

# ROSEAU COUNTY

## FLOODPLAIN MANAGEMENT ORDINANCE ORDINANCE NO. 29

### SECTION 1.0 STATUTORY AUTHORIZATION, FINDINGS OF FACT AND PURPOSE

1.1 Statutory Authorization: The legislature of the State of Minnesota has, in Minnesota Statutes Chapter 104 and under the Zoning Enabling Statute, delegated the responsibility to local government units to adopt regulations designed to minimize flood losses. Therefore, the Roseau County Board of Commissioners, Minnesota, does ordain the following:

#### 1.2 Findings of Fact:

1.21 The flood hazard areas of Roseau 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.

1.22 Methods Used to Analyze Flood Hazards. This Ordinance is based upon a reasonable method of analyzing flood hazards which is consistent with the standards established by the Minnesota Department of Natural Resources.

1.3 Statement of Purpose: It is the purpose of this Ordinance to promote the public health, safety, and general welfare, and to minimize those losses described in Section 1.21 by the provisions contained herein.

### SECTION 2.0 GENERAL PROVISIONS

2.1 Lands to Which the Ordinance Applies: This Ordinance shall apply to all unincorporated lands within Roseau County located within the boundaries of the Floodway, Flood Fringe, or General Floodplain Districts, as shown on the Official Floodplain Maps.

2.2 Establishment of the Official Floodplain Maps: The Official Floodplain Maps together with all materials attached thereto is hereby adopted by reference and declared to be a part of this Ordinance. The attached material shall include the Flood Insurance Study for Roseau County (dated July, 1979) prepared by the Federal Insurance Administration, the Flood Boundary and Floodway Maps (dated January, 1980) and Flood Insurance Rate Maps (dated December, 1981) therein. The Official Floodplain Maps shall be on file in the Roseau County Environmental Office.

2.3 Regulatory Flood Protection Elevation: (RFPE) The 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.

Exception: Structures that were constructed and/or placed between June 14, 1989, and November 20, 2001, may continue to use the definition of RFPE that existed at the time of construction and/or placement for purposes of future additions and/or expansions, until such time as one of the two following situations arise and then the new definition of RFPE will apply: 1) the structure is destroyed by any means where the cost of repair exceeds fifty (50) percent of the pre-damage market value; or 2) the existing structure is removed from the lot and the lot is redeveloped.

Note: The June 14, 1989 to November 20, 2001 RFPE is the elevation of the regional (100-year) flood plus any increase in flood elevation caused by encroachments on the floodplain that result from designation of a floodway.

#### 2.4 Interpretation:

2.41 In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements and shall be liberally construed in favor of the Roseau County Board of Commissioners and shall not be deemed a limitation or repeal of any other powers granted by State Statutes.

2.42 The boundaries of the floodplain districts shall be determined by scaling distances on the Official Floodplain Maps. Where interpretation is needed as to the exact location of the boundaries of the district as shown on the Map(s), for example, where there appears to be a conflict between a mapped boundary and actual field conditions, and there is a formal appeal of the decision of the Roseau County Floodplain/Shoreland (FPSL) Administrator, the Board of Adjustment shall make the necessary interpretation. All decisions will be based on elevations on the regional (100-year) flood profile and other available technical data. Persons contesting the location of the district boundaries shall be given a reasonable opportunity to present their case to the Board of Adjustment and to submit technical evidence.

2.5 Abrogation and Greater Restrictions: It is not intended by this Ordinance to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Ordinance imposes greater restrictions, the provisions of this Ordinance shall prevail. All other ordinances inconsistent with this Ordinance are hereby repealed to the extent of the inconsistency only.

2.6 Warning and Disclaimer of Liability: This Ordinance does not imply that areas outside of 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 the Roseau County Board of Commissioners or any officer or employee thereof for any flood damages that result from reliance on this Ordinance or any administrative decision lawfully made thereunder.

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

- 2.8 **Definitions:** Unless specifically defined below, words or phrases used in this Ordinance shall be interpreted so as to give them the same meaning as they have in common usage and so as to give this Ordinance its most reasonable application.
- 2.811 **Accessory Use or Structure** - a use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.
- 2.812 **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.
- 2.813 **Conditional Use (CU)** - a specific type of structure or land use that may be allowed only after an in-depth review procedure and with appropriate conditions or restrictions, upon a finding that: (1) certain conditions exist; and (2) the structure and/or land use conforms to the comprehensive land use plan, if one exists, and is compatible with the existing area.
- 2.814 **Equal Degree of Encroachment** - a method of determining the location of floodway boundaries so that floodplain lands on both sides of a stream are capable of conveying a proportionate share of flood flows.
- 2.815 **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.
- 2.816 **Flood Frequency** - the frequency for which it is expected that a specific flood stage or discharge may be equaled or exceeded.
- 2.817 **Flood Fringe** - that portion of the floodplain outside of the floodway. Flood fringe is synonymous with the term "floodway fringe" used in the Flood Insurance Study for Roseau County.
- 2.818 **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.
- 2.819 **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.
- 2.820 **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 or store the regional flood discharge.
- 2.821 **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.
- 2.822 **Principal Use or Structure** - all uses or structures that are not accessory uses or structures.

