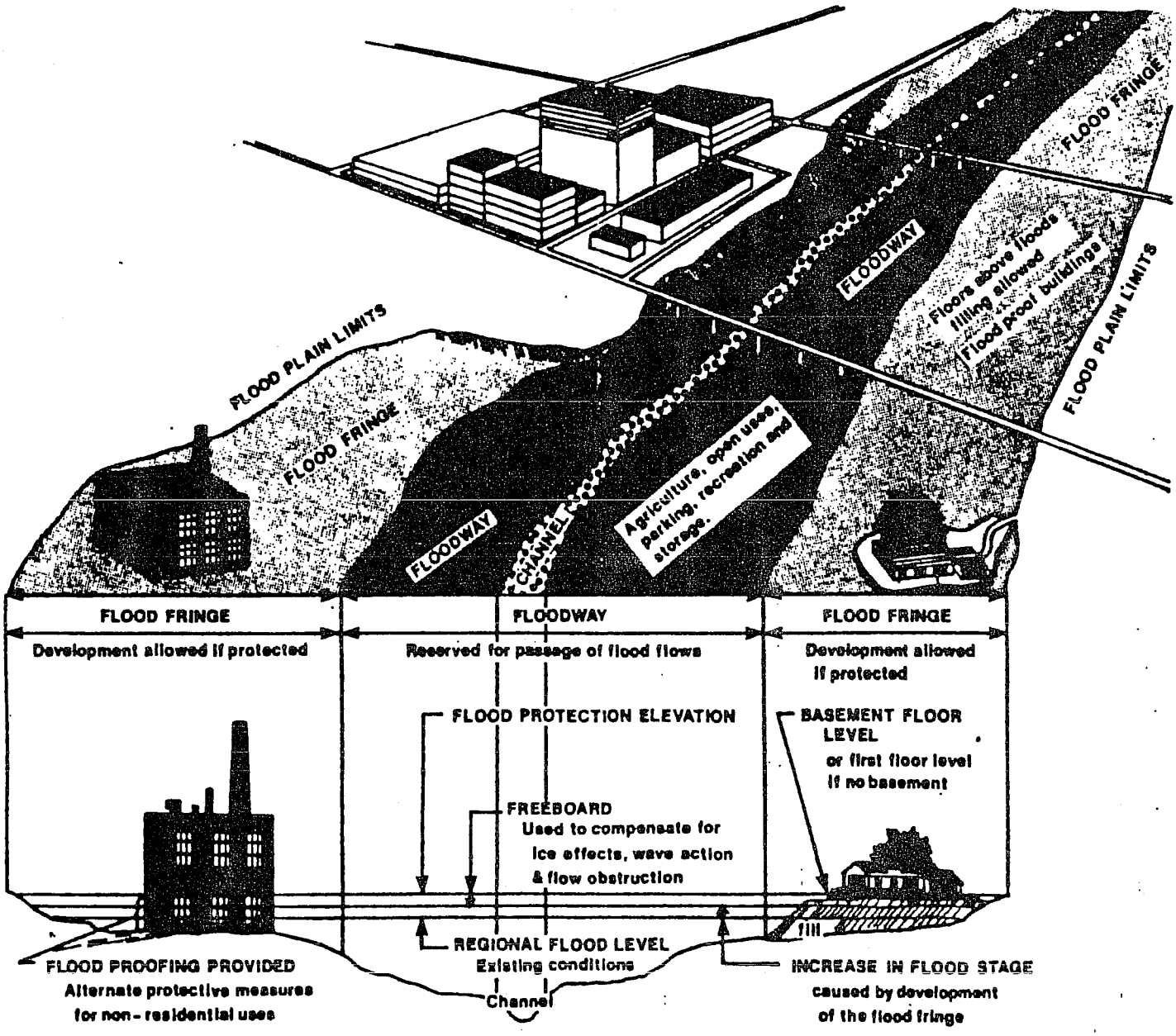
Illustrations of the Following Terms Used in this Ordinance:

