

**MINUTES OF A REGULAR CITY COUNCIL MEETING HELD WEDNESDAY
OCTOBER 19, 2011 - 6:00 P.M. – ROCKVILLE CITY HALL.**

The meeting was called to order by Mayor Jeff Hagen. Roll Call was taken and the following members were found to be present: Mayor Hagen, Council Members: Bill Becker, Jeff Howe, Jerry Schmitt, Don Simon, Randy Volkmuth & Duane Willenbring. Absent: None

Staff members present were: Administrator/Clerk Rena Weber, Planning Commission Chair Toni Honer and Ron Wasmund – Building Inspector.

Other's present were: Lt. Jon Lentz, Tudie Hermanutz, Eugene & Jan Mick, Stephanie Dickrell, Dave Volkmuth & Gwen Ballinger.

**ADDITIONS TO THE AGENDA – Motion by Member Willenbring, second by Member Volkmuth, to approve the additions to the agenda for discussion purposes.
AYES: Becker, Hagen, Howe, Schmitt, Simon, Volkmuth & Willenbring
Motion passed on a 7 to 0 vote.**

OPEN FORUM

Randy Volkmuth reported that the Pleasant Lake Homeowners Association is concerned about the area to the right of the public access stating that it is becoming a beach. There used to be a sign posted where no swimming was allowed. They are concerned that this is a safety issue and would like to see if the city can put in a word with the DNR.

Lt. Jon Lentz indicated they could enforce this if the sign is put up. Rena will follow up with the DNR on this request.

CONSENT AGENDA

Motion by Member Volkmuth, second by Member Willenbring, to approve the consent agenda as presented:

- a) Approve minutes of 09/14/2011
- b) Approve Treasurer's Report of 10/19/2011
- c) Approve List of Bills and Additions of 10/19/2011

Accounts Payable Check # 013201 to 013271	\$94,221.90
Payroll Check #004075 to 004103	18,899.90
EFT #000560 to 000570	7,759.42
- d) Unpaid bills to tax rolls pending pmt. before 11/15

\$65,189.23

**AYES: Becker, Hagen, Howe, Schmitt, Simon, Volkmuth & Willenbring
Motion passed on a 7 to 0 vote.**

BOARD/STAFF REPORT

POLICE REPORT – Lt. Jon Lentz was present to report that in September 33 contract hours were charged. With this there were 5 citations.

Rena Weber reported that since the last meeting she reviewed both the noise ordinance and Basic Code nuisance ordinance and feels that the city is covered by the requirements. The adoption also includes the MN State rule regarding decibel limits so it is available to use should we need to. Staff will give a copy of both ordinances to the bar owners.

PLANNING COMMISSION – Chair Toni Honer was present to report on the following:

ADMINISTRATIVE PLATS Roger Bechtold 25705 County Road 2 & Greg Mueller 25770 133rd Ave. have both requested approval to split off their farm houses from the tillable land. These are necessary so the property owners have an option to sell their properties once CAPX 2020 wants an easement on the land for the power line. They are setting aside the difference to equal 40 acres on the rest of the property. This is not for any building project. No council action is needed.

COVENANT EUGENE AND JAN MICK - 24935 County Road 138 Rena Weber indicated that they own two lots 2 & 3, Block 1 of Mickville which is separated by a Mick Lane – one is homesteaded, one is not. They would like to combine the two lots and get the benefit of lower taxes. They have signed a covenant that says they have to be sold together and can't be split unless they apply with the future council to release the covenant.

Motion by Member Volkmuth, second by Member Howe, to approve the following covenant as presented:

COVENANT

In consideration of the approval to combine two lots into one for homestead credit purposes, the undersigned owners covenant and agree with the City of Rockville, Stearns County, Minnesota, a municipal corporation, which no dwelling, structure of other building shall be constructed on:

Lot 3, Block 1, Mickville and must be sold with Lot 2, Block 1, Mickville. This shall be forever conveyed only as an integral and inseparable parcel, and all deeds of conveyance shall so provide, and the purchasers, grantees, and encumbrances, by acceptance of the conveyance covenant and agree for themselves, their heirs and assigns forever that the foregoing restrictions shall be a covenant running with and binding both lots and block.

AYES: Becker, Hagen, Howe, Schmitt, Simon, Volkmuth & Willenbring

Motion passed on a 7 to 0 vote.

FLOODPLAIN ORDINANCE – Rena Weber reported that the Planning Commission reviewed this at their last meeting. It is quite simply a sample ordinance provided by the DNR which was modified to fit Rockville's needs. The only area this affects is along the Sauk River (which is in the floodplain). Your approval of the concept is needed so I can send it to the DNR who will review and after they approve it we will hold a public hearing.

Motion by Member Howe, second by Member Becker, to accept the proposed floodplain ordinance to be sent to the DNR for approval. Copy is hereby attached as Exhibit A.

AYES: Becker, Hagen, Howe, Schmitt, Simon, Volkmuth & Willenbring

Motion passed on a 7 to 0 vote.

PUBLIC WORKS – Public Works Director Rick Hansen submitted a request for council action: Please approve the purchase of salt for the upcoming snow removal season. Prices are as follow.
Amcon \$85.36/ton delivered-24 ton minimum
Holicky Bros. \$75/ton delivered-24 ton minimum
2011 state bid price \$76.39/ton delivered
Please approve Holicky Bros for 48 tons of salt for a price of \$4097.28
We will be getting the sand from Kraemer Trucking and Exc. at a price of \$5.00/ton. We will need approximately 144 yards.
Fund # 101-43100-228 balance is 2011 budget \$7,843.64

Motion by Member Volkmuth, second by Member Willenbring, to approve the purchase of salt from Holicky Brothers at a price of \$4,097.28.

AYES: Becker, Hagen, Howe, Schmitt, Simon, Volkmuth & Willenbring

Motion passed on a 7 to 0 vote.

OLD BUSINESS

2011 AMENDED FEE SCHEDULE – Rena Weber reported that this change includes going from \$50 to \$100 for shut-offs. The Public Works Committee recommends this as hopefully a way to get people to pay their bills.

Motion by Member Volkmuth, second by Member Simon, to approve the 2011 amended fee schedule as presented:

Member Howe questioned why this is being done.

Member Volkmuth explained that staff is recouping the time spent in collecting payment for unpaid water/sewer bills.

Member Howe asked if this will improve the situation. The fee should affect the expense. When we put the stem on the valve to shut the water off – the decision has been made.

Member Willenbring stated that once Public Works mechanism is on a roll they have already violated the rule as the decision has been made here (Administration).

Member Howe felt the fee should cover the cost so when the Public Works goes out it is assessed.

Member Willenbring stated the city should be made whole, but the city should not get rich on this. Administration makes the decision and Public Works does the shut off.

AYES: Becker, Hagen, Howe, Schmitt, Simon, Volkmuth & Willenbring

Motion passed on a 7 to 0 vote.

TOM MASELTER –Rena Weber reported on the history involving the abatement issue. Mr. Maselter bought a garage and received approval from the former city of Rockville to operate a cabinet making business out of. Tom had a shed to the east of the property and decided to attach the two structures without a permit. By attaching the two structures he needed to have plans drawn up by an architect (snow load) is the issue here. He was looking at a variance from setbacks, a new reinforced roof or tear down the former shed and construct higher on the original garage.

Toni Honer reported that the Planning Commission has visited with Tom a number of times and tried to get a firm answer from him. This is a liability issue with him working in this garage with an unsafe roof – if it should collapse the city may be sued for allowing him to occupy a structure that was not up to par. He asked the Planning Commission what he needs to do and we told him. He is not following through. The Planning Commission is concerned too and is at the point whereby abatement is the next step.

Ron Wasmund – Building Inspector reported on the building structure and the issues involved.

As the structure sits now it would fall (without the design that would support the structure that was completed over there) undersized structurally and we are unclear in how it is being used. There could be fire separation issues. This sub-standard structure would fall under MN State Building Code Chapter 1300.0180

In that section there are certain steps that need to be followed:

- ◆ The city needs to notify Mr. Maselter of the sub-standard building. MN State Building Code Chapter 1300.0110
- ◆ Formal action – notify him of the substandard condition of the building
- ◆ Condition Abatement can be ordered by removal or have engineering and some invasive measure such as taking off sheeting of the interior finish to show how the structure was put together or tear it down

Member Volkmuth questioned how close he is to the property line. Member Howe reported it is about right on the line. Chair Honer reported that the real issue is that Mr. Maselter wants to put a bathroom in the lean to portion that is now attached to the main structure thereby expanding a non-conforming use.

The Planning Commission has asked for the engineer information regarding the roof strength and nothing has been brought in.

Mayor Hagen asked if the concern is because he wants to live there. Ron Wasmund reported that the fire wall is required because of proximity to property line and also the area of the shop and storage including this area that has been finished off exceeds the building code storage limit.

Ron Wasmund reported that the building code states that every building is assigned a occupancy classification use and a construction type.

- ◆ Occupancy classification use ranges from assembly to residential.
- ◆ Construction type ranges from 1A (which is fire resistant concrete) to 5 B (which is common wood construction) so with each occupancy classification paired with the construction type there is an allowable size allowed without a fire wall.

- ◆ An F-1 cabinet shop in a 5B construction you are allowed a 6,000 sf one story structure.
- ◆ We do have a fire wall issue due to the proximity of the lot line. We have nothing right now. By doing the 12' to 14'in fill between the main structure and the lean to the exterior wall of the lean to is an extension of the cabinet shop so it needs to have a fire wall as it comes in proximity of the property line.
- ◆ If it is a residence as he has indicated he wants to create – then the fire resistant wall is required between the cabinet shop and residence so different rules apply.