- 2.823 **Reach** - a hydraulic engineering term to describe a longitudinal segment of a stream or river influenced by a natural or man-made obstruction. In an urban area, the segment of a stream or river between two consecutive bridge crossings would most typically constitute a reach.
- 2.824 **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.
- 2.825 **Regulatory Flood Protection Elevation (RFPE)** - See Section 2.3 of this Ordinance.
- 2.826 **Structure** - anything constructed or erected on the ground, or attached to the ground or on-site utilities, including, but not limited to, buildings, factories, sheds, detached garages, cabins, manufactured homes, travel trailers/vehicles not meeting the exemption criteria specified in Section 9.31 of the Ordinance and other similar items.
- 2.827 **Variance** - a modification of a specific permitted development standard required by this Ordinance to allow an alternative development standard not stated as acceptable, but only as applied to a particular property for the purpose of alleviating a hardship, practical difficulty or unique circumstance.

## SECTION 3.0 ESTABLISHMENT OF FLOODPLAIN DISTRICTS

### 3.1 Districts:

- 3.11 Floodway District. The Floodway District shall include those areas designated as floodway on the Flood Boundary and Floodway Map adopted in Section 2.2.
- 3.12 Flood Fringe District. The Flood Fringe District shall include those areas designated as floodway fringe on the Flood Boundary and Floodway Map adopted in Section 2.2.
- 3.13 General Floodplain District. The General Floodplain District shall include those areas designated as unnumbered A Zones on the Flood Insurance Rate Map adopted in Section 2.2.

- 3.2 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, Flood Fringe and General Floodplain Districts, all uses not listed as permitted uses or conditional uses in Sections 4.0, 5.0 and 6.0 that follow, respectively, shall be prohibited. In addition:

- 3.21 New manufactured homes, replacement manufactured homes and certain travel trailers and travel vehicles are subject to the general provisions of this Ordinance and specifically Section 9.0;
- 3.22 Modifications, additions, structural alterations or repair after damage to existing nonconforming structures and nonconforming uses of structures or land are regulated by the general provisions of this Ordinance and specifically Section 11.0; and
- 3.23 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, architect, or other expert recognized and approved by the MnDNR, as specified in the general provisions of this Ordinance and specifically stated in Section 10.0 of this Ordinance.

## SECTION 4.0 FLOODWAY DISTRICT

### 4.1 Permitted Uses:

- 4.11 General farming, pasture, grazing, outdoor plant nurseries, horticulture, truck farming, forestry, sod farming, and wild crop harvesting.
- 4.12 Industrial-commercial loading areas, parking areas, and airport landing strips.
- 4.13 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.
- 4.14 Residential lawns, gardens, parking areas, and play areas.

### 4.2 Standards for Floodway Permitted Uses:

- 4.21 The use shall have a low flood damage potential.
- 4.22 The use shall be permissible in the underlying zoning district, if one exists.
- 4.23 The use shall not obstruct flood flows or increase flood elevations and shall not involve structures, fill, obstructions, excavations or storage of materials or equipment.

### 4.3 Conditional Uses (CUs):

- 4.31 Structures accessory to the uses listed in 4.1 above and the uses listed in 4.32 to 4.38 below.
- 4.32 Extraction and storage of sand, gravel, and other materials.
- 4.33 Marinas, boat rentals, docks, piers, wharves, and water control structures.

- 4.34 Railroads, streets, bridges, utility transmission lines, and pipelines.
- 4.35 Storage yards for equipment, machinery, or materials.
- 4.36 Placement of fill.
- 4.37 Travel trailers and travel vehicles either on individual lots of record, existing or new subdivisions, or commercial or condominium-type campgrounds, subject to the exemptions and provisions of Section 9.3 of this Ordinance.
- 4.38 Structural works for flood control such as levees, dikes and floodwalls constructed to any height where the intent is to protect individual structures; and levees, or dikes, where the intent is to protect agricultural crops for a frequency flood event equal to or less than the 10-year frequency flood event.

4.4 Standards for Floodway Conditional Uses (CU):

- 4.41 All Uses. No structure (temporary or permanent), fill (including fill for roads and levees), deposit, obstruction, storage of materials or equipment, or other uses may be allowed as a CU that will cause any increase in the stage of the 100-year or regional flood or cause an increase in flood damages in the reach or reaches affected.
- 4.42 All floodway CUs shall be subject to the procedures and standards contained in Section 10.4 of this Ordinance.
- 4.43 The CU must be permissible in the underlying zoning district, if one exists.
- 4.44 Fill:
  - (a) Fill, dredge spoil, and all other similar materials deposited or stored in the floodplain shall be protected from erosion by vegetative cover, mulching, riprap or other acceptable method.
  - (b) Dredge spoil sites, and sand and gravel operations, shall not be allowed in the floodway unless a long-term site development plan is submitted which includes an erosion/sedimentation prevention element to the plan.
  - (c) As an alternative, and consistent with Subsection (b) immediately above, dredge spoil disposal, and sand and gravel operations, may allow temporary, on-site storage of fill or other materials which would have caused an increase to the stage of the 100-year or regional flood but only after the County Board of Commissioners has received an appropriate plan which assures the removal of the materials from the floodway based upon the flood warning time available. The CU Permit must be title registered with the property in the Office of the County Recorder.

