

Part 5. Flood Plain Management Ordinance/General Flood Plain Ordinance.

SECTION 905.1 STATUTORY AUTHORIZATION, FINDINGS OF FACT AND PURPOSE.

Subd. 1. Statutory Authorization. The Legislature of the State of Minnesota has, in Minnesota Statutes Chapters 103F and Chapter 462 delegated the authority to local governmental units to adopt regulations designed to minimize flood losses. Minnesota Statute, Chapter 104 further stipulates that communities subject to recurrent flooding must participate and maintain eligibility in the National Flood Insurance Program. Therefore the City of Lilydale, Minnesota does ordain as follows;

Subd. 2. Statement of Purpose. The purpose of this Ordinance is to maintain the community's eligibility in the National Flood Insurance Program and to minimize potential losses due to periodic flooding including 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.

Subd. 3. Warning of Disclaimer of Liability. This Ordinance does not imply that areas outside of the flood plain district or land uses permitted within such districts will be free from flooding and flood damages. This Ordinance shall not create liability on the part of the City of Lilydale or any officer or employee thereof for any flood damages that result from reliance on this Ordinance or any administrative decisions lawfully made hereunder.

SECTION 905.2 GENERAL PROVISIONS

Subd. 1. Adoption of Flood Insurance Rate Map. The Flood Insurance Rate Map for the City of Lilydale, dated November 14, 1975, developed by the Federal Emergency Management Agency is hereby adopted by reference as the Official Flood Plain Zoning District Map and made a part of this Ordinance. This map was previously entitled the Flood Hazard Boundary map dated October, 1972.

Subd. 2. Lands to Which Ordinance Applies. This Ordinance shall apply to all lands designated as flood plain within the jurisdiction of City of Lilydale.

Subd. 3. Interpretation. The boundaries of the flood plain district shall be determined by scaling distances on the Official Flood Plain Zoning District Map. Where interpretation is needed as to the exact location of the boundaries of the flood plain district, the City of Lilydale shall make the necessary interpretation based on elevations on the regional (100-year) flood profile, if

available. If 100-year flood elevations are not available, the community shall: 1) Require a flood plain evaluation consistent with Section 905.4 Subd. 3. of this Ordinance to determine a 100-year flood elevation for the site; or 2) base its decision on available hydraulic/hydrologic or site elevation survey data which demonstrates the likelihood the site is within or outside of the flood plain.

Subd. 4. Definitions. Unless specifically defined below, words or phrases used in this Ordinance shall be interpreted so as to give them the same meaning as they have in common usage and so as to give this Ordinance its most reasonable application.

- (1) Accessory Use or Structure - a use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.
- (2) Basement - means any area of a structure, including crawl spaces, having its floor or base subgrade (below ground level) on all four sides, regardless of the depth of excavation below ground level.
- (3) Flood Fringe - that portion of the flood plain outside of the floodway.
- (4) Flood Plain - the channel or beds proper and the areas adjoining a wetland, lake or watercourse which have been or hereafter may be covered by the regional flood. Flood plain areas within the City of Lilydale shall encompass all areas designated as Zone A on the Flood Insurance Rate Map.
- (5) Floodway - the bed of a wetland or lake and the channel of a watercourse and those portions of the adjoining flood plain which are reasonably required to carry or store the regional flood discharge.
- (6) Obstruction - any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, dredged spoil, channel modification, culvert, building, wire, fence, stockpile, refuse, fill, structure, stockpile of sand or gravel or other material, or matter in, along, across, or projecting into any channel, watercourse, lake bed, or regulatory flood plain which may impede, retard, or change the direction of flow, either in itself or by catching or collecting debris carried by floodwater.
- (7) Regional Flood - a flood which is representative of large floods known to have occurred generally in Minnesota and reasonably characteristic of what can be expected to occur on an average

frequency in magnitude of the 100-year recurrence interval. Regional flood is synonymous with the term "base flood" used in the Flood Insurance Rate Map.

- (8) Regulatory Flood Protection Elevation. The Regulatory Flood Protection Elevation shall be an elevation no lower than one 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.

