

Section 10.18. **"FP" Flood Plain Management District.**

Subd. 1 **Statutory Authorization, Findings of Fact and Purpose.**

A. **Statutory Authorization.** The legislature of the State of Minnesota has, in Minn. Stat. Chapter 104 and Chapter 462, delegated the responsibility to local governmental units to adopt regulations designed to minimize flood losses. Therefore, the City Council of the City of Alexandria, Minnesota ordains as follows:

B. **Findings of Fact.**

1. The flood hazard areas of the City of Alexandria, Minnesota, are subject to period of 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.

C. **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 Subd. 1,B,1 by provisions contained herein.

Subd. 2. **General Provisions.**

A. **Lands to Which Ordinance Applies.** This Ordinance shall apply to all lands within the jurisdiction of the City of Alexandria shown on the Official Zoning Map and the Official Flood Plain District Map as being located within the boundaries of the General Flood Plain District.

B. **Establishment of Official Zoning Map.** The Official Zoning Map together with all materials attached thereto is hereby adopted by reference and declared to be a part of this Ordinance. The Official Flood Plain District Map dated the 17th day of January, 1983, and the Alexandria Watershed District--Stormwater Management Study dated the 17th day of January, 1983, are hereby adopted by reference and declared to be a part of the

Official Zoning Map and this Ordinance. The Official Zoning Map and all materials attached thereto shall be on file in the office of the City Zoning Administrator.

C. Interpretation.

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

2. The boundaries of the zoning district shall be determined by scaling distances on the Official Zoning Map and the Official Flood Plain District Map. Where interpretation is needed as to the exact location of the boundaries of the district as shown on the Official Zoning Map and/or the Official Flood Plain District Map as for example where there appears to be a conflict between a mapped boundary and actual field conditions, the City Zoning Administrator shall make the necessary interpretation 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 Appeals and to submit technical evidence.

D. Compliance. No structure or land shall hereafter be used and no structure shall be located, extended, converted, or structurally altered without fully compliance with the terms of this Ordinance and other applicable regulations which apply to uses within the jurisdiction of this Ordinance.

E. 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 ordinance inconsistent with this Ordinance are hereby repealed to the extent of the inconsistency only.

F. Warning and Disclaimer of Liability. This Ordinance does not imply that the areas outside the flood plain district or land uses permitted within such districts will be free from flooding or flood damages. This Ordinance shall not create liability on the part of the City of Alexandria or any officer or

employee thereof for any flood damages that result from reliance on this Ordinance or any administrative decisions lawfully made thereunder.

G. **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.

H. **Definitions.** Unless specifically defined below, words or phrases used in this Ordinance shall be interpreted so as to give them the same meaning as they have in common usage and so as to give this Ordinance its most reasonable application.

Accessory Use or Structure. A use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.

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

Flood Frequency. The average frequency, statistically determined, for which it is expected that a specific flood stage or discharge may be equaled or exceeded.

Flood Fringe. That portion of the flood plain outside of the floodway.

Flood Plain. The areas adjoining a watercourse or lake, wetland or depressional area which have been or hereafter may be covered by the regional flood.

Flood-Proofing. A combination of structural provisions, changes, or adjustments to properties and structures subject to flooding, primarily for the reduction or elimination of flood damages.

Floodway. The channel of the watercourse and those portions of the adjoining flood plain which are reasonably required to carry and discharge the regional flood.

Obstruction. Any dam, wall, wharf, embankment, levee, dike, pile abutment, projection, excavation, channel modification, culvert, building, wire, fence, stockpile, refuse, fill, structures, or matter in, along, across, or projecting into any channel, lake, depression, wetland, watercourse, or regulatory

flood plain which may impede, retard, or change the direction of the flow of water, or reduce the amount of flood water storage either in itself or by catching or collection debris carried by such water.

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.

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.

Regulatory Flood Protection Elevation. The Regulatory Flood Protection Elevation shall be an elevation no lower than the elevation of the regional flood.