4.45 Accessory Structures:

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

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

- (1) Whenever possible, structures shall be constructed with the longitudinal axis parallel to the direction of flood flow, and
- (2) So far as practical, structures shall be placed approximately on the same flood flow lines as those of adjoining structures.

(c) Accessory structures shall be elevated on fill or structurally dry flood-proofed in accordance with the FP-1 or FP-2 flood-proofing classifications in the State Building Code. As an alternative, an accessory structure may be flood-proofed to the FP-3 or FP-4 flood-proofing classification in the State Building Code provided the accessory structure does not exceed five hundred (500) square feet in size, and for a detached garage, must be used solely for parking of vehicles and limited storage. All flood-proofed accessory structures must meet the following additional standards, as appropriate:

- (1) The structure must be adequately anchored to prevent flotation, collapse or lateral movement, and shall be designed to equalize hydrostatic flood forces on exterior walls; and
- (2) Any mechanical and utility equipment in a structure must be elevated to or above the RFPE or properly flood-proofed.

#### 4.46 Storage of Materials and Equipment:

- (a) The storage or processing of materials that are, in time of flooding, flammable, explosive, or potentially injurious to human, animal, or plant life is prohibited.
- (b) Storage of other materials or equipment may be allowed if readily removable from the area within the time available after a flood warning and in accordance with a plan approved by the County Board of Commissioners.

4.47 Structural works for flood control that will change the course, current or cross-section of protected wetlands or public waters shall be subject to the provisions of Minnesota Statutes, Chapter 105. Community-wide structural works for flood control intended to remove areas from the regulatory floodplain shall not be allowed in the floodway.

4.48 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.

## SECTION 5.0 FLOOD FRINGE DISTRICT

5.1 Permitted Uses: Permitted Uses shall be those uses of land or structures listed as Permitted Uses in the underlying zoning use district(s), if one exists. If no pre-existing, underlying zoning use districts exist, then any residential or non-residential structure or use of a structure or land shall be a Permitted Use in the Flood Fringe provided such use does not constitute a public nuisance. All Permitted Uses shall comply with the standards for Flood Fringe "Permitted Uses" listed in Section 5.2 and the standards for all Flood Fringe "Permitted and Conditional Uses" listed in Section 5.5 of this Ordinance.

## 5.2 Standards for Flood Fringe Permitted Uses:

5.21 All structures, including accessory structures, must be elevated on fill so that the lowest floor including basement floor is at or above the RFPE. The finished fill elevation for structures shall be no lower than one (1) foot below the RFPE and the fill shall extend at such elevation at least fifteen (15) feet beyond the outside limits of the structure.

5.22 As an alternative to elevation on fill, accessory structures that do not exceed five hundred (500) square feet for the outside dimension at ground level may be internally flood-proofed in accordance with Section 4.45 (c).

5.23 The cumulative placement of fill where at any one time exceeds one-thousand (1,000) cubic yards located on the parcel shall be allowable only as a CU, unless said fill is specifically intended to elevate a structure in accordance with Section 5.21 of this Ordinance.

5.24 The storage of any materials or equipment shall be elevated on fill to the RFPE.

5.3 Conditional Uses (CU): Any structure that is not elevated on fill or flood-proofed in accordance with Section 5.21 - 5.22, or any use of land that does not comply with the standards in Section 5.23 - 5.24 shall only be allowable as a CU. An application for a CU shall be subject to the standards and criteria and evaluation procedures specified in Sections 5.4 - 5.5 and 10.4 of this Ordinance.

## 5.4 Standards for Flood Fringe CUs:

5.41 Alternative elevation methods other than the use of fill may be utilized to elevate a structure's lowest floor above the RFPE. 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:

- (a) if the enclosed area is above-grade on at least one side of the structure;
- (b) is designed to internally flood and is constructed with flood resistant materials; and
- (c) is used solely for parking of vehicles, building access or storage. The above-noted alternative elevation methods are subject to the following additional standards:

(1) 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 RFPE or be designed to prevent flood water from entering or accumulating within these components during times of flooding.

