TITLE 1300

FLOOD CONTROL REGULATIONS

<table>
<thead>
<tr>
<th>Subject</th>
<th>Chapter</th>
</tr>
</thead>
<tbody>
<tr>
<td>Flood Plain Management</td>
<td>1301</td>
</tr>
<tr>
<td>Surface Water Drainage Management and Development Control</td>
<td>1302</td>
</tr>
<tr>
<td>Construction Site and Land Disturbance Runoff Control (Added, Ord. 804, 11-19-08)</td>
<td>1303</td>
</tr>
</tbody>
</table>
CHAPTER 1301
(Repealed, Ord. 842, 5-20-10)
(Added, Ord. 842, 5-20-10)

FLOOD PLAIN MANAGEMENT

SECTION:

1301.01: Statutory Authorization, Findings of Fact and Purpose
1301.02: General Provisions
1301.03: Establishment of Overlay Zoning Districts
1301.04: Floodway District (FW)
1301.05: Flood Fringe District (FF)
1301.06: Procedures for Determining One Percent Annual Chance Flood Elevations (100-Year Flood Elevations) in Areas Located in Zone A of the Flood Insurance Rate Map Panels
1301.07: Subdivisions
1301.08: Public Utilities, Railroads, Roads, and Bridges
1301.09: Manufactured Homes and Manufactured Home Parks and Placement of Recreational Vehicles
1301.10: Administration
1301.11: Nonconforming Uses
1301.12: Penalties for Violation
1301.13: Amendments
1301.01:  **STATUTORY AUTHORIZATION, FINDINGS OF FACT AND PURPOSE:**

Subd. 1.  Statutory Authorization: The Legislature of the State of Minnesota has, in Minnesota Statutes Chapter 103F and Chapter 462, delegated to local government units the responsibility to adopt regulations designed to minimize flood losses. Therefore, the Mounds View City Council does ordain as follows in this Chapter:

Subd. 2.  Findings of Fact:

   a. The flood hazard areas in the City are subject to periodic inundation that 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.

   b. Methods Used to Analyze Flood Hazards. The City bases this Chapter on a reasonable method of analyzing flood hazards that is consistent with the standards set by the Minnesota Department of Natural Resources “(DNR)”.

   c. National Flood Insurance Program Compliance. The City adopts this Chapter to meet the rules and regulations of the National Flood Insurance Program codified as 44 Code of Federal Regulations Parts 59-78, as amended, so as to maintain the City’s eligibility in the National Flood Insurance Program.

Subd. 3. Statement of Purpose: It is the purpose of this Chapter to promote the public health, safety, and general welfare and to minimize the losses described above in Section 1301.01, subdivision 2 a by the provisions contained herein.

1301.02:  **GENERAL PROVISIONS:**

Subd. 1.  Lands to Which this Chapter Applies: This Chapter shall apply to all lands in Mounds View shown on the Official Zoning Map and/or the attachments thereto as being within the boundaries of the Floodway, Flood Fringe, or General Flood Plain Districts.

Subd. 2.  Establishment of Official Zoning Map: The City hereby adopts by reference the Official Zoning Map, together with all materials attached thereto, and declares the Zoning Map to be a part of this Chapter. The attached materials shall include the Flood Insurance Study for Ramsey County, Minnesota (All Jurisdictions) and Flood Insurance Rate Map panels therein numbered 27123C0004G, 27123C0005G and 27123C0010G, all dated June 4, 2010 as prepared by the Federal Emergency Management Agency (FEMA). The Official Zoning Map and attached materials shall be on file in the Offices of the City Administrator and the Community Development Director.
Subd. 3. Regulatory Flood Protection Elevation: The regulatory flood protection elevation 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 flood plain that result from designation of a floodway.

Subd. 4. Interpretation:

a. In their interpretation and application, the City and all users of this Chapter shall hold the provisions of this Chapter to be the minimum requirements and shall liberally construe the provisions in favor of the City or other regulating agency. In addition, no one shall deem any of the provisions of this Chapter a limitation or repeal of any other powers granted by State or Federal statutes.

b. The boundaries of the zoning districts shall be determined by scaling distances on the Official Flood Plain Zoning Map. The Planning Commission shall make interpretations about exact location of the boundaries of a district as shown on the Official Zoning Map, as 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 Community Development Director. All decisions will be based on elevations on the regional (100-year) flood profile, the ground elevations that existed on the site at the time the City adopted its initial floodplain regulations or on the date of the first National Flood Insurance Program map showing the area within the 100-year floodplain if earlier, and other available technical data. The City shall give persons contesting the location of the district boundaries a reasonable opportunity to present their case to the Planning Commission and to submit technical evidence.

Subd. 5. Abrogation and Greater Restrictions: The City does not intend by this Chapter to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Chapter imposes greater restrictions, the provisions of this Chapter shall prevail. In all cases, the provisions of Chapter 1010, wetland zoning regulation and the City surface water management plan (subject to subsequent revisions) shall be considered more restrictive than this Chapter. The City hereby repeals all other regulations or ordinances inconsistent with this Chapter to the extent of the inconsistency only.

Subd. 6. Warning and Disclaimer of Liability: This Chapter does not imply that areas outside the flood plain districts or land uses permitted within such districts will be free from flooding or flood damages. This Chapter shall not create liability on the part of the City or any officer or employee thereof for any flood damage that result from reliance on this Chapter or any administrative decision lawfully made thereunder.

City of Mounds View
Subd. 7. Severability: If a court of competent jurisdiction decides that any section, clause, provision, or portion of this Chapter is unconstitutional or invalid, then the decision shall not affect the remainder of this Chapter.

Subd. 8. Definitions: For the purposes of this Chapter, the following terms, phrases, words and their derivations shall have the meanings listed in this Chapter. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number and words in the singular number include the plural number. The word “shall” is always mandatory and is not discretionary.

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

b. Basement: Any area of a building or 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.

c. Conditional Use: A specific type of structure or land use listed in the City Code that the City Council may allow but only after an in-depth review and with conditions or restrictions as provided in the City Code and upon a finding that:

(1) Certain conditions as detailed in the City Code exist; and

(2) The structure or land use conforms to the City’s Comprehensive Plan and if the City decides the proposed use is compatible with nearby land uses and with the existing neighborhood.

d. Equal Degree of Encroachment: A method of determining the location of floodway boundaries so that flood plain lands on both sides of a stream, creek or watercourse are capable of conveying a proportionate share of flood flows.

e. Flood: A temporary increase in the flow or stage of a stream, creek or watercourse or in the stage of a wetland or lake that results in the inundation of normally dry areas.

f. Flood Frequency: The frequency that a person can expect that a specific flood stage or discharge may be equaled or exceeded.

g. Flood Fringe: That part of the flood plain outside of the floodway. The term “flood fringe” is synonymous with the term "floodway fringe" used in the Flood Insurance Study for Ramsey County, Minnesota (All Jurisdictions).
h. Flood Plain: The channel or beds proper of a stream, creek or watercourse and the areas adjoinging a wetland, lake or watercourse that a regional flood has or hereafter may cover.

i. 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.

j. Floodway: The bed of a wetland or lake and the channel of a watercourse and those portions of the adjoining flood plain that is reasonably required to carry or store the regional flood discharge.

k. Lowest Floor: The lowest floor of the lowest enclosed area (including a basement). The City does not consider an unfinished or flood resistant enclosure, used solely for parking of vehicles, building access, or storage in an area other than a basement area as the building’s lowest floor.

l. Manufactured Home: A structure, transportable in one (1) or more sections, that is built on a permanent chassis and is designed and constructed for use with or without a permanent foundation when attached to the required utilities. The term “manufactured home” does not include the term “recreational vehicle.”

m. Obstruction: Any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel modification, culvert, building, wire, fence, stockpile, refuse, fill, structure, or matter in, along, across, or projecting into any channel, watercourse, or regulatory flood plain that 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.

n. Principal Use or Structure: The main or primary use of land or buildings that are not subordinate accessory uses or structures.

o. Reach: A hydraulic engineering term used 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.

City of Mounds View
p. Recreational Vehicle: A vehicle that is: (1) built on a single chassis, (2) four hundred (400) square feet or less of floor area when measured at the largest horizontal projection, (3) designed to be self-propelled or permanently towable by a light duty truck, and (4) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use. For the purposes of this Chapter, the term “recreational vehicle” shall be synonymous with the term “travel trailer/travel vehicle.”

q. Regional Flood: A flood that is representative of large floods known to have occurred generally in Minnesota and reasonably characteristic of what a person could expect to occur on an average frequency in the magnitude of the 100-year recurrence interval. The term “regional flood” is synonymous with the terms "base flood," “1-percent annual chance” or “100-year flood elevation.”

r. Regulatory Flood Protection Elevation: 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 flood plain that result from designation of a floodway.

s. 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, recreational vehicles not meeting the exemption criteria specified in Section 1301.09, subdivision 3, a of this Chapter and other similar items.

t. Substantial Damage: Damage of any origin sustained by a structure where the cost of restoring the structure to the condition before the damage occurred would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred.
u. Substantial Improvement: Within any consecutive 365-day period, any reconstruction, rehabilitation (including normal maintenance and repair), repair after damage, addition, or other improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure before the “start of construction” of the improvement. This term includes structures that have incurred “substantial damage,” regardless of the actual repair work performed. The term does not include however, any:

1. Project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications that have been identified by the local code enforcement official or other City official and are the minimum necessary to assure safe living conditions; or

2. Alteration of an “historic structure,” if the alteration would not preclude the structure’s continued designation as an “historic structure.” For the purpose of this Chapter, “historic structure” shall be as defined in 44 Code of Federal Regulations, Part 59.1. (There are no known historic structures in Mounds View).

v. Variance: A modification of a permitted development standard required in the City Code (including this Chapter) to allow an alternative development standard not stated as acceptable in the City Code, but only as applied to a particular property for the purpose of alleviating a hardship, practical difficulty or unique circumstance as defined in the City Code.