"FLOOD PLAIN" "FLOOD FRINGE" "FLOODWAY" "FLOOD PROTECTION ELEVATION"



FLOOD PLAIN MANAGEMENT ORDINANCE
CITY OF PROCTOR, MINNESOTA

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FLOOD PLAIN MANAGEMENT ORDINANCE
CITY OF PROCTOR, MINNESOTA

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 104 and Minnesota Statutes Section 462.357, delegated the responsibility to local governmental units to adopt regulations designed to minimize flood losses. Therefore, the City Council of Proctor, Minnesota does ordain as follows:

1.2 Findings of Fact

1.21 The flood hazard areas of Proctor, 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 for 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.

1.3 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 Proctor, Minnesota shown on the Official Zoning Map as being located within the boundaries of the Floodway, Flood Fringe 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 for the City of Proctor, Minnesota prepared by the Federal Insurance Administration dated September 2, 1980, and the Flood Boundary and Floodway Maps and Flood Insurance Rate Maps therein. The Official Zoning Map shall be on file in the Office of the City Clerk and City Planner/Building Official.

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.

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 governing body 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 a new map composed of the overlay of the Official Zoning Map and the Official Flood Boundary and Floodway Map. Where interpretation is needed as to the exact location of the boundaries of the district as shown on the Official Zoning Flood Boundary and Floodway Composite Map, as for example where there appears to be a conflict between a mapped boundary and actual field conditions, the Board of Adjustment shall make the necessary interpretation based on elevations on the regional (100-year) flood profiled and other available technical data. Persons contesting the location of the district boundaries shall be given a reasonable opportunity to present their case to the Board and to submit technical evidence.

2.5 Compliance. No structure or land shall hereafter be used and no structure shall be located, extended, converted, or structurally altered without full compliance with the terms of this Ordinance and other applicable regulations which apply to uses within the jurisdiction of this Ordinance.

2.6 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.

2.7 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 Proctor, Minnesota or any officer or employee thereof for any flood damages that result from reliance on the Ordinance or any administrative decision lawfully made thereunder.

2.8 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.

2.9 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.

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.

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

Flood Frequency - the average frequency, statistically determined, for which it is expected that a specific flood stage or discharge may be equalled or exceeded.

Flood Fringe - that portion of the flood plain outside of the floodway. Flood fringe is synonymous with the term "floodway fringe" used in the Flood Insurance Study for Proctor, Minnesota.

Flood Plain - the areas adjoining a watercourse which have been or hereafter may be covered by the regional flood.

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. Such structural provisions shall conform to the requirements of the State Building Code.

Flood Protection Elevation - elevation of regional flood plus one (1) foot of freeboard.

Floodway - the channel of the watercourse and those portions of the adjoining flood plain which are reasonably required to carry and discharge the regional flood.

Obstruction - any dam, wall, wharf, embankment, levee, dike, pile, refuse, fill, abutment, projection, excavation, channel modification, culvert, building, wire, fence, stockpile, structure, or matter in, along, across, or projecting into any channel, watercourse, or regulatory flood plain which may empede, retard, or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water.

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

Structure - anything constructed or erected on the ground or attached to the ground, including, but not limited to, buildings, factories, shed, detached garages, cabins, mobile homes, and other similar items.

SECTION 3.0 ESTABLISHMENT OF ZONING DISTRICTS

The flood plain areas within the jurisdiction of the ordinance are hereby divided into two Districts: Floodway District (FW) , and Flood Fringe District (FF).

3.1 Floodway District. The Floodway District shall include those areas designated as floodway in the Flood Insurance Study.

3.2 Flood Fringe District. The Flood Fringe District shall

include those areas designated as floodway fringe in the Flood Insurance Study.

The boundaries of these districts shall be shown on the Official Zoning Flood Boundary and Floodway Composite Map. Within these districts all uses not allowed as Permitted Uses or permissible as Conditional Uses shall be prohibited.

