

TITLE XV: LAND USAGE

Chapter

- 150. BUILDING REGULATIONS**
- 151. ENVIRONMENTAL REVIEW PROGRAM**
- 152. FLOOD DAMAGE PREVENTION**

CHAPTER 150: BUILDING REGULATIONS

Section

150.01 Building permits

150.99 Penalty

Cross-reference:

Environmental review program, see Chapter 151

Flood damage prevention, see Chapter 152

Health and Safety; Nuisances, see Chapter 91

Streets and Sidewalks, see Chapter 93

§ 150.01 LAND USE PERMITS.

(A) It shall be unlawful for any person, group of persons or corporation to erect, construct, alter, rebuild or move any building, dwelling or structure in or into the city without first having received a permit therefore from the City Council. The fee shall be as established from time to time by resolution of the City Council.

(B) No building or accessory structure shall be located less than 25 feet from the edge of the right-of-way of any street, nor less than ten feet from the side of a lot or the back of a lot. The City Council may grant a variance from these setback requirements only in case of undue hardship as that term is used in M.S. § 462.357, Subd. 6, as it may be amended from time to time.

(C) The work authorized under division (A) shall commence within 60 days after the permit should have been issued, if a permit was not applied for, or has been issued, or 60 days from the effective date of this provision of the code, whichever is later. All construction, including the exterior finish or refinishing of an exterior, shall be completed within one year from the date the permit should have been issued, if a permit was not applied for, or has been issued, or one year from the effective date of this provision, whichever is later. The City Council may extend the time for completion for up to an additional six months upon written request of the permittee establishing that circumstances beyond the permittee's control prevented completion of the work for which the permit was or should have been issued. Tar paper, unfinished plywood, fiberboard insulation, foam insulation, brown coat or scratch coat of stucco, plastic sheeting and other similar materials not designed to be an exterior finish shall not be considered an acceptable exterior finish or acceptable refinishing of an exterior. Violation of this

section shall be a misdemeanor and each week in which the violation occurs or continues shall be deemed a separate offense.

(Ord. 40, passed 5-2-44) Penalty, see § 150.99

§ 150.99 PENALTY.

Any person, firm or corporation who violates any provision of this chapter for which another penalty is not specifically provided shall, upon conviction, be guilty of a misdemeanor and sentenced under the provisions of § 10.99. In either case, the costs of prosecution may be added. A separate offense shall be deemed committed upon each day during which a violation occurs or continues.

(Ord. 50, passed 12-1-69)

CHAPTER 151: ENVIRONMENTAL REVIEW PROGRAM

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§ 151.01 ENVIRONMENTAL REVIEW PROGRAM.

The provisions of the rules for the Environmental Review Program, Minnesota Rules Chapter 4410, one copy of which is on file in the office of the City Administrator, are hereby adopted, together with the other provisions of this chapter, as the environmental review operating procedures the city will follow in implementing the provisions of M.S. Chapter 116D, as it may be amended from time to time, relating to the Environmental Review Program and any rules adopted thereunder by the Minnesota Environmental Quality Board. All terms used in this chapter shall have the same meaning as the terms used in M.S. Ch. 116D, as it may be amended from time to time, and the rules adopted thereunder. (Ord. 59, passed 12-5-77)

§ 151.02 COST OF PREPARATION AND REVIEW.

(A) *Information to be provided.* The applicant for a permit for any action for which environmental documents are required either by state law or rules or by the City Council shall supply in the manner prescribed by the City Administrator all unprivileged data or information reasonably requested by the city that the applicant has in his or her possession or to which he or she has reasonable access.

(B) *Environmental assessment worksheets.* The applicant for a permit for any action for which an environmental assessment worksheet (EAW) is required either by state law or rules or by the City Council shall pay all costs of preparation and review of the EAW, and upon the request of and in the manner prescribed by the City Administrator, shall prepare a draft EAW and supply all information necessary to complete that document.

(C) *Environmental impact statement.* The city and the applicant for a permit for any action for which an environmental impact statement (EIS) is required shall comply with the provisions of the *Rules Governing Assessment of Costs for Environmental Impact Statements*, one copy of which is on file in the office of the City Administrator, unless the applicant and the City Council provide otherwise by a written agreement.