Subd. 9. Annexations: The Flood Insurance Rate Map panels adopted by reference in Section 1301.02, subdivision 2 of this Chapter may include floodplain areas that lie outside of the corporate boundaries of Mounds View at the time the City adopts this Chapter. If the City annexes any of these floodplain land areas into the City after the date it adopts this Chapter, the newly annexed floodplain lands shall be subject to the provisions of this Chapter immediately upon the date of annexation into the City of Mounds View.
1301.03: **ESTABLISHMENT OF OVERLAY ZONING DISTRICTS:**

Subd. 1. **Districts:** The City establishes the following overlay zoning classifications within the City:

a. **Floodway District.** The Floodway District shall include those areas designated as “Zone AE”, “Zone AH” and “Zone A” on the Flood Insurance Rate Map panels adopted in Section 1301.02, subdivision 2 of this Chapter that are below the ordinary high water level as defined in Minnesota Statutes, Section 103G.005, subdivision 14.

b. **Flood Fringe District.** The Flood Fringe District shall include those areas designated as “Zone AE”, “Zone AH” and “Zone A” on the Flood Insurance Rate Map panels adopted in Section 1301.02, subdivision 2 of this Chapter that are below the one percent (1%) annual chance flood elevation (100-year flood elevation) but above the ordinary high water level as defined in Minnesota Statutes, Section 103G.005, subdivision 14. (See Section 1301.06 of this Chapter for the procedures to determine the one percent (1%) annual chance flood elevation (100-year flood elevation)).

Subd. 2. **Compliance:** No person shall use a new structure or land and no person shall construct, locate, extend, convert or structurally alter a structure without meeting the terms of this Chapter and all other applicable rules and regulations. Within the Floodway, Flood Fringe and General Flood Plain Districts, the City prohibits all uses not listed as permitted uses or conditional uses in Sections 1301.04 and 1301.05 that follow, respectively. In addition, the following provisions shall apply:

a. New manufactured homes, replacement manufactured homes and certain travel trailers and travel vehicles are subject to the general provisions of this Chapter and to the standards in Section 1301.09 of this Chapter.

b. Modifications, additions, structural alterations, normal maintenance and repair, or repair after damage to existing nonconforming structures and nonconforming uses of structures or land are regulated by the general provisions of this Chapter and to the standards in Section 1301.11 of this Chapter.

c. As-built elevations for elevated or flood-proofed structures must be certified by ground surveys. A licensed professional engineer or architect must design and certify flood-proofing techniques as specified in the general provisions of this Chapter and as stated in Section 1301.10 of this Chapter.

City of Mounds View
1301.04: **FLOODWAY DISTRICT (FW):** The permitted and conditional uses listed below are only allowable in the Floodway District if not prohibited by any other underlying zoning district classifications of the City and if not prohibited by any applicable state or federal law. The City does not allow community-wide structural works or projects in the Floodway District for flood controls that are intended to remove areas from the regulatory flood plain.

**Subd. 1. Permitted Uses:**

a. General farming, pasture, grazing, outdoor plant nurseries, horticulture, and wild crop harvesting.

b. Boat launching ramps, swimming areas, parks, wildlife and nature preserves, and fishing areas.

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

**Subd. 2. Standards for Floodway District Permitted Uses:**

a. The use shall have low flood damage potential.

b. The use shall be permissible in the underlying zoning district.

c. 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.

**Subd. 3. Conditional Uses:** The conditional uses listed below are only allowable in Floodway District if not prohibited by any other underlying zoning district classification of the City and if not prohibited by applicable state or federal law. The City requires a conditional use permit approved by the City Council for each use. The City or the property owner must record the conditional use permit against the title of the property in the Ramsey County Recorder’s office.

a. The extraction and storage of sand, gravel, and other materials.

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

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

d. The placement of fill.
Subd. 4. Standards for Floodway District Conditional Uses:

a. All Uses. The City will not allow fill (including fill for roads and levees), deposits, obstructions, or other similar uses as a conditional use that would cause any increase in the stage of a 100-year or regional flood or cause an increase in flood damage in the reach or reaches affected.

b. All conditional uses in the Floodway District shall be subject to the procedures and standards set forth in Section 1301.10 subdivision 4 of this Chapter.

c. The conditional use shall be permissible in the underlying City zoning district.

d. Fill, subject to the following standards:

   (1) The property owner or contractor shall protect fill, dredge spoil, and all other similar materials that they deposit or store in the flood plain from erosion by vegetative cover, mulching, riprap or other method acceptable to the City.

   (2) The City does not allow dredge spoil sites and sand and gravel operations in the Floodway District unless the owner or operator submits a long-term site development plan to the City that includes an erosion/sedimentation prevention element to the plan.

   (3) As an alternative, and consistent with Subsection (2) above, dredge spoil disposal and sand and gravel operations may allow temporary, on-site storage of fill or other materials that would have caused an increase to the stage of 100-year or regional flood. The City will only allow such storage only if City has received a plan that assures the removal of the materials from the floodway based upon the available time after a flood warning. The City or the property owner must record the conditional use permit against the title of the property in the Ramsey County Recorder's Office.

e. Storage of Materials and Equipment. The City may allow the storage of other materials or equipment if readily removable from the area in the time available after a flood warning and according to a plan approved by the City. The City prohibits the storage or processing of materials that are, in time of flooding, flammable, explosive, or potentially injurious to human, animal, or plant life.
1301.05:  **FLOOD FRINGE DISTRICT (FF):**

Subd. 1. Permitted Uses: The permitted uses in the flood fringe district are all those uses of land or structures listed in Title 1100 of the City Code as permitted uses in the underlying zoning district(s). All permitted uses must meet the standards for Flood Fringe District “Permitted Uses” listed in Section 1301.05, subdivision 2 set forth below and the "Standards for All Flood Fringe Uses" listed in Section 1301.05, subdivision 5 of this Chapter.

Subd. 2. Standards for Flood Fringe District Permitted Uses:

a. All structures in the Flood Fringe district, including accessory structures, must be elevated on fill so that the lowest floor (including the basement floor) is at or above the regulatory flood protection elevation. The finished fill elevation for structures shall be no lower than one (1) foot below the regulatory flood protection elevation. The fill shall extend at such elevations at least fifteen (15) feet beyond the outside limits of the structure on the property.
b. As an alternative to elevation on fill, owners of accessory structures in the flood fringe that constitute a minimal investment and that do not exceed five hundred (500) square feet in area may flood proof such structures according to the following standards:

(1) Owners shall not intend, design, nor construct accessory structures for human habitation.

(2) Accessory structures must be elevated on fill or structurally dry flood proofed according to the FP-1 or FP-2 flood proofing classifications in the Minnesota State Building Code. As an alternative, an owner may flood proof an accessory structure to the FP-3 or FP-4 flood proofing classification in the Minnesota State Building Code. For a detached garage, the owner must use the detached garage solely for parking of vehicles and limited storage. All flood proofed accessory structures must meet the following additional standards:

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

(b) All mechanical and utility equipment in the accessory structure must be elevated to or above the regulatory flood protection elevation or properly flood proofed; and

(c) To allow for the equalization of hydrostatic pressure, there must be a minimum of two (2) “automatic” openings in the outside walls of the accessory structure having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding. There must be openings on at least two (2) sides of the structure and the bottom of all openings must be no higher than one (1) foot above the lowest adjacent grade to the structure. Using human intervention to open a garage door before flooding will not satisfy this requirement for automatic openings.

c. The cumulative placement of fill on a parcel where at any one time is in excess of one thousand (1,000) cubic yards shall be allowed only as a conditional use, unless said fill is specifically intended to elevate a structure to meet the requirements of Section 1301.05, subdivision 2 of this Chapter.

d. Property owners and users shall store or park any materials or equipment on fill to an elevation at or above the regulatory flood protection elevation.

e. The provisions of Section 1301.05, subdivision 5 of this Chapter shall apply.
Subd. 3. Conditional Uses: The City shall only allow structures that are not elevated on fill or flood proofed according to Sections 1301.05, subdivision 2a and 2b of this Chapter and or any use of land that does not meet the standards in Sections 1301.05, subdivision 2c and 2d as a conditional use. An application for a conditional use permit shall be subject to the standards and criteria and evaluation procedures specified in Sections 1301.05, subdivision 4 and subdivision 5 and 1 in 1301.10, subdivision 4 of this Chapter, those standards and procedures set forth in Title 1100 of the City Code and elsewhere in the City Code.
Subd. 4. Standards for Flood Fringe Conditional Uses:

a. An owner may use alternative elevation methods other than the use of fill to elevate a structure's lowest floor above the regulatory flood protection elevation. These alternative methods may include the use of stilts, pilings, parallel walls, etc., or above-grade, enclosed areas such as crawl spaces or tuck under garages. The City shall consider the base or floor of an enclosed area above-grade and not a structure's basement or lowest floor if: 1) the enclosed area is above-grade on at least one (1) side of the structure; 2) it is designed and constructed to internally flood and is constructed with flood resistant materials; and 3) the owner uses it 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: A licensed professional engineer or architect must certify that the structure's design and as-built condition meets the general design standards of the Minnesota State Building Code. Specifically, all electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities must be at or above the regulatory flood protection elevation or be designed and constructed to prevent flood water from entering or accumulating in these components during times of flooding.

(2) Specific Standards for Above-grade, Enclosed Areas: Owners and contractors shall design and construct above-grade, fully enclosed areas such as crawl spaces or tuck under garages to internally flood with design and construction plans that stipulate:

(a) A minimum area of automatic openings in the walls where internal flooding is to be used as a flood proofing technique. There shall be a minimum of two (2) openings on at least two sides of the structure and the bottom of all openings shall be no higher than one (1) foot above grade. The automatic openings shall have a minimum net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding unless a licensed professional engineer or architect certifies that a smaller net area would suffice. The owner or contractor may equip the automatic openings with screens, louvers, valves, or other coverings or devices if such devices permit the automatic entry and exit of flood waters without any form of human intervention; and

(b) That the enclosed area will be designed and constructed of flood resistant materials in accordance with the standards of the FP-3 or FP-4 classifications in the Minnesota State Building Code and that the owner or occupants shall only use such areas for building access, vehicle parking or storage.
b. Basements, as defined by Section 1301.02, subdivision 8, b. of this Chapter, shall be subject to the following requirements:

(1) The City does not permit residential basement construction below the regulatory flood protection elevation.