Structure. Anything constructed or erected on the ground or attached to the ground, including, but not limited to, buildings, factories, sheds, detached garages, cabins, manufactured homes, and other similar items.

Subd. 3. **Establishment of Zoning District.** The flood plain area within the jurisdiction of this Ordinance is designated as the General Flood Plain District (GFP).

The General Flood Plain District shall include those areas designated on the Official Zoning Map and the Official Flood Plain District Map.

Within this district all uses not allowed as Permitted Uses or Additional Permitted Uses shall be prohibited.

Where interpretation is needed as to the exact location of the boundaries of the district as shown on the Official Zoning Map and/or the Official Flood Plain District Map, as for example where there appears to be a conflict between a mapped boundary and actual field conditions, the City Zoning Administrator shall make the interpretation. The person contesting the location of the district boundary shall be given a reasonable opportunity to present his case to the Board of Adjustment and Appeals and to submit his own technical evidence if he so desires.

Subd. 4. **General Flood Plain District (GFP).**

A. **Permitted Uses.** The following uses have a low flood damage potential and do not obstruct flood flows. These uses shall be permitted within the General Flood Plain District to the extent that they are not prohibited by any other ordinance and provided they do not require structures, fill, or storage of materials or equipment. In addition, no use shall adversely affect the capacity of the channels or floodways or any tributary to the main stream or of any drainage ditch, or any other drainage facility or system.

1. Agricultural uses such as general farming, pasture, grazing, outdoor plant nurseries, horticulture, truck farming, forestry, sod farming, and wild crop harvesting.

2. Industrial-Commercial uses such as loading areas, parking areas, and airport landing strips.

3. Private and public recreational uses such as golf courses, tennis courts, driving ranges, archery range, 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. Residential uses such as lawns, gardens, parking areas, and play areas.

B. **Additional Permitted Uses.** The following uses may be permitted in the General Flood Plain District only if permissible in the established underlying zoning district and only after the issuance of a Building Permit and Certificate of Occupancy as provided in Subdivisions 4 C, 7 B and 7 D of this Ordinance.

1. Structures accessory to open space uses.

2. Placement of fill.

3. Extraction of sand, gravel and other materials.

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

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

6. Storage yards for equipment, machinery or materials.

7. Residences and other structures constructed on fill so that the basement floor or first floor, if there is no basement, is one (1) foot above the Regulatory Flood Protection Elevation. The finished fill elevation shall be no lower than the Regulatory Flood Protection Elevation and shall extend at such elevation at least fifteen (15) feet beyond the limits of any structure or building erected thereon. Fill shall be compacted and the slopes shall be protected by riprap or vegetative covering. Residences constructed on fill shall be subject to the vehicular access requirements in Subdivision 4 B 6.

8. Non-Residential Structures. Commercial, manufacturing, and industrial structures shall ordinarily be elevated on fill so that their first floor (including basement) is one (1) foot above the Regulatory Flood Protection Elevation but may in special circumstances be flood-proofed to one (1) foot above the Regulatory Flood Protection Elevation in accordance with the State Building Code. Structures that are not elevated to one (1) foot above the Regulatory Flood Protection Elevation shall be flood-proofed to FP-1 or FP-2 classification as defined by the State Building Code. Structures flood-proofed to FP-3 or FP-4 classification shall not be permitted.

C. Standards for Issuance of Building Permits and Certificates of Occupancy.

1. All Uses. No structure (temporary or permanent), fill (including fill for roads, and levees), deposits obstruction, storage of materials, or equipment, or other uses may be allowed as Permitted Uses or as an Additional Permitted Use which, acting alone or in combination with existing or reasonably anticipated future uses, reduces the flood water storage capacity of the flood plain or increases flood heights. In addition, all Additional Permitted Uses shall be subject to the following standards (Subdivision 4 C. 2. - 4 C.8.).

