

Appendix G. Washington County Floodplain Regulations

WASHINGTON COUNTY

DEVELOPMENT CODE

Pursuant to MSA Ch 394, Washington County has adopted official controls for the purposes of regulating the physical development of land in the unincorporated areas of the County. These official controls are compiled into and hereafter known as the Washington County Development Code and consists of the following chapters each adopted by Ordinance.

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| (1) | Chapter One | Administration |
| (2) | Chapter Two | Zoning Regulations |
| (3) | Chapter Three | Subdivision Regulations |
| (4) | Chapter Four | Individual Sewage Treatment System Regulations |
| (5) | Chapter Five | Lower St. Croix River Bluffland and Shoreland Management Regulations |
| (6) | Chapter Six | Shoreland Management Regulations |
| (7) | Chapter Seven | Mining Regulations |
| (8) | Chapter Eight | 201 Sewer Use Regulations |
| (9) | Chapter Nine | Flood Plain Regulations |
| (10) | Chapter Ten | Official Map Regulation and Designation |

WASHINGTON COUNTY DEVELOPMENT CODE

**CHAPTER NINE
FLOODPLAIN MANAGEMENT REGULATIONS**

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WASHINGTON COUNTY DEVELOPMENT CODE

CHAPTER NINE

FLOODPLAIN MANAGEMENT REGULATIONS

This Chapter of the Washington County Development Code shall be known as the Washington County Floodplain Management Regulations and may be referred to in this Chapter as "this Chapter" or the "Floodplain Management Regulations". This floodplain regulation is adopted pursuant to the authorization and policies contained in Minnesota Statutes, Chapter 103 F, and the planning and zoning enabling legislation in Minnesota Statutes, Chapter 394.

SECTION 1. INTENT AND PURPOSE

1.2 It is the intent of Washington County to regulate flood hazard areas within unincorporated areas of the County which are subject to periodic inundation causing hazard to life and property, disruption of commerce and governmental services, unsanitary conditions, interruption of transportation and communication, 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 of the residents of Washington County. Based on these intentions, the purpose of these regulations are to:

- (1) Protect the public health, safety, and general welfare.
- (2) Conserve and enhance natural resources, and maintain a high standard of environmental quality.
- (3) Preserve the capacity of floodplains to carry and discharge regional floods.
- (4) Preserve and enhance the quality of surface waters.
- (5) Regulate the placement of sanitary and waste disposal facilities on lots.
- (6) Regulate the placement of structures and facilities in flood prone areas.
- (7) Be consistent with the Federal Emergency Management Agency (FEMA) rules by participating and maintaining eligibility in the National Flood Insurance Program.
- (8) Guide development, not prohibit it.

SECTION 2. SCOPE AND APPLICABILITY

- 2.1** This Ordinance shall apply to all lands within the unincorporated areas of Washington County shown as being located within the boundaries of the Floodway, and General Floodplain in the Flood Insurance Study for the unincorporated areas of Washington County prepared by the Federal Insurance Administration dated May 17, 1982, and the Flood Boundary and Floodway Maps and Flood Insurance Rate Maps therein. These shall be on file in the office of the County Auditor and the Washington County Zoning Administrator.
- 2.2** The provisions of this Ordinance are in addition to, rather than in lieu of, regulations imposed by Chapter One, Zoning Ordinance and Chapter Two, Shoreland Management Ordinance, of the County Development Code for Washington County, Minnesota or other applicable Washington County Ordinances.
- 2.3** The primary uses in Section 6.1 and the conditional uses allowed in Section 6.2 of this Ordinance shall be permitted only if not prohibited by any established underlying zoning district.
- 2.4** Where the conditions imposed by any provision of this Ordinance are either more restrictive or less restrictive than comparable conditions imposed by any of the other Chapters of the Washington County Development Code or by any other law, ordinance, statute, resolution, or regulation of any kind, the provisions which are more restrictive, or which impose higher standards or requirements shall prevail.
- 2.5** Interpretation.
- (1) In their interpretation and application, the provisions of this Ordinance shall be held to be the 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 Minnesota State Statutes.
 - (2) The boundaries of the floodplain shall be determined by scaling distances on the Flood Insurance Rate Maps or Flood Boundary and Floodway Maps or by flood elevations where established by the Washington County Flood Insurance Study or the local Watershed District and the Department of Natural Resources. Where interpretation is needed as to the exact location of the boundaries of the district as shown on the FEMA Map, as for example where there appears to be a conflict between a mapped boundary and actual field conditions, the Washington County Zoning Administrator shall make the necessary interpretation based on available technical data. Persons contesting the location of the district boundaries may appeal their case to the Board of Adjustment & Appeals in accordance with Chapter One, Section 6, Appeals and Variances of the Washington County Development Code.
- 2.6** 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.