Member Volkmuth asked if the issue really is requirement of the engineers report and addressing the fire wall.

Member Howe indicated we don't know how it was built and the bigger issue is we do not know what the truss system is or is it inadequate. What has to be done is Mr. Maselter is to get an engineers report to pull a permit, bring it up to code and this has not been done. Part of this is a money issue.

Member Volkmuth asked what our options are.

Member Becker asked if we need to give him a timeline to respond to the request.

Ron Wasmund stated we need to notify him under MN Building Code 1300.0180 of the sub-standard building.

- ◆ Give him time to respond to correct the problem
- ◆ He can respond with a plan for the intended use of the building

If he responds back with a plan and demonstrates he has made progress then we can deal with the abatement process. If he does not respond or responds with a negative response then we respond as a city with a court order to remove the elements that are sub-standard.

Member Volkmuth asked Ron if he has dealt with this in the past. He agrees that the city needs to do something but if money is the issue then what.

Ron Wasmund replied that if money is an issue then he has to undue what he did when he enclosed the structures and caused it to be non-conforming.

Mayor Hagen asked about the fire resistivity and we have at least one building that is on the lot line and the exterior wall does not meet the fire wall requirement as it stands. If we go back to before he connected the two he did not meet the requirement. Ron Wasmund indicated this is correct.

Mayor Hagen stated so if you require him to take down the area that he connected the two he still has that problem. Ron Wasmund indicated there is, but there would be a 14' gap between the cabinet shop and what was and is a detached storage shed, but would be enough distance to affect the fire resistant rules.

Member Willenbring asked is everything documented and then if a structural engineering firm is called in will Ron be looking at that certification? Yes

Member Willenbring questioned the cost to doing this and should it be a cost to the citizens. No it would be put on the tax rolls.

Member Willenbring asked is there allowable land east? No

Mayor Hagen asked if there are other options like putting a lock on it or find another avenue like turning off the gas – electricity. This needs to be looked into.

Member Volkmuth agreed with the Mayor that this should be the avenue to take.

Member Becker asked if there are steps to be followed. Rena Weber reported that Ron Wasmund has supplied the steps that need to be followed. *Refer to document marked Exhibit B*

Motion by Member Volkmuth, second by Member Willenbring, to take the proper steps by first putting together a letter stating what is sub-standard, what actions we plan to take if he does not follow through and also set definite deadlines for expected completion. Further he is to be notified that certain costs are being generated by the city building inspector and city staff and he will be billed those costs.

AYES: Becker, Hagen, Howe, Schmitt, Simon, Volkmuth & Willenbring

Motion passed on a 7 to 0 vote.

COMMITTEE REPORTS

RENTAL ORDINANCE – SUB-COMMITTEE - Ron Wasmund reported that he did not generate the language for the ordinance amendment, but the committee wants to look at a way that recognizes rental property owners that are compliant each year without any changes by looking at a bye year for rental fees. No inspections.

The more problematic property would still have to comply.

Ron Wasmund is to come up with a fee schedule that mirrors the bye year for people and to step up the heat with those who have problems with their property.

EDA – RENTAL OF CITY HALL MEETING ROOM - Rena Weber reported that Aaron Miller - APS has been renting the city hall meeting room 2 – 3 times a week and will continue to do so if they can get a discounted rate \$100 per month. Rena reported that this has not been an issue and feels the extra income does not hurt. The EDA recommends approval to charge the \$100/month fee.

Motion by Member Volkmuth, second by Member Willenbring, to approve charging a fee of \$100/month to rent the city hall meeting room.

AYES: Becker, Hagen, Howe, Schmitt, Simon, Volkmuth & Willenbring

Motion passed on a 7 to 0 vote.

TOTAL LAWN CARE – Mayor Hagen spoke about why he said what he said regarding Total Lawn Care in the St. Cloud Times recently. He is not a supporter of tax abatement, JOBZ, or TIF as companies use this as a tool to pit city against city or township. If the amount of tax abatement is that critical and is going to make or break them then they probably had a weak business plan by building too much, spending too much and making promises they can't keep. When they don't keep those promises such as hiring a certain amount of people at a certain wage, the community that is giving up the tax dollars does not have any way of enforcing it. He thinks people tend to forget that it is not only the city taxes being abated, but also the county and school district taxes so that shifts the tax burden so effectively we are taking the future tax dollars from the business and private residents portion of the taxes.

He also thinks that you can get into a situation with a company that has larger political or economical clout and is using it against the city. He can see why a company would use it, but he would like to see the state or federal government take the programs away so companies would stand on their own.

Mr. Griffin stated he always intended to stay in Cold Spring. We are not doing our neighboring cities (like Cold Spring) any favors because all we are doing is making it more expensive for them to keep the business.

Mayor Hagen is not sure how this fits with the EDA because their goal is to get new business in the city. He is not sure how the Council feels about this and maybe we need to schedule a joint session with the EDA.

Rena Weber asked if he feels differently about keeping businesses in the city.

Mayor Hagen asked if the business is coming to us saying if you don't give us a tax break we are going to move somewhere else. How is that any different from a new business?

Member Volkmuth indicated that he had changed his mind about business subsidy from 10 years ago. Even though you are bringing jobs to the city you are taking them away from someone else. In his mind this is a zero sum game and feels the business is pitting another city against us.

Mayor Hagen suggested we schedule a meeting with EDA to discuss this further.

Member Simon indicated that we have to do something. Several people have told him that Rockville does not want business. There has to be some way we can help people stay here.

Member Volkmuth disagreed as there are costs to moving a business. The issue is that you are pitting one city against another and the only one that wins is the business. TIF in general used to be for residential.

Member Howe indicated he did not have a problem with TIF for infrastructure costs.

Member Volkmuth feels that this is what was intended, but has changed since then.

Mayor Hagen indicated that typically city councils are not professional investment people. Letting your council make a decision picking winners and losers in deciding where to invest your tax dollars is not something he is comfortable with.

Member Volkmuth indicated that basically you make it okay for a business to operate, but not be enriched by the tax payers.

Member Willenbring stated we need to have a serious discussion with the EDA about the future.

RTCB – Rena Weber reported that the RTCB is in support of setting up a Rocori Area Foundation to support such things as the Rocori Trail. There are people out there who want to donate funds to a project and we should keep that money local.

Member Willenbring reported that appraisals are being done on the property in Cold Spring and should be finished up soon.

MAYOR REPORT - Mayor Hagen had nothing to report.

NEW BUSINESS

REQUEST TO PLACE SEWER STUB ASSESSMENT ON TAX ROLLS - Mike Laudenbach purchased one of the Voigt's 7 lots and again the Voigt's did not tell him that there was an extra expense to hook up to trunk sewer. He is asking if this can be put on the tax rolls for 10 years like we did with Lois Lenzmeier. The amount is \$6680.86 for 10 years at 4.34% interest.

Motion by Member Volkmuth, second by Member Howe, to approve the request to place \$6680.86 on the tax rolls for 10 years at 4.34% interest.

AYES: Becker, Hagen, Howe, Schmitt, Simon, Volkmuth & Willenbring

Motion passed on a 7 to 0 vote.

ADMINISTRATOR'S REPORT

SERVER – Rena Weber requested approval of:

Please approve the bid of Dijital Majik for a new server. I received two quotes:

CW Technology	\$5390 installed
Dijital Majik	\$4509.74 installed

We moved into the new city hall in 2006 and 5 years is the length of time a server is estimated to be good for. We have \$160,000 + in the general fund designated funds and I propose to use this.

Fund # 101-41940-540 (\$2,000 from 2011 budget)

Designated Fund # 101-41940-540 (\$2,510 remaining portion)

Budget Amendment

Decrease Designated Funds 101-41940-540	-\$2,510
Increase 2011 budget 101-41940-540	+\$2,510

Journal Entry reflecting the reduction in Designated Funds

DR Designated Funds	\$2,510
---------------------	---------

CR Unreserved Funds	\$2,510
---------------------	---------

Motion by Member Volkmuth, second by Member Becker, to approve the purchase of a new server and budget amendments as presented.

AYES: Becker, Hagen, Howe, Schmitt, Simon, Volkmuth & Willenbring

Motion passed on a 7 to 0 vote.

SPEED STUDY – Rena Weber reported that Stearns County would like the council to request the speed study previously discussed by way of adopting a resolution.

Member Volkmuth introduced the following resolution and moved for its adoption:

RESOLUTION NO. 2011-18

RESOLUTION REQUESTING SPEED INVESTIGATION STUDY ON COUNTY ROAD 8 AND 139 IN THE CITY OF ROCKVILLE

WHEREAS, Certain speeding problems have been noticed on
County Road 8 – between old and new Highway 23,

County Road 139 – Sauk River Bridge north to intersection of Sauk River Road and County Road 139, and;

WHEREAS, It is in the best interest of the city of Rockville to ensure the safety of its residents.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Rockville, Stearns County, Minnesota.

1. The City Council hereby requests that a speed investigation study be done on portions of County Road 8 and 139 in the City of Rockville.

AYES: Becker, Hagen, Howe, Schmitt, Simon, Volkmuth & Willenbring
Motion passed on a 7 to 0 vote.

MUNICIPAL CONTRIBUTION – Rena Weber reported the city was notified of a reduction in municipal contribution to the fire relief association for 2012 to \$18,139.

