

**SECTION 6. OVERLAY DISTRICTS (MINERAL RESOURCES, FLOODPLAIN
AND AIRPORT ZONING)**

SUBDIVISION 1. PURPOSE

- A. The overlay districts shall be considered an overlay zoning district to all existing zoning districts of the County.
- B. Each overlay district shall specify what uses are permitted in the overlay. All other uses may be permitted only if allowed by the established underlying zoning district.
- C. The requirements of this Section shall apply in addition to other legally established regulations of the County.
- D. Two (2) overlay districts may occur in the same area. Where two (2) overlay districts occupy the same area, the requirements that impose greater restrictions shall apply.
- E. The overlay districts consist of the following:
 - 1. Mineral Resources (MR) Overlay District.
 - 2. Floodplain (FP) Overlay District.
 - 3. Airport Zoning (AZ) Overlay District.

SECTION 6.1 MINERAL RESOURCES (MR) OVERLAY DISTRICT

SUBDIVISION 1. PURPOSE

- A. The Mineral Resources Overlay District is intended to protect areas with existing significant mineral resources including sand, gravel, limestone and sandstone deposits, as shown in the Le Sueur County Aggregate Resources Inventory completed pursuant to Minnesota Statutes Chapter 84.94.
- B. This Mineral Resources Overlay District shall not prohibit mining in other areas of the County not identified within the Mineral Resources Overlay District boundaries as shown on the Official Zoning Map.

SUBDIVISION 2. SPECIFIC STANDARDS

- A. The following specific standards shall apply in the Mineral Resources Overlay District and shall preempt any conflicting standards for any base district underlying the Mineral Resources Overlay district:
 - 1. The maximum number of dwellings allowed per quarter-quarter section shall be one (1), provided the following conditions are met:
 - a. The minimum lot size shall be five (5) acres of which forty thousand (40,000) square feet shall be buildable area.
 - b. New improvements including structures, wells, and subsurface sewage treatment systems (SSTS) shall be set back at least one hundred fifty (150) feet from the property boundary adjacent to any existing or permitted mining parcel.
 - c. New improvements on parcels adjacent to existing or permitted mining parcels shall prevent all surface water runoff from entering the mining parcel.
 - 2. Prior to submittal of any conditional use permit applications and/or proposed subdivisions, significant site determination is required in the Mineral Resources Overlay District to determine the quality of those potential resources. Information shall be submitted to the County during the informational stage of the development process, prior to any application submitted.
- B. SIGNIFICANT MINERAL RESOURCE DETERMINATION
 - 1. To determine an area within the Mineral Resources Overlay District, the following information shall be provided by the Applicant and/or Landowner and considered:

- a. Soil borings shall be conducted at a rate of one (1) boring per five (5) acres distributed proportionately throughout the proposed project site, or by methods comparable in order to accurately identify material quantity and quality.
 - b. Information may consist of laboratory test data or the determination of a certified, licensed or registered geologist, or other person deemed qualified by the County.
 - c. A survey map and legal description that identifies the location and boundary of the determination.
 - d. The Applicant and/or Landowner of the site shall submit evidence showing the parcel or area of the proposed project is not a significant site.
2. The information must demonstrate that the resource meets the following considerations for determination, and is considered a significant site:
 - a. The textural characteristics of the deposit must be greater than ‘moderately poor’ to ‘poor’ determined through a sieve analysis, with the quality ranging from greater than low to moderate determined through soundness and durability analysis, as determined by the Minnesota Department of Natural Resources (DNR), Division of Lands & Minerals.
 - b. The percent composition of the mineral contains mostly greater than finer material that meets MNDOT specifications.
 - c. Deposit thickness averages more than five (5) feet.
 - d. Overburden depth averages less than fifty (50) feet.
3. Based on the analysis of boring and information relating to the location, quality and quantity of the mineral resource, the County shall determine the status of the resource site. The following determination shall be made:
 - a. If the resource site meets the definition of a significant site, the County shall include the site within the Mineral Resources Overlay District.
 - b. If information provided determines the site of the proposed project is not significant, the County shall exclude the site from the Mineral Resources Protection Overlay District.
4. The Mineral Resources Overlay District shall be removed from a site when the mineral resource site has been reclaimed in accordance with this Ordinance and the Applicant and/or Landowner submits the required information to be removed from the Mineral Resources Overlay District.

C. LAND USE NOTIFICATION

1. No permit for the construction of, or addition to, a dwelling unit located within the Mineral Resources Overlay District shall be issued until the Applicant and/or Landowner signs a “Mineral Resources Land Use Notification Form” provided by the Department. These Forms shall inform the applicant and /or landowner of the following:
 - a. The land that is the subject of the permit or development is located within the Mineral Resources Overlay District, where Le Sueur County and the DNR have determined mineral resources are an important resource in this area.
 - b. Mineral extraction operations may be accompanied by noise, dust, odor, light, and other off-site impacts.
 - c. Mineral extraction is given preference over residential uses within the Mineral Resources Overlay District.
 - d. Residents have a right to live in the Mineral Resources Overlay District, however; residents shall be prepared to accept that mineral extraction operations and accompanying impacts associated with this use are a normal and necessary aspect of living in the Mineral Resources Overlay District.
2. Said form shall be filed with the Le Sueur County Recorder at the expense of the Applicant and/or Landowner and shall include the legal description of the property involved.

SECTION 6.2 FLOODPLAIN (FP) OVERLAY DISTRICT

SUBDIVISION 1. STATUTORY AUTHORIZATION, FINDINGS OF FACT AND PURPOSE

A. STATUTORY AUTHORIZATION

The legislature of the State of Minnesota has, in Minnesota Statutes Chapter 103F and 394, delegated the authority to local government units to adopt regulations designed to minimize flood losses. Minnesota Statute Chapter 103F further stipulates that communities subject to recurrent flooding must participate and maintain eligibility in the National Flood Insurance Program. Therefore, the Board of Commissioners of Le Sueur County, Minnesota does ordain as follows:

B. FINDINGS OF FACT

1. The flood hazard areas of Le Sueur County, Minnesota, are subject to periodic inundation which results in potential loss of life, loss of property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.
2. 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.
3. National Flood Insurance Program Compliance. This Ordinance is adopted to comply with the rules and regulations of the National Flood Insurance Program codified as 44 Code of Federal Regulations Parts 59 -78, as amended, so as to maintain the community's eligibility in the National Flood Insurance Program.

C. PURPOSE

1. This Section regulates development in the flood hazard areas of Le Sueur County. These flood hazard areas are subject to periodic inundation, which may result in loss of life and 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. It is the purpose of this Ordinance to promote the public health, safety, and general welfare by minimizing these losses and disruptions.
2. This Section is adopted in the public interest to promote sound land use practices, and floodplains are a land resource to be developed in a manner which will result in minimum loss of life and threat to health, and reduction of private and public economic loss caused by flooding.