- 2.7 This Ordinance does not imply that areas outside the floodplain districts or land uses permitted within such districts will be free from flooding or flood damages. This Ordinance shall not create liability on the part of Washington County or any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.
- 2.8 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.

SECTION 3. DEFINITIONS

- 3.1 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.
- (1) Accessory Building. A detached single-story building used or intended to be used for the storage of personal property or for agricultural purposes.
 - (2) 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.
 - (3) Conditional Use. Certain uses, while generally not suitable in a particular zoning district may under some circumstances be suitable if certain conditions are met.
 - (4) Fill. Any act by which soil, earth, sand, gravel, rock or any similar material is deposited, placed, pushed or transported and shall include the conditions resulting therefrom. Fill does not include crushed concrete.
 - (5) Flat Pool Elevation. The ordinary high water level for reservoirs and flowage which is the operating level established and also referred to as the normal summer pool.
 - (6) 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.
 - (7) Flood Fringe. That portion of the floodplain outside the floodway. Flood Fringe is used in the Flood Insurance Study for Washington County and identified on the Flood Boundary and Floodway Maps as floodway fringe.
 - (8) Flood Frequency. The frequency for which it is expected that a specific flood stage or discharge may be equaled or exceeded.
 - (9) Floodplain. The beds proper and the areas adjoining a wetland, lake or watercourse which have been or hereafter may be covered by the regional flood.

- (10) 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.
- (11) Floodway. The bed of a wetland or lake and the channel of a watercourse and those portions of the adjoining floodplain which are reasonably required to carry the regional flood discharge.
- (12) 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 floodplain which may impede, retard, or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water.
- (13) Ordinary High Water Level. The boundary of public waters and wetlands delineating the highest water elevation which has been maintained for a sufficient period of time to leave evidence upon the landscape; visually, that point where the natural vegetation commonly changes from predominantly aquatic to predominantly terrestrial. For watercourses, the ordinary high water level is the elevation of the top of the bank of the channel. For reservoirs and flowage, the ordinary high water level is the operating elevation of the flat pool elevation. On lakes with an established ordinary high water level by the Minnesota Department of Natural Resources, that elevation shall be considered the ordinary high water level.
- (14) Principal Use or Structure. One which determines the predominant use as contrasted to accessory use or structure.
- (15) Regional Flood. A flood which is representative of large floods known to have occurred generally in Minnesota and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of the 100-year recurrence interval. Regional flood is synonymous with the term “base flood” used in the Flood Insurance Study.
- (16) Regulatory Flood Protection Elevation. The Regulatory Flood Protection Elevation shall be an elevation no lower than *two* foot above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the floodplain.
- (17) Structure. Something built or constructed; used interchangeably with “building” for purposes of this Development Code.
- (18) Variance. A variance is the modification or variation of the Zoning Regulations where it is determined that, by reason of exceptional circumstances, the strict enforcement of the Zoning Regulations would cause unnecessary hardship. Refer to Chapter One, Section 6.4 of the Washington County Development Code.

SECTION 4. ADMINISTRATION

- 4.1** Administration of this Chapter, including issuance of variances, shall be in accordance with Chapter One of the Washington County Development Code.
- 4.2** A permit issued by the Zoning 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 non-conforming use; and prior to excavation or the placement of an obstruction within the floodplain.
- 4.3** Prior to granting a permit or processing an application for a variance, the Zoning Administrator shall determine that the applicant has obtained all necessary State and Federal permits.
- 4.4** 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. The Zoning Administrator shall maintain a record of the elevations of the lowest flood (including basement) for all new structures and alterations or additions to existing structures in the floodplain district.

