

ORDINANCE NO. 108

AN ORDINANCE RELATING TO FLOOD HAZARD AND FLOOD PLAIN ZONING, SUPERCEDING AND REPLACING ALL PRIOR ORDINANCES REGARDING THE SAME TOPICS

BE IT ENACTED by the City Council of the City of Glyndon as follows:

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 468, delegated the responsibility to local governmental units to adopt regulations designed to minimize flood losses. The City of Glyndon has previously adopted an ordinance and amendment thereto regarding flood hazard and flood plain zoning, but new requirements compel the adoption of this new ordinance, and the City Council of the City of Glyndon does hereby revoke prior Ordinance No. 81-1 and all amendments thereto, upon the effective date of the adoption of this Ordinance, which is adopted in its place and stead. Therefore, the Council of the City of Glyndon, Minnesota, does ordain as follows:

1.2 Statement of Purpose. The purpose of this Ordinance is to minimize potential loss 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.

1.3. 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.

SECTION 2.0 GENERAL PROVISIONS:

2.1 Land to Which Ordinance Applies. This Ordinance shall apply to all lands designated as Floodway District and Flood Fringe District within the jurisdiction of the City of Glyndon.

2.2 Adoption of Flood Insurance Study. Any Flood Insurance Study for the City of Glyndon and any and all amendments and revisions thereto as developed by the Federal Insurance Administration and the Floodway and Flood Boundary and Flood Insurance Rate Maps dated March 2, 1981, contained therein are hereby adopted by reference and made part of this Ordinance.

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. The boundaries of the zoning districts shall be determined by scaling distances on the Flood Insurance Study maps. Where interpretation is needed as to the exact location of the boundaries of a district, the City Council shall make the necessary interpretation based on elevations on the regional (100-year) flood profile and other available technical data. 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.

2.5 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. In addition, a caution is provided here that:

2.51 New manufactured homes, replacement manufactured homes and certain travel trailers and travel vehicles are subject to the general provisions of this Ordinance and specifically Section 9.0.

2.52 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 Ordinance and specifically Section 10.0; and

2.53 As-built elevated or flood proof structures must be certified by ground surveys and flood proofing techniques must be designated and certified by a registered professional engineer or architect as specified in the general provisions of this Ordinance and specifically as stated in Section 8.0 of this Ordinance.

2.6 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.

Basement - means any area of a structure, including crawl spaces, having its floor or base sub-grade (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 fringe is synonymous with the term "floodway fringe" used in the Flood Insurance Study for Glyndon, 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.

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.

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 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, sheds, detached garages, cabins, mobile homes, travel trailers, recreational vehicles, manufactured homes, not meeting the exemption criteria specified in Section 9.31 of the Ordinance and other similar items.

Conditional Use - means a specific type of structure or land use listed in the official control that may be allowed by 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 find that: (1) certain conditions as detailed in the zoning ordinance exist and (2) the structure and/or land use conform to the comprehensive land use plan if one exists and are compatible with the existing neighborhood.

Equal Degree of Encroachment - a method of determining the location of floodway boundaries so that flood plain lands on both sides of a stream are capable of conveying a proportionate share of flood flows.

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

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

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.

Principal Use or Structure - means all uses or structures that are not accessory uses or structures.

Reach - a hydraulic engineering term to describe a longitudinal segment of a stream or river influenced by a natural or 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.

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.

2.7 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.

2.8 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 Glyndon or any officer or employee thereof for any flood damages that result from reliance on this Ordinance or any administrative decision lawfully made thereunder.

2.9 Severability. If any section, clause, provisions, 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.

SECTION 3.0 ESTABLISHMENT OF ZONING DISTRICTS:

The flood plain areas within the jurisdiction of this 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.

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 as long as they are not prohibited by any other ordinance and provided they do not require structures, fill or storage of materials or equipment.

4.11 Agricultural uses such as general farming, pasture, forestry, sod farming and wild crop harvesting.

4.12 Industrial-commercial uses such as parking areas and airport landing strips.

4.13 Private and public recreational uses.

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

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 through 4.38 below.

4.32 Extraction and storage of sand, gravel, and other materials.

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

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

4.35 Storage yards for equipment, machinery or equipment.

4.36 Placement of fill.

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

4.38 Structural works for flood control such as levees, dikes and flood walls 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.

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 8.3 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 Governing Body has received an appropriate plan which assures the removal of the materials from the floodway based upon the flood warning time available. The Conditional Use Permit must be title registered with the property in the office of the County Recorder.

4.45 Accessory Structures:

(a) Accessory structures must 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 and FP-2 flood proofing classifications in the State Building Code. As an alternative, an accessory structure may be flood proofed to the FP-3 or FP-4 flood proofing classification in the State Building Code provided the accessory structure constitutes a minimal investment, does not exceed 500 square feet in size, and for a detached garage, the detached garage must be used solely for parking of vehicles and limited storage. All flood proofed accessory structures must meet the following additional standards, as appropriate:

(1) The structure must be adequately anchored to prevent flotation, collapse, or lateral movement of the structure and shall be designed to equalize hydrostatic flood forces on exterior walls; and

(2) Any mechanical and utility equipment in a structure must be elevated to or above the Regulatory Flood Protection Elevation or properly flood proofed.