(2) The City may permit non-residential basements below the regulatory flood protection elevation provided the basement is structurally dry flood proofed according to the standards listed in Section 1301.05, subdivision 4 c (below) of this Chapter.

c. All areas of non-residential structures (including basements) that would be below the regulatory flood protection elevation shall be flood proofed to meet the structurally dry flood proofing classifications in the Minnesota State Building Code. Structurally dry flood proofing must meet the FP-1 or FP-2 flood proofing classification in the Minnesota State Building Code. This flood proofing shall require making the structure watertight with the walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. The City does not allow structures in the flood fringe that the owners have flood proofed to the FP-3 or FP-4 classification in the Minnesota State Building Code. The City does not allow residential structures in the flood fringe that the owners have dry-flood proofed to the FP-1 or FP-2 flood proofing classification in the Minnesota State Building Code.

d. When at any one time a property owner or contractor wants to locate more than one thousand (1,000) cubic yards of fill or other similar material on a parcel for activities such as on-site storage, landscaping, sand and gravel operations, landfills, roads, dredge spoil disposal or construction of flood control works, the owner or contractor shall submit an erosion/sedimentation control plan to the City for approval. The plan must clearly specify methods that an owner or contractor shall use to stabilize the fill on site for a flood event at a minimum of the 100-year or regional flood event. A registered professional engineer must prepare the plan. The plan may incorporate alternative procedures for removal of the material from the flood plain if adequate flood warning time exists.

e. Storage of Materials and Equipment:

(1) The City prohibits the storage or processing of materials that are, in time of flooding, flammable, explosive, or potentially injurious to human, animal, or plant life.

(2) The City may allow the storage of other materials or equipment if they would be readily removable from the area within the time available after a flood warning is given and according to a plan that the City has approved.

City of Mounds View
f. The provisions of Section 1301.05, subdivision 5 (below) of this Chapter also shall apply.

Subd. 5. Standards for All Flood Fringe Uses:

a. All new principal structures in the flood fringe district must have vehicular access at or above an elevation not more than two (2) feet below the regulatory flood protection elevation. If the City approves a variance from this requirement, the City must specify limitations on the period of use or occupancy of the structure for times of flooding. In order to approve a variance from this requirement, the City must determine that adequate flood warning time and local flood emergency response procedures exist.

b. Commercial Uses: Accessory commercial land uses, such as yards, railroad tracks, and parking lots (if allowed by the underlying City zoning designation) may be at elevations lower than the regulatory flood protection elevation. However, the City shall not approve a permit for such facilities for use by employees or by the general public in the absence of a flood warning system. Such a flood warning system shall provide adequate time for evacuation if the area would be inundated to a depth and velocity such that when multiplying the depth (in feet) times velocity (in feet per second) the product number exceeds four (4) upon occurrence of the regional flood.

c. Manufacturing and Industrial Uses: Owners and operators of manufacturing and industrial uses shall take measures to minimize the interference of normal plant operations from flooding, especially those sites along streams or creeks that have 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 1301.05, subdivision 5 b above. In considering development or permit applications for manufacturing or industrial uses, the City shall give due consideration to the needs of an industry whose business requires that it be located in flood plain areas.

d. Contractors shall properly compact fill and properly protect the slopes by using riprap, vegetative cover or other acceptable methods. The Federal Emergency Management Agency (FEMA) has established criteria for removing the special flood hazard area designation for 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. The owner or contractor should investigate these standards before starting the site preparation if requesting a change of special flood hazard area designation.

e. Flood plain developments shall not adversely affect the hydraulic capacity of the channel and adjoining flood plain of any tributary watercourse or drainage system where the City has not specified a floodway or other encroachment limit on the Official Zoning Map.
f. Section 1301.09, subdivision 3 of this Chapter lists the standards for the placement and use of recreational vehicles in the Flood Fringe District.

g. Owners and contractors shall securely anchor all manufactured homes to an adequately anchored foundation system that resists flotation, collapse and lateral movement. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state or local anchoring requirements for resisting wind forces.

1301.06: PROCEDURES FOR DETERMINING ONE PERCENT ANNUAL CHANCE FLOOD ELEVATIONS (100-YEAR FLOOD ELEVATIONS) IN AREAS LOCATED IN ZONE A OF THE FLOOD INSURANCE RATE MAP PANELS:

Subd. 1. Reserved for Future Use.

Subd. 2. Procedures for determining one percent (1%) annual chance flood elevations (100-year flood elevations) in Zone A.

a. Upon receiving an application for a permit or other approval for a parcel located within Zone A of the Flood Insurance Rate Maps, the Community Development Director or City Engineer will use the one percent (1%) annual chance flood elevation for that basin that has previously been determined according to approved FEMA methods, if available. If the one percent (1%) annual chance flood elevation has not been previously determined, the applicant shall be required to furnish all necessary information as deemed necessary by the Community Development Director or the City for the determination for the one percent annual chance flood elevation according to approved FEMA methods.

b. The applicant shall be responsible to submit one (1) copy of the above information to a designated engineer or other expert person or agency for technical assistance in determining whether the proposed use is in the Floodway or Flood Fringe District and to determine the one percent (1%) annual chance flood elevation (100-year flood elevation). The owner, engineer and contractor shall follow the procedures consistent with Minnesota Rules, Parts 6120.5000 - 6120.6200 and 44 Code of Federal Regulations Part 65 in this expert evaluation. The City encourages the designated engineer or expert to discuss the proposed technical evaluation methodology with the Minnesota Department of Natural Resources' Area Hydrologist before starting the analysis.

c. Once the one percent (1%) annual chance flood elevation (100-year flood elevation) has been determined, the Community Development Director or the City Engineer shall process the permit application consistent with the applicable provisions of Sections 1301.04 and 1301.05 of this Chapter.
1301.07:  **SUBDIVISIONS:**

Subd. 1.  **Review Criteria:** No person or owner shall subdivide land that the City decides is unsuitable for building or is unsuitable for new construction because of flooding, inadequate drainage, water supply or sewage treatment facilities. The City shall approve all subdivision requests (subject to the requirements in Title 1100 (zoning) and Title 1200 (subdivisions)) to ensure that all lots within the flood plain districts would have a building site outside of the Floodway District at or above the regulatory flood protection elevation. All subdivisions shall have access to public water and to the City sanitary sewer system and facilities that meet the provisions of this Chapter. All subdivisions shall have road access both to the subdivision and to the individual building sites no lower than two (2) feet below the regulatory flood protection elevation. For all subdivisions in the Floodway or Flood Fringe District boundaries, the applicant, owner or project engineer shall clearly label the regulatory flood protection elevation and the required elevation of all access roads on all subdivision drawings and platting documents.

Subd. 2.  **Procedures for determining one percent (1%) annual chance flood elevation (100-year flood elevation) in Zone A:** In a designated Zone-A area, applicants shall provide the information required in Section 1301.06, subdivision 2 of this Chapter to determine the 100-year flood elevation and the regulatory flood protection elevation for the subdivision site.

Subd. 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 one percent (1%) annual chance flood elevation (100-year flood elevation). FEMA's requirements incorporate specific fill compaction and side slope protection standards for multi-structure or multi-lot developments. The applicant, owner or contractor should investigate these standards before starting site preparation if requesting a change of special flood hazard area designation.
1301.08:  **PUBLIC UTILITIES, RAILROADS, ROADS, AND BRIDGES:**

Subd. 1. Public Utilities. All public utilities and facilities such as gas, electrical, sewer, and water supply systems to be located in the flood plain shall be flood proofed according to the standards in the Minnesota State Building Code or shall be elevated to an elevation above the regulatory flood protection elevation.

Subd. 2. Public Transportation Facilities. Railroad tracks, roads, and bridges to be located within the flood plain shall meet the requirements listed in Sections 1301.04 and 1301.05 of this Chapter. The owner or builder of these transportation facilities shall elevate them to at least the regulatory flood protection elevation 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. The City may allow the construction of minor or auxiliary roads or railroads at a lower elevation where the failure or interruption of these secondary transportation services would not endanger the public health, safety or welfare.

Subd. 3. Standards for On-site Sewage Treatment and Water Supply Systems: In instances where the City does not provide public utilities, the following standards shall apply:

a. The owners and builders of on-site water supply systems must design and construct these systems to minimize or eliminate infiltration of flood waters into the systems; and

b. The owners and builders of new or replacement on-site sewage treatment systems must design and construct these systems to minimize or eliminate:

   (1) Infiltration of floodwaters into the utility systems and:

   (2) The discharges from the utility systems into floodwaters.

c. On-site water supply and sewage treatment systems shall not be subject to impairment or contamination during times of flooding.

d. The City considers any sewage treatment system designed and constructed according to the State's current statewide standards for on-site sewage treatment systems to be in compliance with this Section.

City of Mounds View
1301.09:  MANUFACTURED HOMES AND MANUFACTURED HOME PARKS AND PLACEMENT OF RECREATIONAL VEHICLES:

Subd. 1. New manufactured home parks and expansions to existing manufactured home parks shall be subject to the provisions for subdivisions listed in Section 1301.07 of this Chapter, to those listed in Title 1100 (Zoning) and those in Title 1200 (Subdivisions) of the City Code.

Subd. 2. The City will treat the placement of new or replacement manufactured homes in existing manufactured home parks or on individual lots of record that are in flood plain districts as a new structure and may be placed only if elevated to meet the requirements in Section 1301.05 of this Chapter. If pre-existing manufactured home parks do not provide vehicular road access according to Section 1301.05, subdivision 5 a of this Chapter, then the City will not allow replacement manufactured homes until the applicant or the property owner(s) develop a flood warning emergency plan that is acceptable to the City.

   a. Owners and contractors shall securely anchor all manufactured homes to an adequately anchored foundation system that resists flotation, collapse and lateral movement. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state or City anchoring requirements for resisting wind forces.