(2) Specific Standards for Above-grade, Enclosed Areas - Above-grade, fully enclosed areas such as crawl spaces or tuck under garages must be designed to internally flood and the design plans must stipulate:

- (a) The minimum area of openings in the walls where internal flooding is to be used as a flood-proofing technique. When openings are placed in a structure's walls to provide for entry of flood waters to equalize pressures, the bottom of all openings shall be no higher than one (1) foot above-grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of flood waters.
- (b) The enclosed area will be designed of flood resistant materials in accordance with the FP-3 or FP-4 classifications in the State Building Code and shall be used solely for building access, parking of vehicles or storage.

5.42 Basements, as defined by Section 2.812 of the Ordinance, shall be subject to the following:

- (a) Residential basement construction shall not be allowed below the RFPE.
- (b) Non-residential basements may be allowed below the RFPE provided the basement is structurally dry flood-proofed in accordance with Section 5.43 of this Ordinance.

5.43 All areas of non-residential structures, including basements, to be placed below the RFPE shall be flood-proofed in accordance with the structurally dry flood-proofing classifications in the State Building Code. Structurally dry flood-proofing must meet the FP-1 or FP-2 flood-proofing classification in the State Building Code, making the structure watertight with the walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. Structures flood-proofed to the FP-3 or FP-4 classification shall not be permitted.

5.44 When at any one time more than one thousand (1,000) cubic yards of fill or other similar material is located on a parcel for such activities as on-site storage, landscaping, sand and gravel operations, landfills, roads, dredge spoil disposal or construction of flood control works, an erosion/sedimentation control plan, as specified in the "Roseau County Shoreland Ordinance", must be submitted. In the absence of a State-approved shoreland ordinance, the plan must clearly specify methods to be used to stabilize the fill on-site for a flood event at a minimum of the 100-year or regional flood. The plan must be prepared and certified by a registered professional engineer or other qualified individual acceptable to the County Board of Commissioners. The plan may incorporate alternative procedures for removal of the material from the floodplain if adequate flood warning time exists.

5.45 Storage of Materials and Equipment :

- (a) The storage or processing of materials that are, in time of flooding, flammable, explosive, or potentially injurious to human, animal, or plant life is prohibited.
- (b) Storage of other materials or equipment may be allowed if readily removable from the area within the time available after a flood warning and in accordance with a plan approved by the Roseau County Board of Commissioners.

5.5 Standards for All Flood Fringe Uses:

- 5.51 All new principal structures must have vehicular access at or above an elevation not more than two (2) feet below the RFPE. If a variance to this requirement is granted, the Board of Adjustment must specify limitations on the period of use or occupancy of the structure for times of flooding and only after determining that adequate flood warning time and local flood emergency response procedures exist.
- 5.52 Commercial Uses - accessory land uses, such as yards, railroad tracks, and parking lots may be at elevations lower than the RFPE. 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 (2) feet, or be subject to flood velocities greater than four (4) feet per second, upon occurrence of the regional flood.
- 5.53 Manufacturing and Industrial Uses - measures shall be taken to minimize interference with normal plant operations especially along streams having protracted flood durations. Certain accessory land uses such as yards and parking lots may be at lower elevations subject to requirements set out in Section 5.52 above. In considering permit applications, due consideration shall be given to needs of an industry whose business requires that it be located in floodplain areas.
- 5.54 Fill shall be properly compacted and the slopes shall be properly protected by the use of riprap, vegetative cover or other acceptable method. The Federal Emergency Management Agency (FEMA) has established criteria for removing the special flood hazard area designation for certain structures properly elevated on fill above the 100-year flood elevation. FEMA's requirements incorporate specific fill compaction and side slope protection standards for multi-structure or multi-lot developments. These standards should be investigated prior to the initiation of site preparation if a change of special flood hazard designation will be requested.
- 5.55 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 Floodplain Maps.
- 5.56 Standards for travel trailers and travel vehicles are contained in Section 9.3 of this Ordinance.
- 5.57 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 limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State or local anchoring requirements for resisting wind forces.

## SECTION 6.0 GENERAL FLOODPLAIN DISTRICT

### 6.1 Permitted Uses :

6.11 The uses listed in Section 4.1 of this Ordinance shall be permitted uses.

6.12 All other uses shall be subject to the floodway/flood fringe evaluation criteria pursuant to Section 6.2 below. Section 4.0 shall apply if the proposed use is in the Floodway District and Section 5.0 shall apply if the proposed use is in the Flood Fringe District.

6.2 Procedures for Floodway and Flood Fringe Determinations Within the General Floodplain District.

6.21 Upon receipt of an application for a floodplain-related Permit for a use within the General Floodplain District, the applicant shall be required to furnish such of the following information as is deemed necessary by the FPSL Administrator for the determination of the RFPE and whether the proposed use is within the Floodway or Flood Fringe District; examples include:

- (a) 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.
- (b) 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.
- (c) Profile showing the slope of the bottom of the channel or flow line of the stream for at least five hundred (500) feet in either direction from the proposed development.