3. This Section is adopted to maintain eligibility in the National Flood Insurance Program.
4. This Section is also intended to preserve the natural characteristics and functions of watercourses and floodplains in order to moderate flood and stormwater impacts, improve water quality, reduce soil erosion, protect aquatic and riparian habitat, provide recreational opportunities, provide aesthetic benefits and enhance community and economic development.

D. SEVERABILITY

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

SUBDIVISION 2. GENERAL PROVISIONS

A. ADOPTION OF FLOOD INSURANCE RATE MAPS AND STUDY.

The following maps together with all attached material are hereby adopted by reference and declared to be a part of the official zoning map and this Ordinance. The attached material includes the Flood Insurance Study for Le Sueur County, Minnesota, and Incorporated Areas, and the Flood Insurance Rate Map panel index number 27079CIND0A, both dated July 17, 2024, all prepared by the Federal Emergency Management Agency. These materials are on file in the County's Environmental Services Department..

B. LANDS TO WHICH THIS SECTION APPLIES

This Section shall apply to all lands within the jurisdiction of Le Sueur County within the boundaries of the Floodway, Flood Fringe and General Floodplain Districts.

1. The Floodway, Flood Fringe or General Floodplain Districts are overlay districts. The standards imposed in the overlay districts are in addition to any other requirements. In case of a conflict, the more restrictive standards will apply.
2. Where a conflict exists between the floodplain limits illustrated on the official floodplain maps and actual field conditions (as illustrated in Figure 1), the Base Flood Elevation (BFE) shall be the governing factor in locating the outer boundaries of the one-percent annual chance floodplain.
3. Persons contesting the location of the district boundaries will be given a reasonable opportunity to present their case to the Board of Adjustment, and to submit technical evidence.

C. REGULATORY FLOOD PROTECTION ELEVATION

The Regulatory Flood Protection Elevation (RFPE) shall be an elevation no lower than one (1) foot above the elevation of the regional flood, plus any increases in flood elevation caused by encroachments on the floodplain that result from designation of a floodway.

D. INTERPRETATION

1. In their interpretation and application, the provisions of this Section 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. The boundaries of the Floodplain Overlay District shall be determined by scaling distances on the Official Zoning Map. Where interpretation is needed as to the exact location of the boundaries of the Floodplain District, the Department shall make the necessary interpretations based on elevations on the regional (100-year) flood profile, if available. If 100-year flood elevations are not available, the County shall require one (1) of the following:
 - a. A floodplain evaluation consistent with Subdivision 3 of this Section to determine a 100-year flood elevation for the site.
 - b. Base its decision on available hydraulic/hydrologic or site elevation survey data which demonstrates the likelihood the site is within or outside of the floodplain.
 - c. Set the 100-year flood elevation on outletted lakes at two (2) feet above the ordinary high water level (OHWL) or highest known water level, whichever is higher, provided available supporting data include an extensive water level history or documentation of high water levels associated with a severe hydrologic event (e.g., a 100-year event or larger).

E. ABROGATION AND GREATER RESTRICTIONS

The Floodplain Overlay District shall be considered a zoning district overlaying and superseding all existing land use regulations of Le Sueur County. It is not intended by this Section to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Section imposes greater restrictions, the provisions of this Section shall prevail. All other Sections of this Ordinance inconsistent with this Section, are hereby repealed to the extent of the inconsistencies only.

F. WARNING AND DISCLAIMER OF LIABILITY

This Section does not imply that areas outside the floodplain districts or land uses permitted within such districts will be free from flooding or flood damages. Not all flood risk is mapped. Larger floods do occur, and the flood height may be increased by man-made or natural causes, such as ice jams or bridge openings restricted by debris. This Section shall not create liability on the part of Le Sueur County or any officer or employee thereof for Le Sueur County any flood damages that result from reliance on this Section or any administrative decision lawfully made thereunder.

G. DETACHMENTS

The Flood Insurance Rate Map panels adopted in this Section include floodplain areas that currently lie within the corporate boundaries of cities in Le Sueur County at the time of adoption of this Ordinance. If any of these floodplain lands are detached from a city after the date of adoption of this Ordinance and come under the jurisdiction of Le Sueur County, the newly detached floodplain lands shall be subject to the provisions of this Ordinance immediately upon the date of detachment from the city.

SUBDIVISION 3. ESTABLISHMENT OF OVERLAY DISTRICTS AND EVALUATION PROCEDURE

A. FLOODPLAIN OVERLAY DISTRICT

1. The Floodplain Overlay district shall be considered an overlay zoning district to all existing zoning districts of the County. The requirements of this Section shall apply in addition to other legally established regulations of the County.

B. DISTRICTS

1. Floodway District. Those areas within Zones AE delineated within floodway areas as shown on the Flood Insurance Rate Maps referenced in Subdivision 2.A. of this Section.
2. Flood Fringe District. Those areas within Zones AE located outside of the delineated floodway, as shown on the Flood Insurance Rate Maps referenced in Subdivision 2.A. of this Section.
3. General Floodplain District. Those areas within Zones A or AE that do not have a floodway delineated as shown on the Flood Insurance Rate Maps referenced in Subdivision 2.A. of this Section.

C. MUNICIPAL BOUNDARY ADJUSTMENTS & TOWNSHIPS.

The Flood Insurance Rate Map panels referenced in Section 3.2 apply countywide. If at any point any lands come under the jurisdiction of another local government, the following shall apply:

1. City adjustments of corporate boundaries, including but not limited to annexations and detachments, shall shift floodplain administrative authority of all affected lands immediately upon the date of the boundary adjustment occurring. Cities retain jurisdiction for all incorporated lands, and the County retains jurisdiction under this ordinance on all unincorporated lands, except as provided under Section 3.42 below or through some form of administrative agreement.
2. Townships wishing to adopt official controls under Minnesota Statutes, Section 394.33 may only obtain zoning authority for floodplain controls when they have adopted an ordinance that is approved by the Department of Natural Resources and has formally enrolled in the NFIP. Until this occurs, the county shall retain jurisdiction under this ordinance on all unincorporated lands. In the event that a township returns zoning authority, the county shall resume that authority.

D. COMPLIANCE

1. No new structure or land shall hereafter be used and no structure shall be constructed, located, extended, converted, or structurally altered without full compliance with the terms of this Section and other applicable regulations which apply to uses within the jurisdiction of this Section. Within the Floodplain Overlay District, all uses not listed as permitted uses or conditional uses shall be prohibited. In addition, a caution is provided here that:
 - a. New manufactured homes, replacement manufactured homes and certain campers and recreational vehicles are subject to the general provisions of this Section.
 - b. Modifications, additions, structural alterations, normal maintenance and repair, or repair after damage to existing non-conformities are regulated by the general provisions of this Section.
 - c. As-Built elevations for elevated structures must be certified with elevation surveys and must be designed and certified by a licensed professional engineer or surveyor as specified in this Section.