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 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 Statutes, 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 flood wall 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 Fringe provided such use does not constitute a public nuisance. All Permitted Uses shall comply with the standards for Flood Fringe "Permitted Uses" listed in Section 5.2 and the standards for all Flood Fringe "Permitted and Conditional 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 An accessory structure may be flood proofed to the FP-3 or FP-4 flood proofing classification in the State Building Code provided the accessory structure constitutes a minimal investment, does not exceed 500 square feet in size, and for a detached garage, the detached garage must be used solely for parking of vehicles and limited storage. All flood proofed accessory structures must meet the following additional standards, as appropriate:

(a) For a detached garage, the garage must be used solely for the parking of vehicles and limited storage; and

(b) The structure must be adequately anchored to prevent flotation, collapse, or lateral movement of the structure and shall be designed to equalize hydrostatic forces on exterior walls; and

(c) Any mechanical and utility equipment in

a structure must be elevated to or above the Regulatory Flood Protection Elevation or properly flood proofed.

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.

5.3 Conditional Uses: Any structure that is not elevated on fill or flood proofed in accordance with Section 5.21 - 5.22 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 8.3 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, et cetera, 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) is designed to internally flood and is constructed with flood resistant material; and 3) is used solely for parking of vehicles, building access or storage. The above-named 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) The minimum area of openings in the walls where internal flooding is to be used as a flood proofing technique. When openings are placed in a structure's walls to provide for entry of flood waters to equalize pressures, the bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of flood waters.

(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 2.6 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 effect 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 soil 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.

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.

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

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

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 maybe 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 plan 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.

SECTION 6.0 SUBDIVISIONS:

6.1 Review Criteria. No land shall be subdivided which is held unsuitable by the City Council 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 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 boundaries, the Regulatory Flood Protection Elevations and the required elevation of all access roads shall be clearly labelled on all required subdivision drawings and platting documents.

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

SECTION 7.0 UTILITIES, RAILROADS, ROADS 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 or elevated to at or above the Regulatory Flood Protection Elevation.

7.2 Public Transportation Facilities. Railroad tracks, roads, and bridges to be located within the flood plain shall comply with Sections 4 and 5 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.

7.3 On-site Sewage Treatment and Water Supply Systems:
Where public utilities are not provided:

(a) On-site water supply systems must be designed to minimize or eliminate infiltration of flood waters into the systems; and

(b) 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.

SECTION 8.0 ADMINISTRATION:

8.1 Use Permit:

8.11 Use Permit Required. A Use Permit issued by the City Council shall be secured prior to the construction, addition or alteration of any building 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 the placement of fill or excavation of materials or the storage of materials or equipment within the flood plain.

8.12 Application for Use Permit. Application for a Use Permit shall be made in duplicate to the City Council and shall include plans drawn to scale showing, where applicable: 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.

8.13 State and Federal Permits. Prior to granting a Use Permit or processing an application for a variance, the Zoning Administrator shall determine that the applicant has obtained all necessary State and Federal Permits.

8.14 Certification of First Floor Elevations. The applicant shall 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. The City Clerk shall maintain a record of these elevations for all new structures in the flood plain districts.

8.15 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.

8.16 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.

8.17 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 and alterations or additions to the structure are flood proofed.

8.2 Board of Adjustment. A Board of Adjustment is hereby established and shall consist of all members of the City Council.

8.21 Variances. The Board may authorize, upon appeal, variances from the provisions of this Ordinance as long as they will not be contrary to the public interest, and if the spirit of the Ordinance will be observed. Variances may only be granted where due to special conditions, literal enforcement of the provisions of the ordinance will result in unnecessary hardship. In the granting of such variance, the Board of Adjustment shall clearly identify in writing the specific conditions that existed consistent with the criteria specified in the respective enabling legislation which justified the granting of the variance. No variance

shall have the effect of allowing in any district uses prohibited in that district, permit a lower degree of flood protection than the Regulatory Flood Protection Elevation for the particular area, or permit standards lower than those required by State law.

8.22 Hearings. The Board of Adjustment shall fix a reasonable time for a hearing and give notice to all interested parties. The Board shall submit by mail to the Commissioner of Natural Resources a copy of the application for proposed variances sufficiently in advance so that the Commissioner will receive at least ten days notice of the hearing. 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.

8.23 Decisions. The Board shall arrive at a decision on such appeal or variance within 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 of the Zoning Administrator or other public official. It shall make its decision in writing setting forth the findings of fact and the reasons for its decisions. In granting a variance, the board may prescribe appropriate conditions and safeguards such as those specified in Section 8.36, 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.

