement; storage of equipment or materials; or other uses acting alone or in combination with existing or reasonably anticipated future uses will adversely affect the capacity of the floodway or floodplain, or increased flood heights within the floodway or floodplain as shown on the flood insurance rate map as designated in subsection (b) above or as designated by a public governmental agency with jurisdiction;

(ii) No danger to life and property due to increased flood elevations or velocities caused by encroachments will occur; that no materials may be swept onto other lands or downstream to the injury of others; and that safe access, no lower than two feet below the flood protection elevation, to the property for emergency and ordinary vehicles exists in times of flooding;

(iii) The establishment, erection or construction of the use and operation of the use will minimally affect the natural ecological balance of the immediate floodplain vicinity and will not cause turbidity, siltation or pollution of a waterway;

(iv) Public utilities and facilities will be constructed to minimize flood damage and flood infiltration into utility lines and that the proposed water supply and sanitation systems will prevent disease, contamination and unsanitary conditions;

(v) Any new use or alteration, substantial improvement or repair of any existing use will be protected from flood damage through adequate and practicable methods;

(vi) The use in consistent with the purposes of the Zoning Code as they are listed in § 19.01 of this code and the purposes of the zoning district in which the applicant intends to locate the

proposed use and that the proposed use is not in conflict with the development plan of the city;

(vii) The proposal has been reviewed and approved by the appropriate watershed district and that all applicable state and federal permits have been obtained; and

(viii) The proposed facility will benefit from a waterfront site and that available alternative sites not subject to flooding have been given consideration.

(h) *Special Flood Hazard Overlay District requirements.*

(1) *Fill.* Fill from dredging or sand and gravel extraction shall not be deposited in the floodway unless it can be accomplished in accordance with subsection (h)(1)(B) below. All fill or graded areas shall be protected from erosion by vegetative cover, permanent paved surfaces or erosion control devices approved by the appropriate watershed district and city.

(A) 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.

(B) As an alternative, 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 Community Development Department 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, or Registers of Title.

(2) *Principal structures and accessory structures to non open space-uses.*Principal structures and accessory structures to non open space-uses within the floodplain shall be located so that no part of the building is within any area designated as floodway on the flood insurance rate maps dated September 2, 2004 or determined to be within the floodway through the procedures of subsection (g) above. The lowest floor (including basements) elevation of any principal structure shall be at least one foot above the regulatory flood protection elevation, and the finished fill which supports a principal structure shall be no lower than the flood protection elevation and shall extend a minimum of 15 feet beyond the limits of the principal structure, except for cuts for ramps necessary for handicapped access.

(3) *Accessory structures.* Accessory structures located within the floodplain shall not be designed for human habitation; shall have a low flood damage potential and shall be located, designed and constructed to minimally effect the flow of floodwaters in the floodway.

(4) *Location.* Whenever possible, principal and accessory structures shall be located with the longitudinal axis parallel to the direction of flow of floodwaters and, so far as possible, placed on the same flood flow lines of nearby structures located in the floodplain. Accessory structures shall be elevated on

fill or be 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 at its largest projection, 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;

(B) Any mechanical and utility equipment in a structure must be elevated at least no lower than the regulatory flood protection elevation or properly flood proofed; and

(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.

(5) *Storage of materials and equipment.* Except for the storage of boats, which shall be removed from the floodplain after flood warning, the storage of materials and equipment which are buoyant, flammable or explosive or which are potentially injurious to human, animal and plant life in time of flooding is prohibited. Storage of other material and equipment is permitted provided it is not located within the floodway as designated on the flood insurance rate maps or as determined through the procedures of subsection (g) above and provided that the material and equipment can be readily removed after flood warning, or is elevated on fill to the regulatory flood protection elevation.

(6) *Plans.* Plans for any new construction or improvement shall be certified as being in compliance with the provisions of the Flood Hazard Overlay District by a registered professional engineer or architect; and prior to issuance of a certificate of occupancy, certification by a registered professional engineer, architect or land surveyor shall be made indicating that the finished new construction or improvements are in compliance with the provisions of the Flood Hazard Overlay District.

(7) *Mechanical and utility equipment in a principal or accessory structure.*All mechanical and utility equipment in a principal or accessory structure must be elevated to or above the regulatory flood protection elevation or properly flood proofed.

(8) *Commercial accessory land uses.* Commercial 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 and velocity such that when multiplying the depth (in feet) times velocity (in feet per second) the product number exceeds four feet per second upon occurrence of the regional flood.

(9) *Standards for all flood fringe uses.*

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

(B) *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 (h)(8) 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.

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

(D) *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.

(E) *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.

(10) *Public transportation facilities.* Railroad tracks, roads and bridges to be located within the floodplain shall comply with this section. 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.

(11) *Recreational vehicles.* Recreational vehicles that do not meet the exemption criteria specified in subsection (h)(11)(A) below shall be subject to the provisions of this section and as specifically spelled out in subsection (h)(11)(C) below.

(A) *Exemption.* Recreational vehicles are exempt from the provisions of this section if they are placed in any of the areas listed in subsection (h)(11)(B) below and if 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 recreational vehicle parks and the recreational vehicle has no permanent structural type additions attached to it; and

(3) The recreational vehicle and associated use must be permissible in any pre-existing, underlying zoning use district.