E. PROHIBITED USES WITHIN THE FLOODPLAIN OVERLAY DISTRICT

1. The placement of Wind Energy Conversion Systems (WECS) shall be specifically prohibited within the Floodplain Overlay District.
2. The placement of Large Solar Energy Systems shall be specifically prohibited within the Floodplain Overlay District.

SUBDIVISION 4. REQUIREMENTS FOR ALL FLOODPLAIN DISTRICTS

A. **Permit Required.** A permit must be obtained from the Environmental Services Department to verify compliance with all applicable standards outlined in this Ordinance prior to the following uses or activities:

1. The erection, addition, modification, rehabilitation, repair, or alteration of any building, structure, or portion thereof. Normal maintenance requires a permit to determine if such work, either separately or in conjunction with other planned work, constitutes a substantial improvement, as specified in Subdivision 10.
2. The construction of a fence, pool, deck, or placement of anything that may cause a potential obstruction. Farm fences, as defined in Section 4 of this Ordinance, are not considered to be an obstruction, and as such, do not require a permit.
3. The change or expansion of a nonconforming use.
4. The repair of a structure that has been damaged by flood, fire, tornado, or any other source.
5. The placement of fill, excavation, utilities, on-site sewage treatment systems, or other service facilities.
6. The storage of materials or equipment, in conformance with Subpart C.2. of Subdivision 4.
7. Relocation or alteration of a watercourse (including stabilization projects or the construction of new or replacement dams, culverts and bridges). A local permit is not required if public waters work permit has been obtained from the Department of Natural Resources, unless a significant area above the ordinary high water level is also to be disturbed.
8. Any other type of “development,” as defined in Section 4 of this Ordinance.

- B. **No Permit Required.** Certain uses or activities may be exempt from obtaining a permit, such as planting a garden, farming, or other obviously insignificant activities such as putting up a mailbox or flagpole. The continuation of existing uses, when the associated activities do not encroach further on the regulatory floodplain or trigger associated standards in this Ordinance, do not require a permit.

C. **Minimum Development Standards**

1. All development must:

- a. Be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
- b. Be constructed with materials and equipment resistant to flood damage;
- c. Be constructed by methods and practices that minimize flood damage;
- d. Be constructed with heating, ventilation, duct work, and air conditioning equipment and other service facilities elevated at least up to the Regulatory Flood Protection Elevation (RFPE). Water, sewage, electrical, and other utility lines below the RFPE shall be constructed so as to prevent water from entering or accumulating within them during conditions of flooding;
- e. Be reasonably safe from flooding and consistent with the need to minimize flood damage;
- f. Be assured to provide adequate drainage to reduce exposure to flood hazards;
- g. Not be detrimental to uses in adjoining areas;
- h. Not adversely affect the efficiency or restrict the flood carrying capacity of the channel and adjoining floodplain of any tributary watercourse or drainage system; and,
- i. Ensure that any fill or other materials are protected from erosion, discharge, and sediment entering surface waters by the use of vegetative cover or other methods as soon as possible.

2. Materials that, in time of flooding, are buoyant, flammable, explosive, or could be injurious to human, animal, or plant life shall be stored at or above the Regulatory Flood Protection Elevation (RFPE), floodproofed, or protected by other measures as approved by the Zoning Administrator. Storage of materials likely to cause pollution of the waters, such as sewage; sand; rock; wrecked and discarded equipment; dredged spoil; municipal, agricultural or industrial waste; and other wastes as further defined in Minnesota Statutes, Section 115.01, are prohibited unless adequate safeguards approved by the Minnesota Pollution Control Agency are provided. For projects not requiring approvals by the Minnesota Pollution Control Agency, adequate safeguards must be approved by the Zoning Administrator prior to issuance of a permit.
3. Critical facilities shall be located so that the lowest floor is not less than two feet above the Base Flood Elevation (BFE), or the 0.2% annual chance flood elevation, whichever is higher.

Structure Type	Floodway	Flood Fringe	Standards*
Accessory Structures – on fill	Only specific uses and types allowed – with CUP	Allowed with Permit	Subd. 6, B.4.d.2.
Accessory Structures – Alt. Elevation Methods	Only specific uses and types allowed – with CUP	Allowed with Permit	Subd. 6, B.4.d.3
Accessory Structures – Wet Floodproofing	Only specific uses and types allowed – with CUP	Allowed with Permit	Subd. 6, B.4.d.1
Accessory Structures – Dry (watertight) Floodproofing	Only specific uses and types allowed – with CUP	Allowed with Permit	Subd. 6, B.3.c.
Residential – on fill	Not allowed	Allowed with Permit	Subd. 6, B.2.a
Residential – Alt. Elevation Methods	Not allowed	Allowed with CUP	Subd. 6, D.3
Residential – Dry (watertight) Floodproofing and/or Basement Construction below RFPE	Not allowed	Not allowed	N/A
Non-Residential – on fill	Not allowed	Allowed with Permit	Subd. 6, B.3.a
Non-Residential – Alt. Elevation Methods	Not allowed	Allowed with Permit	Subd. 6, B.3.b
Non-Residential – Dry (watertight) Floodproofing and/or Basement Construction below RFPE	Not allowed	Allowed with Permit	Subd. 6, B.3.c

**Note - many of these standards are cross-referenced*

SUBDIVISION 5. FLOODWAY DISTRICT(FW)

The following are uses that may be within the Floodway (FW) District, if not prohibited in the underlying zoning district and are in compliance with the provisions of this Section:

A. PERMITTED USES

1. Any use of land which does not involve a structure, an addition to the outside dimension of an existing structure or an obstruction to flood flows such as fill, excavation, or storage of materials or equipment. This may include the following:
 - a. General farming, pasture, grazing, outdoor plant nurseries, horticulture, truck farming, forestry, sod farming, and wild crop harvesting,
 - b. Recreational uses, parking lots, loading areas, airport landing strips, water control structures, navigational facilities, as well as public open space uses.
 - c. Private and public golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting preserves, target ranges, trap and skeet ranges, hunting and fishing areas, and single or multiple purpose recreational trails.
 - d. Residential lawns, gardens, parking areas, and play areas.
 - e. Roads, driveways, railroads, trails, bridges, and culverts.
 - f. Public utility facilities and water-oriented industries which must be in or adjacent to watercourses.
 - g. Grading, filling, land alterations, and shoreline stabilization projects.
 - h. No structures, as defined in Section 4 of this Ordinance, are allowed in the Floodway District, except structures accessory to the uses detailed in Subpart A.1.a. and in Subparts C.1. and C.8. of Subdivision 4, which requires a CUP.
 - i. Levees or dikes intended to protect agricultural crops, provided the top of the dike does not exceed the 10-percent annual chance flood event.