SECTION 4.0 FLOODWAY DISTRICT (FW)

4.1 Permitted Uses. The following uses have a low flood damage potential and do not obstruct flood flows. These uses shall be permitted within the Floodway District to the extent that they are not prohibited by any other ordinance and provided they do not require structures, fill, or storage of materials or equipment. In addition, no use shall adversely affect the capacity of the channels or floodways or any tributary to the main stream or of any drainage ditch, or any other drainage facility or system.

4.11 Agricultural uses such as noncommercial garden plots.

4.12 Private and public recreational uses such as golf courses, tennis courts, driving ranges, swimming areas, parks, fishing areas, and single or multiple purpose recreational trails.

4.13 Residential uses such as lawns, gardens, parking areas, and play areas.

4.2 Conditional Uses. The following open space uses require accessory structures (temporary or permanent), or fill or storage of materials or equipment. These uses may be permitted in the Floodway District only after the issuance of a Conditional Use Permit as provided in Section 9.4 of this Ordinance. These uses are also subject to the provisions of Section 4.3, which applies to all floodway Conditional Uses.

4.21 Structures accessory to open space uses.

4.22 Placement of fill.

4.23 Extraction of sand, gravel, and other materials.

4.24 Docks, piers, and water control structures.

4.25 Railroads, streets, bridges, utility transmission lines and pipelines.

4.26 Storage yards for equipment, machinery or materials.

4.27 Other uses similar in nature to uses described in Sections 4.1 and 4.2 which are consistent with the provisions set out in Sections 1.3 and 4.0 of this Ordinance.

4.3 Standards for Floodway Conditional Uses.

4.31 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 Conditonal Use which, acting along or in combination with existing or reasonably anticipated future uses, adversely affects the capacity of the floodway or increases flood heights. In addition, all floodway Conditional

Uses shall be subject to the standards contained in Section 9.45 and the following standards (Sections 4.32-4.35).

4.32 Fill

(1) Any fill deposited in the floodway shall be no more than the minimum amount necessary to conduct a Conditonal Use listed in Section 4.2. Generally, fill shall be limited to that needed to grade or landscape for that use and shall not in any way obstruct the flow of flood waters.

(2) Spoil from dredging or sand and gravel operations shall not be deposited in the floodway unless it can be done in accordance with (1) of this section.

(3) Fill shall be protected from erosion by vegetative cover immediately upon completion of grading and before any conditional use is made of the property.

4.33 Accessory Structures (temporary or permanent) permitted as Conditional Uses by Section 4.21.

(1) Accessory structures shall not be designed for human habitation.

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

(a) Whenever possible, structures shall be constructed with the longitudinal axis parallel to the direction of flood flow, and,

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

(3) Accessory structures shall be flood-proofed in accordance with the State Building Code.

4.34 Storage of Materials and Equipment.

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

(2) Storage of other materials or equipment may be allowed if readily removable from the area within the time available after a flood warning.

4.35 Structural Works for Flood Control. Levees, dikes, and floodwalls shall not be constructed within the limits of the Floodway District. Other structural works for flood control such as dams and channel enlargements that will change the course, current, or cross-section of a public water shall be subject to the provisions of Minnesota Statutes Chapter 105.42 and to the requirements of the Minnesota Department of Natural Resources as outlined in Section 5.34 of this Ordinance.

SECTION 5.0 FLOOD FRINGE DISTRICT (FF)

5.1 Permitted Uses. The following uses shall be permitted uses within the Flood Fringe District to the extent that they are not prohibited by any other ordinance:

5.11 Any use permitted in Section 4.1.

5.12 Accessory structures provided they comply with the provision of Section 4.33 of this ordinance.

5.13 Residences and other structures constructed on fill so that the basement floor or first floor, if there is no basement, is at or above the Regulatory Flood Protection Elevation. The finished fill elevation shall be no lower than one (1) foot below the Regulatory Flood Protection Elevation and shall extend at such elevation at least fifteen (15) feet beyond the limits of any structure or building erected thereon. Fill shall be compacted and the slopes shall be protected by riprap or vegetative covering. Residences constructed on fill shall be subject to the vehicular access requirements in Section 5.31.