SECTION 5. ESTABLISHMENT OF FLOODPLAIN DISTRICT

- 5.1** Floodplain District. All the following are considered within the floodplain district.
- (1) **Floodway.** The Floodway shall include those areas designated as floodway on the Flood Boundary and Floodway Map adopted in Section 2.1. The floodway shall also include those floodplain areas below the ordinary high water level on lakes and those within unnumbered A zones, determined to be floodway in Section 9 of this Ordinance and for floodplain areas below the flat pool elevation of the St. Croix River.
 - (2) **General Floodplain.** The General Floodplain shall include all remaining areas designated as numbered A Zones on the Flood Insurance Rate Map adopted in Section 2.1, those areas identified as Flood Fringe on the Flood Boundary or Floodway Map, and those areas not included in Section 1 above..
- 5.2** Compliance. 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 Ordinance and other applicable regulations which apply to uses within the jurisdiction of this Ordinance. Within the Floodway and General Floodplain, all uses not listed as permitted uses or conditionally permitted that follow, respectively, shall be prohibited.
- 5.3** Modifications, additions, structural alterations or repair after damage to existing non-conforming structures and non-conforming uses of structures or land are regulated by the general provisions of this ordinance and specifically Section 13.

- 5.4** As-built elevations for elevated or flood proofed structures must be certified by ground surveys and flood proofing techniques must be designed and certified by a registered professional engineer or architect as specified in the general provisions of this Ordinance and specifically as stated in Section 7 of this Ordinance.

SECTION 6. PRIMARY USES

- 6.1** Primary Floodway Uses. Uses in the floodway are limited to:
- (1) Agricultural uses such as general farming, pasture, grazing, forestry, sod farming and wild crop harvesting which do not involve structures, fill or storage of materials or equipment,
 - (2) No other uses shall be allowed with either a Certificate of Compliance or a Conditional Use Permit.
- 6.2** Uses permitted by a Conditional Use Permit in the General Floodplain outside the floodway (Flood Fringe):
- (1) Private and public recreational uses such as golf courses, tennis courts, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, hunting and fishing areas and single or multiple purpose trails.
 - (2) Accessory buildings.
 - (3) Single family residential.
 - (4) Parking lots.
- 6.3** Exemption. Travel trailers and travel vehicles are exempt from the provisions of this ordinance if they are placed on developed single family residential parcels, have current licenses required for highway use and are highway ready meaning on wheels or on an internal jacking system.

SECTION 7. UTILITIES, RAILROADS, ROADS AND BRIDGES IN THE FLOODPLAIN DISTRICT

All utilities and transportation facilities, including railroad tracks, roads and bridges, shall be constructed in accordance with state floodplain management standards contained in Minnesota Rules 6120.5000 - 6120.6200.

SECTION 8. STANDARDS FOR FLOODPLAIN PERMITTED USES AND CONDITIONAL USES

- 8.1** 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.
- 8.2** 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.
- 8.3** No use shall be allowed 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.
- 8.4** 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' beyond the limits of the structure constructed thereon.
- 8.5** Alternative elevation methods other than the use of fill may be utilized to elevate a structure's lowest floor above the Regulatory Flood Protection Elevation. These alternative methods may include the use of stilts, pilings, parallel walls, etc., or above-grade, enclosed areas such as crawl spaces or tuck under garages. The base or floor of an enclosed area shall be considered above-grade and not a structure's basement or lowest floor if: the enclosed area is above-grade on at least one side of the structure; is designed to internally flood and is constructed with flood resistant materials; and is used solely for parking of vehicles, building access or storage.
- (1) The above-noted alternative elevation methods are subject to the following 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 floodwater 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 design plans must stipulate:

1. The minimum area of openings in the walls where internal flooding is to be used as a floodproofing technique. When openings are placed in a structure's walls to provide for entry of floodwaters 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 floodwaters.
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.

(2) Basements, as defined by Section 3.1 of this ordinance, shall be subject to the following:

- (A) Residential basement construction shall be at the regulatory flood protection elevation.
- (B) Nonresidential basements may be allowed below the Regulatory Flood Protection Elevation provided the basement is structurally dry floodproofed in accordance with Section 7.6 of this ordinance.

8.6 All areas of nonresidential structures including basements to be placed below the Regulatory Flood Protection Elevation shall be floodproofed in accordance with the structurally dry floodproofing classifications in the State Building Code. Structurally dry floodproofing must meet the FP-1 and FP-2 floodproofing 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 effects of buoyancy. Structures floodproofed to the FP-3 or FP-4 classification shall not be permitted.

8.7 An erosion/sedimentation control plan must be submitted where a cumulative total of fifty (50) cubic yards of fill is proposed to be located on the parcel. 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 Zoning Administrator. The plan may incorporate alternative procedures for removal of the material from the floodplain if adequate flood warning time exists.