6.22 When determined necessary by the FPSL Administrator, the applicant shall be responsible to submit one copy of the above information to a designated engineer, other expert person, or agency for technical assistance in determining whether the proposed use is in the Floodway or Flood Fringe District and to determine the RFPE. Procedures consistent with Minnesota Regulations 1983, Parts 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. If required, the designated engineer expert, or agency shall:

- (a) Estimate the peak discharge of the regional flood.
- (b) Calculate the water surface profile of the regional flood based upon a hydraulic analysis of the stream channel and overbank areas.
- (c) 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 feet 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.

6.23 The FPSL Administrator shall present the technical evaluation and findings of the designated engineer, expert, or agency to the County Board of Commissioners. The County Board of Commissioners must formally accept the technical evaluation and the recommended Floodway and/or Flood Fringe District boundary or deny the permit application. The County Board of Commissioners, prior to official action, may submit the application and all supporting data and analyses to the Federal Emergency Management Agency and the Department of Natural Resources for review and comment. Once the Floodway and Flood Fringe Boundaries have been determined, the County Board of Commissioners shall refer the matter back to the FPSL Administrator who shall process the permit application consistent with the applicable provisions of Section 4.0 and 5.0 of this Ordinance.

## SECTION 7.0 SUBDIVISIONS \*

7.1 Review Criteria : No land shall be subdivided which is unsuitable for the reason of flooding, inadequate drainage, water supply or sewage treatment facilities. All lots within the floodplain districts shall contain a building site at or above the RFPE. All subdivisions shall have water and sewage treatment facilities that comply with the provisions of this Ordinance and have road access both to the subdivision and to the individual building sites no lower than two (2) feet below the RRPE. For all

\* - This Section is not intended as a substitute for a comprehensive County subdivision ordinance. It can, however, be used as an interim control until a comprehensive subdivision ordinance is adopted.

subdivisions in the floodplain, the Floodway and Flood Fringe boundaries, the RFPE, and the required elevation of all access roads shall be clearly labeled on all required subdivision drawings and platting documents.

7.2 Floodway/Flood Fringe Determinations in the General Floodplain District : In the General Floodplain District, applicants shall provide the information required in Section 6.2 of this Ordinance to determine the 100-year flood elevation, the Floodway and Flood Fringe District boundaries, and the RFPE for the subdivision site.

7.3 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 8.0 PUBLIC UTILITIES, RAILROADS, ROADS, AND BRIDGES

8.1 Public Utilities. All public utilities and facilities such as gas, electrical, sewer, and water supply systems to be located in the floodplain shall be flood-proofed in accordance with the State Building Code or elevated to above the RFPE.

- 8.2 Public Transportation Facilities. Railroad tracks, roads, and bridges to be located within the floodplain shall comply with Sections 4.0 and 5.0 of this Ordinance. Elevation to the RFPE 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.
- 8.3 On-site Sewage Treatment and Water Supply Systems: 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; and 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 and Roseau County's "Sewage and Wastewater Treatment Ordinance" shall be determined to be in compliance with this Section.

## SECTION 9.0 MANUFACTURED HOMES AND MANUFACTURED HOME PARKS AND PLACEMENT OF TRAVEL TRAILERS (TTs) AND TRAVEL VEHICLES (TVs)

- 9.1 New manufactured home parks and expansions to existing mobile manufactured home parks shall be subject to the provisions placed on subdivisions by Section 7.0 of this Ordinance.
- 9.2 The placement of new or replacement manufactured homes in existing manufactured home parks or on individual lots of record that are located in floodplain districts will be treated as a new structure and may be placed only if elevated in compliance with Section 5.0 of this Ordinance. If vehicular road access for pre-existing manufactured home parks is not provided in accordance with Section 5.51, then replacement manufactured homes will not be allowed until the property owner(s) develops a flood warning emergency plan acceptable to the County Board of Commissioners.
- 9.21 All manufactured homes must be securely anchored to an adequately anchored foundation system that resists flotation, collapse and lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State or local anchoring requirements for resisting wind forces.
- 9.3 TTs and TVs that do not meet the exemption criteria specified in Section 9.31 below shall be subject to the provisions of this Ordinance and as specifically stated in Sections 9.33 - 9.34 below.

9.31 Exemption - TTs and TVs are exempt from the provisions of this Ordinance if they are placed in any of the areas listed in Section 9.32 below and if they meet the following criteria:

- (a) Have current licenses required for highway use.
- (b) Are highway ready, (placed on wheels and/or an internal jacking system), are attached to the site only by quick disconnect-type utilities commonly used in campgrounds, and do not have permanent structural-type additions attached to it.
- (c) The TT or TV, and associated use, must be permissible in any pre-existing zoning use district, if one exists.

9.32 Areas Exempted For Placement of Travel/Recreational Vehicles:

- (a) Individual lots or parcels of record.
- (b) Existing commercial-recreational vehicle parks or campgrounds.
- (c) Existing condominium-type associations.