(B) *Areas exempted for placement of recreational vehicles.*

(1) Individual lots or parcels of record;

(2) Existing commercial recreational vehicle parks or campgrounds; and

(3) Existing condominium type associations.

(C) *Recreational vehicles exempted in this section.* Recreational vehicles exempted in this section lose this exemption when development occurs on the parcel exceeding $500 for a structural addition to the recreational vehicle or exceeding $500 for 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 subsection (h)(2) above. There shall be no development or improvement on the parcel or attachment to the recreational vehicle that hinders the removal of the recreational vehicle to a flood free location should flooding occur.

(i) *Boundaries.*

(1) The boundaries of the Flood Hazard (FH) Overlay District 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 overlay as shown on the official zoning map as provided for in subsection (g)(4) and (g)(5) above, 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 Public Works Department, the City Council 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, 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 City Council and to submit technical evidence.

(2) Upon the presentation of technical data by the applicant which is in conflict with the boundary or identified flood elevation as shown on the zoning district map of the city, the issuing authority shall make a determination of the correct boundary and shall request the State Department of Natural Resources and the Federal Emergency Management Agency to review and approve boundary adjustments based on additional technical data.

(3) Where there are changes as a result of natural or other causes, where the deposit of fill approved under the provisions of this section raises land above the flood protection elevation, or where changes could be validated by further detailed floodplain studies, the boundaries of the Flood Hazard Overlay District may be revised and modified by the City Council, pursuant to review and approval by the Federal Emergency Management Agency and the State Department of Natural Resources.

(j) *Permit required.* A permit issued by the Community Development Department in conformity with the provisions of this section shall be secured prior to the erection, addition, modification, rehabilitation (including normal maintenance and repair) or alteration of any building, structure or portion thereof; prior to the use or change of use of a building, structure or land; prior to the construction of a dam, fence or on-site septic system; prior to the change or extension of a nonconforming use; prior to the repair of a structure that has been damaged by flood, fire, tornado or any other source; and prior to the placement of fill, excavation of materials or the storage of materials or equipment within the floodplain.

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(k) *Floodplain nonconformities.* A structure or the use of a structure or premises which was lawful before the passage or amendment of this section but which is not in conformity with the provisions of this section may be continued subject to the conditions below.

(1) No such use shall be expanded, changed, enlarged or altered in a way that increases its nonconformity.

(2) Any structural alteration or addition to a nonconforming structure or nonconforming use which would result in increasing the flood damage potential of that structure or use shall be protected to the regulatory flood protection elevation in accordance with any of the elevation on fill or flood proofing techniques (i.e., FP-1 through FP-4 floodproofing classifications) allowable in the State Building Code, except as further restricted in subsections (k)(3) and (k)(6) 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 section are satisfied. The cost of all structural alterations and additions constructed since the adoption

~~of the community's initial floodplain controls must be calculated into today's current cost which will include all costs such as construction materials and 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 for new structures as provided in this section.~~

~~(4) If any nonconforming use or structure is substantially damaged, as defined in § 19.38(d) of this code, it shall not be reconstructed except in conformity with the provisions of this section. The applicable provisions for establishing new uses or new structures in this section will apply.~~

~~(5) If any nonconforming use is discontinued for 12 consecutive months, any future use of the building premises shall conform to this section. The Assessor shall notify the Department of Community Development in writing in instances of nonconforming uses that have been discontinued for a period of 12 months.~~

~~(6) If a substantial improvement occurs, as defined in § 19.38(d), 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 section for new structures.~~

~~(7) Additional requirements for nonconformities are set forth in § 21.504 of this code.~~]

***

Section 2. That Chapter 21 of the City Code is hereby amended by deleting those words that are contained in brackets [ ] and adding those words that are underlined, to read as follows:

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CHAPTER 21

ZONING AND LAND DEVELOPMENT

***

ARTICLE II: DISTRICTS AND USES

***

DIVISION G: [~~RESERVED~~] OVERLAY ZONING DISTRICTS

§ 21.208 OVERLAY ZONING DISTRICTS.

(a) *Purpose.* Overlay zoning districts provide use limitations and standards to those in primary zoning districts to further the public interest.

(b) *Establishment of districts.* The following overlay districts are hereby established:
(1) Flood Hazard (FH)

(c) Conflicts. In the case of a conflict between the provisions of a primary zoning district, the provisions of the more restrictive standard will take precedence and govern.

§ 21.208.01 FLOOD HAZARD (FH) OVERLAY DISTRICT.

(a) *Statutory Authorization*. The legislature of the State of Minnesota has, in Minnesota Statutes Chapter 103F and Chapter 462 delegated the responsibility to local government units to adopt regulations designed to minimize flood losses. Therefore, the City Council of the City of Bloomington, Minnesota, does ordain as follows.
(1) This ordinance regulates development in the flood hazard areas of the City of Bloomington. These flood hazard areas are subject to periodic inundation, which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base. It is the purpose of this ordinance to promote the public health, safety, and general welfare by minimizing these losses and disruptions.
(2) National Flood Insurance Program Compliance. This ordinance is adopted to comply with the rules and regulations of the National Flood Insurance Program codified as 44 Code of Federal Regulations Parts 59 -78, as amended, so as to maintain the community's eligibility in the National Flood Insurance Program.
(3) This ordinance is also intended to preserve the natural characteristics and functions of watercourses and floodplains in order to moderate flood and stormwater impacts, improve water quality, reduce soil erosion, protect aquatic and riparian habitat, provide recreational opportunities, provide aesthetic benefits and enhance community and economic development.