No use shall be permitted which will adversely affect the capacity of the channels or floodways of any tributary to the main stream, or of any drainage ditch, or any other drainage facility or system.

5.2 Conditonal Uses. Other uses are permitted only upon application to the Building Official and the issuance of a Conditional Use Permit as provided in Section 9.4 of this Ordinance and subject to the following provisions;

5.21 Residences. Where existing streets, utilities, and small lot sizes preclude the use of fill, other methods of elevating the first floor (including basements) above the Regulatory Flood Protection Elevation may be authorized, provided that the residence is flood-proofed in accordance with the State Building Code.

5.22 Residential Basements. Residential basements below the flood protection elevation may be authorized as a variance by the Board of Adjustment if they are flood-proofed to FP-1 classification in accordance with the State Building Code. No floor or portion of a residence below the Regulatory Flood Protection Elevation may be used for human occupancy.

5.23 Non-Residential Structures. Commercial, manufacturing, and industrial structures shall ordinarily be elevated on fill so that their first floor (including basement) is above the Regulatory Flood Protection Elevation but may in special circumstances be flood-proofed in accordance with the State Building Code. Structures that are not elevated to above the Regulatory Flood Protection Elevation shall be flood-proofed to FP-1 or FP-2 classification as defined by the State Building Code. Structures

flood-proofed to FP-3 or FP-4 classification shall not be permitted.

5.3 Standards for Flood Fringe Uses

5.31 Residential Uses. Residences that do not have vehicular access at or above an elevation not more than two feet below the Regulatory Flood Protection Elevation shall not be permitted unless granted a variance by the Board of Adjustment. In granting a variance the Board shall specify limitations on the period of use or occupancy of the residence.

5.32 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 inundate to a depth greater than two feet or be subject to flood velocities greater than four feet per second upon occurrence of the regional flood.

5.33 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 5.32 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.

5.34 General Standards. Any construction grading, filling, excavating, or series of excavations exceeding 10 yards of material within a flood plain area or 300 feet of a stream bank is subject to the following conditions:

(1) Issuance of variance by Board of Adjustment and use permit by Building Official.

(2) A plan drawing, to scale, shall be presented, indicating the amount and type of natural vegetation existing prior to any work, as well as the proposed amount and type of natural and planted vegetation upon completion of said work. If found to be necessary, the Building Official may require additional information.

(3) Selective removal of natural vegetation shall be allowed, provided that sufficient vegetative cover remains to screen cars, dwellings and other structures when viewed from the water.

(4) Clear cutting of natural vegetation shall be prohibited.

(5) Natural vegetation shall be restored insofar as feasible after any construction project is complete in order to retard surface runoff and soil erosion.

(6) The smallest amount of bare ground shall be exposed for as short a time as feasible.

(7) Temporary ground cover, such as mulch, shall be used and permanent ground cover, such as sod, planted as soon as possible.

(8) Methods to prevent erosion and trap sediment

shall be employed.

(9) Fill shall be stabilized to accepted engineering standards and any accumulative fill amounting to more than ten cubic yards shall require a special use permit.

(10) Maximum total lot area covered by impervious surface shall not exceed 30%.

(11) Building setback requirements from top of stream bank:
--in sewered areas shall not be less than 150 ft.
--in unsewered areas shall not be less than 200 ft.

(12) Building lot widths shall be 75 ft. minimum except that smaller lot sizes, water frontages and lot widths may be allowed but only under the procedures and requirements of community unit plans in Section 613.05 of the General Zoning Ordinance together with Department of Natural Resources approval.

SECTION 6.0 SUBDIVISIONS

No land shall be subdivided which is held unsuitable by the Planning Commission for reason of flooding, inadequate drainage, water supply or sewage treatment facilities. All lots within the flood plain districts shall contain a building site at or above the Regulatory Flood Protection Elevation. All subdivisions shall have water and sewage disposal facilities that comply with the provisions of this Ordinance and of the St. Louis County Health Department and State Health Department regulations. All subdivisions also shall have road access both to the subdivision and to the individual building sites no lower than two feet below the Regulatory Flood Protection Elevation.