9.33 TTs and TVs exempted in Section 9.31 lose their exemption when development occurs on the parcel exceeding five hundred (500) dollars for a structural addition to the TT/TV, or an accessory structure such as a garage or storage building. The TT/TV, and all additions and accessory structures, will then be treated as a new structure and shall be subject to the elevation/flood-proofing and land use requirements specified in Sections 4.0 and 5.0 of this Ordinance.

9.34 New commercial TT or TV parks or campgrounds, new residential-type subdivisions and condominium associations, and the expansion of any existing similar use exceeding five (5) units or dwelling sites shall be subject to the following:

- (a) Any new or replacement TT or TV will be allowed in the Floodway or Flood Fringe Districts provided said trailer or vehicle and its contents are placed on fill above the RFPE and proper elevated road access to the site exists in accordance with Section 5.51 of this Ordinance. No fill placed in the floodway to meet the requirements of this Section shall increase flood stages of the 100-year or regional flood.
- (b) All new or replacement TTs or TVs not meeting the criteria of (a) above may, as an alternative, be allowed as a CU if in accordance with the following provisions and the provisions of 10.4 of the Ordinance. The applicant must submit an emergency plan for the safe evacuation of all vehicles and people during the 100 year flood. Said plan shall be prepared by a registered engineer, or other qualified individual, and shall demonstrate that adequate time and personnel exist to carry out the evacuation. All attendant sewage and water facilities for new or replacement travel trailers or other recreational vehicles must be protected or constructed so as to not be impaired or contaminated during times of flooding in accordance with Section 8.3 of this Ordinance.

## SECTION 10.0 ADMINISTRATION

10.1 Floodplain/Shoreland (FPSL) Administrator: A FPSL Administrator designated by the County Board of Commissioners shall administer and enforce this Ordinance. If the FPSL Administrator finds a violation of this Ordinance, the FPSL Administrator shall notify the person responsible for such violation in accordance with the procedures stated in Section 12.0 of this Ordinance.

10.2 Permit Requirements:

10.21 Permit Required. A Permit issued by the FPSL Administrator in conformity with the provisions of this Ordinance shall be secured prior to the erection, addition, or alteration of any building, structure, or portion thereof; prior to the use or change of use of a building, structure, or land; prior to the change or extension of a nonconforming use; and prior to the placement of fill, excavation of materials, or the storage of materials or equipment within the floodplain.

10.22 Application for Permit. Application for a Permit shall be made to the FPSL Administrator on forms furnished by the FPSL Administrator and shall include the following as applicable: plans drawn to scale showing the nature, location, dimensions, and elevations of the lot; existing or proposed structures, fill, or storage of materials; and the location of the foregoing in relation to the stream channel and/or lake.

10.23 State and Federal Permits. Prior to granting a Permit or processing an application for a CU Permit or Variance, the FPSL Administrator shall direct the applicant to obtain all the necessary State and Federal Permits.

10.24 Certificate of Ordinance Compliance for a New, Altered, or Nonconforming Use. It shall be unlawful to use, occupy, or permit the use or occupancy of any building or premises or part thereof hereafter created, erected, changed, converted, altered, or enlarged in its use or structure until a Certificate of Ordinance Compliance has been issued by the FPSL Administrator stating that the use of the building or land conforms to the requirements of this Ordinance.

10.25 Construction and Use to be as Provided on Applications, Plans, Permits, Variances and Certificates of Ordinance Compliance. Permits, CU Permits, or Certificates of Ordinance Compliance issued on the basis of approved plans and applications authorize only the use, arrangement, and construction set forth in such plans and applications, and no other use, arrangement, or construction is allowed and shall be deemed a violation of this Ordinance, and punishable as provided by Section 12.0 of this Ordinance.

10.26 Certification. The applicant shall be required to submit certification by a registered professional engineer, registered architect, registered land surveyor, or other expert recognized and approved by the MnDNR 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.

10.27 Record of First Floor Elevation. The FPSL Administrator shall maintain a record of the elevation of the lowest floor (including basement) of all new structures and alterations or additions to existing structures in the floodplain. The FPSL

Administrator shall also maintain a record of the elevation to which structures and alterations or additions to structures are flood-proofed.

### 10.3 Board of Adjustment:

10.31 Rules. The Board of Adjustment shall adopt rules for the conduct of business and may exercise all of the powers conferred on such Boards by State law. \*

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

10.33 Variances and CUs. The Board may authorize, upon appeal in specific cases, such relief or variance from the terms of this Ordinance as will not be contrary to the public interest and only for those circumstances outlined in Section 10.4 of this Ordinance, hardship, practical difficulties or circumstances unique to the property

\* - Reference Section 3.07 of the "Roseau County Shoreland Ordinance" under consideration. In the granting of such variance or CU, the Board of Adjustment shall clearly identify in writing the specific conditions that exist which justify the granting of the variance or CU. No variance or CU shall have the effect of allowing in any uses prohibited in that district, permit a lower degree of flood protection than the RFPE for the particular area, or permit standards lower than those required by State law.