Subd. 3. Recreational vehicles that do not meet the exemption criteria specified in Section 1301.09, subdivision 3 a below shall be subject to the provisions of this Chapter and as specifically outlined in Sections 1301.09, subdivision 3c and subdivision 3d below.

   a. Exemptions: Recreational vehicles are exempt from the provisions of this Chapter if the owners or users place them in any of the exempted areas listed in Section 1301.09, subdivision 3b below and if the vehicles meet all the following criteria:

      (1) Have current licenses required for street and highway use;

      (2) Are highway ready meaning that they are on wheels or have an internal jacking system. The owner must attach it to the site by quick disconnect type utilities commonly used in campgrounds and recreational vehicle parks. The recreational vehicle also must not have any permanent structural type additions attached to it; and

      (3) The recreational vehicle and its associated use must be a permitted land use in the existing, underlying City zoning district.
b. Areas Exempted For Placement of Recreational Vehicles:

(1) Individual lots or parcels of record;

(2) Existing commercial recreational vehicle parks or campgrounds; and

(3) Existing condominium type associations.

c. Exempted recreational vehicles (as exempted in Section 1301.09, subdivision 3a of this Chapter (above)) lose their exemption if the owner constructs improvements on the parcel that exceed five hundred dollars ($500.00) for a structural addition to the recreational vehicle or exceed five hundred dollars ($500.00) for an accessory structure such as a garage or storage building. The City will then consider the recreational vehicle and all additions and accessory structures as new structures. These new structure shall be subject to the elevation/flood proofing requirements and the use of land restrictions specified in Sections 1301.04 and 1301.05 of this Chapter. The user or owner shall not make any development or improvement on the parcel or attachment to the recreational vehicle that would hinder the user or owner from being able to remove the recreational vehicle to a flood-free location should a flood occur.

d. New commercial recreational vehicle parks or campgrounds, new residential subdivisions and condominium associations and the expansion of any existing similar use exceeding five (5) units or dwelling sites shall be subject to all City Code standards and the following:

(1) The City will allow any new or replacement recreational vehicle in the Floodway or Flood Fringe Districts provided the user or owner places the recreational vehicle and its contents on fill above the regulatory flood protection elevation and if there is elevated road access to the site that meets the requirements of Section 1301.05, subdivision 5a of this Chapter. No fill placed in the floodway to meet the requirements of this Section shall increase flood stages of the 100-year or regional flood.

(2) As an alternative, the City may allow by conditional use all new or replacement recreational vehicles not meeting the criteria of d (1) above if the proposed use would meet the following provisions and the provisions of 1301.10, subdivision 4 of this Chapter. In such a case, the property owner or the applicant must submit an emergency plan prepared by a licensed professional engineer for the safe evacuation of all vehicles and people during a 100-year flood. The plan shall demonstrate that adequate time and personnel exist to carry out the evacuation, and shall demonstrate that the plan will meet the provisions of Section 1301.09, subdivision 3a of this Chapter. The owner or contractor of all sewage and water facilities for new or replacement recreational vehicles must ensure to construct and protect the utility facilities are so that a flood would not be impair or contaminate those facilities during a flood as outlined in Section 1301.08, subdivision 3 of this Chapter.

City of Mounds View
1301.10: **ADMINISTRATION:**

Subd. 1. Community Development Director: The Community Development Director or other official designated by the City Council shall administer and enforce this Chapter. If the Community Development Director finds a violation of the provisions of this Chapter, the Community Development Director shall notify the person responsible for such violation according to the procedures stated in Section 1301.12 of the Chapter.

Subd. 2. Permit Requirements:

a. Permit Required. A property owner or contractor shall obtain a permit from the City (if it meets the provisions of this Chapter) before the:

   (1) Erection, addition, modification, rehabilitation (including normal maintenance and repair), or alteration of any building, structure, or portion thereof;

   (2) Use or change of use of a building, structure, or land;

   (3) Construction of a dam or a fence;

   (4) Change, extension or expansion of a nonconforming use;

   (5) Repair of a structure that has been damaged by flood, fire, tornado, or any other source; or

   (6) Placement of fill, excavation of materials, or the storage of materials or equipment within the flood plain.

b. Application for Permit. The property owner or contractor shall make application for a permit to the City on forms furnished by the City. The applicant shall include the following information (where applicable):

   (1) 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

   (2) The location of the foregoing in relation to the stream or watercourse channel.

c. State and Federal Permits. Before granting a permit or processing an application for a conditional use permit or variance, the City shall determine that the applicant has obtained all applicable watershed, state and federal permits.

City of Mounds View
d. Certificate of Zoning Compliance for a New, Altered, or Nonconforming Use. It shall be unlawful for anyone 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 the City has issued a certificate of zoning compliance. This certificate shall state that the use of the building or land meets the requirements of this Chapter.

e. Construction and Use to be as provided on Applications, Plans, Permits, Variances and Certificates of Zoning Compliance. Permits, conditional use permits, or certificates of zoning compliance issued based on approved plans and applications authorize only the use, arrangement, and construction set forth in such approved plans and applications. No person shall conduct any other use, arrangement, or construction on any site covered by such a permit or approval. The City shall deem any use, arrangement, or construction different from what the City authorized as a violation of this Chapter, and is punishable as outlined in Section 1301.12 of this Chapter.

f. Certification. The applicant shall submit certification prepared by a licensed professional engineer, architect, or land surveyor that the contractor or owner met or exceeded the requirements of this Chapter for the finished fill and building elevations while meeting the provisions of this Chapter. A licensed engineer or architect must certify all flood-proofing measures.

g. Record of First Floor Elevation. The City shall maintain a record of the elevation of the lowest floor (including basement) of all new structures and for alterations or additions to existing structures in the flood plain. The City also shall maintain a record of the elevation to which the owners flood proofed their structures or to which the owners made alterations and additions. The City will base these records on the as-built survey information submitted by applicants, contractors or property owners.

h. Notifications for Watercourse Alterations. Before the City authorizes any alteration or relocation of a watercourse, the Community Development Director or other designated City official shall notify adjacent cities and the Commissioner of the Minnesota Department of Natural Resources of situations that could affect the stream or a river. If the applicant has applied for a permit to work in the beds of public waters pursuant to Minnesota Statute, Chapter 103G, this shall suffice as adequate notice to the Commissioner of the Department Natural Resources. The City also shall submit a copy of said notification to the Chicago Regional Office of the Federal Emergency Management Agency (FEMA).

i. Notification to FEMA When Physical Changes Increase or Decrease the 100-year Flood Elevation. As soon as is practicable, but not later than six (6) months after the date such supporting information becomes available, the Community Development Director shall notify the Chicago Regional Office of FEMA of the physical changes affecting flood elevation by submitting a copy of said technical or scientific data.
Subd. 3. Board of Adjustment and Appeals:

a. Rules. The City establishes a Board of Adjustment and Appeals as provided in Chapter 402 of the City Code. The Board shall adopt rules for the conduct of business and may exercise all of the powers as allowed by State law and the City Code.

b. Administrative Review. The Board of Adjustment and Appeals 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 Chapter.

c. Variances. The Board of Adjustment and Appeals may authorize, upon appeal in specific cases, such relief or variance from the terms of this Chapter that would not be contrary to the public interest and only for those circumstances such as hardship, practical difficulties or circumstances unique to the property under consideration, as provided in State law or rules. In the granting of such variance, the Board of Adjustment and Appeals shall clearly identify in writing the specific conditions that existed consistent with the criteria specified in this Chapter, any other zoning regulations in the City, and in the state legislation that justified granting the variance. No variance shall have the effect of allowing in any district uses prohibited in that zoning district, allow or permit a lower degree of flood protection than the regulatory flood protection elevation for the particular area, or permit standards lower than those required by state law. The following additional variance criteria of the Federal Emergency Management Agency (FEMA) also must be satisfied:

(1) The City shall not approve variances within any designated regulatory floodway if the variance would result in an increase in flood levels during the base flood discharge.

(2) The City shall only issue variances when there is a:

   (a) Showing of good and sufficient cause,

   (b) Determination that failure to grant the variance would result in exceptional hardship to the applicant or property owner, and

   (c) Determination that the granting of a variance would not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or City ordinances.

(3) The City shall only approve variances upon determining that the variance is the minimum necessary, considering the flood hazard, to afford the applicant relief.

City of Mounds View
d. **Hearings.** Upon filing with the Board of Adjustment and Appeals an appeal from a decision of the Community Development Director, or an application for a variance, the Board shall fix a reasonable time for a hearing and shall give due notice to the parties of interest as specified by law. The City shall submit by mail to the Commissioner of the Department of Natural Resources a copy of the application for proposed variances at least ten (10) days before the hearing.

e. **Decisions.** The Board shall arrive at a decision on such appeal or variance within the time limits as set by State law. When approving an appeal, the Board of Adjustment and Appeals may, so long as such action meets the provisions of this Chapter, reverse or affirm, wholly or in part, or modify the order, requirement, decision or determination of the Community Development Director or other City official. The Board 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 require conditions and safeguards such as those specified in Section 1301.10, subdivision 4f that meet the purposes of this Chapter. The City shall deem violations of such conditions and safeguards, when made a part of the terms under which the City grants the variance, a violation of this Chapter punishable under the provisions listed in Section 1301.12. The City shall forward by mail a copy of all decisions granting variances to the Commissioner of the Department of Natural Resources within ten (10) days of such action.

f. **Appeals.** Applicants or property owners may make appeals from any decision of the Board as specified in the City Code or by Minnesota Statutes.

g. **Flood Insurance Notice and Record Keeping.** The Community Development Director shall notify the applicant for a variance that:

1. Issuing 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 twenty five dollars ($25.00) for one hundred dollars ($100.00) of insurance coverage; and

2. Such construction below the 100-year or regional flood level increases risks to life and property.

The City shall maintain a record of such notification with a record of all variance actions. The City 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.
Subd. 4. Conditional Uses. The City Council shall hear and decide applications for conditional uses permits permissible under this Chapter. Applicants or property owners shall submit applications for conditional use permits to the City Community Development Department. City staff will then forward the application to the Planning Commission for consideration. After taking action on the request, the Planning Commission shall refer the application to the City Council for a decision.

a. Hearings. Upon receiving an application for a conditional use permit, the City shall submit to the Commissioner of the Department of Natural Resources by mail a copy of the application for proposed conditional use permit at least ten (10) days before the City holds the public hearing.

b. Decisions. The City Council shall arrive at a decision on a conditional use permit within the time limits as set by State law. In granting a conditional use permit, the City Council shall prescribe conditions and safeguards, in addition to those specified in Section 1301.10, subdivision 4 f of this Chapter, that are consistent with the purposes of this Chapter and of those in the City Code. The City shall deem violations of such conditions and safeguards, when made a part of the terms that the City grants the conditional use permit, a violation of this Chapter punishable under the provisions listed in Section 1301.12 of this Chapter. The City shall forward by mail a copy of all decisions granting conditional use permits to the Commissioner of Department of Natural Resources within ten (10) days of such action.
c. Procedures. The following is a listing of the procedures that the City shall follow when considering conditional use permit applications in all Flood Plain Districts:

(1) The applicant shall furnish the following information and any additional information as the City or City staff deems necessary for the City Council to determine the suitability of the particular site for the proposed use:

(a) Plans in triplicate drawn to scale showing the nature, location, dimensions, and elevation of the lot, existing or proposed structures, fill, storage of materials, flood proofing measures, and the relationship of the above to the location of the stream channel; and

(b) Specifications for building construction and materials, flood proofing, filling, dredging, grading, channel improvement, storage of materials, water supply and sanitary facilities.