SECTION 7.0 PUBLIC UTILITIES, RAILROADS, AND BRIDGES

7.1 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 and St. Louis County Health Department and State Health Department Regulations, or elevated to above the Regulatory Flood Protection Elevation.

7.2 Public Transportation Facilities. Railroad tracks, roads, and bridges to be located within the Floodway District shall comply with Sections 4.31 and 4.32 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.

SECTION 8.0 MOBILE HOMES AND MOBILE HOME PARKS

8.1 New mobile home parks and expansions to existing mobile home parks shall be subject to the provisions placed on subdivisions by Section 6.0 of this Ordinance.

8.2 Mobile Homes in existing mobile home parks that are located in flood plain districts are nonconforming uses and may be replaced only if in compliance with the following conditions:

(1) The mobile home lies in the Flood Fringe District.
(2) The mobile home is anchored with tiedowns that comply with requirements of Minnesota State Building Code.
(3) The mobile home owner or renter is notified that the mobile home site lies in the flood plain and may be subject to flooding.
(4) The mobile home park owner develops a flood emergency plan consistent with the time available after a flood warning. The plan shall be filed with and approved by the Planning Commission.

8.3 Individual mobile homes not located in mobile home parks may be permitted if allowed by other applicable ordinances and if they comply with the provisions of Section 5.13 of this Ordinance.

SECTION 9.0 ADMINISTRATION

9.1 Zoning Administrator. The Building Official shall administer and enforce this Ordinance. If he/she finds a violation of the provisions of this Ordinance he/she shall notify the person responsible for such violation, indicating the nature of the violation, and ordering the action necessary to correct it.

9.2 Use Permit

9.21 Use Permit Required. A Use Permit issued by the Building Official in conformity with the provisions of this Ordinance and the State Building Code shall be secured prior to the erection, addition, or alteration of any building, structure, or portion thereof; prior to the change or extension of a nonconforming use; and prior to the placement of fill or excavation of materials within the flood plain.

9.22 Application for Use Permit. Application for a Use Permit shall be made in duplicate to the Building Official on forms furnished by him/her 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 propsed structures, fill, or storage of materials; and the location of the foregoing in relation to the stream channel.

9.23 State Federal Permits. Prior to granting a Use Permit or processing an application for a Conditional Use Permit or Variance, the Building Official shall determine that the applicant has obtained all necessary State and Federal Permits. Such permits shall be the responsibility of the applicant.

9.24 Certificate of Zoning Compliance for a New, Altered, or Nonconforming Use. It shall be unlawful to use, occupy, or permit the use of 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 Building Official stating that the use of the building or land conforms to the requirements of this Ordinance and the State Building Code. Where a nonconforming use or structure is extended or substantially altered, the Certificate of Zoning Compliance shall specifically state the manner in which the nonconforming structure or use differs from the provisions of this Ordinance.

9.25 Construction and Use to be as Provided in Application, Plans, Permits, and Certificate of Zoning Compliance. Use Permits. Conditional Use Permits, or Certificates of Zoning Compliance issued on the basis of approved plans and applications authorize only the use, arrangement, and construction set forth in such approved plans and applications, and no other use, arrangement, or construction. Any use, arrangement, or construction at variance with that authorized shall be deemed a violation of this Ordinance, and punishable as provided by Section 11.0 of this Ordinance, 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.

9.26 Record of First Floor Elevation. The Building Official shall maintain a record of the elevation of the first floor (including Basement) of all new structures or additions to existing structures in the flood plain districts. He/She shall also maintain a record of the elevations to which structures or additions to structures are flood-proofed.

9.3 Board of Adjustment.

9.31 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.

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

9.33 Variances. The Board may authorize upon appeal in specific cases such variance from the terms of this Ordinance as will not be contrary to the public interest, where, owing to special conditions, literal enforcement of the provisions of the Ordinance will result in unnecessary hardship so that the spirit

of the Ordinance shall be observed and substantial justice done. 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.