- (9) Structure - anything constructed or erected on the ground or attached to the ground or on-site utilities, including, but not limited to, buildings, factories, sheds, detached garages, cabins, manufactured homes, travel trailers/vehicles not meeting the exemption criteria specified in Section 905.12, Subd. 1 of this Ordinance and other similar items.

SECTION 905.3 CONFLICT WITH PRE-EXISTING ZONING REGULATIONS AND GENERAL COMPLIANCE

Subd. 1. The Flood Plain District as Overlay Zoning District. The flood plain zoning district shall be considered an overlay zoning district to all existing land use regulations of the community. The uses permitted in Sections 905.4 and 905.5 of this Ordinance shall be permitted only if not prohibited by any established, underlying zoning district. The requirements of this Ordinance shall apply in addition to other legally established regulations of the community and where this Ordinance imposes greater restrictions, the provisions of this Ordinance shall apply.

Subd. 2. Compliance. No new structure or land shall hereafter be used and no structure shall be located, extended, converted, or structurally altered without full compliance with the terms of this Ordinance and other applicable regulations which apply to uses within the jurisdiction of this Ordinance. Within the Floodway and Flood fringe, all uses not listed as permitted uses in Section 905.4 shall be prohibited. In addition, a caution is provided here that;

- (1) New manufactured homes, replacement manufactured homes and certain travel trailers and travel vehicles are subject to the general provisions of this Ordinance and specifically Sections 905.4 and 905.12.

- (2) Modifications, additions, structural alterations or repair after damage to existing nonconforming structures and nonconforming uses of structures or land are regulated by the general provisions of

this Ordinance and specifically Sections 905.9; and

- (3) As-built elevations for elevated structures must be certified by ground surveys as stated in Section 9 05.7 of this Ordinance.

SECTION 905.4 PERMITTED USES, STANDARDS, AND FLOOD PLAIN EVALUATION CRITERIA

Subd. 1. Permitted Uses in the Flood Plain. The following uses of land are permitted uses in the flood plain districts

- (1) Any use of land which does not involve a structure, an addition to the outside dimensions to an existing structure or an obstruction to flood flows such as fill, excavation, or storage of materials or equipment.
- (2) Any use of land involving the construction of new structures, the placement or replacement of manufactured homes, the addition to the outside dimensions of an existing structure or obstructions such as fill or storage of materials or equipment, provided these activities are located in the flood fringe portion of the flood plain. These uses shall be subject to the development standards in Section 905.4 Subd. 2. of this Ordinance and the flood plain evaluation criteria in Section 905.4 Subd. 3. of this Ordinance for determining floodway and flood fringe boundaries.
- (3) Travel trailers and travel vehicles are regulated by Section 905.12 of this Ordinance.

Subd. 2. Standards for Flood Plain Permitted Uses.

- (1) Fill shall be properly compacted and the slopes shall be properly protected by the use of riprap, vegetative cover or other acceptable method. The Federal Emergency Management Agency (FEMA) has established criteria for removing the special flood hazard area designation for certain structures properly elevated on fill above the 100-year flood elevation - FEMA's requirements incorporate specific fill compaction and side slope protection standards for multi-structure or multi-lot developments. These standards should be investigated prior to the initiation of site preparation if a change of special flood hazard area designation will be requested.
- (2) Storage of Materials and Equipment:
 - (a) The storage or processing of materials that are, in time of flooding, flammable, explosive, or potentially injurious to human, animal, or plant life is prohibited.