(2) Transmit one (1) copy of the information described in Subsection (a) (above) 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. The applicant or responsible party shall be responsible for all the costs of this review.

(3) Based upon the technical evaluation of the designated engineer or expert, the City shall determine the specific flood hazard at the site and evaluate the suitability of the proposed use in relation to the flood hazard.
d. When reviewing applications and making decisions about conditional use permits, the Planning Commission and the City Council shall consider all relevant factors specified in this Chapter, and:

1. The danger to life and property due to increased flood heights or velocities caused by encroachments in the flood plain, flood way or channel.

2. The danger that water or flooding may sweep materials onto other lands or downstream to the injury of others or they may block bridges, culverts or other hydraulic structures.

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

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

5. The importance of the services that proposed facility would provide to the City.

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

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

8. The compatibility of the proposed use with existing development and development anticipated in the near future.

9. The relationship of the proposed use to the City’s Comprehensive Plan and flood plain management program for the area.

10. The safety and availability of vehicle access to the property in times of flood for non-emergency and for emergency vehicles.

11. The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters expected at the site.

12. Such other factors that the City decides are relevant to the purposes of this Chapter and of those in the City Code.
e. Time for Acting on Application. The City Council shall act on an application in the manner described above within sixty (60) days from receiving the application, except that where additional information is required pursuant to the provisions listed in Section 1301.10, subdivision 4 c of this Chapter and as allowed by State law. The City shall provide the applicant a written decision about the need for additional information within the time limits specified by State law.

f. Conditions Attached to Conditional Use Permits. Upon considering the factors listed above and the purpose of this Chapter, the City Council may attach conditions as a part of the approval of conditional use permit as it deems necessary to fulfill the purposes of this Chapter and of those listed in the City Code. Such conditions may include, but are not limited to, the following:

(1) Modification of waste disposal and treatment and water supply facilities.

(2) Limitations on period of use, occupancy, and operation.

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

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

(5) Flood proofing measures that meet the requirements of the Minnesota State Building Code and this Chapter. The applicant shall submit a plan or document certified by a registered professional engineer or architect that the flood proofing measures are consistent with the regulatory flood protection elevation and associated flood factors for the particular area.
1301.11: NONCONFORMING USES:

Subd. 1. The owner or operator of a structure or the use of a structure or premises that was lawful before the City adopts this Chapter but that does not meet the provisions of this Chapter may continue to own and use the structure and property, subject to the following conditions (there are no known historic structures in Mounds View):

a. No owner or operator shall expand, change, enlarge or alter a nonconforming use or structure in a way that increases its nonconformity.

b. The owner or operator proposing to alter or add on to, or make any change to a nonconforming structure, property or nonconforming use in the flood way or flood fringe district may do so if:

(1) They protect the entire building, structure or use to the regulatory flood protection elevation; or

(2) The alterations or changes would occur within the inside dimensions of the building or structure and if the construction methods for the alteration uses flood resistant materials that do not to result in an increase to the flood damage potential of that use or structure.

In all cases, the owner or operator must provide the required protection in accordance with any of the elevation on fill or flood proofing techniques (i.e., FP-1 thru FP-4 flood proofing classifications) allowable in the Minnesota State Building Code, except as further restricted in Sections 1301.11, subdivision 1 c and subdivision 1 f below.

c. The cost of all structural alterations or additions to any nonconforming structure over the life of the structure shall not exceed fifty percent (50%) of the market value of the structure unless the owner satisfies the conditions of this Section. The cost of all structural alterations and additions must include all costs such as construction materials and a reasonable cost placed on all manpower or labor. If the cost of all previous and proposed alterations and additions exceeds fifty percent (50%) of the market value of the structure, then the structure must meet the standards of Sections 1301.04 and 1301.05 of this Chapter for new structures depending upon whether the structure is in the Floodway or Flood Fringe District, respectively.

City of Mounds View
d. If the owner or operator of a building or a property discontinues any nonconforming use for twelve (12) consecutive months, then thereafter owner or operator and the use of the building or the premises shall meet all the provisions of this Chapter. The City shall request that the County Assessor notify the City in writing of instances where the County has information about the user or property owner having discontinued the use of a nonconforming use or property for a period of twelve (12) months.

e. If any nonconforming use or structure is substantially damaged, as defined in Section 1301.02, subdivision 8 t of this Chapter, the owner shall not reconstruct the use or structure except when such construction or reconstruction would meet the provisions of this Chapter. The applicable provisions for establishing new uses or new structures listed in Sections 1301.04 and 1301.05 will apply depending upon whether the use or structure is in the Floodway, Flood Fringe or General Flood Plain District, respectively. The City does not allow the owner of a nonconforming structure that is in the Floodway that is substantially damaged to repair or reconstruct the structure.

(1) Any nonconforming use that the City determines is a nuisance shall not be entitled to continue as a nonconforming use.

(f) If an owner or user of a property makes a substantial improvement to a property, as defined in Section 1301.02, subdivision 8 u of this Chapter, including any combination of a building or structural addition to the outside dimensions of the existing building or a rehabilitation, reconstruction, alteration, or other improvement to the inside dimensions of an existing nonconforming building, then the building addition and the existing nonconforming building must meet the requirements of Section 1301.04 or 1301.05 of this Chapter for new structures, depending upon whether the structure is in the Floodway or Flood Fringe District, respectively. A nonconforming structure shall not be substantially improved if the structure is located in the Floodway.
1301.12: PENALTIES FOR VIOLATION:

Subd. 1. The violation of the provisions of this Chapter or the failure to meet any of its requirements (including violations of conditions and safeguards established in connection with the approval of variances or conditional use permits) shall constitute a misdemeanor and shall be punishable as defined by law or by the City Code.

Subd. 2. Nothing contained herein shall prevent the City from taking lawful action as is necessary to prevent or remedy any violation. Such actions may include, but are not limited to:

a. In responding to a suspected Chapter violation, the Community Development Director and the City may use the full array of enforcement actions available to it including, but not limited to, prosecution and fines, injunctions, after-the-fact permits, orders for corrective measures or a request to the National Flood Insurance Program for denial of flood insurance availability to the guilty party. The City will act in good faith to enforce these official controls and to get responsible parties to correct violations to the extent possible so as not to jeopardize eligibility in the National Flood Insurance Program.

b. When a violation of this Chapter is either discovered by or brought to the attention of the Community Development Director or the City, the Community Development Director shall immediately investigate the situation and document the nature and extent of the possible violation. As soon as is reasonably possible, the City shall submit this information to the Minnesota Department of Natural Resources and Federal Emergency Management Agency (FEMA) Regional Office along with the City's plan of action to have the property owner or responsible party correct the violation to the degree possible.

c. The Community Development Director shall notify the suspected responsible party or property owner of the requirements of this Chapter and all other official controls and the nature and extent of the suspected violation of these controls. If the structure or use is under construction or development, the Community Development Director may order the owner or contractor to stop immediately all construction or development activities until the City grants a permit or approval for the proposed construction or development. If the owner, contractor or developer has already completed the construction or development, then the City or the Community Development Director may either:

(1) Issue an order identifying the corrective actions that the owner or responsible party must make within a specified time period to bring the use or structure into compliance with the official controls; or

(2) Notify the responsible party to apply to the City for an after-the-fact permit/development approval within a specified period of time not to exceed thirty (30) days.

City of Mounds View
d. If the responsible party does not respond to the City or to the Community Development Director within the specified period of time, each additional day that lapses shall constitute an additional violation of this Chapter and the City shall prosecute the responsible party accordingly. Upon the lapse of the specified response period, the City or the Community development Director shall notify the responsible party or landowner to restore the land or structure to the condition that existed before the violation of this Chapter.

1301.13: AMENDMENTS:

Subd. 1. The flood plain designation on the City Flood Plain Zoning Map shall not be removed from flood plain areas unless it can be shown that the designation is in error or that the area has been filled to or above the elevation of the regulatory flood protection elevation and is contiguous to lands outside the flood plain. The Commissioner of the Department of Natural Resources may approve special exceptions to this requirement if the Commissioner determines that, through other measures, lands are adequately protected for the intended use.

Subd. 2. The City must submit all proposed amendments to this Chapter, including amendments to the Official Zoning Map, for approval by the Commissioner of the Department of Natural Resources before the City adopts such amendments. Changes in the Official Zoning Map must meet the Federal Emergency Management Agency's (FEMA’s) Technical Conditions and Criteria and must receive approval from FEMA before adoption. The City must give the Commissioner of the Department of Natural Resources at least 10-days written notice of all hearings to consider an amendment to this Chapter. Said notice shall include a draft of the Chapter amendment or technical study that the City is considering.
CHAPTER 1302

SURFACE WATER DRAINAGE MANAGEMENT AND DEVELOPMENT CONTROL

SECTION:

1302.01: Findings of Fact
1302.02: Purpose and Applicability of Provisions
1302.03: Definitions
1302.04: Local Water Management Plan
1302.05: Required Facilities
1302.06: Design Standards
1302.07: Variances and Appeals
1302.08: Responsibility
1302.09: Violations and Penalty

1302.01: FINDINGS OF FACT:

Subd. 1. The public interest necessitates sound land use development as land is a limited and irreplaceable resource and the land within the Municipality is a resource to be developed in a manner which will result in minimum damage to the quality of life and to property and threat to health and reductions of private and public economic loss caused by drainage problems.