B. STANDARDS FOR FLOODWAY PERMITTED USES

1. The use shall have a low flood damage potential.
2. The use shall be permissible in the underlying zoning district.
3. 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. The applicant must demonstrate that the development will not result in any of the following during the one-percent annual chance flood: cause a stage increase of 0.00 feet or greater, obstruct flood flows, or increase velocities. This shall be demonstrated through hydrologic and hydraulic analysis performed by a professional engineer, or using other standard engineering practices (e.g. projects that restore the site to the previous cross-sectional area). This is commonly documented through a “no-rise certification.”
5. Any development that would result in a stage increases greater than 0.00 feet may only be allowed with a permit if the applicant has applied for and received approval for a Conditional Letter of Map Revision (CLOMR) in accordance with 44 CFR § 65.12. Map revisions must follow the procedures in Sections 11.15 and 14.0.
6. Any development resulting in decreases to the water surface elevation of the base flood identified in the Flood Insurance Study requires a Letter of Map Revision (LOMR) following the procedures in Sections 11.15 and 14.0.
7. Any development in the beds of public waters that will change the course, current or cross section is required to obtain a public waters work permit in accordance with Minnesota Statutes, section 103G.245 or a utility crossing license in accordance with Minnesota Statutes, section 84.415, from the Department of Natural Resources, or demonstrate that no permit is required, before applying for a local permit.
8. Any facility used by employees, or the general public must be designed with a flood warning system acceptable to the Zoning Administrator that provides adequate time for evacuation or be designed to ensure that within the area inundated during the base flood event, the depth (in feet) multiplied by the velocity (in feet per second) is less than four.
9. Fill and other land alteration activities must offer minimal obstruction to the flow of flood waters and be protected from erosion and sediment entering surface waters by the use of vegetative cover, riprap or other methods as soon as possible.
10. All Utilities including transmission lines and pipelines, and transportation infrastructure, including railroad tracks, roads, bridges, and associated fill, shall be subject to minimum state flood plain management standards set by the DNR and the Minnesota Department of Transportation (MNDOT) contained in MN Rules 6120.500-6120.6200, as amended from time to time, as well as this Section.

C. CONDITIONAL USES

1. Mineral Extraction including the extraction and storage of sand, gravel, and other materials.
2. Storage yards for equipment, machinery, or materials.

3. Structural works for flood control such as levees, dikes and floodwalls constructed to any height where the intent is to protect individual structures.
4. Structures accessory to uses detailed in Subpart A.1.a. and A.1.b. in this Section.

D. STANDARDS FOR FLOODWAY CONDITIONAL USES

1. **All Uses.** No fill (including fill for 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.
2. All floodway conditional uses shall be subject to the procedures and standards contained in this Ordinance.
3. The conditional use shall be permissible in the underlying zoning district.
4. Fill, including storage of sand, gravel and other materials:
 - a. Fill, dredge spoil, and all other similar materials deposited or stored in the floodway 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.
5. A levee, dike or floodwall constructed in the floodway shall not cause an increase to the 100-year or regional flood and the technical analysis must assume equal conveyance or storage loss on both sides of a stream.
6. Extractive uses and storage of materials require the completion of a site development and restoration plan, to be approved by Le Sueur County.
7. **Accessory Structures.** Structures accessory to the uses detailed in Subpart A.1.a. and in Subparts C.1. and C.8. of Subdivision 4, must be constructed and placed so as to offer a minimal obstruction to the flow of flood waters, and are subject to the standards in Subpart B.4. of Subdivision 5, of this Section.

SUBDIVISION 6. FLOOD FRINGE DISTRICT (FF)

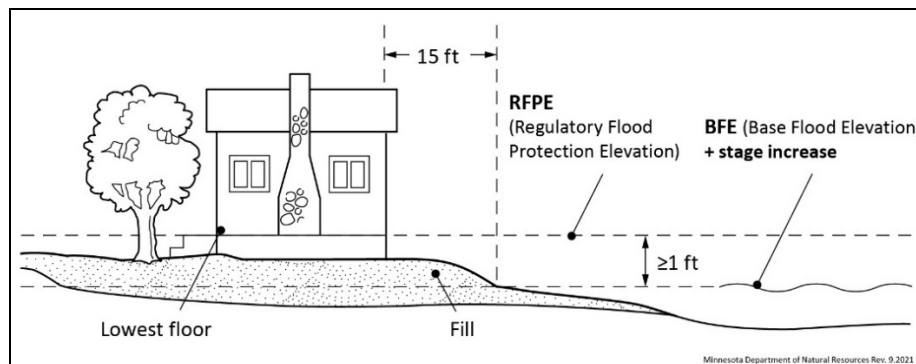
The following are uses permitted within the Flood Fringe (FF) portion of the Floodplain Overlay District if not prohibited in the underlying zoning district and are in compliance with the provisions of this Section.

A. PERMITTED USES

1. The permitted uses shall be those uses of land or structures listed as permitted uses in the underlying zoning use district(s).
2. All permitted uses shall comply with the standards for Flood Fringe “Permitted Uses” listed and the "Standards for all Flood Fringe Uses" listed below.

B. STANDARDS FOR FLOOD FRINGE PERMITTED USES

1. Any use of land involving the construction of new structures, the placement or replacement of manufactured homes, or the addition to the outside dimension of an existing structure or obstruction such as fill or storage of materials or equipment are subject to the floodplain evaluation criteria of this Section for determining Floodway and Flood Fringe Districts.
2. Residential Structures.
 - a. Elevation on Fill. Structures erected, constructed, reconstructed, altered, or moved on fill within the Flood Fringe District shall be placed so that the lowest floor, as defined in Section 4 of this Ordinance, is elevated at or above the Regulatory Flood Protection Elevation (RFPE). The finished fill elevation shall be at or above the elevation associated with the base flood plus any stage increases that result from designation of a floodway. Fill must extend at the same elevation at least 15 feet beyond the outside limits of the structure. Elevations must be certified by a registered professional engineer, land surveyor or other qualified person designated by the Zoning Administrator. Elevation methods alternative to these fill standards are subject to a Conditional Use Permit, as provided in Subpart C of Subdivision 5, of this Section (Figure 1). Construction of this type shall only be permitted in locations where the natural ground is no lower than three feet below the base flood elevation.



3. Nonresidential Principal Structures. Nonresidential principal structures must meet one of the following construction methods.

- a. Elevation on Fill. Structures may be elevated on fill, meeting the standards in Subpart B.2. of Subdivision 5, of this Section. Fill for nonresidential structures is not required to be extended 15 feet beyond the outside limits of the structure.
- b. Alternative Elevation Methods. Structures may be elevated using methods alternative to the fill standards in Subpart B.3.b. of Subdivision 5, of this Section. Such methods include the use of blocks, pilings (Figure 2), filled stem walls (Figure 3), or internally-flooded enclosed areas (Figure 4) such as crawl spaces, attached garages, or tuck under garages.