2. Fill and Obstructions.

a. Any fill deposited in the flood plain shall be no more than the minimum amount necessary to conduct an Additional Permitted Use listed in Subdivision 4 B. Fill and obstructions shall not in any way obstruct the flow of flood waters.

b. Spoil from dredging or sand and gravel operations shall not be deposited in the flood plain unless it can be done in accordance with (a) of this Section.

c. Fill shall be protected from erosion by vegetative cover.

d. Compensating flood water storage area shall be provided for any obstruction related to the Additional Permitted Uses specified in Subdivision 4 B 1 - 4 B 8 of this ordinance. The volume of compensating flood water storage area shall be equal to the total volume of the proposed obstruction that lies above the natural ground surface elevations which exist on the site and below the Regional Flood elevation. Areas that are subject to inundation by ground water table fluctuations or presently subject to inundation by the Regional Flood shall not be acceptable as compensating flood water storage.

3. Accessory structures (temporary and permanent) allowed as Additional Permitted Uses by Subdivision 4 B 1.

a. Accessory structures shall not be designed for human habitation.

b. Accessory structures shall be elevated on fill to the Regulatory Flood Protection Elevation or be flood-proofed in accordance with the State Building Code.

4. 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 other equipment may be allowed if readily removable from the area within the time available after the flood warning.

5. Structural Works for Flood Control. Levees, dikes, and floodwalls shall be constructed in accordance with Subdivision 4 C 1, Subdivision 4 C 2 and Subdivision 7 D. Other structural works for flood control such as dams and channel enlargements that will change the course, current or cross-section of a public water shall be subject to the provisions of Minn. Stat. Chapter 105.

6. Residential Uses. Residences that do not have vehicular access at or above the Regulatory Flood Protection Elevation shall not be permitted unless granted a variance by the Board of Adjustment and Appeals. In granting a variance the Board shall specify limitations on the period of use or occupancy of the residence.

7. Non-Residential Uses. Accessory land uses, such as roads, yards, railroad tracks, and parking lots shall be at elevations no lower than the Regulatory Flood Protection Elevation.

8. Manufacturing and Industrial Uses. Measures shall be taken to minimize interference with normal plant operations especially along streams having protracted flood durations. In considering permit applications, due consideration shall be given to needs of an industry whose business requires that it be located in the flood plain areas.

Subd. 5. **Subdivisions.** No land shall be subdivided which is held unsuitable by the City Planning Commission for reason of flooding, inadequate drainage, water supply or sewage treatment facilities. All lots within the flood plain district shall be capable of containing a building site at least one (1) foot above the Regulatory Flood Protection Elevation. 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 the Regulatory Flood Protection Elevation.

In the General Flood Plain District, applicants shall provide the information required in Subdivision 7 D 1 of this Ordinance. The City Planning Commission shall evaluate the subdivision in accordance with procedures established in Section 7 D 1 and standards contained in Subdivision 7 D 3 of this Ordinance and in accordance with Chapter 11 of the Alexandria City Code relating to subdivision regulation.

Subd. 6. **Manufactured Homes and Manufactured Home Parks.**

A. New manufactured home parks and expansions to existing manufactured home parks shall be subject to the provisions placed on subdivisions by Subdivision 5 of this Ordinance and to other applicable subdivision ordinances.

B. Manufactured homes in existing manufactured home parks that are located in the General Food Plain District are non-conforming uses and may be replaced only if in compliance with the provisions of Subdivision 4 B 7 of this Ordinance and the following conditions:

1. The manufactured home is anchored with tiedowns that comply with the requirements of Minnesota Regulations MoH 450.

2. The manufactured home owner or renter is notified that the manufactured home site lies in the flood plain and may be subject to flooding.

3. The manufactured home park owner develops a flood emergency plan consistent with the time available after a flood warning. The plan shall be filed with and approved by the Douglas County Office of Emergency Management and/or the City Civil Defense Director.

4. The manufactured home complies with the provisions of Subdivision 4 C 2 of this Ordinance.

Subd 7. **Administration.**

A. **City Zoning Administrator.** A City Zoning Administrator designated by the City Council shall administer and enforce this Ordinance. If he/she finds a violation of the provisions of this Ordinance, he/she shall notify the person responsible for such violation, indicating the nature of the violation, and ordering the action necessary to correct it.