Subd. 2. The existing drainage system in Mounds View, in general, adequately meets the needs of the City. However, the storm drainage system will not, in the future, provide adequate or proper drainage in those areas of the City subject to substantial residential, commercial or industrial development unless the large increase in storm water runoff that is known to result from such development is properly controlled and regulated. The consequence of not restricting such increase in runoff would be to subject a major portion of the lands of the City to high water tables, drainage problems, storm water flooding by heavy rains, inadequate drainage facilities, causing erosion, damage to property, disruption of residential, commercial and governmental services, unsanitary conditions and interruptions of transportation, all of which would be detrimental to the health, safety, welfare and property of affected residents of the City. (Ord. 507, 4-27-92)

1 See also subdivision 607.03(3)o and Section 1006.06 of this Code.

City of Mounds View
1302.02: **PURPOSE AND APPLICABILITY OF PROVISIONS:**

Subd. 1. Purposes:

a. The efforts of the City’s water management programs are to prevent flooding and improve water quality through the best possible utilization of wetlands and artificial detention areas. Wetland management, as opposed to preservation, will allow the City to maintain the integrity of its wetlands while improving water quality and reducing the City maintenance efforts.

b. To guide and control new development of lands within the City in ways that will be consistent with the zoning laws and Comprehensive Development Plan in force at the time of the development, consistent with the requirements of Rice Creek Watershed District, Municipal Code, Minnesota Statutes and other regulatory agencies and consistent with sound economic policies as such policies affect property owners and the proponents of new developments and to require proponents of new developments to adopt sound development plans and proposals that will cause no economic burden both as to storm waters or drainage on the owners of abutting or adjoining properties or affected properties or on the property owners of the City at large.

Subd. 2. Applicability:

a. The requirements adopted herein shall apply to all development proposals that are subject to the provisions of Section 1006.06 of this Code.

b. If this Chapter or any provision herein is held to be applicable to any person, property or work, such holding shall not affect the applicability hereof to any other person, property or work. (Ord. 507, 4-27-92)

1302.03: **DEFINITIONS:** Definitions related to this Chapter are contained in Volume 3, appendix C of the Local Water Management Plan. (Ord. 507, 4-27-92)

1302.04: **LOCAL WATER MANAGEMENT PLAN:** The Local Water Management Plan was prepared for the City in accordance with Minnesota Statutes 103B.201 through 103B.255. The Plan and policies of providing for future development while minimizing surface water problems. The goals, policies and development guidelines in the Local Water Management Plan are hereby incorporated by reference into this Chapter. A copy on file in the office of the City Administrator for public use and inspection. (1993 Code) (Ord. 507, 4-27-92; Ord. 844, 5-20-10)

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2 See Title 1100 of this Code.
1302.05: REQUIRED FACILITIES:

Subd. 1. Facilities Required: The City may, as its sole discretion, require retention and/or detention areas and associated water quality improvement structures for any development proposal to meet conveyance systems.

Subd. 2. Performance Guarantee: Whenever privately owned and maintained drainage improvements shall be required for a development by the City, the developer shall provide a seven (7) year maintenance/performance guarantee to assure proper maintenance and operation of such improvements. In such cases, the developer shall also hold the City harmless for any defect in design, construction or operation.

Subd. 3. Financial Responsibility: Drainage facility improvements required for any development proposal shall be the financial responsibility of the developer. (Ord. 507, 4-27-92)

1302.06: DESIGN STANDARDS: Storm sewer system required for any development shall be constructed to at least a five (5) year frequency storm design; retention basins shall be constructed to retain at lease a 100-year storm while allowing, at a maximum, the amount of runoff from the property that will occur in its undeveloped state resulting from a five (5) year storm. (Ord. 507, 4-27-92)
1302.07: **VARIANCES AND APPEALS:**

Subd. 1. Processing of Application: Any application for variances or appeals shall be processed according to the procedures specified in Title 1100 of this Municipal Code\(^3\).

Subd. 2. Restrictions on Granting Variances: No variance may be granted which would allow any use that is prohibited in the zoning district in which the property is located or which would:

a. Result in incompatible land uses or which would be detrimental to the protection of surface and ground water supplies.

b. Increase the financial burdens imposed on the community through increasing floods and overflow of water onto land areas within this City or onto land areas adjacent to Rice Creek.

c. Be not in keeping with land use plans and planning objectives for the City or which would increase or cause danger to life or property.

d. Be inconsistent with the goals, policies and development guidelines of the Local Water Management Plan dated February 12, 1990, subject to subsequent revisions.

Subd. 3. Required Supporting Data: No permit or variance shall be issued unless the applicant, in support of the application, shall submit engineering data, surveys, site plans and other information as the City may require in order to determine the effects of such development on the affected land and water area. (Ord. 507, 4-27-92)

1302.08: **RESPONSIBILITY:** Neither the issuance of a permit nor compliance with the conditions thereof nor the provisions of this Chapter shall relieve any person from any responsibility otherwise imposed by law for damages to persons or property nor shall the issuance of any permit hereunder serve to impose any liability on the Municipality or its officers or employees for injury or damage to person or property. A permit issued pursuant to this Chapter shall not relieve the permittee of the responsibility of complying with any other requirements established by law, regulation or ordinance. (Ord. 507, 4-27-92)

1302.09: **VIOLATIONS AND PENALTY:** Any person who violates the provisions of this Chapter shall be guilty of a misdemeanor. Each day during which said violation exists is a separate offense. Any violation of this Chapter is a public nuisance and may be enjoined by civil action. Costs of any civil enforcement shall be assessed against the party so enjoined. Any person who, in violation of this Chapter, alters, changes or modifies any surface water drainage facilities shall restore such facilities to their original condition within the time limit set by the Council. (Ord. 507, 4-27-92)

\(^3\) See Section 1125.02 of this Code.
CHAPTER 1303
CONSTRUCTION SITE AND LAND DISTURBANCE
RUNOFF CONTROL
(Added, Ord. 804, 11-19-08)

SECTION:

1303.01: Findings of Fact
1303.02: Purpose
1303.03: Definitions
1303.04: General Conformance
1303.05: Conflict with Other Laws
1303.06: Land Disturbance Permit
1303.07: Submittal Requirements
1303.08: Permit Review and Approval Process
1303.09: Enforcement Actions
1303.10: Penalties

1303.01: **FINDINGS OF FACT:** The City of Mounds View hereby finds that uncontrolled land disturbance activities are subject to SOIL EROSION and other pollutants which enter into receiving water bodies adversely affecting the public health, safety and general welfare by impacting water quality, creating nuisances, impairing other beneficial uses of environmental resources and hindering the ability of the City of Mounds View to provide adequate water, sewage, flood control and other community services.

1303.02: **PURPOSE:** The purpose of the Chapter is to promote, preserve and enhance the natural resources within the City of Mounds View and protect them from adverse effects occasioned by poorly sited development or incompatible activities by regulating land disturbance activities that would have an adverse and potentially irreversible impact on water quality and environmentally sensitive land; by minimizing conflicts and encouraging proper installation and maintenance of best management practices (BMPs) for land disturbance activities; and by requiring detailed review standards and procedures for land disturbance activities proposed for such areas.
1303.03: **DEFINITIONS:** For the purposes of this Chapter the definitions listed hereunder shall be construed as specified in this Section.

Subd. 1. **APPLICANT:** Any person or group that applies for a permit to allow land disturbance activities. Applicant also means that person’s agents, employees, and others acting under this person’s or group’s direction. The term “applicant” also refers to the permit holder or holders and the permit holder’s agents, employees, and others acting under this person’s or group’s direction.

Subd. 2. **APPROVAL:** Shall mean the proposed work or completed work conform to this Chapter in the opinion of the City.

Subd. 3. **CITY:** Is the administrative staff, or its agent, of the City of Mounds View.

Subd. 4. **COMMON PLAN OF DEVELOPMENT OR SALE:** A contiguous area where multiple separate and distinct land disturbance activities may be taking place at different times, or on different schedules, but under one (1) proposed plan including but not limited to mass site grading, utility installation, street construction and home or building construction. This item is broadly defined to include design, permit application, advertisement or physical demarcation indicating that land disturbance activities may occur.

Subd. 5. **EARTHEN MATERIAL:** Any rock, natural soil or fill and/or any combination thereof.

Subd. 6. **EROSION:** The wearing away of the ground surface as a result of the movement of wind, water and/or ice.

Subd. 7. **EROSION CONTROL:** Methods employed to prevent erosion. Examples include soil stabilization practices, horizontal slope grading, temporary or permanent cover, and construction phasing.

Subd. 8. **EXCAVATION:** The mechanical removal of earthen material.

Subd. 9. **FILL:** A deposit of earthen material occurring via human activity.
Subd. 10. **FINAL STABILIZATION:** All soil disturbance activities on the site or common plan of development or sale have been completed, and that a uniform (evenly distributed, e.g., without large bare areas) perennial vegetative cover with a density of at least seventy percent (70%) of the cover for unpaved areas and areas not covered by permanent structures has been established, or equivalent permanent stabilization measures have been employed, and that all temporary erosion control devices are removed, including silt fence, temporary sedimentation basins, and temporary standpipes. Simply sowing grass seed and/or mulch is not considered final stabilization. Final stabilization of a common plan of development or sale includes completion of building or home construction along with final restoration of all yards and adjacent drainage ways.

Subd. 11. **GRADE:** The vertical location of the ground surface.

Subd. 12. **GRADING:** Any excavating or filling or combination thereof.

Subd. 13. **LAND DISTURBANCE ACTIVITY:** Any land change that may result in soil erosion from water or wind and the movement of sediment into or upon waters or lands within the City’s jurisdiction, including construction, clearing and grubbing, grading, excavating, transporting and filling of land.

Subd. 14. **LAND DISTURBANCE PLAN:** A joint storm water and erosion and sediment control plan that is a document containing the requirements of this Chapter and the City of Mounds View Land Disturbance Plan and Implementation Requirements, that when implemented will decrease soil erosion on a parcel of land and off-site nonpoint pollution. It involves both temporary and permanent controls.