Figure 2: Blocks or pilings.

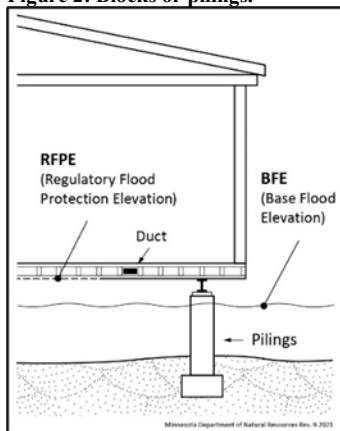


Figure 3: Filled stem walls.

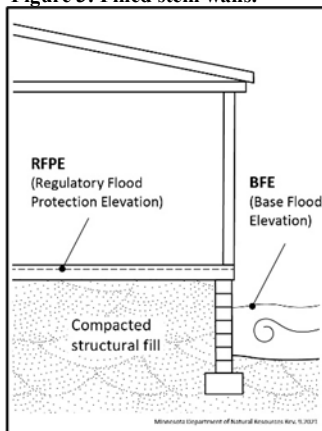
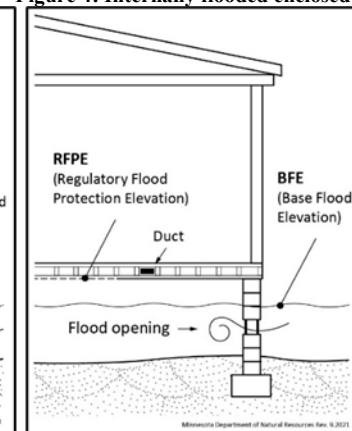


Figure 4: Internally flooded enclosed area.



Designs accommodating for internally-flooded enclosed areas must be certified by a registered professional engineer or architect, or meet or exceed the standards detailed in *FEMA Technical Bulletin 1*, as amended, as well as the following standards:

- 1) The lowest floor, as defined in Section 4 of this Ordinance, shall be elevated at or above the Regulatory Flood Protection Elevation (RFPE).
- 2) The floor of the enclosed area must be at or above the exterior grade on at least one side of the structure.
- 3) To allow for the equalization of hydrostatic pressure, there shall be a minimum of two openings below the base flood elevation on at least two sides of the structure. The bottom of all openings shall be no higher than one foot above grade. The openings shall have a minimum net area of not less than one square inch for every square foot of enclosed area subject to flooding, have a net area of not less than one square inch for every square foot of enclosed area subject to flooding, and shall allow automatic entry and exit of floodwaters without human intervention.

- 4) Internally flooded enclosed areas shall only be used for the parking of vehicles, building access, or storage. Bathrooms and toilet rooms shall not be allowed. Such areas shall be subject to a deed-restricted non-conversion agreement as well as periodic inspections with the issuance of any permit.
- c. Dry Floodproofing. Structures having watertight enclosed basements or spaces below the Regulatory Flood Protection Elevation (RFPE) must meet the following standards:
 - 1) Walls must be substantially impermeable to the passage of water, with structural components having the capacity of resisting hydrostatic and hydrodynamic loads and effects of buoyancy, at least up to the Regulatory Flood Protection Elevation (RFPE);
 - 2) Must meet the standards of FEMA Technical Bulletin 3, as amended; and
 - 3) A registered professional engineer or architect shall be required to certify that the design and methods of construction meet the standards detailed in this Section.
4. Accessory Structures. All accessory structures must meet the following standards:
 - a. Structures shall not be designed or used for human habitation.
 - b. Structures will have a low flood damage potential.
 - c. Structures with fewer than two rigid walls, such as carports, gazebos, and picnic pavilions, may be located at an elevation below the Regulatory Flood Protection Elevation.
 - d. Structures with two or more rigid walls, must meet one of the following construction methods;
 - 1) Wet Floodproofing. Structures may be floodproofed in a way to accommodate internal flooding. Such structures shall constitute a minimal investment not to exceed 576 square feet in size, one-story in height, and shall only be used for parking and storage. To allow for the equalization of hydrostatic pressure, there shall be a minimum of two openings on at least two sides of the structure and the bottom of all openings shall be no higher than one foot above grade. The openings shall have a minimum net area of not less than one square inch for every square foot of enclosed area subject to flooding, and shall allow automatic entry and exit of floodwaters without human intervention.

- 2) Elevation on Fill. Structures may be elevated on fill, meeting the standards in Subpart B.2.a. of Subdivision 5, of this Section. Fill is not required to be extended 15 feet beyond the outside limits of the structure.
- 3) Alternative Elevation Methods. Structures may have their lowest floor elevated above the Regulatory Flood Protection Elevation (RFPE) through methods alternative to the fill standards in Subpart B.4.d.2 of this Section and must also meet the standards in Subpart B.3.b. of this Section.
- 4) Dry Floodproofing. Structures may be dry-floodproofed, or watertight, meeting the standards in Subpart B.3.c. of this Section.
5. All new principal structures must have vehicular access at or above an elevation not more than one (1) foot 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.
6. Any facilities used by employees, or the general public must be designed with a flood warning system acceptable to Le Sueur County that provides adequate time for evacuation or be designed to ensure that within the area inundated during the base flood event, the depth (in feet) multiplied by the velocity (in feet per second) is less than four.
7. Manufactured homes and recreational vehicles must meet the standards of Subdivision 9 of this Section.

C. CONDITIONAL USES

1. Alternative Elevation Methods – Residential Structures. Residential structures with their lowest floor elevated above the Regulatory Flood Protection Elevation (RFPE) using methods alternative to the fill requirements in Subpart B.2.a. of Subdivision 5.
2. The provisions listed below under ‘Standards for All Flood Fringe Conditional Uses’ shall also apply.

D. STANDARDS FOR ALL FLOOD FRINGE CONDITIONAL USES

1. The conditional use shall be subject to the procedures and standards contained in this Ordinance.
2. The conditional uses shall be those uses of land or structures listed as conditional uses in the underlying zoning use district(s) and are in compliance with the provisions of this Section.
3. All residential structures with lowest floors elevated through alternative elevation methods must meet the standards in Subpart B.2.a. of Subdivision 5 of this Section.