9.34 Hearings. Upon filing with the Board of Adjustment of an appeal from a decision of the Building Official or an application for a variance, the Board shall fix a reasonable time for a hearing and give due notice to the parties in interest. The Board shall submit by mail to the Department of Natural Resources a copy of the application for proposed Variances sufficiently in advance so that the Department will receive at least ten (10) days notice of the hearing.

9.35 Decisions. The Board shall arrive at a decision on such appeal or Variance within thirty (30) days. In passing upon an appeal the Board may, so long as such action is in conformity with the provisions of this Ordinance, reverse or affirm, wholly or in part, or modify the order, requirement, decision or determination appealed from. It shall make its decision in writing setting forth the findings of fact and reasons for its decisions. In granting a Variance the Board may prescribe appropriate conditions and safeguards such as those specified in Section 9.47, 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 11.0. A copy of all decisions granting Variances shall be forwarded by mail to the Department of Natural Resources within ten (10) days of such action.

9.36 Appeal to the City Council and District Court. Appeals from any decision of the Board may be taken by any person or persons, jointly or severally, aggrieved by any decision of the Board, or any taxpayer, officer, department, board, or bureau of the municipality, to the City Council. The decision of the City Council may be appealed to the district court, of this jurisdiction as provided in Minnesota Statutes 462.361.

9.4 Conditional Uses. The Board of Adjustment shall hear and decide applications for Conditional Uses permissable under this Ordinance. Applications shall be submitted to the Building Official who shall forward the application to the Board of Adjustment for consideration.

9.41 Hearings. Upon filing with the Board of Adjustment an application for a Conditonal Use Permit, the Board of Adjustment shall submit by mail to the Department of Natural Resources a copy of the application for proposed Conditional Uses sufficiently in advance so that the Department will receive at least ten (10) days notice of the hearing.

9.42 Decisions. The Board of Adjustment shall arrive at a decision on a Conditional Use within thirty (30) days. In granting a Conditional Use Permit the Board of Adjustment may prescribe appropriate conditions and safeguards, in addition to those specified in Section 9.47, 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 11.0. A copy of all decisions granting Conditional Use Permits shall be forwarded by mail to the Department of Natural Resources within ten (10) days of such action.

9.43 Procedures to be Followed by the Board of Adjustment in Passing on Conditional Use Permit Applications Within all Flood Plain Districts.

(1) Require the applicant to furnish such of the following information and additional information as deemed necessary by the Board of Adjustment for determining the suitability of the particular site for proposed use:

(a) 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.

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

(2) Transmit one copy of the information described in subsection (1) to the city 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.

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

9.44 Factors Upon Which the Decision of the Board of Adjustment Shall Be Based. In passing upon Conditional Use applications, the Board of Adjustment shall consider all relevant factors specified in other sections of this Ordinance, and

(1) The danger to life and property due to increased flood heights or velocities caused by encroachments.

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

(3) The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.

(4) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.

(5) The importance of the services provided by the proposed facility to the community.

(6) The requirements of the facility for a waterfront location.

(7) The availability of alternative locations not subject to flooding for the proposed use.

(8) The compatibility of the proposed use with existing development and development anticipated in the forseeable future.

(9) The relationship of the proposed use to the comprehensive plan and flood plain management program for the area.

(10) The safety of access to the property in times of flood for ordinary and emergency vehicles.

(11) The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site.

(12) Such other factors which are relevant to the purposes of this Ordinance.

9.45 Time for Acting on Application. The Board of Adjustment shall act on an application in the manner described above within thirty (30) days from receiving the application, except that where additional information is required pursuant to Section 9.44 of this Ordinance. The Board of Adjustment shall render a written decision within thirty (30) days from the receipt of such additional information.

9.46 Conditions Attached to Conditional Use Permits. Upon consideration of the factors listed above and the purposes of this Ordinance, the Board of Adjustment may attach such conditions to the granting of Conditional Use Permits as it deems necessary to fulfill the purposes of this Ordinanace. Such conditions may include, but are not limited to, the following:

(1) Modification of waste disposal and water supply facilities.
(2) Limitations on period of use, occupancy, and operation.
(3) Imposition of operational controls, sureties, and deed restrictions.
(4) Requirements for construction of channel modifications, dikes, levees, and other protective measures.
(5) Flood-proofing measures, in accordance with the State Building Code. 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.