8.8 Uses that do not have vehicular access at or above an elevation not more than three 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 & Appeals. 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.

- 8.9** Utilities, roads, 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. In considering permit applications, due consideration shall be given to needs of an industry whose business requires that it be located in the floodplain areas.
- 8.10** Where public utilities are not provided:
- (1) On-site water supply systems must be designed to minimize or eliminate infiltration of flood waters into the systems.
 - (2) New or replacement on-site sewage treatment systems must be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters and they shall not be subject to impairment or contamination during times of flooding. Any sewage treatment system designed in accordance with the State's current statewide standards for on-site sewage treatment systems shall be determined to be in compliance with this section.
 - (3) On-site systems in the floodplain area are regulated by Chapter 4 of the Washington County Development Code, Individual Treatment System Regulations, Section 15, Alternative Systems.
- 8.11** 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 9. FLOODPLAIN EVALUATION

- 9.1** Upon receipt of an application for a permit or subdivision approval within the floodplain district, the Zoning Administrator shall require the applicant to furnish sufficient site development plans and a hydrologic/hydraulic analysis by a qualified engineer or hydrologist. These plans shall include: (1) the specifics on the nature of the development, (2) whether the proposed use in the floodway or outside the floodway and (3) the Regulatory Flood Protection Elevation for the site. Uses determined to be in the floodway are subject to Section 6.1 of this Ordinance. Uses located outside the floodway shall be considered general floodplain and subject to the provision of Section 5.1(2) and 6.2 of this Ordinance. Procedures consistent with Minnesota Rules 1983 Parts 6120.5600 (Technical Standards and Requirements for Floodplain Evaluation) and 6120.5700 (Minimum Floodplain Management Standards for Local Ordinances) shall be followed during the technical evaluation and review for the development proposal.

- 9.2** The Zoning Administrator shall submit one copy of all information required by Section 11 of this Ordinance 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/subdivision approval by the community. The Zoning Administrator shall notify the respective Department of Natural Resources' Area Hydrologist within 10 days after a permit or manufactures home park development/subdivision approval is granted.

SECTION 10. SUBDIVISIONS

- 10.1** No land shall be subdivided where the site is determined to be unsuitable for reasons of flooding, inadequate drainage, water supply or sewage treatment facilities. The subdivisions shall be reviewed in accordance with Chapter Three, Subdivision Regulations of the Washington County Development Code. Each lot or parcel must contain sufficient area outside of the floodway for fill placement for elevating a home, accessory structures, sewage systems, road access and related activities.
- 10.2** For all subdivisions in the general floodplain district, the Regulatory Flood Protection Elevation and the required elevation of all access roads shall be clearly labeled on all required subdivision drawings and platting documents.
- 10.3** Removal of Special Flood Hazard Area Designation. The Federal Emergency Management Agency (FEMA) has established criteria for removing the special flood hazard area designation for certain structures properly elevated on fill above the 100 year flood elevation. FEMA's requirements incorporate specific fill compaction and side slope protection standards for multi-structure or multi-lot developments. These standards should be investigated prior to the initiation of site preparation if a change of special flood hazard area designation will be requested.

SECTION 11. CONDITIONAL USES

- 11.1** Conditional uses allowed outside the floodway areas of the floodplain shall be subject to review and approval procedures and criteria and conditions for review of conditional uses established in Chapter One, Administration, Section 9 and Chapter Two, Zoning Regulations of the Washington County Development Code. In addition, the Planning Commission shall consider the following before granting a Conditional Use Permit:
- (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 foreseeable future.
- (9) The relationship of the proposed use to the Comprehensive Plan and floodplain 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 or rise, and sediment transport of the floodwaters expected at the site.
- (12) Such other factors which are relevant to the purposes of this Ordinance.

11.2 In addition to the application requirements in Chapter One of the Washington County Development Code, Section 9, Conditional Uses, the applicant shall be required to furnish the following information as is deemed necessary by the Zoning Administrator for the determination of the Regulatory Flood Protection Elevation and whether the proposed use is within the floodway or non-floodway portion of the floodplain.

- (1) A typical valley cross-section showing the channel of the stream, elevation of land areas adjoining each side of the channel, cross-sectional areas to be occupied by the proposed development, and high water information.
- (2) Plan (surface view) showing elevations or contours of the ground; pertinent structure, fill, or storage elevations; size, location, and spatial arrangement of all proposed and existing structures on the site; location and elevations of streets; photographs showing existing land uses and vegetation upstream and downstream; and soil type.
- (3) Profile showing the slope of the bottom of the channel or flow line of the stream for at least 500 feet in either direction from the proposed development.