10.34 Hearings. Upon filing with the Board of Adjustment an appeal to a decision made by the FPSL Administrator, or an application for a variance and/or CU, the Board shall fix a reasonable time for a hearing and give due notice to the parties of interest as specified by law. The Board shall submit, by mail, to the Commissioner of Natural Resources a copy of the application for proposed variances and/or CUs sufficiently in advance so that the Commissioner will receive the information at least ten (10) days prior to the hearing date.

10.35 Decisions. The Board shall arrive at a decision on appeals, variances, or CUs within 90 days. In passing upon an appeal, the Board may, so long as such action is in conformity with the provisions of this Ordinance, reverse or affirm, wholly or in part, or modify the order, requirement, decision or determination of the FPSL Administrator or other public official. It shall make its decision in writing setting forth the findings of fact and the reasons for its decision. In granting a variance and/or CU Permit, the Board may prescribe appropriate conditions and safeguards such as those specified in Section 10.46, which are in conformity with the purposes of this Ordinance. Violations of such conditions and safeguards, when made a part of the terms under which the variance and/or CU Permit is granted, shall be deemed a violation of the Ordinance punishable under Section 12.0 of this Ordinance. A copy of all decisions granting variances and/or CU Permits shall be forwarded by mail to the Commissioner of Natural Resources within ten (10) days of such action.

10.36 Appeals. Appeals to any decision of the Board of Adjustment may be made as specified in Minnesota Statutes.

10.37 Flood Insurance Notice and Record Keeping. The FPSL Administrator shall notify the applicant for a variance 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) construction below the 100-year or regional flood level increases risk to life and property. Such notification shall be maintained with a record of all variance actions. A community shall maintain a record of all variance actions, including justification for their issuance, and report such variances issued in its annual or biennial report submitted to the Administrator of the National Flood Insurance Program.

10.4 Conditional Uses (CUs). The Board of Adjustment shall hear and decide applications for CUs permissible under this Ordinance. Applications shall be submitted to the FPSL Administrator who shall forward the application to the Board of Adjustment for consideration.

10.41 Hearings. Upon filing with the Board of Adjustment an application for a CU Permit, the Board of Adjustment shall submit, by mail, to the Commissioner of Natural Resources a copy of the application for proposed CU sufficiently in advance so that the Commissioner will receive the information at least ten (10) days prior to the hearing date.

10.42 Decisions. The Board of Adjustment shall arrive at a decision on a CU within ninety (90) days. In granting a CU Permit, the Board of Adjustment shall prescribe appropriate conditions and safeguards, in addition to those specified in Section 10.46, which are in conformity with the purposes of this Ordinance. Violations of such conditions and safeguards, when made a part of the terms under which the CU Permit is granted, shall be deemed a violation of this Ordinance punishable under Section 12.0 of this Ordinance. A copy of all decisions granting CU Permits shall be forwarded, by mail, to the Commissioner of Natural Resources within ten (10) days of such action.

10.43 Procedures to be Followed by the Board of Adjustment in Passing on CU Permit Applications Within All Floodplain Districts..

- (a) Require the applicant to furnish such of the following information and additional information as deemed necessary by the Board of Adjustment for determining the suitability of the particular site for the proposed use:
  - (1) Plans drawn to scale showing the nature, location, dimensions, and elevation of the lot, existing or proposed structures, fill, storage of materials, flood-proofing measures, and the relationship of the above to the location of the stream channel or lake.
  - (2) Specifications for building construction and materials, flood-proofing, filling, dredging, grading, channel improvement, storage of materials, water supply and sanitary facilities.
- (b) Transmit one copy of the plans and specifications described in subsection (a) to a designated engineer, other expert person, or agency for technical assistance, where necessary, in evaluating the proposed in relation to flood heights and velocities, the seriousness of flood damage to the use, the adequacy of the plans for protection, and other technical matters.

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

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

- (a) The danger to life and property due to increased flood heights or velocities caused by encroachments.
- (b) The danger that materials may be swept onto other lands or downstream to the injury of others and/or block bridges, culverts or other hydraulic structures.
- (c) The proposed water supply and sanitation systems, and the ability of these systems to prevent disease, contamination, and unsanitary conditions.
- (d) The susceptibility of the proposed facility and its contents to flood damage, and the effect of such damage on the individual owner.
- (e) The importance of the services provided by the proposed use to the community.
- (f) The requirements of the facility for a waterfront location.
- (g) The availability of alternative locations, not subject to flooding, for the proposed use.
- (h) The compatibility of the proposed use with existing and future development.
- (i) The relationship of the proposed use to the comprehensive plan, if one exists, and the floodplain management program for the area.
- (j) Access safety to the property in times of flooding for ordinary and emergency vehicles.
- (k) The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site.
- (l) Such other factors which are relevant to the purposes of this Ordinance.

10.45 Time for Acting on Application. The Board of Adjustment shall act on an application in the manner described above within ninety (90) days from receiving the application, except that where additional information is required pursuant to Section 10.44 of this Ordinance. The Board of Adjustment shall render a written decision within ninety (90) days from the receipt of such additional information.