E. ADDITIONAL STANDARDS FOR ALL FLOOD FRINGE USES

1. Commercial, Manufacturing, and Industrial Uses
 - a. Accessory land uses, such as yards, railroad tracks, and parking lots may be at elevations lower than the RFPE.
 - b. Measures shall be taken to minimize interference with normal business operations, especially along streams having protracted flood durations.
 - c. 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 (2) feet or be subject to flood velocities greater than four (4) feet per second upon occurrence of the regional flood.
 - d. When considering applications, due consideration shall be given to needs of an industry whose business requires that it be located in floodplain areas.
2. 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.
3. Floodplain developments shall not adversely affect the hydraulic capacity of the channel and adjoining floodplain of any tributary watercourse or drainage system where a floodway or other encroachment limit has not been specified on the Official Zoning Map.
4. Standards for recreational vehicles are contained in Subdivision 7.
5. 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.
6. Certification. The applicant shall be required to submit certification by a registered professional engineer, registered architect, or registered land surveyor that the finished fill and building elevations were accomplished in compliance with the provisions of this Ordinance. Flood proofing measures shall be certified by a registered professional engineer or registered architect.

7. Record of First Floor Elevation. The Department 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 floodplain. The Department shall also maintain a record of the elevation to which structures or alterations and additions to structures are flood proofed.

SUBDIVISION 7. GENERAL FLOODPLAIN DISTRICT (FP)

The following are uses that may be within the General Floodplain (FP) District, if not prohibited in the underlying zoning district and are in compliance with the provisions of this Section:

A. PERMITTED USES

1. Until the floodway is delineated, allowable uses will be restricted to those listed in Subdivision 4, the Floodway District.
2. All other uses are subject to a floodway/flood fringe determination as provided in Subpart D of Subdivision 6, in addition to the standards provided in Subparts B and C of Subdivision 6. Permitted uses shall be determined as follows:
 - a. If the development is determined to be in the Floodway District, Subdivision 4 applies.
 - b. If the development is determined to be in the Flood Fringe District, Subdivision 5 applies.

B. DETERMINING FLOOD ELEVATIONS

1. All development requires a determination of the Base Flood Elevation (BFE). Exceptions to this requirement include projects that restore the site to the previous cross-sectional area, such as shore stabilization or culvert replacement projects. Base Flood Elevations (BFE) may be found using best available data from any Federal, State, or other source (including MNDNR's Lake & Flood Elevations Online (LFEO) Viewer).
2. The Regulatory Flood Protection Elevation (RFPE) can be determined by assuming a one-half (0.5) foot stage increase to accommodate for future cumulative impacts. A stage increase does not need to be assumed along lakes, wetlands, and other basins that are not affected by velocities.

C. ENCROACHMENT ANALYSIS

1. Encroachments due to development may not allow stage increases more than one-half (0.5) foot at any point, unless through a map revision following the procedures in Subdivisions 11 and 13. This evaluation must include the cumulative effects of previous encroachments, and must be documented with hydrologic and hydraulic analysis performed by a professional engineer, or using other standard engineering practices. A lesser water surface elevation increase than one-half (0.5) foot is required if, due to the water surface level increase, increased flood damages would potentially result.
2. Alterations or changes that result in stage decreases are allowed and encouraged.

D. STANDARDS FOR THE ANALYSIS OF FLOODWAY BOUNDARIES

1. Requirements for Detailed Studies. Any development, as requested by the Zoning Administrator, shall be subject to a detailed study to determine the Regulatory Flood Protection Elevation (RFPE) and the limits of the Floodway District. This determination must be consistent with the minimum standards for hydrologic and hydraulic mapping standards and techniques, as detailed in Minnesota Rules, part 6120.5600, Subp. 4 and *FEMA Guidelines and Standards for Flood Risk Analysis and Mapping*, as revised. Additionally;
 - a. A regulatory floodway necessary to carry the discharge of the one-percent annual chance flood must be selected without increasing the water surface elevation more than one-half (0.5) foot at any point. This determination should include the cumulative effects of previous encroachments. A lesser water surface elevation increase than one-half (0.5) foot is required if, due to the water surface level increase, increased flood damages would potentially result; and
 - b. An equal degree of encroachment on both sides of the stream within the reach must be assumed in computing floodway boundaries, unless topography, existing development patterns, and comprehensive land use plans justify a modified approach, as approved by the Department of Natural Resources.
2. Other Acceptable Methods. For areas where a detailed study is not available or required:
 - a. Development prohibited in floodways (e.g. most buildings) requires a floodway/flood fringe determination to verify the development is within the flood fringe. This determination must be done by a professional engineer or utilize other accepted engineering practices. The Department of Natural Resources may also provide technical assistance and must approve any alternative methods used to determine floodway boundaries.

- b. For areas where the floodway has not been determined in and along lakes, wetlands, and other basins, the following methodology may be used as an alternative to Item A above, provided these areas are not affected by velocities and the lot is able to accommodate a building site above the Regulatory Flood Protection Elevation (RFPE):
 - 1) All areas that are at or below the ordinary high water level, as defined in Minnesota Statutes, section 103G.005, Subd. 14, will be considered floodway, and all areas below the Base Flood Elevation (BFE) but above the ordinary high water level will be considered flood fringe, provided that within 25 feet of the ordinary high water level, or within the Shore Impact Zone as identified in the community's Shoreland Ordinance, whichever distance is greater, land alterations shall be restricted to:
 - a) The minimum required to accommodate beach areas, access areas, and accessory structures as permitted, not to exceed a volume greater than 10 cubic yards; projects involving volumes exceeding 10 cubic yards require floodway/flood fringe determination in accordance with the procedures in Subpart D.2. of Subdivision 6; and
 - b) The minimum required to accommodate shoreline stabilization projects to correct an identified erosion problem as verified by a qualified resource agency or the zoning administrator.

SUBDIVISION 8. LAND DIVISION STANDARDS

A. LAND DIVISIONS

All land divisions for development or parcels within a platted subdivision must meet the following requirements. Manufactured home parks and recreational vehicle parks or campgrounds are considered subdivisions under this Section of the Ordinance.

1. All lots within floodplain districts must be suitable for a building site outside of the Floodway District.
2. Subdivision of lands within the floodplain districts may not be approved if the cost of providing governmental services would impose an unreasonable economic burden on Le Sueur County.
3. All subdivisions must have vehicular access both to the subdivision and to the individual building sites no lower than one (1) foot below the Regulatory Flood Protection Elevation (RFPE), unless a flood warning/emergency evacuation plan has been approved by Le Sueur County.

4. The Floodway and Flood Fringe District boundaries, the Regulatory Flood Protection Elevation (RFPE) and the required elevation of all access roads must be clearly identified on all required subdivision drawings and platting documents.

SUBDIVISION 9. PUBLIC UTILITIES, RAILROADS, ROADS, AND BRIDGES

A. PUBLIC UTILITIES

All utilities such as gas, electrical, sewer, and water supply systems to be located in the floodplain must be elevated and/or floodproofed to the Regulatory Flood Protection Elevation (RFPE), be located and constructed to minimize or eliminate flood damage, and be designed to eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters. All public utilities should be designed to minimize increases in flood elevations. New solid waste management facilities, as defined in Minnesota Rules, part 7035.0300, are prohibited in the one-percent annual chance floodplain. Water supply systems are subject to the provisions in Minnesota Rules, part 4725.4350.