(D) *Payment of costs.* No permit for an action for which an EAW or an EIS is required shall be issued until all costs of preparation and review which are to be paid by the applicant are paid, and all information required is supplied, and until the environmental review process has been completed as provided in this chapter and the rules adopted by reference by this chapter, and pursuant to any written agreement entered into by the applicant for the permit or permits and the City Council under the provision of division (E) of this section.

(E) *Agreements concerning cost of preparation and review.* The applicant for a permit for any action for which an EAW or EIS is required and the City Council may, in writing, agree as to a different division of the costs of preparation and review of any EAW or EIS as provided in Minnesota Rules Chapter 4410.

(Ord. 59, passed 12-5-77) Penalty, see § 151.99

§ 151.03 ADMINISTRATION.

(A) The City Administrator shall be the person responsible for the administration of the Environmental Review Program, this chapter, and the rules adopted by reference by this chapter.

(B) The City Administrator shall be responsible for determining whether an action for which a permit is required is an action for which an EAW is mandatory under Minnesota Rules Chapter 4410. The City Administrator shall also determine those proposed actions for which an optional EAW may be required under the provisions of this chapter and shall notify the Planning Commission and the City Council of these proposed actions.

(C) All EAW's and EIS's shall be prepared under the supervision of the City Administrator, reviewed by the Planning Commission and reviewed and approved by the City Council.

(D) When reviewing an EAW or EIS, the City Administrator and the Planning Commission may suggest design alteration which would lessen the environmental impact of the action. The City Council may require these design alterations to be made as a condition for issuing the permit when it finds that the design alterations are necessary to lessen the environmental impact of the action.

(E) After an EAW is prepared, the Planning Commission shall review the EAW and recommend to the City Council whether or not it should require the preparation of an EIS. The City Council shall require an EIS when it finds under Minnesota Rules Chapter 4410 that an action is major and has potential for significant environmental effects.

(Ord. 59, passed 12-5-77)

§ 151.04 OPTIONAL ENVIRONMENTAL ASSESSMENT WORKSHEET (EAW).

(A) The City Council may, upon recommendation by the City Administrator, require that an optional EAW be prepared on any proposed action if the action may be a major action and appears to have the potential for significant environmental effects.

(B) The following guidelines shall also be considered in determining, whether an optional EAW shall be required:

(1) Is the action to be in or near an area that is considered to be environmentally sensitive or aesthetically pleasing?

(2) Is the action likely to have disruptive effects such as generating traffic and noise?

(3) Are there public questions or controversy concerning the environmental effects of the proposed actions?

(Ord. 59, passed 12-5-77)

§ 151.05 ENFORCEMENT.

(A) No permit shall be issued for a project for which environmental documents are required until the entire environmental review procedures established by this chapter are completed.

(B) No work shall commence and any work in progress on any project for which environmental documents are required shall cease until the environmental review procedures established by this chapter are fully complies with.

(Ord. 59, passed 12-5-77) Penalty, see § 151.99

§ 151.99 PENALTY.

Any person who violates any provision of this chapter is guilty of a misdemeanor and, upon conviction thereof, shall be punished as provided in § 10.99. Each day that the violation is permitted to exist constitutes a separate offense.

(Ord. 59, passed 12-5-77)

CHAPTER 152: FLOOD DAMAGE PREVENTION

Section

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GENERAL PROVISIONS**§ 152.01 STATUTORY AUTHORIZATION.**

The Legislature of the state in M.S. Chapter 462, as it may be amended from time to time, delegated the authority to local governmental units to adopt regulations designed to minimize flood losses, and M.S. Chapter 104, as it may be amended from time to time, further stipulates that communities subject to recurrent flooding must participate and maintain eligibility in the National Flood Insurance Program. Therefore the city does ordain the following chapter.

(Ord. passed 9-17-90)

§ 152.02 STATEMENT OF PURPOSE.

The purpose of this chapter is to maintain the community's eligibility in the National Flood Insurance Program and to minimize potential losses due to periodic flooding including 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.

(Ord. passed 9-17-90)

§ 152.03 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

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

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

FLOOD FRINGE. That portion of the flood plain outside of the floodway.