- (b) Storage of other materials or equipment may be allowed if readily removable from the area within the time available after a flood warning or if placed on fill to the Regulatory Flood Protection Elevation.
- (3) No use shall be permitted which will adversely affect the capacity of the channels or floodways of any tributary to the main stream, or of any drainage ditch, or any other drainage facility or system.
- (4) All structures, including accessory structures, additions to existing structures and manufactured homes, shall be constructed on fill so that the basement floor, or first floor if there is no basement, is at or above the Regulatory Flood Protection Elevation. The finished fill elevation must be no lower than one foot below the Regulatory Flood Protection Elevation and shall extend at such elevation at least 15' beyond the limits of the structure constructed thereon.
- (5) All Uses. Uses that do not have vehicular access at or above an elevation not more than two feet below the Regulatory Flood Protection Elevation to lands outside of the flood plain shall not be permitted unless granted a variance by the City Council. In granting a variance, the Council shall specify limitations on the period of use or occupancy of the use and only after determining that adequate flood warning time and local emergency response and recovery procedures exist.
- (6) Commercial and Manufacturing Uses. Accessory land uses, such as yards, railroad tracks, and parking lots may be at elevations lower than the Regulatory Flood Protection Elevation. However, a permit for such facilities to be used by the employees or the general public shall not be granted in the absence of a flood warning system that provides adequate time for evacuation if the area would be inundated to a depth greater than two feet or be subject to flood velocities greater than four feet per second upon occurrence of the regional flood.
- (7) On-site Sewage Treatment and Water Supply Systems: Where public utilities are not provided. 1) On-site water supply systems must be designed to minimize or eliminate infiltration of flood waters into the systems; and 2) New or replacement on-site sewage treatment systems must be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters and they shall not be subject to impairment or contamination during times of flooding. Any sewage treatment system designed in accordance with the State's current statewide standards for on-site sewage treatment systems shall be determined to be in compliance with this Section.

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

Subd. 3. Flood Plain Evaluation

- (1) Upon receipt of an application for a permit, manufactured home park development or subdivision approval within the flood plain district, the City of Lilydale shall require the applicant to furnish sufficient site development plans and a hydrologic/hydraulic analysis by a qualified engineer or hydrologist specifying the nature of the development and whether the proposed use is located in the floodway or flood fringe and the Regulatory Flood Protection Elevation for the site. Procedures consistent with Minnesota Rules 1983 Parts 6120.5600 (Technical Standards and Requirements For Floodplain Evaluation) and 6120.5700 (Minimum Floodplain Management Standards for Local Ordinances) shall be followed during the technical evaluation and review of the development proposal.
- (2) The City of Lilydale shall submit one copy of all information required by Section 905.4 Subd. 3.(1) of this Ordinance to the respective Department of Natural Resources' Area Hydrologist for review and comment at least 20 days prior to the granting of a permit or manufactured home park development/subdivision approval by the community. The City of Lilydale shall notify the respective Department of Natural Resources Area Hydrologist within 10-days after a permit or manufactured home park development/subdivision approval is granted.

SECTION 905-5 UTILITIES, RAILROADS, ROADS AND BRIDGES IN THE FLOOD PLAIN DISTRICT

All utilities and transportation facilities, including railroad tracks, roads and bridges, shall be constructed in accordance with state flood plain management standards contained in Minnesota Rules 1983 Parts 6120.5000 -6120.6200.

SECTION 905.6 SUBDIVISIONS

Subd. 1. No land shall be subdivided and no manufactured home park shall be developed or expanded where the site is determined to be unsuitable by the City of Lilydale for reason of flooding, inadequate drainage, water supply or sewage treatment facilities. The City of Lilydale shall review the subdivision/development proposal to insure that each lot or parcel contains sufficient area

outside of the floodway for fill placement for elevating structures, sewage systems and related activities.

Subd. 2. In the Flood Plain District, applicants for subdivision approval or development of a manufactured home park or manufactured home park expansion shall provide the information required in Section 905.4 Subd. 3.(1) of this Ordinance. The City of Lilydale shall evaluate the proposed subdivision or mobile home park development with the standards established in Sections 905.4.2, 905.4.3 and 905.5 of this Ordinance.

Subd. 3. For all subdivisions in the flood plain, the Floodway and Flood Fringe boundaries, the Regulatory Flood Protection Elevation and the required elevation of all access roads shall be clearly labelled on all required subdivision drawings and platting documents.

Subd. 4. Removal of Special Flood Hazard Area Designation: The Federal Emergency Management Agency (FEMA) has established criteria for removing the special flood hazard area designation for certain structures properly elevated on fill above the 100-year flood elevation. FEMA's requirements incorporate specific fill compaction and side slope protection standards for multi-structure or multi-lot developments. These standards should be investigated prior to the initiation of site preparation if a change of special flood hazard area designation will be requested.