B. PUBLIC TRANSPORTATION FACILITIES

Railroad tracks, roads, and bridges to be located within the floodplain shall comply with standards listed in Subdivision 5 and 6 of this Section. 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.

C. ON-SITE SUBSURFACE SEWAGE TREATMENT SYSTEMS (SSTS) AND WATER SUPPLY SYSTEMS

1. For those areas in the Floodplain Overlay District where public utilities are not provided, the following requirements shall be met:
 - a. On-site water supply systems must be designed to minimize or eliminate infiltration of flood waters into the systems; and
 - c. New or replacement individual 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 shall not be subject to impairment or contamination during times of flooding.
 - d. New or replacement on-site sewage treatment systems are to be located to avoid impairment to them or contamination from them during times of flooding, shall not be located in a designated floodway, and are subject to the provisions in Minnesota Rules, parts 7080.2270.

- c. Any SSTS designed in accordance with the current statewide standards for individual SSTS shall be determined to be in compliance with this Section and Section 17 of this Ordinance.

SUBDIVISION 10. MANUFACTURED HOMES AND MANUFACTURED HOME PARKS AND PLACEMENT OF RECREATIONAL VEHICLES.

A. MANUFACTURED HOME & HOME PARKS

Manufactured homes and manufactured home parks are subject to applicable standards for each floodplain district. In addition,:

1. New and replacement manufactured homes must be placed and elevated in compliance with Subdivision 6 of this Section and must be securely anchored to a system that resists flotation, collapse and lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors.
2. New manufactured home parks and expansions to existing manufactured home parks must meet the appropriate standards for subdivisions in Subdivision 8 of this Section.

B. RECREATIONAL VEHICLES

New recreational vehicle parks or campgrounds and expansions to existing recreational vehicle parks or campgrounds are prohibited in any floodplain district. Recreational vehicles placed in existing recreational vehicle parks, campgrounds or lots of record in the floodplain must either:

1. Meet the requirements for manufactured homes in Subpart A. of Subdivision 10, or.
2. Be travel ready, meeting the following criteria:
 - a. Have current licenses required for highway use.
 - b. Are highway ready meaning on wheels or the internal jacking system, are attached to the site only by quick disconnect type utilities commonly used in campgrounds and recreational vehicle parks and the recreational vehicle has no permanent structural type additions attached to it.
 - c. No permanent structural type additions may be attached to the vehicle.
 - d. Accessory structures may be permitted in the Flood Fringe District, provided they do not hinder the removal of the vehicle should flooding occur, and meet the standards outlined in Subdivision 4 and Subpart B.4. of Subdivision 6 of this Section.
 - e. The recreational vehicle and associated use must be permissible in any pre-existing, underlying zoning use district.

SUBDIVISION 11. NON-CONFORMING USES

A. CONTINUANCE OF NONCONFORMITIES

Any non-conformity which was lawful before July 6, 1999, which is not in conformity with the provisions of this Section may be continued subject to the following conditions:

1. Within the floodway and general floodplain districts (when a site has been determined to be located in the floodway following the procedures in Subpart C of Subdivision 7, or when the floodway has not been delineated), any expansion or enlargement of uses or structures is prohibited.
2. Within all districts, any addition, modification, rehabilitation, repair, or alteration shall be in conformance with the provisions of this Ordinance, shall not increase the flood damage potential or increase the degree of obstruction to flood flows, and where applicable, must be protected to the Regulatory Flood Protection Elevation (RFPE).
3. If any nonconforming structure is determined to be substantially damaged or substantially improved based on the procedures in Subpart B of Subdivision 11 below, it may not be reconstructed except in conformity with the provisions of this ordinance.
4. If any nonconforming use, or any use of a nonconforming structure, is discontinued for more than one year, any future use of the premises must conform to this ordinance.
5. If any nonconforming structure has utilities, electrical, or mechanical equipment damaged due to flooding, it must be rebuilt in conformance with the elevation requirements in Subpart C.1.d. of Subdivision 4 to the greatest extent practicable. This requirement shall apply regardless of the determinations made in Subpart B of Subdivision 11.

B. SUBSTANTIAL IMPROVEMENT AND SUBSTANTIAL DAMAGE DETERMINATIONS

Prior to issuing any permits for additions, modifications, rehabilitations, repairs, alterations, or maintenance to nonconforming structures, the Zoning Administrator is required to determine if such work constitutes substantial improvement or repair of a substantially damaged structure. A determination must be made in accordance with the following procedures:

1. Estimate the market value of the structure. In the case of repairs, the market value of the structure shall be the market value before the damage occurred and before any restoration or repairs are made.

2. Estimate the cost of the project. The property owner shall accommodate for inspection, and furnish other documentation needed by the zoning administrator to evaluate costs.
 - a. Improvement costs shall be comprised of the market rate of all materials and labor, as well as the costs of all ordinary maintenance and upkeep carried out over the past one year.
 - b. Costs to repair damages shall be comprised of the market rate of all materials and labor required to restore a building to its pre-damaged condition regardless of the work proposed, as well as associated improvement costs if structure is being restored beyond its pre-damaged condition.
3. Compare the cost of the improvement, repairs, or combination thereof to the estimated market value of the structure and determine whether the proposed work constitutes substantial improvement or repair of a substantially damaged structure, as defined in Section 4 of this Ordinance.
 - a. For the purposes of determining whether the proposed work would constitute substantial improvement, the evaluation shall also include all rehabilitations, additions, or other improvements completed since the community has adopted floodplain standards impacting this structure.
 - b. If any nonconforming structure experiences a repetitive loss, as defined in Section 4 of this Ordinance, it shall be considered substantially damaged and must not be reconstructed except in conformity with the provisions of this Ordinance.
4. Based on this determination, the zoning administrator shall prepare a determination letter and notify the property owner accordingly. Structures determined to be substantially damaged or substantially improved may not be reconstructed except in conformity with the provisions of this Ordinance.

SUBDIVISION 12. ADMINISTRATION

A. DUTIES

A Zoning Administrator or other official must administer and enforce this Section of the Ordinance.

1. Permit Application Requirements. Permit applications must be submitted to the Zoning Administrator. The permit application must include the following, as applicable:
 - a. A site plan showing all existing or proposed buildings, structures, service facilities, potential obstructions, and pertinent design features having an influence on the permit.