9.47 Applications. All applications, except by the state or federal government, for use permits, special use permits and variances under this chapter shall be made to the city building official and shall be accompanied by the non-refundable fee set forth below:
(1) Use permits: Ten dollars ($10.00) or minimum fee under State Building Code, Universal Building Code Table 3-A
(2) Special Use Permits: Sixty dollars ($60.00)
(3) Variances: Sixty dollars ($60.00)

SECTION 10.0 NONCONFORMING USES

10.1 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:

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

10.12 No structural alteration or addition to any nonconforming structure over the life of the structure shall exceed 50 percent of its assessed value at the time of its becoming a nonconforming use, unless the entire structure is permanently changed to a conforming use or unless the alteration or addition would substantially reduce potential flood damages for the entire structure according to the State Building Code.

10.13 Any alteration or addition to a nonconforming use which would result in substantially increasing the flood damage potential of that use shall be flood-proofed in accordance with the State Building Code.

10.14 If any nonconforming use is discontinued for 12 consecutive months, any future use of the building premises shall conform to this Ordinance. The St. Louis County assessor or any citizen shall notify the Building Official in writing of instances of nonconforming uses which have been discontinued for a period of 12 months.

10.15 If any nonconforming use is destroyed by any means, including floods, to an extent of 50 percent or more of its assessed value, it shall not be reconstructed except in conformity with the provisions of this Ordinance and the State Building Code. However, the Board of Adjustment may issue a Conditional Use Permit for reconstruction if the use is located outside the floodway and, upon reconstruction, is adequately flood-proofed, in accordance with the State Building Code, elevated, or otherwise protected in conformity with Section 9.47.

10.16 Uses or adjuncts thereof which are or become nuisances shall not be entitled to continue as nonconforming uses by a majority vote of the Board of Adjustment.

10.17 Nonconforming uses located in the Floodway District shall be eliminated or brought into conformity with the standards contained in this Ordinance within a reasonable period of time within one year as determined by a majority vote of the Board of Adjustment, after a hearing for each such nonconforming use. The Board shall make its determination upon the basis of the normal useful life of any improvement upon the premises. In addition, the monetary value of any competitve advantage derived by the operation of such nonconforming use, by reason of the limitation on establishment of competing businesses as a result of this Ordinance, shall be considered as a reduction of losses resulting from the requirement of termination of the use under this Ordinance.

10.18 The Building Official shall prepare a list of those nonconforming uses which have been flood- proofed or otherwise adequately protected in conformity with Section 9.47 of this Ordinance and the State Building Code. The Building Official shall present such list to the Board of Adjustment which may issue a certificate to the owner stating that such uses, as a result of these corrective measures, are in conformity with the provisions of this Ordinance.

SECTION 11.0 PENALTIES FOR VIOLATION

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. Any person who violates this Ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not more than $500 or imprisoned for not more than 90 days, or both, and in addition shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense.

Nothing herein contained shall prevent the City Council from

taking such other lawful action as is necessary to prevent or remedy any violation.

SECTION 12.0 AMENDMENTS

The flood plain designation on the Official Zoning Map and the Official Flood Boundary and Floodway 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 regional flood and is contiguous to lands outside the flood plain. Special exceptions to this rule may be permitted by the Department of Natural Resources if it determines that, through other measures, lands are adequately protected for the intended use.

All amendments to this ordinance including amendments to the Official Zoning Map and the Official Flood Boundary and Floodway Composite Map must be submitted to and approved by the Department of Natural Resources prior to adoption. Changes in the Official Zoning Map and Official Flood Boundary and Floodway Composite Map also require prior approval by the Federal Insurance Administration.

Passed this 17th day of February, 1981 at Proctor, Minnesota.

Kenneth L. Welsh
Mayor

Acting City Clerk-Treasurer

O 1-81-401