(b) *How to Use This Ordinance.* This ordinance adopts the floodplain maps applicable to the City of Bloomington and includes two floodplain subareas: Floodway and Flood Fringe.
(1) Where Floodway and Flood Fringe areas are delineated on the floodplain maps, the standards in §21.208.01(m-t) will apply, depending on the location of a property.

(c) *Lands to Which Ordinance Applies*. This ordinance applies to all lands within the jurisdiction of the City of Bloomington shown on the Official Zoning Map and/or the attachments to the map as being located within the boundaries of the Flood Hazard Overlay District, which encompasses the Floodway and Flood Fringe areas.

(1) The Flood Hazard District is an overlay district that is superimposed over primary zoning districts. The standards imposed in the overlay district are in addition to any other requirements in this ordinance. In case of a conflict, the more restrictive standards will apply.

(d) *Incorporation of Maps by Reference*. The following maps together with all attached material are hereby adopted by reference and declared to be a part of the Official Zoning Map and this ordinance. The attached material includes the Flood Insurance Study for Hennepin County, Minnesota, and Incorporated Areas, dated November 4, 2016 and the Flood Insurance Rate Map panels enumerated below, dated November 4, 2016, all prepared by the Federal Emergency Management Agency. These materials are on file in the Bloomington Public Works Department.

Effective Flood Insurance Rate Map panels:

27053C0432F
27053C0434F
27053C0442F
27053C0451F
27053C0452F
27053C0453F
27053C0454F
27053C0456F
27053C0457F
27053C0458F
27053C0459F
27053C0461F
27053C0462F
27053C0466F
27053C0467F
27053C0476F
27053C0477F
27053C0478F
27053C0479F

(e) *Interpretation*. The boundaries of the zoning districts and areas are determined by scaling distances on the Flood Insurance Rate Map.

(1) Where a conflict exists between the floodplain limits illustrated on the official zoning map and actual field conditions, the flood elevations shall be the governing factor. The Planning Manager or designee must interpret the boundary location based on the ground elevations that existed on the site on the date of the first National Flood Insurance Program map showing the area within the regulatory floodplain, and other available technical data.

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

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

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

(h) *Severability*. If any section, clause, provision, or portion of this ordinance is adjudged unconstitutional or invalid by a court of law, the remainder of this ordinance shall not be affected and shall remain in full force.

(i) *Definitions*. Unless specifically defined below, words or phrases used in this ordinance must be interpreted according to common usage and so as to give this ordinance 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.

BASE FLOOD ELEVATION. The elevation of the "***REGIONAL FLOOD***." The term "***BASE FLOOD ELEVATION***" is used in the flood insurance survey.

BASEMENT. Any area of a structure, including crawl spaces, having its floor or base subgrade (below ground level) on all four sides, regardless of the depth of excavation below ground level.

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

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

FLOOD. 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 Special Flood Hazard Area (one percent annual chance flood) located outside of the floodway. ***FLOOD FRINGE*** is synonymous with the term "floodway fringe" used in the Flood Insurance Study for Hennepin County, Minnesota.

FLOOD INSURANCE RATE MAP (FIRM). An official map on which the Federal Insurance Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community. A FIRM that has been made available digitally is called a Digital Flood Insurance Rate Map (DFIRM).

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

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

FLOODPROOFING. A combination of structural provisions, changes, or adjustments to properties and structures subject to flooding, primarily for the reduction or elimination of flood damages.

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

LOWEST FLOOR. The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, used solely for parking of vehicles, building access, or storage in an area other than a basement area, is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of 44 Code of Federal Regulations, Part 60.3.

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

NEW CONSTRUCTION. Structures, including additions and improvements, and placement of manufactured homes, for which the start of construction commenced on or after the effective date of this ordinance.

OBSTRUCTION. Any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel modification, culvert, building, guywire, 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.

ONE HUNDRED YEAR FLOODPLAIN. Lands inundated by the ***REGIONAL FLOOD*** (see definition).

REACH. A hydraulic engineering term to describe a longitudinal segment of a stream or river influenced by a natural or man-made obstruction. In an urban area, the segment of a stream or river between two 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*** is synonymous with the term "travel trailer/travel vehicle."

REGIONAL FLOOD. A flood which is representative of large floods known to have occurred generally in Minnesota and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of the 1% chance or 100-year recurrence interval. Regional flood is synonymous with the term "***BASE FLOOD***" used in a flood insurance study.

REGULATORY FLOOD PROTECTION ELEVATION (RFPE). An elevation not less than two feet above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the floodplain that result from designation of a floodway.

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

SPECIAL FLOOD HAZARD AREA. A term used for flood insurance purposes synonymous with "***ONE HUNDRED YEAR FLOODPLAIN***."