FLOOD PLAIN. The channel or beds proper and the areas adjoining a wetland, lake or watercourse which have been or hereafter may be covered by the regional flood. Flood plain areas within the city shall encompass all areas designated as Zone A on the Flood Insurance Rate Map.

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.

OBSTRUCTION. Any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, dredged soil, channel modification, culvert, building, wire, fence, stockpile, refuse, fill, structure, stockpile of sand or gravel or other material, or matter in, along, across or projecting into any channel, watercourse, lake bed or regulatory flood plain which may impede, retard or change the direction of flow, either in itself or by catching or collecting debris carried by floodwater.

REGIONAL FLOOD. A flood which is representative of large floods known to have occurred generally in the state and reasonably characteristics of what can be expected to occur on an average frequency in magnitude of the 100-year recurrence interval. The term is synonymous with the term “base flood” used in the Flood Insurance Rate Map.

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

STRUCTURE. Anything constructed or erected on the ground or attached to the ground or on-site utilities, including but not limited to buildings, factories, sheds, detached garages, cabins, manufactured homes, travel trailers or vehicles not meeting the exemption criteria specified in § 152.30(B) and other similar items.

(Ord. passed 9-17-90)

§ 152.04 LANDS TO WHICH CHAPTER APPLIES.

This chapter shall apply to all lands designated as flood plain within the jurisdiction of the city.
(Ord. passed 9-17-90)

§ 152.05 ADOPTION OF FLOOD INSURANCE RATE MAP.

The Flood Insurance Rate Map for the city dated June 3, 1988, developed by the Federal Emergency Management Agency, is hereby adopted by reference as the Official Flood Plain Zoning District Map and made a part of this chapter. This map was previously entitled the Flood Hazard Boundary Map.
(Ord. passed 9-17-90)

§ 152.06 INTERPRETATION.

The boundaries of the Flood Plain District shall be determined by scaling distances on the Official Flood Plain Zoning District Map. Where interpretation is needed as to the exact location of the boundaries of the Flood Plain District, the City Council shall make the necessary interpretation based on elevations on the regional (100-year) flood profile, if available. If 100-year flood elevations are not

available, the community shall require a flood plain evaluation consistent with § 152.27 to determine a 100-year flood elevation for the site, or base its decision on available hydraulic, hydrologic or site elevation survey data which demonstrates the likelihood the site is within or outside of the flood plain. (Ord. passed 9-17-90)

§ 152.07 WARNING OF DISCLAIMER OF LIABILITY.

This chapter does not imply that areas outside of the Flood Plain District or land uses permitted within such districts will be free from flooding and flood damages. This chapter shall not create liability on the part of the city or any officer or employee thereof for any flood damages that result from reliance on this chapter or any administrative decisions lawfully made thereunder. (Ord. passed 9-17-90)

§ 152.08 FLOOD PLAIN DISTRICT AS OVERLAY ZONING DISTRICT.

The Flood Plain Zoning District shall be considered an overlay zoning district to all existing land use regulations of the community. The uses permitted in §§ 152.25 through 152.28 of this chapter shall be permitted only if not prohibited by any established, underlying zoning district. The requirements of this chapter shall apply in addition to other legally established regulations of the community, and where this chapter imposes greater restrictions, the provisions of this chapter shall apply. (Ord. passed 9-17-90)

§ 152.09 COMPLIANCE WITH OTHER REGULATIONS.

(A) No new structure or land shall hereafter be used and no structure shall be located, extended, converted or structurally altered without full compliance with the terms of this chapter and other applicable regulations which apply to uses within the jurisdiction of this chapter. Within the floodway and flood fringe, all uses not listed as permitted uses in section §§ 152.25 through 152.27 shall be prohibited.

(B) In addition, a caution is provided here that:

(1) New manufactured homes, replacement manufactured homes and certain travel trailers and travel vehicles are subject to the general provisions of this chapter and specifically §§ 152.25 through 152.27 and 152.30.

(2) Modifications, additions, structural alterations or repair after damage to existing nonconforming structures and nonconforming uses of structures or land are regulated by the general provisions of this chapter and specifically § 152.47; and

(3) As-built elevations for elevated structures must be certified by ground surveys as stated in § 152.45.
(Ord. passed 9-17-90) Penalty, see § 152.99

REGULATIONS

§ 152.25 PERMITTED USES IN THE FLOOD PLAIN DISTRICT.