REQUEST FOR COUNCIL ACTION – Rena Weber reported that the Rockville Lion’s Club has donated \$2,000 plus they will donate the additional \$283.26 to finish out the ceiling of the Park shelter at Pleasant Lake. To do this I will need to have you accept the donation, and then amend the budget.

Budget Amendment

Increase Revenue Fund # 101-41522-36230 \$2,283

Increase Expenditure Fund # 101-45122-590 \$2,283

Motion by Member Willenbring, second by Member Volkmuth, to approve the request as presented.

AYES: Becker, Hagen, Howe, Schmitt, Simon, Volkmuth & Willenbring
Motion passed on a 7 to 0 vote.

OPEN FORUM

LETTER TO EDITOR – Member Willenbring wished to point out that a letter to the editor *Cold Spring Record* recently cited Eagle Park as one of the most original of Mother Nature’s environment.

DAVE VOLKMUTH – 25574 LAKE ROAD – Mr. Volkmuth indicated he was listening to the discussion on business opportunity. He reported that his brother Don and a few other St. Cloud businessmen were assigned to bring business to their industrial park. They could not do that without the help of the City of St. Cloud. He urged the council to keep the door open so people can come in some way somehow. We need to have business in Rockville in the future.

SCML MEETING –Member Simon spoke of the SCML meeting held last night in Rockville where the market value homestead credit issue was discussed.

Member Willenbring reported that the money that we will not be getting amounts to \$42,600.

ADJOURNMENT – **Motion by Member Volkmuth, second by Member Schmitt, to adjourn the meeting at 7:15 p.m. Motion carried unanimously.**

VERENA M. WEBER-CMC
ADMINISTRATOR/CLERK

JEFF HAGEN
MAYOR

Rockville, MN Floodplain Management Ordinance
Three Districts - One-Map Format

Deleted: Sample
Deleted:

TABLE OF CONTENTS

	PAGE	
SECTION 1.0 STATUTORY AUTHORIZATION, FINDINGS OF FACT AND PURPOSE	1	
1.1 Statutory Authorization	1	
1.2 Findings of Fact	1	
1.3 Statement of Purpose	1	
SECTION 2.0 GENERAL PROVISIONS	1	
2.1 Lands to Which Ordinance Applies	1	
2.2 Establishment of Official Zoning Map	1	
2.3 Regulatory Flood Protection Elevation	2	
2.4 Interpretation	2	
2.5 Abrogation and Greater Restrictions	2	
2.6 Warning and Disclaimer of Liability	2	
2.7 Severability	2	
2.8 Definitions	2	
2.9 Annexations	4	
SECTION 3.0 ESTABLISHMENT OF ZONING DISTRICTS	5	
3.1 Districts	5	
3.2 Compliance	5	
SECTION 4.0 FLOODWAY DISTRICT (FW)	5	Deleted: 5
4.1 Permitted Uses	5	Deleted: 5
4.2 Standards for Floodway Permitted Uses	6	Deleted: 6
4.3 Conditional Uses	6	Deleted: 6
4.4 Standards for Floodway Conditional Uses	6	Deleted: 6
SECTION 5.0 FLOOD FRINGE DISTRICT (FF)	7	Deleted: 8
5.1 Permitted Uses	7	Deleted: 8
5.2 Standards for Flood Fringe Permitted Uses	8	
5.3 Conditional Uses	8	
5.4 Standards for Flood Fringe Conditional Uses	8	
5.5 Standards for All Flood Fringe Uses	10	
SECTION 6.0 GENERAL FLOOD PLAIN DISTRICT	10	Deleted: 1
6.1 Permissible Uses	10	Deleted: 1
6.2 Procedures for Floodway and Flood Fringe Determinations	11	Formatted: Right: 0.25" Deleted: [Type text]
Ordinance 2011-73	i	

SECTION 7.0	SUBDIVISIONS	12
7.1	Land Suitability Review Criteria	12
7.2	Requirements for Floodway/Flood Fringe Determinations	12
7.3	Removal of Special Flood Hazard Area Designation	12
SECTION 8.0	UTILITIES, RAILROADS, ROADS, AND BRIDGES	12
8.1	Public Utilities	12
8.2	Public Transportation Facilities	12
8.3	On-site Sewage Treatment and Water Supply Systems	12
SECTION 9.0	RESERVED FOR FUTURE USE	12
SECTION 10.0	ADMINISTRATION	13
10.1	Zoning Administrator	13
10.2	Permits, Certification Requirements and Record Keeping	13
10.3	Appeals and Variances/Duties of the Board of Adjustment	14
10.4	Conditional Uses-Standards and Evaluation Procedures	15
SECTION 11.0	NONCONFORMING USES	17
SECTION 12.0	PENALTIES FOR VIOLATION	18
SECTION 13.0	AMENDMENTS	18

Deleted: 3
Deleted: 3
Deleted: ¶ SECTION 9.0 MANUFACTURED HOMES/TRAVEL TRAILERS AND ¶ TRAVEL VEHICLES 13¶ ¶ 9.1 New Manufactured Home Parks 13¶ 9.2 Replacement Manufactured Homes- Existing Parks 13¶ 9.3 Recreational Vehicles 13
Deleted: 10
Deleted: ADMINISTRATION
Deleted:
Deleted: 4
Deleted: 10.
Deleted: 4
Deleted: 10
Deleted: 4
Deleted: 10
Deleted: 5
Deleted: ¶
Deleted: 10.
Deleted: 4
Deleted: 7
Deleted: 1
Deleted: 8
Deleted: 2
Deleted: 9
Deleted: 3
Deleted: 20

Formatted: Right: 0.25"
Deleted: [Type text]

ORDINANCE NO. 2011-73
FLOOD PLAIN MANAGEMENT ORDINANCE
THREE DISTRICT - ONE-MAP FORMAT¹

¹A Flood Insurance Rate Map has been published for the community and the Regulatory Floodway boundary is shown on this map. A separate Flood Boundary and Floodway Map has not been published.

Deleted: SAMPLE

SECTION 1.0 STATUTORY AUTHORIZATION, FINDINGS OF FACT AND PURPOSE

1.1 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 Rockville, Minnesota does ordain as follows:

Deleted: (governing body

Formatted: Font: Not Italic, No underline

Deleted:)_

1.2 Findings of Fact:

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

1.22 Methods Used to Analyze Flood Hazards. This Ordinance is based upon a reasonable method of analyzing flood hazards which is consistent with the standards established by the Minnesota Department of Natural Resources.

1.23 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.

1.3 Statement of Purpose: It is the purpose of this Ordinance to promote the public health, safety, and general welfare and to minimize those losses described in Section 1.21 by provisions contained herein.

SECTION 2.0 GENERAL PROVISIONS

2.1 Lands to Which Ordinance Applies: This Ordinance shall apply to all lands within the jurisdiction of the City of Rockville shown on the Official Zoning Map and/or the attachments thereto as being located within the boundaries of the Floodway, Flood Fringe, or General Flood Plain Districts.

2.2 Establishment of Official Zoning Map: The Official Zoning Map together with all materials attached thereto is hereby adopted by reference and declared to be a part of this Ordinance. The attached material shall include the Flood Insurance Study, Stearns County, Minnesota And Incorporated Areas; Flood Insurance Rate Map panels therein numbered 27145C0600E, 27145C0615E, 27145C0620E, 27145C0810E, 27145C0820E, and 27145C0830E; and the Flood Insurance Rate Map Index (Map Numbers 27145CIND1A and 27145CIND2A), all dated February 16, 2012 and prepared by the Federal Emergency Management Agency. The Official Zoning Map shall be on file in the Office of the Administrator/Clerk and the Zoning Administrator.

Deleted: _____

Formatted: No underline

Deleted: (City Clerk/County Auditor)

Deleted: (

Formatted: No underline

Deleted:)_

Formatted: No underline

Formatted: Right: 0.25"

Deleted: [Type text]

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

Deleted: (Note: For future annexation of floodplain lands, it is a requirement of the National Flood Insurance Program that a community legally apply the provisions of its floodplain ordinance to the annexed land on the date of annexation (see Section 2.9 that follows). The flood insurance rate map panels adopted into Section 2.2 above must be inclusive enough so that they encompass all of the unincorporated area of the county that may be annexed into the city into the foreseeable future. This may mean that a city will need to adopt flood insurance rate map panels in addition to those flood map panels that contain the current corporate boundaries of the city.)¶

2.4 Interpretation:

2.41 In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements and shall be liberally construed in favor of the City Council and shall not be deemed a limitation or repeal of any other powers granted by state statutes.

2.42 The boundaries of the zoning districts shall be determined by scaling distances on the Official Zoning Map. Where interpretation is needed as to the exact location of the boundaries of the district as shown on the Official Zoning Map, as for example where there appears to be a conflict between a mapped boundary and actual field conditions and there is a formal appeal of the decision of the Zoning Administrator, the Board of Adjustment shall make the necessary interpretation. All decisions will be based on elevations on the regional (100-year) flood profile, the ground elevations that existed on the site at the time the Community adopted its initial floodplain ordinance or on the date of the first National Flood Insurance Program map showing the area within the 100-year floodplain if earlier, and other available technical data. Persons contesting the location of the district boundaries shall be given a reasonable opportunity to present their case to the Board of Adjustment and to submit technical evidence.

Deleted: Governing Body

2.5 Abrogation and Greater Restrictions: It is not intended by this Ordinance to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Ordinance imposes greater restrictions, the provisions of this Ordinance shall prevail. All other ordinances inconsistent with this Ordinance are hereby repealed to the extent of the inconsistency only.