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

- (a) Modification of waste treatment and water supply facilities.

- (b) Limitations on periods of use, occupancy, and operation.
- (c) Imposition of operational controls, sureties, and deed restrictions.
- (d) Requirements for construction of channel modifications, compensatory storage, dikes, levees, and other protective measures.
- (e) Flood-proofing measures, in accordance with the State Building Code and this Ordinance. The applicant shall submit a plan or document certified by a registered professional engineer, or architect, that the flood-proofing measures are consistent with the RFPE and associated flood factors for the particular area.

## SECTION 11.0 NONCONFORMING USES

- 11.1 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:
- 11.11 No such use shall be expanded, changed, enlarged, or altered in a way which increases its nonconformity.
- 11.12 Any alteration or addition to a nonconforming structure or nonconforming use which would result in increasing the flood damage potential of that structure or use shall be protected to the RFPE in accordance with any of the elevation on fill or flood-proofing techniques (ie. FP-1 thru FP-4 flood-proofing classifications) allowable in the State Building Code, except as further restricted in 11.13 below.
- 11.13 The cost of any structural alterations or additions to any nonconforming structure over the life of the structure shall not exceed fifty (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 includes all costs such as construction materials, with reasonable cost placed on all manpower and/or labor. If the current cost of all previous and proposed alterations and additions exceeds fifty (50) percent of the current market value of the structure, then the structure must meet the standards of Section 4.0 or 5.0 of this Ordinance for new structures, as applicable.
- 11.14 If any nonconforming use is discontinued for twelve (12) consecutive months, any future use of the building premises shall conform to this Ordinance. The County Assessor shall notify the FPSL Administrator, in writing, of instances of nonconforming uses which have been discontinued for a period of twelve (12) months.
- 11.15 If any nonconforming use or structure is destroyed by any means, including floods, to an extent of fifty (50) percent or more if its market value at the time of destruction, it shall not be reconstructed except in conformity with the provisions of this Ordinance. The applicable provisions for establishing new uses or new structures in Sections 4.0, 5.0 or 6.0 will apply.

## SECTION 12.0 PENALTIES FOR VIOLATION

- 12.1 Violation of the provisions of this Ordinance or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or CUs) shall constitute a misdemeanor and shall be punishable as defined by law.
- 12.2 Nothing herein contained shall prevent the County Board of Commissioners from taking such other lawful action as is necessary to prevent or remedy any violation. Such actions may include but are not limited to:
- 12.21 In responding to a suspected Ordinance violation, the FPSL Administrator and County Board of Commissioners 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, and/or a request to the National Flood Insurance Program for denial of flood insurance availability to the violator. The 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.
- 12.22 When an Ordinance violation is either discovered by or brought to the attention of the FPSL Administrator, the FPSL Administrator shall immediately investigate the situation and document the nature and extent of the violation. As soon as is reasonably possible, this information must be submitted to the appropriate Department on Natural Resources and Federal Emergency Management Agency Regional Offices along with the County's plan of action to correct the violation.
- 12.23 The FPSL Administrator shall notify the suspected party of the requirements of this Ordinance and the nature and extent of the suspected violation. If the structure and/or use is under construction or development, the FPSL Administrator may order the construction or development immediately halted until a proper permit or approval is granted by the County. If the construction or development is already completed, the FPSL Administrator may either: (1) issue an order identifying the corrective actions that must be made within a specified time period to bring the use or structure into compliance; or (2) notify the responsible party to apply for an after-the-fact permit within thirty (30) days.
- 12.24 If the responsible party does not agree to adequately correct the violation within the specified period of time, each additional day that lapses shall constitute an additional violation of this Ordinance and shall be prosecuted accordingly. The FPSL Administrator shall also, upon the lapse of the specified response period, notify the landowner to restore the land to the condition which existed prior to the violation of this Ordinance.

## SECTION 13.0 AMENDMENTS

The floodplain designation on the Official Floodplain Maps 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 regional flood, and is contiguous to lands outside the floodplain. Special exceptions to this rule may be permitted by the Commissioner of Natural Resources if he/she determines that, through other measures, lands are adequately protected for the intended use.

All amendments to this Ordinance, including amendments to the Official Floodplain Maps, must be submitted to and approved by the Commissioner on Natural Resources prior to adoption. Changes in the Official Floodplain Maps must meet 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 receive notification, by mail, at least ten (10) days prior to any hearings to consider an amendment to this Ordinance and said notice shall include a draft of the Ordinance amendment or technical study under consideration.

#### SECTION 14.0 CONCLUSION

Roseau County Floodplain Ordinance No. 8 and Ordinance No. 13 and Ordinance No. 14, as amended, are hereby repealed and are replaced with Roseau County Floodplain Ordinance No. 29.

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Chairman, Roseau County Board of Commissioners

ATTEST:

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Roseau County Auditor

Approved as to form and execution:

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Roseau County Attorney