The following uses of land are permitted uses in the Flood Plain District:

(A) Any use of land which does not involve a structure, an addition to the outside dimensions to an existing structure or an obstruction to flood flows such as fill, excavation or storage of materials or equipment.

(B) Any use of land involving the construction of new structures, the placement or replacement of manufactured homes, the addition to the outside dimensions of an existing structure or obstructions such as fill or storage of materials or equipment; provided, these activities are located in the flood fringe portion of the flood plain. These uses shall be subject to the development standards in § 152.26 and the flood plain evaluation criteria in § 152.27 for determining floodway and flood fringe boundaries.

(C) Travel trailers and travel vehicles are regulated by § 152.30.
(Ord. passed 9-17-90)

§ 152.26 STANDARDS FOR FLOOD PLAIN PERMITTED USES.

(A) *Standards generally.* Fill shall be properly compacted and the slopes shall be properly protected by the use of riprap, vegetative cover or other acceptable methods. 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.

(B) *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 or if placed on fill to the Regulatory Flood Protection Elevation.

(C) *Certain uses prohibited.* 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.

(D) *Fill and finished grade.* All structures, including accessory structures, additions to existing structures and manufactured homes shall be 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 must be no lower than one foot below the Regulatory Flood Protection Elevation and shall extend at such elevation at least 15 feet beyond the limits of the structure constructed thereon.

(E) *All uses.* Uses that do not have vehicular access at or above an elevation not more than two feet below the Regulatory Flood Protection Elevation to lands outside of the flood plain 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 use and only after determining that adequate flood warning time and local emergency response and recovery procedures exist.

(F) *Commercial and manufacturing uses.* Accessory land uses, such as yards, railroad tracks, and parking lots, may be at elevations lower than the Regulatory Flood Protection Elevation. However, a permit for such facilities to be used by the employees or the general public shall not be granted in the absence of a flood warning system that provides adequate time for evacuation if the area would be inundated to a depth greater than two feet or be subject to flood velocities greater than four feet per second upon occurrence of the regional flood.

(G) *On-site sewage treatment and water supply systems.* Where public utilities are not provided, on-site water supply systems must be designed to minimize or eliminate infiltration of flood waters into the systems, and new or replacement on-site sewage treatment systems must be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters and they shall not be subject to impairment or contamination during times of flooding. Any sewage treatment system designed in accordance with the state's current statewide standards for on-site sewage treatment systems shall be determined to be in compliance with this subchapter.

(H) *Manufactured homes.* All manufactured homes must be securely anchored to an adequately anchored foundation system that resists flotation, collapse and lateral movement. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state or local anchoring requirements for resisting wind forces. (Ord. passed 9-17-90) Penalty, see § 152.99

§ 152.27 FLOOD PLAIN EVALUATION.

(A) Upon receipt of an application for a permit, manufactured home park development or subdivision approval within the Flood Plain District, the City Council shall require the applicant to

furnish sufficient site development plans and a hydrologic and hydraulic analysis by a qualified engineer or hydrologist specifying the nature of the development and whether the proposed use is located in the floodway or flood fringe and the Regulatory Flood Protection Elevation for the site. Procedures consistent with Minnesota Rules Parts 6120.5600 (Technical Standards and Requirements for Flood Plain Evaluation) and 6120.5700 (Minimum Flood Plain Management Standards for Local Ordinances), as they may be amended from time to time, shall be followed during the technical evaluation and review of the development proposal.

(B) The City Administrator shall submit one copy of all information required by division (A) of this section to the respective Department of Natural Resources Area Hydrologist for review and comment at least 20 days prior to the granting of a permit or manufactured home park development or subdivision approval by the community. The City Administrator shall notify the respective Department of Natural Resources Area Hydrologist within 10 days after a permit or manufactured home park development or subdivision approval is granted.

(Ord. passed 9-17-90) Penalty, see § 152.99

§ 152.28 UTILITIES, RAILROADS, ROADS AND BRIDGES IN THE FLOOD PLAIN DISTRICT.

All utilities and transportation facilities, including railroad tracks, roads and bridges, shall be constructed in accordance with state flood plain management standards contained in Minnesota Rules Parts 6120.5000 through 6120.6200, as they may be amended from time to time.