B. **Building Permit and Certificate of Occupancy.**

1. **Building Permit Required.** A Building Permit issued by the City Zoning Administrator in conformity with the provisions of this Ordinance shall be secured prior to the placement, reconstruction, erection, addition, or alteration of any building, structure, or portion thereof; prior to the use or change of a building, structure, or land; prior to the change or extension of a non-conforming use; and prior to the placement of fill or excavation of materials within the flood plain.

2. **Application for Building Permit.** Application for a Building Permit shall be made in duplicate to the City Zoning Administrator or City Building Inspector on forms furnished by him/her and shall include the following where

applicable: plans in duplicate 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; the Regulatory Flood Protection Elevation at the building site, and the first floor elevation, including basement, of all new or existing structures on the site.

3. State and Federal Permits. Prior to granting a Building Permit or processing an application for an Additional Permitted Use or Variance, the applicant shall obtain all necessary State and Federal Permits.

4. Certificate of Occupancy for a New, Altered, or Non-conforming 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 Occupancy shall have been issued by the City Zoning Administrator stating that the use of the building or land conforms to the requirements of this Ordinance. Where a non-conforming use or structure is extended or substantially altered, the Certificate of Occupancy shall specifically state the manner in which the non-conforming structure or use differs from the provisions of this Ordinance.

5. Construction and Use to be as Provided in Applications, Plans, Permits, and Certificate of Occupancy. Building Permits or Certificates of Occupancy issued on the basis of approved plans and applications authorize only the use, arrangement, and construction set forth in such approved plans and applications, and no other use, arrangement, or construction. Any use, arrangement, or construction at variance with that authorized shall be deemed violation of this Ordinance, and punishable as provided by Subdivision 9 of this Ordinance. The applicant shall be required to submit certification by a registered professional engineer, registered architect, registered land surveyor or other qualified person designated by the City Council that the finished fill and building elevations and flood proofing measures were accomplished in compliance with the provisions of this Ordinance.

6. Record of First Floor Elevation. The City Zoning Administrator shall maintain a record of the elevation of the first floor (including basement) of all new structures or additions to existing structures in the General Flood Plain District. He/She shall also maintain a record of the elevations to which structures or additions to structures are flood-proofed.

C. **Board of Adjustment and Appeals.** A Board of Adjustment and Appeals is hereby established. The City Council shall act as the Board of Adjustment and Appeals.

1. Rules. The Board of Adjustment and Appeals shall adopt rules for the conduct of business and may exercise all of the powers conferred on such Boards by State Law.

2. Administrative Review. The Board shall hear and decide appeals in accordance with the Alexandria City Code Section 10.25 where it is alleged there is error in any order, requirement, decisions, or determination made by an administrative official in the enforcement or administration of this Ordinance.

3. Variances. The Board may authorize in accordance with Alexandria City Code Section 10.25 upon appeal in specific cases such variance from the terms of this Ordinance as will not be contrary to the public interest, where, owing to special conditions, literal enforcement of the provisions of the Ordinance will result in unnecessary hardship so that the spirit of the Ordinance shall be observed and substantial justice done. No variance shall have the effect of allowing in any district uses prohibited in that district, permit a lower degree of flood protection than required by this Ordinance for the particular area, or permit standards lower than those required by State Law.

4. Hearings. Upon filing with the Board of Adjustment and Appeals of an appeal from a decisions of the City Zoning Administrator, or an application for variance, the Board shall fix a reasonable time for a hearing and give due notice to the parties in interest. The Board shall submit by mail to the Commissioner of Natural Resources a copy of the application for proposed Variances sufficiently in advance so that the Commissioner will receive at least ten (10) days notice of the hearing.