2.6 Warning and Disclaimer of Liability: This Ordinance does not imply that areas outside the flood plain districts or land uses permitted within such districts will be free from flooding or flood damages. This Ordinance shall not create liability on the part of the City of Rockville or any officer or employee thereof for any flood damages that result from reliance on this Ordinance or any administrative decision lawfully made thereunder.

2.7 Severability: If any section, clause, provision, or portion of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby.

2.8 Definitions: Unless specifically defined below, words or phrases used in this Ordinance shall be interpreted so as to give them the same meaning as they have in common usage and so as to give this Ordinance its most reasonable application.

2.811 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.

2.812 Basement - means 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.

2.813 Conditional Use - means a specific type of structure or land use listed in the official control that may be allowed but only after an in-depth review procedure and with appropriate conditions or restrictions as provided in the official zoning controls or building codes and upon a finding that:
(a) Certain conditions as detailed in the zoning ordinance exist.

Formatted: Right: 0.25"

Deleted: [Type text]

- (b) The structure and/or land use conform to the comprehensive land use plan if one exists and are compatible with the existing neighborhood.
- 2.814 Equal Degree of Encroachment - a method of determining the location of floodway boundaries so that flood plain lands on both sides of a stream are capable of conveying a proportionate share of flood flows.
- 2.815 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.
- 2.816 Flood Frequency - the frequency for which it is expected that a specific flood stage or discharge may be equaled or exceeded.
- 2.817 Flood Fringe - that portion of the flood plain outside of the floodway. Flood fringe is synonymous with the term "floodway fringe" used in the Flood Insurance Study, Stearns County, Minnesota And Incorporated Areas.
- 2.818 Flood Plain - the beds proper and the areas adjoining a wetland, lake or watercourse which have been or hereafter may be covered by the regional flood.
- 2.819 Flood Proofing - a combination of structural provisions, changes, or adjustments to properties and structures subject to flooding, primarily for the reduction or elimination of flood damages.
- 2.820 Floodway - the bed of a wetland or lake and the channel of a watercourse and those portions of the adjoining flood plain which are reasonably required to carry or store the regional flood discharge.
- 2.821 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.
- 2.822 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."
- 2.823 Obstruction - any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel modification, culvert, building, wire, fence, stockpile, refuse, fill, structure, or matter in, along, across, or projecting into any channel, watercourse, or regulatory flood plain which may impede, retard, or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water.
- 2.824 Principal Use or Structure - means all uses or structures that are not accessory uses or structures.
- 2.825 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.
- 2.826 Recreational Vehicle - a vehicle that is built on a single chassis, is 400 square feet or less when measured at the largest horizontal projection, is designed to be self-propelled or permanently towable by a light duty truck, and is designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use. For the purposes of

this Ordinance, the term recreational vehicle shall be synonymous with the term travel trailer/travel vehicle.

2.827 Regional Flood - a flood which is representative of large floods known to have occurred generally in Minnesota and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of the 100-year recurrence interval. Regional flood is synonymous with the term "base flood" used in a flood insurance study.

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

2.829 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 and other similar items.

Deleted: , recreational vehicles not meeting the exemption criteria specified in Section 9.31 of this Ordinance

2.830 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.

2.831 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 an "historic structure," provided that the alteration will not preclude the structure's continued designation as an "historic structure." For the purpose of this Ordinance, "historic structure" shall be as defined in 44 Code of Federal Regulations, Part 59.1.

2.832 Variance - means a modification of a specific permitted development standard required in an official control including this Ordinance to allow an alternative development standard not stated as acceptable in the official control, but only as applied to a particular property for the purpose of alleviating a hardship, practical difficulty or unique circumstance as defined and elaborated upon in a community's respective planning and zoning enabling legislation.

2.9 Annexations: The Flood Insurance Rate Map panels adopted by reference into Section 2.2 above may include floodplain areas that lie outside of the corporate boundaries of the City of Rockville at the time of adoption of this ordinance. If any of these floodplain land areas are annexed into the City of Rockville after the date of adoption of this ordinance, the newly annexed floodplain lands shall be subject to the provisions of this ordinance immediately upon the date of annexation into the City of Rockville.

Formatted: Right: 0.25"

Deleted: [Type text]

SECTION 3.0 ESTABLISHMENT OF ZONING DISTRICTS

3.1 Districts:

- 3.11 Floodway District. The Floodway District shall include those areas designated as floodway on the Flood Insurance Rate Map adopted in Section 2.2.
- 3.12 Flood Fringe District. The Flood Fringe District shall include those areas designated as floodway fringe. The Flood Fringe District shall include those areas shown on the Flood Insurance Rate Map as adopted in Section 2.2 as being within Zones AE but being located outside of the floodway.
- 3.13 General Flood Plain District. The General Flood Plain District shall include those areas designated as Zone A on the Flood Insurance Rate Map adopted in Section 2.2.

3.2 Compliance: No new structure or land shall hereafter be used and no structure shall be constructed, located, extended, converted, or structurally altered without full compliance with the terms of this Ordinance and other applicable regulations which apply to uses within the jurisdiction of this Ordinance. Within the Floodway, Flood Fringe and General Flood Plain Districts, all uses not listed as permitted uses or conditional uses in Sections 4.0, 5.0 and 6.0 that follow, respectively, shall be prohibited. In addition, a caution is provided here that:

- 3.21 New manufactured homes, and replacement manufactured are subject to the general provisions of this Ordinance, ~~Recreational vehicles shall not be allowed in the flood plain.~~
- 3.22 Modifications, additions, structural alterations, normal maintenance and repair, or repair after damage to existing nonconforming structures and nonconforming uses of structures or land are regulated by the general provisions of this Ordinance and specifically Section 11.0.
- 3.23 As-built elevations for elevated or flood proofed structures must be certified by ground surveys and flood proofing techniques must be designed and certified by a registered professional engineer or architect as specified in the general provisions of this Ordinance and specifically as stated in Section 10.0 of this Ordinance.

Deleted: homes and certain travel trailers and travel vehicles

Formatted: Strikethrough

Formatted: Strikethrough

Deleted: and specifically Section 9.0.

SECTION 4.0 FLOODWAY DISTRICT (FW)

4.1 Permitted Uses:

- 4.11 General farming, pasture, grazing, outdoor plant nurseries, horticulture, truck farming, forestry, sod farming, and wild crop harvesting.
- 4.12 ~~Boat launching ramps, swimming areas, parks, wildlife and nature preserves, shooting preserves, hunting and fishing areas, and single or multiple purpose recreational trails.~~
- 4.13 Residential lawns, gardens, parking areas, and play areas.

Deleted: ¶

4.12 Industrial-commercial loading areas, parking areas, and airport landing strips.¶

Deleted: 3

Deleted: Private and public golf courses, tennis courts, driving ranges, archery ranges, picnic grounds,

Deleted: b

Deleted: , game farms, fish hatcheries

Deleted: target ranges, trap and skeet ranges,

Deleted: 4

Formatted: Strikethrough

Formatted: Right: 0.25"

Deleted: [Type text]

4.2 Standards for Floodway Permitted Uses:

- 4.21 The use shall have a low flood damage potential.
- 4.22 The use shall be permissible in the underlying zoning district if one exists.
- 4.23 The use shall not obstruct flood flows or increase flood elevations and shall not involve structures, fill, obstructions, excavations or storage of materials or equipment.

4.3 Conditional Uses:

- 4.31 Structures accessory to the uses listed in 4.1 above and the uses listed in 4.32 - 4.36 below.
- 4.32 Extraction and storage of sand, gravel, and other materials.
- 4.33 Railroads, streets, bridges, utility transmission lines, and pipelines.
- 4.34 Storage yards for equipment, machinery, or materials.
- 4.35 Placement of fill or construction of fences.
- 4.36 Structural works for flood control such as levees, dikes and floodwalls constructed to any height where the intent is to protect individual structures and levees or dikes where the intent is to protect agricultural crops for a frequency flood event equal to or less than the 10-year frequency flood event.

Deleted: 8

Formatted: Strikethrough

Deleted: ¶
4.33 Marinas, boat rentals, docks, piers, wharves, and water control structures.¶

Deleted: 4

Deleted: 5

Deleted: 6

Deleted: 4.37 Recreational vehicles either on individual lots of record or in existing or new subdivisions or commercial or condominium type campgrounds, subject to the exemptions and provisions of Section 9.3 of this Ordinance.¶

Deleted: 8

4.4 Standards for Floodway Conditional Uses:

- 4.41 All Uses. No structure (temporary or permanent), fill (including fill for roads and levees), deposit, obstruction, storage of materials or equipment, or other uses may be allowed as a conditional use that will cause any increase in the stage of the 100-year or regional flood or cause an increase in flood damages in the reach or reaches affected.
- 4.42 All floodway conditional uses shall be subject to the procedures and standards contained in Section 10.4 of this Ordinance.
- 4.43 The conditional use shall be permissible in the underlying zoning district if one exists.
- 4.44 Fill:
 - (a) Fill, dredge spoil, and all other similar materials deposited or stored in the flood plain shall be protected from erosion by vegetative cover, mulching, riprap or other acceptable method.
 - (b) Dredge spoil sites and sand and gravel operations shall not be allowed in the floodway unless a long-term site development plan is submitted which includes an erosion/sedimentation prevention element to the plan.
 - (c) As an alternative, and consistent with Subsection (b) immediately above, dredge spoil disposal and sand and gravel operations may allow temporary, on-site storage of fill or other materials which would have caused an increase to the stage of the 100-year or regional flood but only after the City Council 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.