Subd. 15. **PERMANENT CONTROLS:** Erosion and/or sediment control measures installed that are not intended to be removed from the project site. Examples of such protection are swales, ponds, sediment basins, turf reinforcement mats, storm sewer systems, and riprap.

Subd. 16. **PERMANENT COVER:** Examples including grass, gravel, asphalt, and concrete. See also the definition of final stabilization.

Subd. 17. **PERMIT:** A written warrant or license granted for land disturbance activities.

Subd. 18. **SEDIMENT:** The product of an erosion process; solid material both mineral and organic, that is in suspension, is being transported, or has been moved by water, wind, or ice, and has come to rest either above or below water level.

Subd. 19. **SEDIMENTATION:** The process or action of depositing sediment.
Subd. 20. SEDIMENT CONTROL: The methods employed to prevent sediment from leaving a site. Examples of sediment control practices are silt fences, sediment traps, earth dikes, drainage swales, check dams, subsurface drains, storm drain inlet protection, and temporary or permanent sedimentation basins.

Subd. 21. SITE: Any lot or parcel of land or contiguous combination thereof, under the same ownership, where a land disturbance activity is performed or permitted.

Subd. 22. SLOPE: An inclined ground surface the inclination of which is expressed as a ratio of horizontal distance to vertical distance.

Subd. 23. SOIL: Naturally occurring superficial deposits overlying bedrock.

Subd. 24. STORM WATER: Precipitation runoff, storm water runoff, snow melt runoff, and any other surface runoff and drainage, as defined under Minnesota Rule 7077.0105, subpart 41b.

Subd. 25. WETLANDS: As defined in Minnesota Rules 7050.0130, subpart F, are those areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated SOIL conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Constructed wetlands designed for wastewater treatment are not waters of the state.

1303.04: GENERAL CONFORMANCE: The owner of a SITE or manager of a common plan of development or sale shall be responsible for maintaining any land disturbance activity in such a way as not to create a hazard to life and limb; or endanger the environment; or adversely affect the safety, use or stability of a property, public way or drainage channel; or deposit sediment on or into adjacent properties, right-of-ways, drainage systems or wetlands until final stabilization has been achieved.

Whenever the City determines that any land disturbance activity has become a hazard to life and limb; or endangers the environment; or adversely affects the safety, use or stability of a property, public way or drainage channel; or deposits sediment on or into adjacent properties, right-of-ways, drainage systems or wetlands, the owner of the property upon which the land disturbance activity is located, or other person or agent in control of said property, upon receipt of notice in writing from the City, shall within the period specified therein repair or eliminate such land disturbance activity so as to eliminate the hazard and be in conformance with the requirements of this Chapter. The City may inspect any property for conformance with this Chapter.
CONFLICT WITH OTHER LAWS: If the requirements of this Chapter are in conflict with any other law, the stricter requirements shall be enforced.

LAND DISTURBANCE PERMIT:

Subd. 1. PERMIT APPLICABILITY: Except as exempted in subdivision 4 of this Section, no person shall conduct any land disturbance activity without first obtaining a Land Disturbance permit from the City. A separate shall be required for each site or common plan of development or sale, and may cover both excavations and fills. Any changes or deviation from previously reviewed plans require an amended permit be applied for and approved before the work is performed.

Subd. 2. LAND DISTURBANCE PERMIT FEES: A fee for each land disturbance permit shall be paid to the City as established by resolution of the City Council.

Subd. 3. EXPIRATION: Every permit issued by the City under the provisions of this Chapter shall expire by limitation and become null and void if the work authorized by such permit is not commenced within ninety (90) days from the date of issuance of such permit, or if the work authorized by such permit is suspended or abandoned at any time after the work is commenced for a period of one hundred eighty (180) days. Before such work can be recommenced, a new permit shall be first obtained to do so, and the fee therefore shall be one-half the amount required for a new permit for such work, provided no changes have been made or will be made in the original plans and specifications for such work; and provided further that such suspension or abandonment has not exceeded one (1) year. In order to renew action on a permit after expiration, the permittee shall pay a new full permit fee. Any permittee holding an unexpired permit may apply for an extension of the time within which the permittee may commence work under that permit when the permittee is unable to commence work within the time required by this Section for good and satisfactory reasons. The City may extend the time for action by the permittee for a period not exceeding one hundred eighty (180) days upon written request by the permittee showing that circumstances beyond the control of the permittee showing that circumstances beyond the control of the permittee have prevented action from being taken. No permit shall be extended more than once.
Subd. 4. EXEMPTIONS: No person shall do any land disturbance activity without first obtaining a land disturbance permit from the City, except that no permit shall be required for the following activities:

a. A LAND DISTURBANCE ACTIVITY which meets all of the following requirements:

(1) Is located in an isolated, self-contained area and does not have the potential to discharge water from the site or into natural water bodies within the site;

(2) There is no danger apparent to private and/or public property;

(3) Does not infringe upon any wetland or ponding area or impede any drainage course;

(4) The total area of disturbance is less than one (1) acre and is not part of a common plan of development or sale that is equal to or greater than one (1) acre;

(5) The total volume of disturbed, stockpiled, disposed of, or used as fill does not exceed fifty (50) cubic yards; and

(6) Is an EXCAVATION that is less than two feet (2’) in depth and does not create a cut slope greater than five feet (5’) in height, or it steeper than two (2) horizontal to one (1) vertical or is a FILL that is less than two feet (2’) in depth and placed on natural terrain with a slope flatter than three (3) horizontal to one (1) vertical, or is less than three feet (3’) in depth, not intended to support structures.

b. Any LAND DISTURBANCE ACTIVITY that disturbs less than one (1) acre and disturbs, stockpiles, disposes of, or uses FILL more than fifty (50) cubic yards and has received a written waiver to apply for land disturbance activities by the CITY. Waivers will be considered on an individual basis depending on drainage characteristics or risk of environmental or property damage.

c. Refuse disposal SITE controlled by other regulations, laws or the City Code.

d. EXCAVATION for wells or tunnels or utilities controlled by other regulations, laws or the City Code.
e. Mining, quarrying, excavating, processing, stockpiling of rock, sand, gravel, aggregate or clay where established and provided for by law or ordinance. This shall not exempt these types of activities from the conditional permit requirements set forth by the City Code.

f. Tilling, planting, or harvesting of agricultural, horticultural or forestry crops.

g. Exploratory excavations and borings under the direction of geotechnical engineers or engineering geologists.

h. Emergency work necessary to protect life, limb, or property.

i. City, county, state or federal agency projects whose plans and specifications meet the requirements of this Chapter and are reviewed and approved by the City under a separate process.

j. A lot for which a building permit has been approved on or before the effective date of this Chapter.

k. Any part of a subdivision if a final plat for the subdivision has been approved by the City Council on or before the effective date of this Chapter.

l. Installation of fence, sign, telephone, and electric poles and other kinds of posts or poles.

Exemption from the permit requirements of this Chapter shall not be deemed to grant authorization for any work to be done in any manner in violation of the appropriate best management practices set forth in the City of Mounds View Land Disturbance Plan and Implementation Requirements.
1303.07: **SUBMITTAL REQUIREMENTS:**

Subd. 1. **PERMIT APPLICATION:** To obtain a permit, the applicant shall first file an application on a form furnished by the City for that purpose. Every such application shall:

a. Identify and describe the work to be covered by the permit for which application is made.

b. Describe the land on which the proposed work is to be done by legal description, street address or similar description that will readily identify and definitely locate the proposed building or work.

c. Indicate the purpose of the proposed work.

d. Be accompanied by plans, diagrams, computations and specifications and other data as required in subdivision 3 of this Section.

e. State the valuation of the work.

f. Create a land disturbance plan as required by subdivision 3 of this Section.

g. Be signed by the permittee or authorized agent.

h. Give such other data and information as may be required by the City.

i. Approximate start date and anticipated date of completion.
Subd. 2. FINANCIAL SECURITY:

a. Security Required. The applicant shall provide the City with financial security to ensure the performance of the applicant’s obligation pursuant to this Chapter. The financial security may be in the form of a bond, letter of credit, escrow deposit or cash. The financial security must be provided to the City upon the submittal of the permit application. The City may use the financial security to assure that the work is completed in accordance with the submitted plans and specifications and the provisions of this Chapter. The financial security may also be used by the City to eliminate any hazardous conditions associated with the work and to repair any damage to public property or infrastructure that is caused by the work. Applicants who are applying for land disturbance permit for projects that consist of one (1) lot with one (1) single family home are exempt from the financial security requirement of this Chapter, so long as the City determines that there is no potential for environmental degradation.

b. Amount of Security. The amount of security shall be one-hundred twenty-five percent (125%) of the estimated cost to accomplish compliance with the approved Land Disturbance permit or two thousand dollars ($2,000.00), whichever is greater, in addition to any other security performance required by any other regulations in this Code. The estimated cost shall be subject to approval by the City Public Works Department.

c. Reduction of Financial Security. If requested by the applicant, the amount of the financial security may be reduced by the City, subsequent to City inspection. Said reduction will be based upon the extent to which the grading and restoration have been completed and shall consider the continued need for erosion control. At no time prior to final stabilization, shall the security be reduced to less than ten percent (10%) of the total original security amount.

d. Release of Security. Any remaining amount of the financial security deposited with the City for faithful performance of the plans and specifications and any related remedial work will be released after the completion and inspection of all such measures and the establishment of final stabilization, for the permitted site or common plan of development or sale.

e. City Remedy. If compliance with the approved Land Disturbance permit is not accomplished within the allowable time period, the City may bring the project into compliance by use of the security.

f. Exemptions. The City shall be exempt from the requirements of this Section.
Subd. 3. LAND DISTURBANCE PLAN: Each application for a Land Disturbance permit shall be accompanied by copies of a land disturbance plan consisting of the following dependent upon the type and size of land disturbance activity conducted as described below:

a. For any individual residential lots or commercial and industrial land disturbing less than one (1) acre; and fill or excavate less than one hundred (100) cubic yards:

   1. Identification of proposed contour grading on the site at vertical intervals of not more than two (2) feet;

   2. Drainage patterns clearly shown using arrows depicting direction of flow;

   3. A map showing the stages or limits of grading together with the existing or proposed finished elevations based on sea level readings;

   4. Identification of proposed building bench elevations;

   5. Submission of preliminary plans or program for water supply, sewage disposal, drainage and flood control;

   6. Soil borings, if required by the City Engineer;

   7. Appropriate best management practices set forth in this Chapter and the City of Mounds View Land Disturbance Plan and Implementation Requirements developed by the City; and

   8. Other information as required by the City based on specific project characteristics.
b. For all subdivisions and commercial or industrial sites in which land disturbance activities will impact one (1) or more acre; or fill or excavate over one hundred (100) cubic yards, whichever is more restrictive; or any other site if determined appropriate by the City Engineer due to potential impacts to wetlands or sensitive receiving waters.