5. Decisions. The Board shall arrive at a decision on such appeal of Variance within sixty (60) 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, decisions or determination appealed from. It shall make its decision in writing setting forth the findings of fact and the reasons for its decisions. In granting a Variance the Board may prescribe appropriate conditions and safeguards such as are in conformity with the purposes of this Ordinance. Violations of such conditions and safeguards, when made a part of the terms under which the Variance is granted, shall be deemed a violation of this Ordinance punishable

under Subdivision 9. A copy of all decisions granting Variances shall be forwarded by mail to the Commissioner of Natural Resources within ten (10) days of such action.

6. Appeal to the District Court. Appeals from any decision of the Board may be taken by any person or persons, jointly or severally, aggrieved by any decision of the Board, or any taxpayer, officer, department, board or bureau of the municipality, to the District Court, of this jurisdiction as provided in Minn. Stat. §462.361.

D. Building Permits and Certificate of Occupancy.

The granting or denial of Building Permits and Certificates of Occupancy required by Subdivision 4 B and Subdivision 7 A 1 of this Ordinance shall be made in accordance with this Subdivision and with Subdivision 4 C of this Ordinance.

1. Procedures for Evaluating Proposed "Additional Permitted Uses" Within the General Flood Plain District.

a. Upon receipt of an application for an Additional Permitted Use as specified in Subdivision 4 B of this Ordinance, the applicant shall be required to furnish such of the following information as is deemed necessary by the Zoning Administrator for determining effective flow areas, computing the required volume of compensating flood water storage and determining the Regulatory Flood Protection Elevation for the site.

(1) A typical cross-section showing the channel of the stream, or bed of the lake, wetland or depression, elevation of land areas adjoining each side of the channel, or bed of the lake, wetland or depression, cross-sectional areas to be occupied by the proposed development, and high water information.

(2) Plan (surface view) showing elevations or contours of the ground; pertinent structure, fill, or storage elevations; size, location, and spatial arrangement of all proposed and existing structures on the site; location and elevations of streets; photographs showing existing land uses and vegetation upstream and downstream; and soil type.

(3) Profile showing the slope of the bottom of the channel or flow line of the stream for at least 500 feet in either direction from the proposed development.

b. One copy of the above information shall be transmitted to a designated engineer or other expert person or agency for technical assistance in determining the Regulatory Flood Protection Elevation. Procedures consistent with the Minnesota Regulations NR 86087 shall be followed in this expert evaluation. The designated engineer or expert shall:

(1) Estimate the peak discharge of the regional flood.

(2) Identify the effective flow limits for the Regional Flood Discharge.

(3) Calculate the water surface profile of the regional flood based upon a hydraulic analysis of the stream channel and overbank areas, floodwater storage capacity of the lake, wetland or depression, and flow restrictions.

(4) Compute the volume of compensating floodwater storage as required by Subdivision 4 C 2 (d) of this Ordinance.

c. Based upon the technical evaluation of the designated engineer or expert, the City Zoning Administrator shall determine the suitability of the proposed compensating flood water storage areas and the Regulatory Flood Protection Elevation at the site.

2. Procedures to be Followed by the Zoning Administrator in Reviewing Applications for Uses Within the General Flood Plain District.

a. Require the applicant to furnish such of the following information and additional information as deemed necessary for determining the suitability of the particular site for the proposed use:

(1) Three (3) copies of 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.

(2) Three (3) copies of specifications for building construction and materials, flood-proofing, filling, dredging, grading, channel improvement, storage of materials, water supply and sanitary facilities.

b. Transmit one copy of the information described in subsection (a) to a designated engineer or other expert person or agency for technical assistance, where necessary, in evaluating the proposed project in relation to flood heights and velocities, the seriousness of flood damage to the use, the adequacy of the plans for protection, and other technical matters.

c. Based upon the technical evaluation of the designated engineer or expert, the City Zoning Administrator shall determine the specific flood hazard at the site and evaluate the suitability of the proposed use in relation to the flood hazard.