Deleted: Governing Body

Formatted: Right: 0.25"

Deleted: [Type text]

4.45 Accessory Structures:

- (a) Accessory structures shall not be designed for human habitation.
- (b) Accessory structures, if permitted, shall be constructed and placed on the building site so as to offer the minimum obstruction to the flow of flood waters:
 - (1) Whenever possible, structures shall be constructed with the longitudinal axis parallel to the direction of flood flow; and
 - (2) So far as practicable, structures shall be placed approximately on the same flood flow lines as those of adjoining structures.
- (c) Accessory structures shall be elevated on fill or structurally dry flood proofed in accordance with the FP-1 or FP-2 flood proofing classifications in the State Building Code. As an alternative, an accessory structure may be flood proofed to the FP-3 or FP-4 flood proofing classification in the State Building Code provided the accessory structure constitutes a minimal investment, does not exceed 500 square feet in size 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:
 - (1) The structure must be adequately anchored to prevent flotation, collapse or lateral movement of the structure and shall be designed to equalize hydrostatic flood forces on exterior walls;
 - (2) Any mechanical and utility equipment in a structure must be elevated to or above the regulatory flood protection elevation or properly flood proofed; and
 - (3) 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.

4.46 Storage of Materials and Equipment:

- (a) The storage or processing of materials that are, in time of flooding, flammable, explosive, or potentially injurious to human, animal, or plant life is prohibited.
- (b) Storage of other materials or equipment may be allowed if readily removable from the area within the time available after a flood warning and in accordance with a plan approved by the City Council.

Deleted: Governing Body

4.47 Structural works for flood control that will change the course, current or cross section of protected wetlands or public waters shall be subject to the provisions of Minnesota Statute, Chapter 103G. Community-wide structural works for flood control intended to remove areas from the regulatory flood plain shall not be allowed in the floodway.

4.48 A levee, dike or floodwall constructed in the floodway shall not cause an increase to the 100-year or regional flood and the technical analysis must assume equal conveyance or storage loss on both sides of a stream.

SECTION 5.0 FLOOD FRINGE DISTRICT (FF)

5.1 Permitted Uses: Permitted uses shall be those uses of land or structures listed as permitted uses in the underlying zoning use district(s). If no pre-existing, underlying zoning use districts exist, then any residential or non residential structure or use of a structure or land shall be a permitted use in the Flood

Formatted: Right: 0.25"

Deleted: [Type text]

Ordinance 2011-73

7

Fringe District provided such use does not constitute a public nuisance. All permitted uses shall comply with the standards for Flood Fringe District "Permitted Uses" listed in Section 5.2 and the "Standards for all Flood Fringe Uses" listed in Section 5.5.

5.2 Standards for Flood Fringe Permitted Uses:

- 5.21 All structures, including accessory structures, must be elevated on fill so that the lowest floor including basement floor is at or above the regulatory flood protection elevation. The finished fill elevation for structures shall be no lower than one (1) foot below the regulatory flood protection elevation and the fill shall extend at such elevation at least fifteen (15) feet beyond the outside limits of the structure erected thereon.
- 5.22 As an alternative to elevation on fill, accessory structures that constitute a minimal investment and that do not exceed 500 square feet at its largest projection may be internally flood proofed in accordance with Section 4.45 (c).
- 5.23 The cumulative placement of fill where at any one time in excess of one-thousand (1,000) cubic yards of fill is located on the parcel shall be allowable only as a conditional use, unless said fill is specifically intended to elevate a structure in accordance with Section 5.21 of this ordinance.
- 5.24 The storage of any materials or equipment shall be elevated on fill to the regulatory flood protection elevation.
- 5.25 The provisions of Section 5.5 of this Ordinance shall apply.

Deleted: ¶

Deleted: (Note: This is an optional provision. If a community wishes to delete this provision, please leave the numbering the same and insert the replacement wording "This section reserved for future use.")¶

5.3 Conditional Uses: Any structure that is not elevated on fill or flood proofed in accordance with Section 5.21 - 5.22 and or any use of land that does not comply with the standards in Section 5.23 - 5.24 shall only be allowable as a conditional use. An application for a conditional use shall be subject to the standards and criteria and evaluation procedures specified in Sections 5.4-5.5 and 10.4 of this Ordinance.

5.4 Standards for Flood Fringe Conditional Uses:

- 5.41 Alternative elevation methods other than the use of fill may be utilized to elevate a structure's lowest floor above the regulatory flood protection elevation. These alternative methods may include the use of stilts, pilings, parallel walls, etc., or above-grade, enclosed areas such as crawl spaces or tuck under garages. The base or floor of an 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 or architect as being in compliance with the general design standards of the State Building Code and, specifically, that all electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities must be at or above the regulatory flood protection elevation or be designed to prevent flood water from entering or accumulating within these components during times of flooding.
 - (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:
 - (1) A minimum area of openings in the walls where internal flooding is to be used as a flood proofing technique. There shall be a minimum of two openings on at least two sides of

Formatted: Right: 0.25"

Deleted: [Type text]

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 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

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

5.42 Basements, as defined by Section 2.812 of this Ordinance, shall be subject to the following:

- (a) Residential basement construction shall not be 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 flood proofed in accordance with Section 5.43 of this Ordinance.

5.43 All areas of non residential structures including basements to be placed below the regulatory flood protection elevation shall be flood proofed in accordance with the structurally dry flood proofing classifications in the State Building Code. Structurally dry flood proofing must meet the FP-1 or FP-2 flood proofing classification in the State Building Code and this shall require making the structure watertight with the walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. Structures flood proofed to the FP-3 or FP-4 classification shall not be permitted.

5.44 When at any one time more than 1,000 cubic yards of fill or other similar material is located on a parcel for such activities as on-site storage, landscaping, sand and gravel operations, landfills, roads, dredge spoil disposal or construction of flood control works, an erosion/sedimentation control plan must be submitted unless the community is enforcing a state approved shoreland management ordinance. In the absence of a state approved shoreland ordinance, the plan must clearly specify methods to be used to stabilize the fill on site for a flood event at a minimum of the 100-year or regional flood event. The plan must be prepared and certified by a registered professional engineer or other qualified individual acceptable to the City Council. The plan may incorporate alternative procedures for removal of the material from the flood plain if adequate flood warning time exists.

Deleted: Governing Body

5.45 Storage of Materials and Equipment:

- (a) The storage or processing of materials that are, in time of flooding, flammable, explosive, or potentially injurious to human, animal, or plant life is prohibited.
- (b) Storage of other materials or equipment may be allowed if readily removable from the area within the time available after a flood warning and in accordance with a plan approved by the City Council.

Deleted: (Note: This is an optional provision. If a community wishes to delete this provision, please leave the numbering the same and insert the replacement wording "This section reserved for future use.")

Deleted: Governing Body

5.46 The provisions of Section 5.5 of this Ordinance shall also apply.

Formatted: Right: 0.25"

Deleted: [Type text]

5.5 Standards for All Flood Fringe Uses:

5.51 All new principal structures must have vehicular access at or above an elevation not more than two (2) feet below the regulatory flood protection elevation. If a variance to this requirement is granted, the Board of Adjustment must specify limitations on the period of use or occupancy of the structure for times of flooding and only after determining that adequate flood warning time and local flood emergency response procedures exist.

5.52 Commercial Uses - accessory land uses, such as yards, railroad tracks, and parking lots may be at elevations lower than the regulatory flood protection elevation. However, a permit for such facilities to be used by the employees or the general public shall not be granted in the absence of a flood warning system that provides adequate time for evacuation if the area would be inundated to a depth and velocity such that when multiplying the depth (in feet) times velocity (in feet per second) the product number exceeds four (4) upon occurrence of the regional flood.

Deleted: (Note: This is an optional provision. If a community wishes to delete this provision, please leave the numbering the same and insert the replacement wording "This section reserved for future use.")¶

5.53 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 Section 5.52 above. In considering permit applications, due consideration shall be given to needs of an industry whose business requires that it be located in flood plain areas.

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

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

5.56 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.

Deleted: 5.56 Standards for recreational vehicles are contained in Section 9.3.¶

Deleted: 7

SECTION 6.0 GENERAL FLOOD PLAIN DISTRICT

6.1 Permissible Uses:

6.11 The uses listed in Section 4.1 of this Ordinance shall be permitted uses.

6.12 All other uses shall be subject to the floodway/flood fringe evaluation criteria pursuant to Section 6.2 below. Section 4.0 shall apply if the proposed use is in the Floodway District and Section 5.0 shall apply if the proposed use is in the Flood Fringe District.

Deleted: ¶

Formatted: Right: 0.25"

Deleted: [Type text]

6.2 Procedures for Floodway and Flood Fringe Determinations Within the General Flood Plain District.

6.21 Upon receipt of an application for a permit or other approval within the General Flood Plain District, the applicant shall be required to furnish such of the following information as is deemed necessary by the Zoning Administrator for the determination of the regulatory flood protection elevation and whether the proposed use is within the Floodway or Flood Fringe District.

- (a) A typical valley cross-section(s) showing the channel of the stream, elevation of land areas adjoining each side of the channel, cross-sectional areas to be occupied by the proposed development, and high water information.
- (b) Plan (surface view) showing elevations or contours of the ground, pertinent structure, fill, or storage elevations, the size, location, and spatial arrangement of all proposed and existing structures on the site, and the location and elevations of streets.
- (c) Photographs showing existing land uses, vegetation upstream and downstream, and soil types.
- (d) Profile 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.