SECTION 905.7 ADMINISTRATION

Subd. 1. Permit Required. A Permit issued by the City of Lilydale shall be secured prior to the construction, addition, or alteration of any building or structure; prior to the use or change of use of a building, structure, or land; prior to the change or extension of a nonconforming use; and prior to excavation or the placement of an obstruction within the flood plain.

Subd. 2. State and Federal Permits. Prior to granting a Permit or processing an application for a Variance, the City of Lilydale shall determine that the applicant has obtained all necessary State and Federal permits.

Subd. 3. Certification of Lowest Floor Elevations. The applicant shall be required to submit certification by a registered professional engineer, registered architect, or registered land surveyor that the finished fill and building elevations were accomplished in compliance with the provisions of this Ordinance. The City of Lilydale shall maintain a record of the elevation of the lowest floor (including basement) for all new structures and alterations or additions to existing structures in the flood plain district.

SECTION 905.8 VARIANCES

Subd. 1. A variance means a modification of a specific permitted development standard required in an official control including this Ordinance to allow an alternative development standard not stated as acceptable in the official control, but only as applied to a particular property for the purpose of alleviating a hardship, practical difficulty or unique circumstance as defined and elaborated upon in a community's respective planning and zoning enabling legislation.

Subd. 2. The City Council may authorize upon appeal in specific cases such relief or variance from the terms of this Ordinance as will not be contrary to the public interest and only for those circumstances such as hardship, practical difficulties or circumstances unique to the property under consideration, as provided for in the respective enabling legislation for planning and zoning for cities or counties as appropriate. In the granting of such variance, the City Council shall clearly identify in writing the specific conditions that existed consistent with the criteria specified in the respective enabling legislation which justified the granting of the variance.

Subd. 3. Variances from the provisions of this Ordinance may be authorized where the City Council has determined the variance will not be contrary to the public interest and the spirit and intent of this Ordinance. No variance shall allow in any district a use prohibited in that district or permit a lower degree of flood protection than the Regulatory Flood Protection Elevation. Variances may be used to modify permissible methods of flood protection.

Subd. 4. The City Council shall submit by mail to the Commissioner of Natural Resources a copy of the application for proposed Variance sufficiently in advance so that the Commissioner will receive at least ten days notice of the hearing. A copy of all decisions granting a Variance shall be forwarded by mail to the Commissioner of Natural Resources within ten (10) days of such action.

Subd. 5. Appeals. Appeals from any decision of the City Council may be made, and as specified in this Community's Official Controls and also Minnesota Statutes.

Subd. 6. Flood Insurance Notice and Record Keeping. The Chairperson of the Planning Commission shall notify the applicant for a variance that: 1) The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage and 2) Such construction below the 100-year or regional flood level increases risks to life and property. Such notification shall be maintained with a record of all variance actions. A community shall maintain a record of all variance actions, including justification for their issuance, and report such variances issued in its annual or biennial report submitted to the Administrator of the National Flood Insurance Program.

SECTION 905.9 NONCONFORMITIES

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

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

Subd. 2. An alteration within the inside dimensions of a nonconforming use or structure is permissible provided it will not result in increasing the flood damage potential of that use or structure.

Subd. 3. The cost of all structural alterations or additions both inside and outside of a structure to any nonconforming structure over the life of the structure shall not exceed 50 percent of the market value of the structure unless the conditions of this Section are satisfied. The cost of all structural alterations and additions constructed since the adoption of the Community's initial flood plain controls must be calculated into today's current cost which will include all costs such as construction materials and a reasonable cost placed on all manpower or labor. If the current cost of all previous and proposed alterations and additions exceeds 50 percent of the current market value of the structure, then the structure must meet the standards of Section 905.4 of this Ordinance for new structures.

Subd. 4. If any nonconforming use of a structure or land or nonconforming structure is destroyed by any means, including floods, to an extent of 50 percent or more of its market value at the time of destruction, it shall not be reconstructed except in conformity with the provisions of this Ordinance. The City of Lilydale may issue a Permit for reconstruction if the use is located outside the floodway and, upon reconstruction, is adequately elevated on fill in conformity with the provisions of this Ordinance.