11.3 The applicant shall be responsible to submit one copy of the above information to a designated engineer or other expert person or agency for technical assistance in determining whether the proposed use is in the floodway or non-floodway portion of the floodplain and to determine the Regulatory Flood Protection Elevation. Procedures consistent with Minnesota Rules 6120.5000 - 6120.6200 shall be followed in this expert evaluation. The designated engineer or expert is strongly encouraged to discuss the proposed technical evaluation methodology with the respective Department of Natural Resources' Area Hydrologist prior to commencing the analysis. The designated engineer or expert shall:

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

11.4 The Zoning Administrator shall present the technical evaluation and findings of the designated engineer or expert to the Planning Advisory Commission for consideration based on the following process: (1) The Planning Advisory Commission must formally accept the technical evaluation and the recommended floodway or non-floodway boundary or deny the permit application. (2) The Planning Advisory Commission, prior to official action, shall submit the application and all supporting data and analyses to the Federal Emergency Management Agency or the Department of Natural Resources for review and/or comment. (3) Once the floodway and non-floodway boundaries have been determined, the Planning Advisory Commission shall refer the matter back to the Zoning Administrator who shall process the conditional use permit application consistent with the applicable provisions of Sections 6, 7 and 8 of this Ordinance.

11.5 Upon receipt of a completed application for a conditional use permit, the Zoning Administrator shall submit by mail to the Commissioner of Natural Resources a copy of the application for proposed conditional uses sufficiently in advance so that the Commissioner will receive at least ten (10) days notice of the hearing.

11.6 Conditions attached to conditional use permits. Upon consideration of the factors listed above and the purposes of this Ordinance, and the Washington County Development Code, the Planning Advisory Commission may attach such conditions to the granting of conditional use permits as it deems necessary to fulfill the purposes of this Ordinance. Such conditions may include, but are not limited to, the following:

- (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 modification, dikes, levees, and other protective measures.
- (5) Floodproofing 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 floodproofing measures are consistent with the Regulatory Flood Protection Elevation and associated flood factors for the particular area.

11.7 A copy of all decisions granting a conditional use permit shall be forwarded, by mail, to the Commissioner of Natural Resources within ten (10) days of such action.

SECTION 12. VARIANCES

12.1 Administration of variances shall be in accordance with Chapter One, Section 6 of the Washington County Development Code.

12.2 Variances from the provisions of this Ordinance 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 ordinance. 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.

12.3 The Zoning Administrator 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.

12.4 The Zoning Administrator 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.

SECTION 13. NONCONFORMITIES

13.1 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:

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

- (2) 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 elevations on fill or floodproofing techniques (i.w., FP-1 through FP-4, Floodproofing Classifications) allowable in the State Building Code, except as further restricted in (3) below.
- (3) 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 percent of the market value of the structure unless the conditions of this Section are satisfied. The cost of all structural alterations and additions constructed since the adoption of the community's initial floodplain controls must be calculated into today's current cost which will include all costs such as construction materials and a reasonable cost placed on all manpower or labor. If the current cost of all previous and proposed alterations and additions exceeds 50 percent of the current market value of the structure, then the structure must meet the standards of Section 8 of this Ordinance for new structures.
- (4) If any nonconforming use of a structure or land or nonconforming structure is destroyed by any means, including floods, to an extent of 50 percent or more of its market value at the time of destruction, it shall not be reconstructed except in conformity with the provisions of this Ordinance. The Zoning Administrator 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 ordinance.
- (5) If any nonconforming use or structure is destroyed by any means, including floods, to an extent of fifty percent (50%) or more of its market value at the time of destruction within the floodway, it shall not be reconstructed.

SECTION 14. ENFORCEMENT

14.1 Enforcement of this Ordinance shall be in accordance with Chapter One, Section 15 of the Washington County Development Code. A 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 variance) shall constitute a misdemeanor.

SECTION 15. AMENDMENTS

- 15.1** All amendments to this ordinance, including revisions to the Official Floodplain Map, shall be submitted to and approved by the Commissioner of Natural Resources prior to adoption. The floodplain designation on the Official Floodplain 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 floodplain. Changes in the Floodplain 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.