- b. Location and detail of grading, fill, or storage of materials.
 - c. Copies of any required local, state or federal permits or approvals.
 - d. Other relevant information requested by the Zoning Administrator as necessary to properly evaluate the permit application.
2. Recordkeeping. The Zoning Administrator must maintain applicable records in perpetuity documenting:
- a. All certifications for dry floodproofing and alternative elevation methods, where applicable.
 - b. Analysis of no-rise in the Floodway District, as detailed in Subpart B.4. of Subdivision 5, and encroachment analysis ensuring no more than one-half foot of rise in the General Floodplain District, as detailed in Subparts B.2. and C.1. of Subdivision 7.
 - c. Final elevations, as applicable, detailing the elevation to which structures and improvements to structures are constructed or floodproofed. Elevations shall be determined by an engineer, architect, surveyor or other qualified individual, as approved by the Zoning Administrator.
 - d. Substantial damage and substantial improvement determinations, as detailed in Subpart A.6. of Subdivision 11, including the cost of improvements, repairs, and market value.
 - e. All variance actions, including justification for their issuance, and must report such variances as requested by the Federal Emergency Management Agency.
3. Certificate of Zoning Compliance for a New, Altered, or Nonconforming Use. No building, land or structure may be occupied or used in any manner until a certificate of zoning compliance has been issued by the Zoning Administrator stating that the finished fill and building floor elevations or other flood protection measures are in compliance with the requirements of this Ordinance.
4. Notification for watercourse alterations. The Department shall notify, in riverine situations, adjacent communities and the Commissioner of the Department of Natural Resources prior to the community authorizing any alteration or relocation of a watercourse. If the applicant has applied for a permit to work in the beds of public waters pursuant to Minnesota Statute, Chapter 103G, this shall suffice as adequate notice to the Commissioner of Natural Resources. A copy of said notification shall also be submitted to the Chicago Regional Office of the Federal Emergency Management Agency (FEMA).

5. Notification to FEMA when physical changes increase or decrease the 100-year flood elevation. As soon as is practicable, but not later than six (6) months after the date such supporting information becomes available, the Department shall notify the Chicago Regional Office of FEMA of the changes by submitting a copy of said technical or scientific data.
6. Amendments to Floodplain Overlay District. The floodplain designation on the Official Zoning Map shall not be removed from floodplain areas unless it can be shown that the designation is in error or that the area has been filled to or above the elevation of the regulatory flood protection elevation and is contiguous to lands outside the floodplain. 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.
7. Amendments to this Section. All amendments to this Section, including amendments to the Official Zoning Map, must be submitted to and approved by the Commissioner of Natural Resources prior to adoption. Changes to 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 (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.
8. State and Federal permits. Prior to processing or granting any land use permit the Department shall determine whether the applicant has obtained all necessary state and federal permits.

B. CONDITIONAL & INTERIM USES AND VARIANCES

1. Process.
 - a. An application for a Conditional or Interim Use Permit will be processed and reviewed in accordance with the provisions of this Section of the Ordinance.
 - b. An application for a variance to the provisions of this Ordinance will be processed and reviewed in accordance with Minnesota Statutes, Section 394.27, Subd. 7 and Section of the Ordinance.
2. Additional Variance Criteria. The following additional variance criteria must be satisfied:
 - a. Variances must not be issued within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.

- b. Variances from the provisions of this Ordinance may only be issued by a community upon:
 - 1) A showing of good and sufficient cause;
 - 2) A determination that failure to grant the variance would result in exceptional hardship to the applicant; and,
 - 3) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
- c. Variances from the provisions in this Ordinance may only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- d. Variances must be consistent with the general purpose of these standards and the intent of applicable provisions in state and federal law.
- e. Variances may be used to modify permissible methods of flood protection, but no variance shall permit a lesser degree of flood protection than the Regulatory Flood Protection Elevation (RFPE).
- f. The Zoning Administrator must notify the applicant for a variance in writing that:
 - 1) The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage; and
 - 2) Such construction below the base flood level increases risks to life and property. Notification must be maintained with a record of all variance actions.
- 3. Considerations for Approval. Le Sueur County must consider all relevant factors specified in other Sections of this Ordinance in granting variances and conditional use permits, including the following:
 - a. The potential 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.
 - c. The safety of access to the property in times of flood for ordinary and emergency vehicles.

4. Conditions of Approval. Le Sueur County may attach such conditions to the granting of variances and 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. Limitations on period of use, occupancy, and operation.
 - b. Imposition of operational controls, sureties, and deed restrictions.
 - c. The prevention of soil erosion or other possible pollution of public waters, both during and after construction.
 - d. Other conditions as deemed appropriate by the Zoning Administrator, the Planning Commission, and the County Board of Commissioners.

C. NOTIFICATIONS TO THE DEPARTMENT OF NATURAL RESOURCES

1. All notices of public hearings to consider variances or conditional uses under this Ordinance must be sent via electronic mail to the Department of Natural Resources respective area hydrologist at least ten (10) days before the hearings. Notices of hearings to consider subdivisions/plats must include copies of the subdivision/plat.
2. A copy of all decisions granting variances and conditional uses under this Ordinance must be sent via electronic mail to the Department of Natural Resources respective area hydrologist within ten (10) days of final action.

SUBDIVISION 13. VIOLATIONS AND PENALTIES

A. USES IN VIOLATION OF THE ORDINANCE

Every structure, fill, deposit, or other use placed or maintained in the floodplain in violation of this Ordinance shall be considered a public nuisance.

B. CIVIL REMEDIES

The creation of a public nuisance may be enjoined and the maintenance of a public nuisance under this Ordinance may be abated by an action brought by Le Sueur County or the Department of Natural Resources.

C. ENFORCEMENT

Violations of the provisions of this Ordinance constitute a misdemeanor and are punishable as defined by law. The Zoning Administrator 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. Le Sueur County 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.

SUBDIVISION 13. AMENDMENTS

A. ORDINANCE AMENDMENTS

Any revisions to the floodplain maps by the Federal Emergency Management Agency or annexations of new map panels require an Ordinance amendment to update the map references in Subpart A. of Subdivision 2 in this Section.

B. REQUIRED APPROVAL

All amendments to this Ordinance must be submitted to the Department of Natural Resources for review and approval prior to adoption, for compliance with state and federal rules and requirements. The Floodplain Ordinance shall not be considered valid until approved.

SECTION 6.3. AIRPORT ZONING (AZ) OVERLAY DISTRICT

SUBDIVISION 1. PURPOSE

The Airport Overlay District is intended to protect and recognize existing and future regulations for airports within the County which regulate the location and height of structures and vegetation around airports.

SUBDIVISION 2. ADOPT BY REFERENCE

A. The Airport Zoning Regulations adopted by the Joint Airport Zoning Boards are hereby adopted by reference and as amended from time to time. The Joint Airport Zoning Boards consist of:

1. **Mankato Regional Airport:** Mankato, Blue Earth County, St. Peter, Nicollet County and Le Sueur County.
2. **City of Le Sueur Municipal Airport:** City of Le Sueur, Le Sueur County, Nicollet County, and Sibley County.