SECTION 905.10 PENALTIES FOR VIOLATION

A violation of the provisions of this Ordinance or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of Variance) shall constitute a misdemeanor.

Subd. 1. In responding to a suspected Ordinance violation, the Planning Commission and/or City Council and Local Government may utilize the full array of enforcement actions available to it including but not limited to prosecution and fines, injunctions, after-the-fact permits, orders for corrective measures or a request to the National Flood Insurance Program for denial of flood insurance availability to the guilty party. The community must act in good faith to enforce

these official controls and to correct Ordinance violations to the extent possible so as not to jeopardize its eligibility in the National Flood Insurance Program.

Subd. 2. When an Ordinance violation is either discovered by or brought to the attention of the Planning Commission, the Planning Commission shall immediately investigate the situation and document the nature and extent of the violation of the official control. As soon as is reasonably possible, this information will be submitted to the appropriate Department of Natural Resources' and Federal Emergency Management Agency Regional Office along with the Community's plan of action to correct the violation to the degree possible.

Subd. 3. The Chairperson of the Planning Commission shall notify the suspected party of the requirements of this Ordinance and all other Official Controls and the nature and extent of the suspected violation of these controls. If the structure and/or use is under construction or development, the Chairperson of the Planning Commission may order the construction or development immediately halted until a proper permit or approval is granted by the Community. If the construction or development is already completed, then the Planning Commission or City Council may either (1) issue an order identifying the corrective actions that must be made within a specified time period to bring the use or structure into compliance with the official controls, or (2) notify the responsible party to apply for an after-the-fact permit/development approval within a specified period of time not to exceed 30-days.

Subd. 4. If the responsible party does not appropriately respond to the Planning Commission or City Council within the specified period of time, each additional day that lapses shall constitute an additional violation of this Ordinance and shall be prosecuted accordingly. The Planning Commission or City Council shall also upon the lapse of the specified response period notify the landowner to restore the land to the condition which existed prior to the violation of this Ordinance.

SECTION 905.11 AMENDMENTS

All amendments to this Ordinance, including revisions to the Official Flood Plain Zoning District Map, shall be submitted to and approved by the Commissioner of Natural Resources prior to adoption. The flood plain designation on the Official Flood Plain Zoning District Map shall not be removed unless the area is filled to an elevation at or above the Regulatory Flood Protection Elevation and is contiguous to lands outside of the flood plain. Changes in the Official Zoning Map must meet the Federal Emergency Management Agency's (FEMA) Technical Conditions and Criteria and must receive prior FEMA approval before adoption. The Commissioner of Natural Resources must be given 10-days written notice of all hearings to consider an amendment to this Ordinance and said notice shall include a draft of the Ordinance amendment or technical study under consideration.

SECTION 905.12 TRAVEL TRAILERS AND TRAVEL VEHICLES

Travel trailers and travel vehicles that do not meet the exemption criteria specified in Section 12.1 below shall be subject to the provisions of this Ordinance and as specifically spelled out in Sections 905.12 Subd. 3. -905.12 Subd. 4. below.

Subd. 1 Exemption. Travel trailers and travel vehicles are exempt from the provisions of this Ordinance if they are placed in any of the areas listed in Section 905.12 Subd. 2. below and further they meet the following criteria;

(a) Have current licenses required for highway use.

(b) Are highway ready meaning on wheels or the internal jacking

system, are attached to the site only by quick disconnect type utilities commonly used in campgrounds and trailer parks and the travel trailer/travel vehicle has no permanent structural type additions attached to it.

(c) The travel trailer or travel vehicle and associated use must be permissible in any pre-existing, underlying zoning use district.

Subd. 2. Areas Exempted For Placement of Travel/Recreational Vehicles:

(a) Individual lots or parcels of record.

(b) Existing commercial recreational vehicle parks or campgrounds.

(c) Existing condominium type associations.

Subd. 3. Travel trailers and travel vehicles exempted in Section 9 05.12 lose this exemption when development occurs on the parcel exceeding 500 dollars for a structural addition to the travel trailer/travel vehicle or an accessory structure such as a garage or storage building. The travel trailer/travel vehicle and all additions and accessory structures will then be treated as a new structure and shall be subject to the elevation requirements and the use of land restrictions specified in Section 905.4 of this Ordinance.