(Ord. passed 9-17-90) Penalty, see § 152.99

§ 152.29 SUBDIVISIONS.

(A) No land shall be subdivided and no manufactured home park shall be developed or expanded where the site is determined to be unsuitable by the City Council for reason of flooding, inadequate drainage, water supply or sewage treatment facilities. The City Council shall review the subdivision or development proposal to insure that each lot or parcel contains sufficient area outside of the floodway for fill placement for elevating structures, sewage systems and related activities.

(B) In the Flood Plain District, applicants for subdivision approval or development of a manufactured home park or manufactured home park expansion shall provide the information required in § 152.27(A). The City Council shall evaluate the proposed subdivision or mobile home park development in accordance with the standards established in §§ 152.26, 152.27 and 152.28.

(C) For all subdivisions in the flood plain, the floodway and flood fringe boundaries, the Regulatory Flood Protection Elevation and the required elevation of all access roads shall be clearly labelled on all required subdivision drawings and platting documents.

(D) 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.

(Ord. passed 9-17-90) Penalty, see § 152.99

§ 152.30 TRAVEL TRAILERS AND TRAVEL VEHICLES.

(A) *Generally.* Travel trailers and travel vehicles that do not meet the exemption criteria specified in division (B) of this section shall be subject to the provisions of this chapter and as specifically spelled out in division (D) and (E) of this section.

(B) *Exemption.* Travel trailers and travel vehicles are exempt from the provisions of this chapter if they are placed in any of the areas listed in division (C) of this section and further they meet the following criteria:

(1) Have current licenses required for highway use.

(2) Are highway ready, meaning on wheels or the internal jacking system are attached to the site only by quick disconnect type utilities commonly used in campgrounds and trailer parks and the travel trailer or travel vehicle has no permanent structural type additions attached to it.

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

(C) *Areas exempted for placement of travel or recreational vehicles.*

(1) Individual lots or parcels of record.

(2) Existing commercial recreational vehicle parks or campgrounds.

(3) Existing condominium type associations.

(D) *Loss of exemption.* Travel trailers and travel vehicles exempted in division (B) of this section lose this exemption when development occurs on the parcel exceeding \$500 for a structural addition to the travel trailer or travel vehicle or an accessory structure such as a garage or storage building. The travel trailer or travel vehicle and all additions and accessory structures will then be treated as a new structure and shall be subject to the elevation requirements and the use of land restrictions specified in §§ 152.25 through 152.27.

(E) *Additional restrictions.* New commercial travel trailer or travel vehicle parks or campgrounds and new residential type subdivisions and condominium associations and the expansion of any existing similar use exceeding five units or dwelling sites shall be subject to the following:

(1) Any new or replacement travel trailer or travel vehicle will be allowed in the Floodway or Flood Fringe Districts; provided, the trailer or vehicle and its contents are placed on fill above the Regulatory Flood Protection Elevation determined in accordance with the provisions of § 152.27 and proper elevated road access to the site exists in accordance with §§ 152.25 through 152.27. No fill placed in the floodway to meet the requirements of this section shall increase flood stages of the 100-year or regional flood.

(2) All new or replacement travel trailers or travel vehicles not meeting the criteria of division (E)(1) may, as an alternative, be allowed if in accordance with the following provisions. The applicant must submit an emergency plan for the safe evacuation of all vehicles and people during the 100-year flood. The plan shall be prepared by a registered engineer or other qualified individual and shall demonstrate that adequate time and personnel exist to carry out the evacuation. All attendant sewage and water facilities for new or replacement travel trailers or other recreational vehicles must be protected or constructed so as to not be impaired or contaminated during times of flooding in accordance with § 152.26(G).

(Ord. passed 9-17-90) Penalty, see § 152.99

ADMINISTRATION AND ENFORCEMENT

§ 152.45 PERMITS.

(A) *Permits required.* A permit issued by the City Administrator shall be secured prior to the construction, addition or alteration of any building or structure; prior to the use or change of use of a building, structure or land; prior to the change or extension of a nonconforming use; and prior to excavation or the placement of an obstruction within the flood plain.

(B) *State and federal permits.* Prior to granting a permit or processing an application for a variance, the City Administrator shall determine that the applicant has obtained all necessary state and federal permits.