6.22 The applicant shall be responsible to submit one copy of the above information to a designated engineer or other expert person or agency for technical assistance in determining whether the proposed use is in the Floodway or Flood Fringe District and to determine the regulatory flood protection elevation. Procedures consistent with Minnesota Regulations 1983, Parts 6120.5000 - 6120.6200 and 44 Code of Federal Regulations Part 65 shall be followed in this expert evaluation. The designated engineer or expert is strongly encouraged to discuss the proposed technical evaluation methodology with the respective Department of Natural Resources' Area Hydrologist prior to commencing the analysis. The designated engineer or expert shall:

- (a) Estimate the peak discharge of the regional flood.
- (b) Calculate the water surface profile of the regional flood based upon a hydraulic analysis of the stream channel and overbank areas.
- (c) Compute the floodway necessary to convey or store the regional flood without increasing flood stages more than 0.5 foot. A lesser stage increase than .5' shall be required if, as a result of the additional stage increase, increased flood damages would result. An equal degree of encroachment on both sides of the stream within the reach shall be assumed in computing floodway boundaries.

6.23 The Zoning Administrator shall present the technical evaluation and findings of the designated engineer or expert to the City Council. The City Council must formally accept the technical evaluation and the recommended Floodway and/or Flood Fringe District boundary or deny the permit application. The City Council, prior to official action, may submit the application and all supporting data and analyses to the Federal Emergency Management Agency, the Department of Natural Resources or the Planning Commission for review and comment. Once the Floodway and Flood Fringe District Boundaries have been determined, the City Council shall refer the matter back to the Zoning Administrator who shall process the permit application consistent with the applicable provisions of Section 4.0 and 5.0 of this Ordinance.

Deleted: Governing Body

Deleted: Governing Body

Deleted: Governing Body

Deleted: Governing Body

Formatted: Right: 0.25"

Deleted: [Type text]

SECTION 7.0 SUBDIVISIONS²

7.1 Review Criteria: No land shall be subdivided which is unsuitable for the reason of flooding, inadequate drainage, water supply or sewage treatment facilities. All lots within the flood plain districts shall be able to contain a building site outside of the Floodway District at or above the regulatory flood protection elevation. All subdivisions shall have water and sewage treatment facilities that comply with the provisions of this Ordinance and have road access both to the subdivision and to the individual building sites no lower than two feet below the regulatory flood protection elevation. For all subdivisions in the flood plain, the Floodway and Flood Fringe District boundaries, the regulatory flood protection elevation and the required elevation of all access roads shall be clearly labeled on all required subdivision drawings and platting documents.

7.2 Floodway/Flood Fringe Determinations in the General Flood Plain District: In the General Flood Plain District, applicants shall provide the information required in Section 6.2 of this Ordinance to determine the 100-year flood elevation, the Floodway and Flood Fringe District boundaries and the regulatory flood protection elevation for the subdivision site.

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

SECTION 8.0 PUBLIC UTILITIES, RAILROADS, ROADS, AND BRIDGES

8.1 Public Utilities. All public utilities and facilities such as gas, electrical, sewer, and water supply systems to be located in the flood plain shall be flood proofed in accordance with the State Building Code or elevated to above the regulatory flood protection elevation.

8.2 Public Transportation Facilities. Railroad tracks, roads, and bridges to be located within the flood plain shall comply with Sections 4.0 and 5.0 of this Ordinance. 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.

8.3 On-site Sewage Treatment and Water Supply Systems: Where public utilities are not provided: 1) On-site water supply systems must be designed to minimize or eliminate infiltration of flood waters into the systems; and 2) New or replacement on-site sewage treatment systems must be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters and they shall not be subject to impairment or contamination during times of flooding. Any sewage treatment system designed in accordance with the State's current statewide standards for on-site sewage treatment systems shall be determined to be in compliance with this Section.

Deleted: ²Note: This Section is not intended as a substitute for a comprehensive city or county subdivision ordinance. It can, however, be used as an interim control until the comprehensive subdivision ordinance can be amended to include necessary flood plain management provisions.¶

SECTION 9.0 RESERVED FOR FUTURE USE

Deleted: SECTION 9.0 MANUFACTURED HOMES AND MANUFACTURED HOME PARKS AND PLACEMENT OF RECREATIONAL VEHICLES.

Formatted: Normal

Deleted: ¶

Formatted: Font: 12 pt

Deleted: ¶

Formatted: Font: 12 pt

Formatted: Right: 0.25"

Deleted: [Type text]

SECTION 10.0 ADMINISTRATION

10.1 Zoning Administrator: A Zoning Administrator or other official designated by the City Council shall administer and enforce this Ordinance. If the Zoning Administrator finds a violation of the provisions of this Ordinance the Zoning Administrator shall notify the person responsible for such violation in accordance with the procedures stated in Section 12.0 of the Ordinance.

10.2 Permit Requirements:

10.21 Permit Required. A Permit issued by the Zoning Administrator in conformity with the provisions of this Ordinance shall be secured prior to the erection, addition, modification, rehabilitation (including normal maintenance and repair), or alteration of any building, structure, or portion thereof; prior to the use or change of use of a building, structure, or land; prior to the construction of a dam, fence, or on-site septic system; prior to the change or extension of a 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 flood plain.

10.22 Application for Permit. Application for a permit shall be made in duplicate to the Zoning Administrator on forms furnished by the Zoning Administrator and shall include the following where applicable: plans in duplicate drawn to scale, showing the nature, location, dimensions, and elevations of the lot; existing or proposed structures, fill, or storage of materials; and the location of the foregoing in relation to the stream channel.

10.23 State and Federal Permits. Prior to granting a permit or processing an application for a conditional use permit or variance, the Zoning Administrator shall determine that the applicant has obtained all necessary state and federal permits.

10.24 Certificate of Zoning Compliance for a New, Altered, or Nonconforming Use. It shall be unlawful to use, occupy, or permit the use or occupancy of any building or premises or part thereof hereafter created, erected, changed, converted, altered, or enlarged in its use or structure until a certificate of zoning compliance shall have been issued by the Zoning Administrator stating that the use of the building or land conforms to the requirements of this Ordinance.

10.25 Construction and Use to be as Provided on Applications, Plans, Permits, Variances and Certificates of Zoning Compliance. Permits, conditional use permits, or certificates of zoning compliance issued on the basis of approved plans and applications authorize only the use, arrangement, and construction set forth in such approved plans and applications, and no other use, arrangement, or construction. Any use, arrangement, or construction at variance with that authorized shall be deemed a violation of this Ordinance, and punishable as provided by Section 12.0 of this Ordinance.

10.26 Certification. The applicant shall be required to submit certification by a registered professional engineer, registered architect, or registered land surveyor that the finished fill and building elevations were accomplished in compliance with the provisions of this Ordinance. Flood proofing measures shall be certified by a registered professional engineer or registered architect.

10.27 Record of First Floor Elevation. The Zoning Administrator shall maintain a record of the elevation of the lowest floor (including basement) of all new structures and alterations or additions to existing structures in the flood plain. The Zoning Administrator shall also maintain a record of the elevation to which structures or alterations and additions to structures are flood proofed.

Deleted: 9.1 New manufactured home parks and expansions to existing manufactured home parks shall be subject to the provisions placed on subdivisions by Section 7.0 of this Ordinance.¶

¶
9.2 The placement of new or replacement manufactured homes in existing manufactured home parks or on individual lots of record that are located in flood plain districts will be treated as a new structure and may be placed only if elevated in compliance with Section 5.0 of this Ordinance. If vehicular road access for pre-existing manufactured home parks is not provided in accordance with Section 5.51, then replacement manufactured homes will not be allowed until the property owner(s) develops a flood warning emergency plan acceptable to the Governing Body.¶

¶
9.21 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.¶

¶
9.3 Recreational vehicles that do not meet the exemption criteria specified in Section 9.31 below shall be subject to the provisions of this Ordinance and as specifically spelled out in Sections 9.33-9.34 below.¶

¶
9.31 Exemption - Recreational vehicles are exempt from the provisions of this Ordinance if they are placed in any of the areas listed in Section 9.32 below and further they meet the following criteria:¶
(a) Have current licenses required for highway use.¶
(b) 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.¶
(c) The recreational vehicle and associated use must be permissible in any pre-existing, underlying zoning use district.¶

¶
9.32 Areas Exempted For Pla(... [1]

Deleted: Governing Body

Formatted: Right: 0.25"

Deleted: [Type text]

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

10.29 Notification to FEMA When Physical Changes Increase or Decrease the 100-year Flood Elevation. As soon as is practicable, but not later than six (6) months after the date such supporting information becomes available, the Zoning Administrator shall notify the Chicago Regional Office of FEMA of the changes by submitting a copy of said technical or scientific data.

10.3 Board of Adjustment:

10.31 Rules. The Board of Adjustment shall adopt rules for the conduct of business and may exercise all of the powers conferred on such Boards by State law.

10.32 Administrative Review. The Board of Adjustment shall hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement or administration of this Ordinance.

10.33 Variances. The Board of Adjustment may authorize upon appeal in specific cases such relief or variance from the terms of this Ordinance as will not be contrary to the public interest and only for those circumstances such as hardship, practical difficulties or circumstances unique to the property under consideration, as provided for in the respective enabling legislation for planning and zoning for cities or counties as appropriate. In the granting of such variance, the Board of Adjustment shall clearly identify in writing the specific conditions that existed consistent with the criteria specified in this Ordinance, any other zoning regulations in the Community, and in the respective enabling legislation that justified the granting of the variance. No variance shall have the effect of allowing in any district uses prohibited in that district, permit a lower degree of flood protection than the regulatory flood protection elevation for the particular area, or permit standards lower than those required by state law. The following additional variance criteria of the Federal Emergency Management Agency must be satisfied:

- (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.