START OF CONSTRUCTION. Includes substantial improvement, and means the actual start of construction, repair, reconstruction, rehabilitation, addition, placement or other improvement that occurred before the permit's expiration date. The actual start is either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, foundations, or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means

the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

STRUCTURE. Anything constructed or erected on the ground or attached to the ground or on-site utilities, including, but not limited to, buildings, factories, sheds, detached garages, cabins, manufactured homes, recreational vehicles not meeting the exemption criteria specified in §21.208.01(aa)(2) of this ordinance and other similar items.

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

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

(a) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions.

(b) Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure." For the purpose of this ordinance, "historic structure" is as defined in 44 Code of Federal Regulations, Part 59.1.

(j) *Annexations.* The Flood Insurance Rate Map panels adopted by reference into §21.208.01(d) above may include floodplain areas that lie outside of the corporate boundaries of the City of Bloomington at the time of adoption of this ordinance. If any of these floodplain land areas are annexed into the City of Bloomington after the date of adoption of this ordinance, the newly annexed floodplain lands will be subject to the provisions of this ordinance immediately upon the date of annexation.

(k) *Establishment of Zoning Subareas.*

(1) Floodway Area. The Floodway Area includes areas within Zones AE that have a floodway delineated as shown on the Flood Insurance Rate Map adopted in §21.208.01(d). For lakes, wetlands and other basins within Zones A and AE that do not have a floodway delineated, the Floodway Area also includes those areas that are at or below the ordinary high water level as defined in Minnesota Statutes, Section 103G.005, subdivision 14.

(2) Flood Fringe Area. The Flood Fringe Area includes areas within Zones AE that have a floodway delineated on the Flood Insurance Rate Map adopted in §21.208.01(d), but are located outside of the floodway. For lakes, wetlands

and other basins within Zones A and AE that do not have a floodway delineated, the Flood Fringe Area also includes those areas below the 1% annual chance (100-year) flood elevation but above the ordinary high water level as defined in Minnesota Statutes, Section 103G.005, subdivision 14.

(l) *Applicability.* Within the floodplain areas established in this ordinance, the use, size, type and location of development must comply with the terms of this ordinance and other applicable regulations. In no cases shall floodplain development adversely affect the efficiency or unduly restrict the capacity of the channels or floodways of any tributaries to the main stream, drainage ditches, or any other drainage facilities or systems. All uses not listed as permitted uses or conditional uses in §21.208.01(m-t) are prohibited.

(m) *Floodway Area (FW) Permitted Uses.* The following uses, subject to the standards set forth in §21.208.01(n), are permitted uses if otherwise allowed in the underlying zoning district or any applicable overlay district:

(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) Open space uses, including but not limited to private and public golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting preserves, hunting and fishing areas, and single or multiple purpose recreational trails.
(4) Residential lawns, gardens, parking areas, and play areas.
(5) Railroads, streets, bridges, utility transmission lines, culverts, and pipelines, provided that the Department of Natural Resources' Area Hydrologist is notified at least ten days prior to issuance of any permit.

(n) *Standards for Floodway Permitted Uses.*

(1) The use must have a low flood damage potential.
(2) The use must not obstruct flood flows or cause any increase in flood elevations and must not involve structures, obstructions, or storage of materials or equipment.
(3) Any facility that will be used by employees or the general public must be designed with a flood warning system that provides adequate time for evacuation if the area is inundated to a depth and velocity such that the depth (in feet) multiplied by the velocity (in feet per second) would exceed a product of four upon occurrence of the regional (1% chance) flood.

(o) *Floodway Area Conditional Uses.* The following uses may be allowed as conditional uses following the standards and procedures set forth in §21.208.01(ee) of this ordinance and further subject to the standards set forth in §21.208.01(p), if otherwise allowed in the underlying zoning district or any applicable overlay district.

(1) Structures accessory to the uses listed in §21.208.01(m)(1-3) above and the uses listed in §21.208.01(o)(2-3) below.

(2) Extraction and storage of sand, gravel, and other materials.
(3) Marinas, boat rentals, docks, piers, wharves, and water control structures.
(4) Storage yards for equipment, machinery, or materials.
(5) Travel-ready recreational vehicles meeting the exception standards in §21.208.01(aa)(2).
(6) Levees or dikes intended to protect agricultural crops for a frequency flood event equal to or less than the 10-year frequency flood event.

(p) *Standards for Floodway Conditional Uses.*
(1) All Uses. A conditional use must not cause any increase in the stage of the 1% chance or regional flood or cause an increase in flood damages in the reach or reaches affected.
(2) Fill; Storage of Materials and Equipment:
(A) The storage or processing of materials that are, in time of flooding, flammable, explosive, or potentially injurious to human, animal, or plant life is prohibited.
(B) Fill, dredge spoil, and other similar materials deposited or stored in the floodplain must be protected from erosion by vegetative cover, mulching, riprap or other acceptable method. Permanent sand and gravel operations and similar uses must be covered by a long-term site development plan.
(C) Temporary placement of fill, other materials, or equipment which would cause an increase to the stage of the 1% percent chance or regional flood may only be allowed if the City of Bloomington has approved a plan that assures removal of the materials from the floodway based upon the flood warning time available.
(3) Accessory Structures. Accessory structures, as identified in §21.208.01(o)(1), may be permitted, provided that:
(A) structures are not intended for human habitation;
(B) structures will have a low flood damage potential;
(C) structures will be constructed and placed so as to offer a minimal obstruction to the flow of flood waters;
(D) Service utilities, such as electrical and heating equipment, within these structures must be elevated to or above the regulatory flood protection elevation or properly floodproofed;
(E) Structures must be elevated on fill or structurally dry floodproofed in accordance with the FP1 or FP2 floodproofing classifications in the State Building Code. All floodproofed structures must be adequately anchored to prevent flotation, collapse or lateral movement and designed to equalize hydrostatic flood forces on exterior walls.
(F) As an alternative, an accessory structure may be internally/wet floodproofed to the FP3 or FP4 floodproofing classifications in the State Building Code, provided the accessory structure constitutes a minimal investment and does not exceed 576 square feet in size. Designs for meeting this requirement must either be certified by a registered