3. Factors Upon Which the Decision of the City Zoning Administrator Shall Be Based. In considering applications, the City Zoning Administrator 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.

c. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.

d. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.

e. The importance of the services provided by the proposed facility to the community.

f. The requirements of the facility for a waterfront location.

g. The availability of alternative locations not subject to flooding for the proposed use.

h. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.

i. The relationship of the proposed use to the comprehensive plan and flood plain management program for the area.

j. The safety of access to the property in times of flood for ordinary and emergency vehicles.

k. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site.

l. Such other factors which are relevant to the purpose of this Ordinance.

4. Conditions Attached to Building Permits. Upon consideration of the factors listed above and the purposes of this Ordinance, the City Zoning Administrator may attach such conditions to the granting of a Building Permit as he/she deems necessary to fulfill the purposes of this Ordinance. Such conditions may include, but are not limited to, the following:

a. Modification of waste disposal and water supply facilities.

b. Limitations on period of use, occupancy, and operation.

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

d. Requirements for construction of channel modifications, dikes, levees, and other protective measures.

Subd. 8. Non-Conforming Uses.

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

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

2. No structural alteration or addition to any non-conforming structure over the life of the structure shall exceed fifty percent (50%) of its estimated market value as determined by the City Assessor at the time of its becoming a non-

conforming use, unless the entire structure is permanently changed to a conforming use or unless the alteration or addition would substantially reduce potential flood damages for the entire structure.

3. Any alteration or addition to a non-conforming use which would result in substantially increasing the flood damage potential of the use shall be flood-proofed in accordance with the State Building Code or shall be properly elevated on fill to one (1) foot above the Regulatory Flood Protection Elevation.

4. If any non-conforming use is discontinued for 12 consecutive months, any future use of the building premises shall conform to this Ordinance. The assessor shall notify the Zoning Administrator in writing of instances of non-conforming uses which have been discontinued for a period of 12 months.

5. If any non-conforming use is destroyed by any means, including floods, to an extent of 50 percent or more of its estimated market value as determined by the City Assessor as of the date the damage occurs, it shall not be reconstructed except in conformity with the provisions of this Ordinance.

6. Uses or adjuncts thereof which are or become nuisances shall not be entitled to continue as non-conforming uses.

7. Non-conforming uses located in the General Flood Plain District may be eliminated or brought into conformity with the standards contained in this Ordinance within a reasonable period of time as determined by the City Council, after a hearing for each such non-conforming uses. The City Council shall make its determination upon the basis of the normal useful life of any improvement upon the premises. In addition, the monetary value of any competitive advantage derived by the operation of such non-conforming use, by reason of the limitation on establishment of competing businesses as a result of this Ordinance, shall be considered as a reduction of losses resulting from the requirement of termination of the use under this Ordinance.

8. The City Zoning Administrator shall prepare a list of those non-conforming uses which have been flood-proofed or otherwise adequately protected in conformity with Subdivision 4 of this Ordinance. He shall present such list to the City Council which may issue a certificate to the owner stating that

such uses, as a result of these corrective measures, are in conformity with the provisions of this Ordinance.

Source: Ord. 338-2nd Series
Effective Date: 2/08/93

Subd. 9. **Penalties for Violation.** 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 Building Permits) shall constitute a misdemeanor, and in addition shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense.

Nothing herein contained shall prevent the City of Alexandria from taking such other lawful action as is necessary to prevent or remedy any violation.

Source: Ord. 455-2nd Series
Effective Date: 11/27/00

Subd. 10. **Amendments.** The flood plain designation on the Official Zoning Map and the Official Flood Plain District Map shall not be removed from flood plain areas unless it can be shown that the designation is in error or that the area has been filled to or above the elevation of the regional flood and is contiguous to lands outside the flood plain. Special exception to this rule may be permitted by the Commissioner of Natural Resources if he determines that, through other measures, lands are adequately protected for the intended use.

All amendments to this ordinance including amendments to the Official Zoning Map and the Official Flood Plain District Map must be submitted to and approved by the Commissioner of Natural Resources prior to adoption.