1. Grading Plan. A grading plan shall be provided that clearly indicates the proposed land disturbance activities. Both existing and proposed topography shall be shown and have a maximum contour interval of two feet (2’). Drainage patterns shall be clearly shown using arrows depicting direction of flow. Other information shall be shown as required by the City based on specific project characteristics.

2. Phasing Plan. A phasing plan shall be provided that clearly indicates the areas in the order they are to be disturbed and restored. The phasing plan shall consider minimization of area and duration of exposed soil and unstable conditions, minimization of the disturbance of natural soil cover and vegetation, erosion and sediment control measure installation, weather conditions and the schedule for temporary and permanent restoration. The area and duration of each phase shall be indicated on the plan.

3. Pond Detail Sheet. A pond detail sheet shall be provided for each proposed storm water pond that shows detailed pond design including normal water level, high water level, aquatic bench, maintenance bench, outlet structures, emergency overflow locations and other project specific data required by the City.

4. Standard Detail Sheet. A standard detail sheet shall be provided that consists of applicable construction details for approved erosion and sediment control measures as developed by the City. Other techniques may be used upon prior approval by the City with details provided by the designer.

5. Specifications. Written specifications for land disturbance activities such as product descriptions, installation and maintenance procedures required by the applicant to carry out the project in accordance with this Chapter.
(6) Storm Water Pollution Prevention Plan (SWPPP) as required under the National Pollution Discharge Elimination System (NPDES) Storm Water Permit issued by the MPCA. The storm water pollution prevention plan shall consist of three (3) components, (1) a temporary erosion and sediment control plan, (2) a permanent erosion and sediment control plan, and (3) a narrative.

(a) Temporary Erosion and Sediment Control Plan: Shall be provided that indicates the location of perimeter controls, construction fence, temporary sedimentation basins, inlet protection, areas to be seeded, areas to be mulched or blanketed, location of construction waste control (dumpsters, chemical storage, concrete washout, portable restroom facilities, etc.) and all other required temporary erosion and sediment control measures as described in the City of Mounds View Land Disturbance and Implementation Requirements. This plan shall also indicate staging of temporary erosion control measures.

(b) Permanent Erosion and Sediment Control Plan: Shall be provided that indicates areas to be seeded and sodded, sediment ponds, storm sewer systems and all other required permanent erosion and sediment control measures. Permanent storm water pollution controls including, but not limited to ponds, vegetated buffers and structural measures shall be designed and constructed in accordance with other Chapters of the City Code and requirements of other agencies having jurisdiction.

(c) Narrative: Shall be provided that describes, at a minimum, the nature of construction activity, person(s) responsible for inspection and maintenance of site erosion and sediment control including contact information, project phasing, schedules, along with the timing, installation and maintenance of erosion and sediment control measures and specifications necessary to carry out the project.

Subd. 4. NPDES PERMIT DOCUMENTATION: The property owner’s agent shall apply for and be issued a National Pollution Discharge Elimination System (NPDES) general storm water permit from the Minnesota Pollution Control Agency (MPCA); and shall submit to the City a copy of the MPCA Certificate of Permit Coverage.

City of Mounds View
1303.08: PERMIT REVIEW AND APPROVAL PROCESS:

Subd. 1. PROCESS: LAND DISTURBANCE PLANS meeting the requirements of Section 1303.07, subdivision 3 and minimum Best Management Practices requirements of the City of Mounds View Land Disturbance and Implementation Requirements will be reviewed administratively by City staff and/or by the City Council.

If the land disturbance plan indicates land disturbance of three (3) or more acres, the land disturbance plan shall be reviewed by the City Council. The City Council may approve, approve with conditions, or deny the land disturbance plan. If applicable, City Council action on the land disturbance plan must be accomplished within sixty (60) days following the date the application for approval is filed with the City.

If the land disturbance plan indicates land disturbance of less than three (3) acres, the land disturbance plan may be approved administratively by City staff, unless it is determined that City Council review is necessary. City staff may approve, approve with conditions, or deny the land disturbance plan. For administrative reviews, City action on the plan will normally be accomplished within fourteen (14) days following the date the application for approval is filed with the City. Land disturbance plans denied at the staff level may be appealed to the City Council for Council review by the applicant, if such appeal is filed in writing within fourteen (14) days of said appeal.
Subd. 2. APPROVAL STANDARDS:

a. Generally. All sites with land disturbance activities shall be prepared and maintained to control against erosion and sedimentation as set forth in this Chapter and the City of Mounds View Land Disturbance Plan and Implementation Requirements.

b. Erosion and Sediment Control. Temporary and permanent erosion and sediment control measures shall be installed on all sites as necessary to prevent erosion and sedimentation from impacting any adjacent property, rights-of-way, drainage system, lake, pond, wetland, watercourse, natural resource or other protected area.

c. Implementation of Land Disturbance Plan. All erosion and sediment control measures must be operational prior to the start of any land disturbance activity as specified in the storm water pollution prevention plan, construction plans and specifications, the City of Mounds View Land Disturbance Plan and Implementation Requirements, or as deemed necessary by the City based on actual site conditions.

d. Inspection. Inspection of the land disturbance plan measures will be carried out as required by the City approved land disturbance permit conditions of approval and the City of Mounds View Land Disturbance Plan and Implementation Requirements.

e. Maintenance. All erosion and sediment control measures must be maintained throughout the duration of the project. Deficiencies found through inspection of a site shall be repaired as necessary to bring the site into conformance with this Chapter, the plans and specifications, the City of Mounds View Land Disturbance Plan and Implementation Requirements and as set forth in the land disturbance permit conditions or approval. At minimum, land disturbance plan items shall be maintained as follows:

1. If a perimeter erosion control device is found to have sediment accumulation in excess of one third (1/3) of the total device height, the sediment shall be removed within twenty four (24) hours of discovery.

2. If an erosion control device is found to be nonfunctional, it shall be repaired or replaced within twenty four (24) hours of discovery.

3. Temporary sediment basins shall be maintained when sediment reaches one half (1/2) the outlet height or one half (1/2) the storage volume within seventy two (72) hours after discovery.

4. Additional erosion and sediment control measures shall be installed as directed by the City as found necessary to protect life and limb, the environment, properties or the stability of a property until final stabilization, has been achieved.
1303.09: ENFORCEMENT ACTIONS:

Subd. 1. RIGHT OF ENTRY: The applicant shall promptly allow the City and its authorized representatives, upon presentation of credentials to:

a. Enter upon the permitted site for the purpose of obtaining information, examination of records, conducting investigations, inspections or survey.

b. Bring such equipment upon the permitted site as is necessary to conduct such surveys and investigations.

c. Examine and copy any books, papers, records, or memoranda pertaining to activities or records required to be kept under the terms and conditions of this permitted site.

d. Inspect the STORM WATER pollution control measures.

e. Sample and monitor any items or activities pertaining to storm water pollution control measures.

f. Require removal of any temporary or permanent obstruction to the safe and easy access of such an inspection upon the inspector’s request. The cost of providing such access shall be born by the applicant.

Subd. 2. LETTER OF WARNING: The City may inspect the project at any time to determine that adequate construction site runoff control is being exercised in accordance with the provisions of this Chapter, approved land disturbance plan, or City of Mounds View Land Disturbance and Implementation Requirements. If, based on the City inspection, the site is out of compliance with said provisions, the City will issue a letter of warning to the permit holder outlining the areas of the site in noncompliance and specify a time period in which corrections shall occur.

Subd. 3. NOTICE OF VIOLATION: If the corrective work is not completed and compliance with the plan has not occurred within the time period set forth in the letter of warning, the City will issue a notice of violation which describes the type of penalty being issued to the applicant as described in Section 1303.10.

Subd. 4. EMERGENCY CORRECTIVE ACTION: In the event circumstances exist such that noncompliance poses an immediate danger to the public health, safety and welfare, as determined by the City, the City may take emergency corrective action to prevent any such danger. The City shall make a reasonable effort to contact and direct the owner of the subject property to take any necessary action. Any costs incurred by the City in connection with any emergency action may be recovered from the applicant’s financial security.
1303.10: **PENALTIES:**

Subd. 1. **SUSPENSION OR REVOCATION:** The City may, in writing, suspend or revoke a permit issued under the provisions of this Chapter whenever the permit is issued in error or on the basis of incorrect information supplied, or is found to be in violation of any ordinance or regulation or any of the provisions of this Chapter.

Subd. 2. **CITY REMEDY:** If compliance with the approved land disturbance plan is not accomplished within the allowable time period described in the letter of warning, the City may bring the project into compliance by use of the financial security based on a time period written in the notice of violation.

Subd. 3. **STOP WORK ORDER:** If corrective actions identified in the letter of warning are not completed by the time period set forth by the City in the letter, the Public Works Director or his or her designee may issue an order for the City to stop all inspections required for land use or building permit approvals for the site until all corrective actions identified in the letter of warning are completed. The applicant shall notify the Public Works Director or his or her designee upon completion of the corrective action. Once the Public Works Director has verified that corrective action has been taken, he or she shall inform the applicant and the City shall resume inspections on the site no later than the following business day.

Subd. 4. **FINES:** Any person that violates any provision of this Chapter may be given an administrative citation and be required to pay an administrative fine pursuant to the administrative offense provision of the City Code.

Subd. 5. **MISDEMEANOR:** Any person convicted of violating any provision of this Chapter shall be guilty of a misdemeanor and shall be subject to a fine or imprisonment as specified by state statute. Such penalty may be imposed in addition to an action against the financial security, a stop work order or suspension or revocation of the permit by the City.

*City of Mounds View*