8.24 Appeals. Appeals from any decision of the Board may be made, and as specified in this Community's Official Controls and also Minnesota Statutes.

8.25 Flood Insurance Notice and Record Keeping. The Zoning Administrator shall notify the applicant for a variance that:

- (a) The issue 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 or \$100 of insurance coverage; and

(b) 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.

8.3 Conditional Uses. The City Council 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 City Council for consideration.

8.31 Hearings. Upon filing with the City Council an application for a Conditional Use Permit, the City Council 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.

8.32 Decisions. The City Council shall arrive at a decision on a Conditional Use within thirty days. In granting a Conditional Use Permit the City Council shall prescribe appropriate conditions and safeguards, in addition to those specified in Section 8.36, 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.

8.33 Procedures to Be Followed By the 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 City Council for determining the suitability of the particular site for the proposed use:

(1) Plans in triplicate drawn to scale showing the nature, location,

dimensions, and elevation of the lot, existing or proposed structures, fill, storage of materials, flood proofing measures, and the relationship of the above to the location of the stream channel.

(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 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.

8.34 Factors Upon Which the Decision of the City Council Shall Be Based. In passing upon Conditional Use applications, the 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.

8.35 Time for Acting on Application. The City Council 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 8.34 of this Ordinance. The City Council shall render a written decision within thirty (30) days from the receipt of such additional information.

8.36 Conditions Attached to Conditional Use Permits. Upon consideration of the factors listed above and the purpose of this Ordinance, the 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 periods of use, occupancy and operation.

(c) Imposition of operational controls, sureties, and deed restrictions.

(d) Requirements for construction of channel modifications, compensatory storage, dikes, levees, and other protective measures.

(e) 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 9.0 MANUFACTURED HOMES AND MANUFACTURED HOME PARKS AND PLACEMENT OF TRAVEL TRAILERS AND TRAVEL VEHICLES:

9.1 New manufactured home parks and expansions to existing mobile manufactured home parks shall be subject to the provisions placed on subdivision by Section 6.0 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 preexisting 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) develop 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 Travel trailers and travel 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 and 9.34 below.

9.31 Exemption - Travel trailers and travel 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 trailer parks and the travel trailer/travel vehicle has no permanent structural type additions attached to it.

(c) The travel trailer or travel vehicle and associated use must be permissible in any preexisting, underlying zoning use district.

9.32 Areas Exempted for Placement of Travel/Recreational Vehicles:

(a) Individual lots or parcels of record.

(b) Existing commercial recreational vehicle parks or campgrounds.

(c) Existing condominium type associations.

9.33 Travel trailer and travel vehicles exempted in Section 9.31 lose this exemption when development occurs on the parcel exceeding \$500.00 for a structural addition to the travel trailer/travel vehicle or an accessory structure as a garage or storage building. The travel trailer/travel vehicle and all additions and accessory structures will then be treated as a new structure and shall be subject to the elevation/flood proofing requirements and the use of land restrictions specified in Section 4.0 and 5.0 of this Ordinance.

9.34 New commercial travel trailers or travel 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 travel trailer or

travel vehicle will be allowed in the Floodway or Flood Fringe Districts provided said trailer or vehicle and its contents are placed on 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. Any fill placed in a floodway for the purpose of elevating a travel trailer shall be subject to the requirement of Section 4.0.

(b) All new or replacement travel trailer or travel 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 8.3 of this 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 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 time of flooding in accordance with Section 7.3 of this Ordinance.

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 structural alteration or addition to any nonconforming structure over the life of the structure shall exceed fifty percent (50%) of its market value, 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. 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 percent of the current 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, respectively.

10.12 Any alteration or addition to a nonconforming structure or nonconforming use which would result in increasing the flood damage potential of that structure or use shall be protected to the Regulatory Flood Protection Elevation in accordance with any of the elevation on fill or flood proofing techniques (i.e., FP-1 thru FP-4 floodproofing classifications) allowable in the State Building Code, except as further restricted in 10.11 above.

10.13 If any nonconforming use is destroyed by any means, including floods, to an extent of fifty percent (50%) or more of its market value, 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 Section 4.0 or 5.0 will apply depending upon whether the use or structure is in the Floodway or Flood Fringe District, respectively.

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

10.15 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 which have been discontinued for a period of 12 months.

SECTION 11.0 FLOOD-PROOFING MEASURES.

Any construction addition or alteration which requires flood-proofing measures in accordance with the State Building Code shall require the applicant to 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 12.0 PENALTIES FOR VIOLATION:

12.1 Violation of the provisions of this Ordinance or failure to comply with any of its requirements (including

violation 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 Council 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 thirty (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 regional flood 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.

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.

SECTION 14.0 EFFECTIVE DATE:

This Ordinance shall be effective following its first publication.

Dated this 9 day of January, 1991.

CITY OF GAYNDON

By: John Butze 1/9/91
John Butze, Its Mayor

By: Dennis Johnson
Dennis Johnson, Its City Clerk