(C) *Certification of lowest floor elevations.* 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 chapter. The City Administrator shall maintain a record of the elevation of the lowest floor (including basement) for all new structures and alterations or additions to existing structures in the Flood Plain District.

(Ord. passed 9-17-90)

§ 152.46 VARIANCES.

(A) A variance means a modification of a specific permitted development standard required in an official control including this chapter 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.

(B) The Board may authorize upon appeal in specific cases such relief or variance from the terms of this chapter as will not be contrary to the public interest and only for those circumstances such as hardship, practical difficulties or circumstances unique to the property under consideration, as provided for in the respective enabling legislation for planning and zoning for cities or counties as appropriate. In the granting of such variance, the Board of Adjustment shall clearly identify in writing the specific conditions that existed consistent with the criteria specified in the respective enabling legislation which justified the granting of the variance.

(C) Variances from the provisions of this chapter may be authorized where the Board of Adjustment has determined the variance will not be contrary to the public interest and the spirit and intent of this chapter. No variance shall allow in any district a use prohibited in that district or permit a lower degree of flood protection than the Regulatory Flood Protection Elevation. Variances may be used to modify permissible methods of flood protection.

(D) The Board of Adjustment shall submit by mail to the Commissioner of Natural Resources a copy of the application for proposed variance sufficiently in advance so that the Commissioner will receive at least ten days notice of the hearing. A copy of all decisions granting a variance shall be forwarded by mail to the Commissioner of Natural Resources within ten days of such action.

(E) Appeals from any decision of the Board of Adjustment may be made as specified in this Community's Official Controls and also state law.

(F) The Zoning Administrator shall notify the applicant for a variance that 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 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.

(Ord. passed 9-17-90)

§ 152.47 NONCONFORMITIES.

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

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

(B) An alteration within the inside dimensions of a nonconforming use or structure is permissible; provided, it will not result in increasing the flood damage potential of that use or structure.

(C) The cost of all structural alterations or additions both inside and outside of a structure to any nonconforming structure over the life of the structure shall not exceed 50% of the market value of the structure unless the conditions of this section are satisfied. The cost of all structural alterations and additions constructed since the adoption of the community's initial flood plain controls must be calculated into today's current cost which will include all costs such as construction materials and a reasonable cost placed on all manpower or labor. If the current cost of all previous and proposed alterations and additions exceeds 50% of the current market value of the structure, then the structure must meet the standards of §§ 152.25 through 152.27.

(D) If any nonconforming use of a structure or land or nonconforming structure is destroyed by any means, including floods, to an extent of 50% or more of its market value at the time of destruction, it shall not be reconstructed except in conformity with the provisions of this chapter. The City Council may issue a permit for reconstruction if the use is located outside the floodway and, upon reconstruction, is adequately elevated on fill in conformity with the provisions of this chapter.

(Ord. passed 9-17-90) Penalty, see § 152.99

§ 152.48 AMENDMENTS.

All amendments to this chapter, including revisions to the official Flood Plain Zoning District Map, shall be submitted to and approved by the Commissioner of Natural Resources prior to adoption. The flood plain designation on the Official Flood Plain Zoning District Map shall not be removed unless the area is filled to an elevation at or above the Regulatory Flood Protection Elevation and is contiguous to lands outside of the flood plain. Changes in the official zoning map must meet the Federal Emergency Management Agency's (FEMA) technical conditions and criteria and must receive prior FEMA approval before adoption. The Commissioner of Natural Resources must be given ten days written notice of all hearings to consider an amendment to this chapter and the notice shall include a draft of the ordinance amendment or technical study under consideration.

(Ord. passed 9-17-90)

§ 152.99 PENALTY.

(A) A violation of the provisions of this chapter or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variance) shall constitute a misdemeanor and shall be subject as provided in § 10.99.

(B) 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.

(C) 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.

(D) The Zoning Administrator shall notify the suspected party of the requirements of this chapter and all other official controls and the nature and extent of the suspected violation of these controls. If the structure 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 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 notify the responsible party to apply for an after-the-fact permit or development approval within a specified period of time not to exceed 30 days.

(E) 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 chapter 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 chapter.

(Ord. passed 9-17-90)