10.34 Hearings. Upon filing with the Board of Adjustment of an appeal from a decision of the Zoning Administrator, or an application for a variance, the Board of Adjustment shall fix a reasonable time for a hearing and give due notice to the parties in interest as specified by law. The Board of Adjustment shall submit by mail to the Commissioner of Natural Resources a copy of the

Formatted: Right: 0.25"

Deleted: [Type text]

application for proposed variances sufficiently in advance so that the Commissioner will receive at least ten days notice of the hearing.

10.35 Decisions. The Board of Adjustment shall arrive at a decision on such appeal or variance within 60 days. In passing upon an appeal, the Board of Adjustment may, so long as such action is in conformity with the provisions of this Ordinance, reverse or affirm, wholly or in part, or modify the order, requirement, decision or determination of the Zoning Administrator or other public official. It shall make its decision in writing setting forth the findings of fact and the reasons for its decisions. In granting a variance the Board of Adjustment may prescribe appropriate conditions and safeguards such as those specified in Section 10.46, which are in conformity with the purposes of this Ordinance. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Ordinance punishable under Section 12.0. A copy of all decisions granting variances shall be forwarded by mail to the Commissioner of Natural Resources within ten (10) days of such action.

10.36 Appeals. Appeals from any decision of the Board of Adjustment may be made, and as specified in this community's official controls and also by Minnesota Statutes.

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

10.4 Conditional Uses. The Rockville Planning Commission shall hear and decide applications for conditional uses permissible under this Ordinance. Applications shall be submitted to the Zoning Administrator who shall forward the application to the Planning Commission for consideration.

10.41 Hearings. Upon filing with the Planning Commission an application for a conditional use permit, the Zoning Administrator shall submit by mail to the Commissioner of Natural Resources a copy of the application for proposed conditional use sufficiently in advance so that the Commissioner will receive at least ten days notice of the hearing.

10.42 Decisions. The Rockville City Council shall arrive at a decision on a conditional use within 60 days. In granting a conditional use permit the Rockville City Council shall prescribe appropriate conditions and safeguards, in addition to those specified in Section 10.46, which are in conformity with the purposes of this Ordinance. Violations of such conditions and safeguards, when made a part of the terms under which the conditional use permit is granted, shall be deemed a violation of this Ordinance punishable under Section 12.0. A copy of all decisions granting conditional use permits shall be forwarded by mail to the Commissioner of Natural Resources within ten (10) days of such action.

10.43 Procedures to be followed by the Rockville City Council in Passing on Conditional Use Permit Applications Within all Flood Plain Districts.

- (a) Require the applicant to furnish such of the following information and additional information as deemed necessary by the Rockville City Council for determining the suitability of the particular site for the proposed use:

Deleted:
Deleted: (Governing Bod
Formatted: Font: Not Italic, No underline
Deleted: y
Deleted: /
Deleted: m./Bd. of Adjust
Deleted:)
Formatted: Font: Not Italic, No underline
Deleted: _
Formatted: Font: Not Italic, No underline
Deleted: (
Deleted: Designated Body)
Deleted: _
Formatted: Font: Not Italic, No underline
Deleted: _ (
Formatted: ... [2]
Deleted: Designated Body)
Deleted: _
Formatted: ... [3]
Deleted: (
Formatted: ... [4]
Deleted: Designated Body
Deleted:)
Formatted: ... [5]
Deleted: _ (
Formatted: ... [6]
Deleted: Designated Body)
Deleted: _
Deleted: _
Formatted: ... [7]
Deleted: _
Deleted: _ (Designated Body)
Deleted: _
Deleted: _ (
Formatted: ... [8]
Deleted: Designated Body)
Deleted: _
Deleted: _ (Designated Body)
Formatted: Right: 0.25"
Deleted: [Type text]

- (1) Plans in triplicate drawn to scale showing the nature, location, dimensions, and elevation of the lot, existing or proposed structures, fill, storage of materials, flood proofing measures, and the relationship of the above to the location of the stream channel; and
- (2) Specifications for building construction and materials, flood proofing, filling, dredging, grading, channel improvement, storage of materials, water supply and sanitary facilities.
- (b) Transmit one copy of the information described in subsection (a) to a designated engineer or other expert person or agency for technical assistance, where necessary, in evaluating the proposed project in relation to flood heights and velocities, the seriousness of flood damage to the use, the adequacy of the plans for protection, and other technical matters.
- (c) Based upon the technical evaluation of the designated engineer or expert, the Rockville City Council shall determine the specific flood hazard at the site and evaluate the suitability of the proposed use in relation to the flood hazard.

10.44 Factors Upon Which the Decision of the Rockville City Council Shall Be Based. In passing upon conditional use applications, the Rockville City Council shall consider all relevant factors specified in other sections of this Ordinance, and:

- (a) The danger to life and property due to increased flood heights or velocities caused by encroachments.
- (b) The danger that materials may be swept onto other lands or downstream to the injury of others or they may block bridges, culverts or other hydraulic structures.
- (c) The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.
- (d) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
- (e) The importance of the services provided by the proposed facility to the community.
- (f) The requirements of the facility for a waterfront location.
- (g) The availability of alternative locations not subject to flooding for the proposed use.
- (h) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
- (i) The relationship of the proposed use to the comprehensive plan and flood plain management program for the area.
- (j) The safety of access to the property in times of flood for ordinary and emergency vehicles.
- (k) The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site.
- (l) Such other factors which are relevant to the purposes of this Ordinance.

10.45 Time for Acting on Application. The Rockville City Council shall act on an application in the manner described above within 60 days from receiving the application, except that where additional information is required pursuant to 10.43 of this Ordinance. The Rockville City Council shall render a written decision within 60 days from the receipt of such additional information.

10.46 Conditions Attached to Conditional Use Permits. Upon consideration of the factors listed above and the purpose of this Ordinance, the Rockville City Council shall 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.

Formatted: Font: Not Italic, No underline

Deleted: (Designated Body)

Deleted:

Formatted: Font: Not Italic, No underline

Deleted: (Designated Body)

Formatted: Font: Not Italic, No underline

Deleted:

Formatted: Font: Not Italic, No underline

Deleted: (Designated Body)

Deleted: (Designated Body)

Deleted:

Formatted: Font: Not Italic, No underline

Deleted: (Designated Body)

Deleted:

Formatted: Font: Not Italic, No underline

Deleted: (Designated Body)

Deleted:

Formatted: Font: Not Italic, No underline

Formatted: Right: 0.25"

Deleted: [Type text]

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

SECTION 11.0 NONCONFORMING USES

11.1 A structure or the use of a structure or premises which was lawful before the passage or amendment of this Ordinance but which is not in conformity with the provisions of this Ordinance may be continued subject to the following conditions. Historic structures, as defined in Section 2.831(b) of this Ordinance, shall be subject to the provisions of Sections 11.11 – 11.15 of this Ordinance.

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

11.12 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 thru FP-4 floodproofing classifications) allowable in the State Building Code, except as further restricted in 11.13 and 11.16 below.

11.13 The cost of all structural alterations or additions to any nonconforming structure over the life of the structure shall not exceed 50 percent of the market value of the structure unless the conditions of this Section are satisfied. The cost of all structural alterations and additions must include all costs such as construction materials and a reasonable cost placed on all manpower or labor. If the cost of all previous and proposed alterations and additions exceeds 50 percent of the market value of the structure, then the structure must meet the standards of Section 4.0 or 5.0 of this Ordinance for new structures depending upon whether the structure is in the Floodway or Flood Fringe District, respectively.

11.14 If any nonconforming use is discontinued for 12 consecutive months, any future use of the building premises shall conform to this Ordinance. The Assessor shall notify the Zoning Administrator in writing of instances of nonconforming uses that have been discontinued for a period of 12 months.

11.15 If any nonconforming use or structure is substantially damaged, as defined in Section 2.830 of this Ordinance, it shall not be reconstructed except in conformity with the provisions of this Ordinance. The applicable provisions for establishing new uses or new structures in Sections 4.0, 5.0 or 6.0 will apply depending upon whether the use or structure is in the Floodway, Flood Fringe or General Flood Plain District, respectively.

11.16 If a substantial improvement occurs, as defined in Section 2.831 of this Ordinance, from any combination of a building addition to the outside dimensions of the existing building or a rehabilitation, reconstruction, alteration, or other improvement to the inside dimensions of an existing nonconforming building, then the building addition and the existing nonconforming building must meet the requirements of Section 4.0 or 5.0 of this Ordinance for new structures, depending upon whether the structure is in the Floodway or Flood Fringe District, respectively.

Deleted: ¶

Deleted: *(Note: This cumulative tracking over time provision of this section is optional. If a community wishes to delete this cumulative tracking provision, please contact the respective DNR Waters' area hydrologist for replacement wording.)¶*

Formatted: Strikethrough

Formatted: Strikethrough

Formatted: Strikethrough

Formatted: Right: 0.25"

Deleted: [Type text]

SECTION 12.0 PENALTIES FOR VIOLATION

12.1 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) shall constitute a misdemeanor and shall be punishable as defined by law.

12.2 Nothing herein contained shall prevent the City of Rockville from taking such other lawful action as is necessary to prevent or remedy any violation. Such actions may include but are not limited to:

12.21 In responding to a suspected Ordinance violation, the Zoning Administrator and Local Government may utilize the full array of enforcement actions available to it including but not limited to prosecution and fines, injunctions, after-the-fact permits, orders for corrective measures or a request to the National Flood Insurance Program for denial of flood insurance availability to the guilty party. The Community must act in good faith to enforce these official controls and to correct Ordinance violations to the extent possible so as not to jeopardize its eligibility in the National Flood Insurance Program.