professional engineer in the State of Minnesota and meet or exceed the following criteria:

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

(ii) 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.

(4) Structural works for flood control that will change the course, current or cross section of protected wetlands or public waters are subject to the provisions of Minnesota Statutes, Section 103G.245.

(5) A levee, dike or floodwall constructed in the floodway must not cause an increase to the 1% chance or regional flood. The technical analysis must assume equal conveyance or storage loss on both sides of a stream.

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

(q) *Flood Fringe Area (FF) Permitted Uses.* Permitted uses are those uses of land or structures allowed in the underlying zoning district(s) that comply with the standards in §21.208.01(r). If no pre-existing, underlying zoning districts exist, then any residential or nonresidential structure or use of a structure or land is a permitted use provided it does not constitute a public nuisance.

(r) *Standards for Flood Fringe Permitted Uses.*

(1) All structures, including accessory structures, must be elevated on fill so that the lowest floor, as defined, is at or above the regulatory flood protection elevation. The finished fill elevation for structures must be no lower than regional flood elevation and the fill must extend at the same elevation at least 15 feet beyond the outside limits of the structure.

(2) Accessory Structures. As an alternative to the fill requirements of §21.208.01(r)(1), structures accessory to the uses identified in §21.208.01(q) may be permitted to be internally/wet floodproofed to the FP3 or FP4 floodproofing classifications in the State Building Code, provided that:

(A) the accessory structure constitutes a minimal investment, does not exceed 576 square feet in size, and is only used for parking and storage.

(B) All portions of floodproofed accessory structures below the Regulatory Flood Protection Elevation must be: (i) adequately anchored to prevent flotation, collapse or lateral movement and designed to equalize hydrostatic flood forces on exterior walls, (ii) be constructed with materials resistant to flood damage, and (iii) must have all service utilities be water-tight or elevated to above the regulatory flood protection elevation.

(C) Designs for meeting this requirement must either be certified by a registered professional engineer in the State of Minnesota and meet or exceed the following criteria:

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

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

(3) The cumulative placement of fill or similar material on a parcel must not exceed 1,000 cubic yards, unless the fill is specifically intended to elevate a structure in accordance with §21.208.01(r)(1) of this ordinance, or if allowed as a conditional use under §21.208.01(s)(3) below.

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

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

(6) 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.

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

(8) All new principal structures must have vehicular access at or above the regional flood elevation, or must have a flood warning /emergency evacuation plan acceptable to the City of Bloomington.

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

(10) Interference with normal manufacturing/industrial plant operations must be minimized, especially along streams having protracted flood durations. In considering permit applications, due consideration must be given to the needs of industries with operations that require a floodplain location.

(11) Manufactured homes and recreational vehicles must meet the standards of §21.208.01(z-aa) of this ordinance.

(s) *Flood Fringe Area Conditional Uses.* The following uses and activities may be allowed as conditional uses, if allowed in the underlying zoning district(s) or any applicable overlay district, following the procedures in §21.208.01(ee) of this ordinance.

(1) Any structure that is not elevated on fill or floodproofed in accordance with §21.208.01(r)(1-2) of this ordinance.
(2) Storage of any material or equipment below the regulatory flood protection elevation.
(3) The cumulative placement of more than 1,000 cubic yards of fill when the fill is not being used to elevate a structure in accordance with §21.208.01(r)(1) of this ordinance.
(4) The use of methods to elevate structures above the regulatory flood protection elevation, including stilts, pilings, parallel walls, or above-grade, enclosed areas such as crawl spaces or tuck under garages, shall meet the standards in §21.208.01(t)(6).

(t) *Standards for Flood Fringe Conditional Uses.*
(1) The standards listed in §21.208.01(r)(4-10) apply to all conditional uses.
(2) Basements, as defined by this ordinance, are subject to the following:
(A) Residential basement construction is not allowed below the regulatory flood protection elevation.
(B) Non-residential basements may be allowed below the regulatory flood protection elevation provided the basement is structurally dry floodproofed in accordance with §21.208.01(t)(3) of this ordinance.
(3) All areas of nonresidential structures, including basements, to be placed below the regulatory flood protection elevation must be floodproofed in accordance with the structurally dry floodproofing classifications in the State Building Code. Structurally dry floodproofing must meet the FP1 or FP2 floodproofing classification in the State Building Code, which requires making the structure watertight with the walls substantially impermeable to the passage of water and with structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.
(4) The placement of more than 50 cubic yards of fill or other similar material on a parcel (other than for the purpose of elevating a structure to the regulatory flood protection elevation) must comply with an approved erosion/sedimentation control plan.
(A) The plan must clearly specify methods to be used to stabilize the fill on site for a flood event at a minimum of the regional (1% chance) flood event.
(B) The plan must be prepared and certified by a registered professional engineer in the State of Minnesota.
(C) The plan may incorporate alternative procedures for removal of the material from the floodplain if adequate flood warning time exists.
(5) Storage of materials and equipment below the regulatory flood protection elevation must comply with an approved emergency plan providing for removal of such materials within the time available after a flood warning.
(6) Alternative elevation methods other than the use of fill may be utilized to elevate a structure's lowest floor above the regulatory flood protection elevation. The base or floor of an enclosed area shall be considered above-grade and not a structure's basement or lowest floor if: 1) 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:

(A) Design and Certification - The structure's design and as-built condition must be certified by a registered professional engineer in the State of Minnesota 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.

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

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

(ii) That the enclosed area will be designed of flood resistant materials in accordance with the FP3 or FP4 classifications in the State Building Code and shall be used solely for building access, parking of vehicles or storage.

(u) *Subdivisions.* No land may be subdivided which is unsuitable for reasons of flooding or inadequate drainage, water supply or sewage treatment facilities. Manufactured home parks and recreational vehicle parks or campgrounds are considered subdivisions under this ordinance.

(1) All lots within the floodplain areas must be able to contain a building site outside of the Floodway Area at or above the regulatory flood protection elevation.

(2) All subdivisions must have road access both to the subdivision and to the individual building sites no lower than two feet below the regulatory flood protection elevation, unless a flood warning emergency plan for the safe evacuation of all vehicles and people during the regional (1% chance) flood has been approved by the City of Bloomington. The plan must be prepared by a registered engineer in the State of Minnesota or other qualified individual,

and must demonstrate that adequate time and personnel exist to carry out the evacuation.

(3) For all subdivisions in the floodplain, the Floodway and Flood Fringe Area boundaries, the regulatory flood protection elevation and the required elevation of all access roads must be clearly labeled on all required subdivision drawings and platting documents.

(4) If a subdivision proposal or other proposed new development is in a flood prone area, any such proposal must be reviewed to assure that:

(A) All such proposals are consistent with the need to minimize flood damage within the flood prone area,

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

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

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

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

(2) Constructed with materials and utility equipment resistant to flood damage;

(3) Constructed by methods and practices that minimize flood damage; and

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

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

(x) *Public Transportation Facilities.* Railroad tracks, roads, and bridges to be located within the floodplain must comply with §21.208.01(m-t) of this ordinance. These transportation facilities must be elevated to the regulatory flood protection elevation where failure or interruption of these facilities would result in danger to the public health or safety or where such facilities are essential to the orderly functioning of the area. Minor or auxiliary roads or railroads may be constructed at a lower elevation where failure or interruption of transportation services would not endanger the public health or safety.

(y) *On-site Water Supply and Sewage Treatment 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 are subject to the provisions in Minnesota Rules Chapter 4725.4350, as amended; and 2) New or replacement on-site sewage treatment systems must be designed to minimize or

eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, they must not be subject to impairment or contamination during times of flooding, and are subject to the provisions in Minnesota Rules Chapter 7080.2270, as amended.

(z) *Manufactured Homes.* New manufactured home parks and expansions to existing manufactured home parks are prohibited in any floodplain area. For existing manufactured home parks or lots of record, the following requirements apply:

(1) Placement or replacement of manufactured home units is prohibited in the Floodway Area.

(2) If allowed in the Flood Fringe Area, placement or replacement of manufactured home units is subject to the requirements of §21.208.01(q-t) of this ordinance and the following standards.

(A) New and replacement manufactured homes must be elevated in compliance with §21.208.01(q-t) of this ordinance and must be securely anchored to an adequately anchored foundation system that resists flotation, collapse and lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state or local anchoring requirements for resisting wind forces.

(B) New or replacement manufactured homes in existing manufactured home parks must meet the vehicular access requirements for subdivisions in §21.208.01(u)(2).

(aa) *Recreational Vehicles.* New recreational vehicle parks or campgrounds and expansions to existing recreational vehicle parks or campgrounds are prohibited in any floodplain area. Placement of recreational vehicles in existing recreational vehicle parks or campgrounds in the floodplain must meet the exemption criteria below or be treated as new structures meeting the requirements of this ordinance.

(1) Recreational vehicles are exempt from the provisions of this ordinance if they are placed in any of the following areas and meet the criteria listed in §21.208.01(aa)(2):

(A) Individual lots or parcels of record.

(B) Existing commercial recreational vehicle parks or campgrounds.

(C) Existing condominium-type associations.

(2) Criteria for Exempt Recreational Vehicles:

(A) The vehicle must have a current license required for highway use.

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

(C) No permanent structural type additions may be attached to the vehicle.

(D) The vehicle and associated use must be permissible in any pre-existing, underlying zoning district.(3)Recreational vehicles that are exempt in §21.208.01(aa)(2) lose this exemption when development occurs on the site that exceeds a minimal investment for an accessory structure such as a garage or storage building. The recreational vehicle and all accessory structures will then be treated as new structures subject to the elevation and

floodproofing requirements of §21.208.01(q-t) of this ordinance. No development or improvement on the parcel or attachment to the recreational vehicle is allowed that would hinder the removal of the vehicle should flooding occur.