12.22 When an Ordinance violation is either discovered by or brought to the attention of the Zoning Administrator, the Zoning Administrator shall immediately investigate the situation and document the nature and extent of the violation of the official control. As soon as is reasonably possible, this information will be submitted to the appropriate Department of Natural Resources' and Federal Emergency Management Agency Regional Office along with the Community's plan of action to correct the violation to the degree possible.

12.23 The Zoning Administrator shall notify the suspected party of the requirements of this Ordinance and all other official controls and the nature and extent of the suspected violation of these controls. If the structure and/or use is under construction or development, the Zoning Administrator may order the construction or development immediately halted until a proper permit or approval is granted by the Community. If the construction or development is already completed, then the Zoning Administrator may either: (1) issue an order identifying the corrective actions that must be made within a specified time period to bring the use or structure into compliance with the official controls; or (2) notify the responsible party to apply for an after-the-fact permit/development approval within a specified period of time not to exceed 30-days.

12.24 If the responsible party does not appropriately respond to the Zoning Administrator within the specified period of time, each additional day that lapses shall constitute an additional violation of this Ordinance and shall be prosecuted accordingly. The Zoning Administrator shall also upon the lapse of the specified response period notify the landowner to restore the land to the condition which existed prior to the violation of this Ordinance.

SECTION 13.0 AMENDMENTS

The flood plain designation on the Official Zoning Map shall not be removed from flood plain areas unless it can be shown that the designation is in error or that the area has been filled to or above the elevation of the regulatory flood protection elevation and is contiguous to lands outside the flood plain. Special exceptions to this rule may be permitted by the Commissioner of Natural Resources if he determines that, through other measures, lands are adequately protected for the intended use.

Formatted: Right: 0.25"

Deleted: [Type text]

All amendments to this Ordinance, including amendments to the Official Zoning Map, must be submitted to and approved by the Commissioner of Natural Resources prior to adoption. Changes in the Official Zoning Map must meet the Federal Emergency Management Agency's (FEMA) Technical Conditions and Criteria and must receive prior FEMA approval before adoption. The Commissioner of Natural Resources must be given 10-days written notice of all hearings to consider an amendment to this Ordinance and said notice shall include a draft of the Ordinance amendment or technical study under consideration.

EFFECTIVE DATE: This Ordinance shall be in full force and effect from and after its passage and approval and publication, as required by law and/or charter.

Adopted by the Rockville City Council Deleted: _____ Board/
(Community Name)

This ____ of _____, _____
(Day) (Month) (Year)

Attest: _____, Mayor Deleted: County Board Chairperson/
JEFF HAGEN Deleted: (Name of Elected Official)

Attest: _____, Administrator/City Clerk Deleted: County
VERENA M. WEBER-CMC Deleted: (Name of Community Official)

Stamp With Community Seal:

Formatted: Right: 0.25"
Deleted: [Type text]

9.1 New manufactured home parks and expansions to existing manufactured home parks shall be subject to the provisions placed on subdivisions by Section 7.0 of this Ordinance.

9.2 The placement of new or replacement manufactured homes in existing manufactured home parks or on individual lots of record that are located in flood plain districts will be treated as a new structure and may be placed only if elevated in compliance with Section 5.0 of this Ordinance. If vehicular road access for pre-existing manufactured home parks is not provided in accordance with Section 5.51, then replacement manufactured homes will not be allowed until the property owner(s) develops a flood warning emergency plan acceptable to the Governing Body.

9.21 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.

9.3 Recreational vehicles that do not meet the exemption criteria specified in Section 9.31 below shall be subject to the provisions of this Ordinance and as specifically spelled out in Sections 9.33-9.34 below.

9.31 Exemption - Recreational vehicles are exempt from the provisions of this Ordinance if they are placed in any of the areas listed in Section 9.32 below and further they meet the following criteria:

- (a) Have current licenses required for highway use.**
- (b) 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.**
- (c) The recreational vehicle and associated use must be permissible in any pre-existing, underlying zoning use district.**

9.32 Areas Exempted For Placement of Recreational Vehicles:

- (a) Individual lots or parcels of record.**
- (b) Existing commercial recreational vehicle parks or campgrounds.**
- (c) Existing condominium type associations.**

Recreational vehicles exempted in Section 9.31 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 Sections 4.0 and 5.0 of this Ordinance. 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.

9.34 New commercial recreational vehicle parks or campgrounds and new residential type subdivisions and condominium associations and the expansion of any existing similar use exceeding five (5) units or dwelling sites shall be subject to the following:

(a) Any new or replacement recreational vehicle will be allowed in the Floodway or Flood Fringe Districts provided said recreational vehicle and its contents are placed on fill above the regulatory flood protection elevation and proper elevated road access to the site exists in accordance with Section 5.51 of this Ordinance. No fill placed in the floodway to meet the requirements of this Section shall increase flood stages of the 100-year or regional flood.

(b) All new or replacement recreational vehicles not meeting the criteria of (a) above may, as an alternative, be allowed as a conditional use if in accordance with the following provisions and the provisions of 10.4 of the Ordinance. The applicant must submit an emergency plan for the safe evacuation of all vehicles and people during the 100 year flood. Said plan shall be prepared by a registered engineer or other qualified individual, shall demonstrate that adequate time and personnel exist to carry out the evacuation, and shall demonstrate the provisions of Section 9.31 (a) and (b) of this Ordinance will be met. All attendant sewage and water facilities for new or replacement recreational vehicles must be protected or constructed so as to not be impaired or contaminated during times of flooding in accordance with Section 8.3 of this Ordinance.

Page 15: [2] Formatted Font: Not Italic, No underline	rweber	10/28/2011 2:21:00 PM
Page 15: [3] Formatted Font: Not Italic, No underline	rweber	10/28/2011 2:21:00 PM
Page 15: [4] Formatted Font: Not Italic, No underline	rweber	10/28/2011 2:21:00 PM
Page 15: [5] Formatted Font: Not Italic, No underline	rweber	10/28/2011 2:21:00 PM
Page 15: [6] Formatted Font: Not Italic, No underline	rweber	10/28/2011 2:21:00 PM
Page 15: [7] Formatted Font: Not Italic, No underline	rweber	10/28/2011 2:21:00 PM
Page 15: [8] Formatted Font: Not Italic, No underline	rweber	10/28/2011 2:22:00 PM

City Unsafe Building/Public Nuisance Abatement

- I. Building Code identifies and regulates unsafe and substandard buildings.
 - A. MN State Building Code Section 1300.0180
 1. Administrative Chapter
 - B. MN Rules Chapter 1311.0206
 1. Guidelines for Rehabilitation of Existing Buildings (GREB)
- II. Building Code incorporates by reference MN Statute Sections 463.15. to 463.26
 - A. Statutes define substandard
 - B. Statutes define public nuisance
- III. Unsafe buildings, structures or appendages are classified as a public nuisance and must be abated by repair or removed
- IV. City must notify property owner of violation and order abatement
 - A. Time for compliance must be stipulated
- V. City may, with written consent of property owners and all lien holders of record, correct hazards or raze and remove public nuisances.
 - A. Cost of abatement is the responsibility of the property owner.
 - B. Cost of the abatement can be charged against the real estate as provided for in Statute 463.21
 1. five equal payments at 8% interest
- VI. City may order the property owners to remove or correct the unsafe buildings or conditions under Statute 463.16.
- VII. Citys must create a written order per Statute 463.17
 - A. Order must recite the grounds or basis for requested action
 - B. Order must identify the abatement action required
 - C. Order must give a reasonable time for compliance
 1. 30 days
 - D. Order must state that a motion for summary enforcement will be filed with Stearns County District Court unless corrective action is not taken or an answer to the order is filed within 20 days from the date of service of the notice in accordance with Statute 463.18
- VIII. Citys must serve the order in the same manner as a personal service summons in a civil suit
 - A. Order must be served to the owner or agent in charge of the property
 - B. Order must be served to all lien holders
 1. Lien holders on record at County Recorder's Office.
 - C. Order must be served to tenant if there is one
 - D. If owner cannot be located, order must be posted on structure or other conspicuous place on property
 - E. Order must be published for four (4) consecutive weeks in the official newspaper
- IX. Citys must file a copy of the order with proof of service with Stearns County District Court Administrator within five (5) days prior to filing a motion to enforce the order pursuant to Statute Section 463.19

- X. At the time of filing the order with District Court, the City must also file a notice of pendency of the proceedings with the County Recorder
 - A. Notice to Recorder must identify the nature of the order.
 - B. Notice must identify the land involved
 - 1. Address
 - 2. Property Identification Number (PIN)
 - C. City must notify the Recorder's Office within ten (10) days of abandonment of order

- XI. If owner fails to answer the order, the City may move the Court for enforcement of the order
 - A. Court may modify the order
 - B. Court will establish the time in which the City can proceed with enforcement of the order.

- XII. If an answer to the order is filed, the order will go to court and a judgment will be made in accordance with Statute 463.20

- XIII. If the owner doesn't comply within the given time, the City can enforce the judgment
 - a. City can hire the work performed
 - 1. Cost is covered by a lien on the property
 - 2. Property may be acquired by eminent domain per Statute 463.152
 - a. Property may be sold after acquisition with proceeds used to cover expenses.

- XIV. Proceeds may be used pursuant to Statute Sections 463.22, 463.23 and 463.24