(bb) *Zoning Administrator.* The Planning Manager or designee must administer and enforce this ordinance.

(cc) *Floodplain Permit Requirements.*

(1) Permit Required. A floodplain permit must be obtained from the Planning Manager or designee prior to conducting the following activities in the Flood Hazard Overlay District:

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

(B) The use or change of use of a building, structure, or land.

(C) The construction of a dam, fence, or on-site septic system.

(D) The change or extension of a nonconforming use.

(E) The repair of a structure that has been damaged by flood, fire, tornado, or any other source.

(F) The placement of fill, excavation of materials, or the storage of materials or equipment within the floodplain.

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

(H) Any other type of "development" as defined in this ordinance.

(2) Application for Floodplain Permit. Floodplain permit applications must be submitted to the Planning Manager or designee on forms provided by the Planning Manager or designee. The floodplain permit application must include the following as applicable:

(A) A site plan showing all pertinent dimensions, existing or proposed buildings, structures, and significant natural features having an influence on the permit.

(B) Location of fill or storage of materials in relation to the stream channel.

(C) Copies of any required municipal, county, state or federal permits or approvals.

(D) Other relevant information requested by the Planning Manager or designee as necessary to properly evaluate the floodplain permit application.

(3) Certificate of Zoning Compliance for a New, Altered, or Nonconforming Use. No building, land or structure in the Flood Hazard Overlay District may be occupied or used in any manner until a certificate of zoning compliance has been issued by the Planning Manager or designee stating that the use of the building or land conforms to the requirements of this ordinance.

(4) Certification. The applicant is 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 ordinance. Floodproofing measures must be certified by a registered professional engineer or registered architect.

(5) Record of First Floor Elevation. The Planning Manager or designee must maintain a record of the elevation of the lowest floor (including basement) of all new structures and alterations or additions to existing structures in the floodplain. The Zoning Administrator must also maintain a record of the elevation to which structures and alterations or additions to structures are floodproofed.

(6) Notifications for Watercourse Alterations. Before authorizing any alteration or relocation of a river or stream, the Planning Manager or designee must notify adjacent communities. If the applicant has applied for a permit to work in public waters pursuant to Minnesota Statutes, Section 103G.245, this will suffice as adequate notice. A copy of the notification must also be submitted to the Chicago Regional Office of the Federal Emergency Management Agency (FEMA).

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

(dd) *Variances.*

(1) Variance Applications. An application for a variance to the provisions of this ordinance will be processed and reviewed in accordance with applicable state statutes and §2.98.01of the zoning ordinance/code.

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

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

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

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

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

(4) Flood Insurance Notice. The Planning Manager or designee must 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 base or regional flood level increases risks to life and property. Such notification must be maintained with a record of all variance actions.

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

(A) The potential danger to life and property due to increased flood heights or velocities caused by encroachments;

(B) The danger that materials may be swept onto other lands or downstream to the injury of others;

(C) The proposed water supply and sanitation systems, if any, and the ability of these systems to minimize the potential for disease, contamination and unsanitary conditions;

(D) The susceptibility of any proposed use and its contents to flood damage and the effect of such damage on the individual owner;

(E) The importance of the services to be provided by the proposed use to the community;

(F) The requirements of the facility for a waterfront location;

(G) The availability of viable alternative locations for the proposed use that are not subject to flooding;

(H) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future;

(I) The relationship of the proposed use to the Comprehensive Land Use Plan and 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.

(6) Submittal of Hearing Notices to the Department of Natural Resources (DNR). The Planning Manager or designee must submit hearing notices for proposed variances to the DNR sufficiently in advance to provide at least ten days' notice of the hearing. The notice may be sent by electronic mail or U.S. Mail to the respective DNR area hydrologist.

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

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

(ee) *Conditional Uses.*

(1) Review. An application for a conditional use permit under the provisions of this ordinance will be processed and reviewed in accordance with §21.501.04 of the zoning ordinance/code.

(2) Factors Used in Decision-Making. In acting upon conditional use applications, the Bloomington City Council or Planning Commission must consider all relevant factors specified in other sections of this ordinance, and those factors identified in §21.208.01(dd)(5) of this ordinance.

(3) Conditions Attached to Conditional Use Permits. The Bloomington City Council may attach such conditions to the granting of conditional use permits as it deems necessary to fulfill the purposes of this ordinance. Such conditions may include, but are not limited to, the following:

(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) Floodproofing measures, in accordance with the State Building Code and this ordinance. The applicant must submit a plan or document certified by a registered professional engineer or architect that the floodproofing measures are consistent with the regulatory flood protection elevation and associated flood factors for the particular area.

(4) Submittal of Hearing Notices to the Department of Natural Resources (DNR). The Planning Manager or designee must submit hearing notices for proposed conditional uses to the DNR sufficiently in advance to provide at least ten days' notice of the hearing. The notice may be sent by electronic mail or U.S. Mail to the respective DNR area hydrologist.

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

(ff) *Continuance of Nonconformities.* A use, structure, or occupancy of land which was lawful before the passage or amendment of this ordinance but which is not in conformity with the provisions of this ordinance may be continued subject to the following conditions. Historic structures, as defined in this ordinance, are subject to the provisions of §21.208.01(ff)(1-6) of this ordinance.

(1) A nonconforming use, structure, or occupancy must not be expanded, changed, enlarged, or altered in a way that increases its flood damage potential or degree of obstruction to flood flows except as provided in §21.208.01(ff)(2) below. Expansion or enlargement of uses, structures or occupancies within the Floodway Area is prohibited.

(2) Any addition or structural alteration to a nonconforming structure or nonconforming use that would result in increasing its flood damage potential must be protected to the regulatory flood protection elevation in accordance with any of the elevation on fill or floodproofing techniques (i.e., FP1 thru FP4

floodproofing classifications) allowable in the State Building Code, except as further restricted in §21.208.01(ff)(3-7) below.

(3) If the cost of all previous and proposed alterations and additions exceeds 50 percent of the market value of any nonconforming structure, that shall be considered substantial improvement, and the entire structure must meet the standards of §21.208.01(m-t) of this ordinance for new structures, depending upon whether the structure is in the Floodway or Flood Fringe Area, respectively. The cost of all structural alterations and additions must include all costs such as construction materials and a reasonable cost placed on all manpower or labor.

(4) If any nonconforming use, or any use of a nonconforming structure, is discontinued for more than one year, any future use of the premises must conform to this ordinance. The Assessor must notify the Planning Manager or designee in writing of instances of nonconformities that have been discontinued for a period of more than one year.

(5) If any nonconformity is substantially damaged, as defined in this ordinance, it may not be reconstructed except in conformity with the provisions of this ordinance. The applicable provisions for establishing new uses or new structures in §21.208.01(m-t) will apply depending upon whether the use or structure is in the Floodway or Flood Fringe, respectively.

(6) If any nonconforming use or structure experiences a repetitive loss, as defined in this ordinance, it must not be reconstructed except in conformity with the provisions of this ordinance.

(7) Any substantial improvement, as defined in this ordinance, to a nonconforming structure requires that the existing structure and any additions must meet the requirements of §21.208.01(m-t) of this ordinance for new structures, depending upon whether the structure is in the Floodway or Flood Fringe Area.

(gg) *Penalties and Enforcement.*

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

(2) Other Lawful Action: Nothing in this ordinance restricts the City of Bloomington from taking such other lawful action as is necessary to prevent or remedy any violation. If the responsible party does not appropriately respond to the Planning Manager or designee within the specified period of time, each additional day that lapses will constitute an additional violation of this ordinance and will be prosecuted accordingly.

(3) Enforcement: Violations of the provisions of this ordinance will be investigated and resolved in accordance with the provisions of Section 19.21 of the City Code. In responding to a suspected ordinance violation, the Planning Manager or designee and the Bloomington City Council may utilize the full array of enforcement actions available to it including but not limited to

prosecution and fines, injunctions, after-the-fact permits, orders for corrective measures or a request to the National Flood Insurance Program for denial of flood insurance availability to the guilty party. The City of Bloomington 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.

(hh) *Amendments.*

(1) Floodplain Designation – Restrictions on Removal: The floodplain designation on the Official Zoning Map must not be removed from floodplain areas unless it can be shown that the designation is in error or that the area has been filled to or above the elevation of the regulatory flood protection elevation and is contiguous to lands outside the floodplain. Special exceptions to this rule may be permitted by the Commissioner of the Department of Natural Resources (DNR) if the Commissioner determines that, through other measures, lands are adequately protected for the intended use.

(2) Amendments Require DNR Approval: All amendments to this ordinance must be submitted to and approved by the Commissioner of the Department of Natural Resources (DNR) prior to adoption. The Commissioner must approve the amendment prior to community approval.

(3) Map Revisions Require Ordinance Amendments. The floodplain district regulations must be amended to incorporate any revisions by the Federal Emergency Management Agency to the floodplain maps adopted in §21.208.01(d) of this ordinance.

ARTICLE III: DEVELOPMENT STANDARDS

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DIVISION A: GENERAL STANDARDS

§ 21.301.08 FENCES

(j) Permit. Fence installations, alterations or repairs do not require a permit, with the following exceptions.

(1) A fence greater than seven feet in height, where permitted by this code, requires a building permit from the City Building and Inspection Division prior to installation.

(2) The installation of a fence within a floodplain as specified in § [~~19.38.02~~] 21.208.01 requires the approval of the Planning Manager prior to installation.

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ARTICLE V: ADMINISTRATION AND NONCONFORMITY

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DIVISION B: OVERLAY ZONING DISTRICTS

§ 21.502.01 APPLICATION PROCESSES AND FEES

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(c) *Application processes and fees.*

Application Process	***Review and Decision Making Authority***					***Notice***		***Fee***
	DRC	***ST***	***HE***	***PC***	***CC***	***N***	***Mail***	
***								
Miscellaneous								
Floodplain Permit		DM						$130
Certification of Floodplain Zoning Compliance		DM						$95

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Passed and adopted this _____ day of _____ 2016.

_____
Mayor

ATTEST:

_____
Secretary to the Council

APPROVED:

_____
City Attorney