Subd. 4. New commercial travel trailer or travel vehicle parks or campgrounds and new residential type subdivisions and condominium associations and the expansion of any existing similar use exceeding five (5) units or dwelling sites shall be subject to the following:

(a) Any new or replacement travel trailer or travel vehicle will be allowed in the Floodway or Flood Fringe Districts provided said trailer or vehicle and its contents are placed on fill above the Regulatory Flood Protection Elevation determined in accordance with the provisions of Section 905.5 Subd. 3 of this Ordinance and proper elevated road access to the site exists in accordance with Section 905.04 of this Ordinance. No fill placed in the floodway to meet the requirements of this Section shall increase flood stages of the 100-year or regional flood.

(b) All new or replacement travel trailers or travel vehicles not meeting the criteria of (a) above may, as an alternative, be allowed if in accordance with the following provisions. The applicant must submit an emergency plan for the safe evacuation of all vehicles and people during the 100 year flood. Said plan shall be prepared by a registered engineer or other qualified individual and shall demonstrate that adequate time and personnel exist to carry out the evacuation. All attendant sewage and water facilities for new or replacement travel trailers or other recreational vehicles must be protected or constructed so as to not be impaired or contaminated during times of flooding in accordance with Section

905.4 Subd. 2(7) of this Ordinance.

SECTION 905.13 SUMMARY

The City Council hereby determines that the text of the summary marked "Official Summary of Ordinance Number 92-2", a copy of which is attached hereto clearly informs the public of the intent and effect of the Ordinance. The City Council further determines that the publication of the title and such summary will clearly inform the public of the intent and effect of the Ordinance.

Part 6.

Zoning Districts 906.01 Zoning Districts

The zoning districts as described in this Chapter IX are indicated on the official Municipal Zoning Map of the City of Lilydale prepared by Dahlgren, Shardlow and Uban, and dated May 19, 1997, which shall be kept on display at the Lilydale City Hall.

Part 7 - Separability, Enforcement and Permits

907.01 Separability.

It is hereby declared to be the intention that the several provisions of the zoning corridor are separable in accordance with the following:

- (1) If any court of competent jurisdiction shall adjudge any provision of the zoning code to be invalid, such judgment shall not affect any other provision of the zoning code not specifically included in said judgment.
- (2) If any court of competent jurisdiction shall adjudge invalid the application of any provision of the zoning code to a particular property, building or structure, such judgment shall not affect other property, building or structures.

907.02 Enforcement.

The zoning code shall be administered and enforced by the Building Inspector and his deputies. The Building Inspector may institute in the name of the City of Lilydale any appropriate action or proceedings against violators provided by law. Any person, firm or corporation which violates or refuses to comply with any of the provisions of the zoning code shall be guilty of a misdemeanor. Each day that a violation is permitted to exist shall constitute a separate offense.

907.03 Permits.

In addition to other methods of enforcement of this Chapter IX, a permit must be obtained from the City of Lilydale before the commencement of any of the following:

- (a) Erection, alteration, wrecking, maintenance, maintaining, repairing or moving of any building shall be governed by Section 901.03 of the Lilydale City Code.
- (b) Any development or physical change affecting the river corridor including but not limited to grading, filling, alteration of the river bank, shore or bluffs, or clearing of any land within the corridor.

In addition to any other legal remedies available for violation of this section, any activities commenced prior to the granting of a permit required herein may be restrained and shall be subject to revision and/or alteration so as to conform to the requirements of these ordinances and any other applicable laws.

The procedure for obtaining such permit shall be as follows s

- (1) Persons requesting a permit shall submit an application in accordance with Section 901.05.
- (2) Completed applications and the fees and surcharges prescribed pursuant to Section 901.03 shall be returned to the Building Inspector or City Clerk so that the permit request may be placed on the agenda of the Planning Commission. The Planning Commission Secretary shall inform the person requesting a permit regarding the date upon which his request will be

reviewed by the Planning Commission. Said person shall be present at the Planning Commission meeting to answer questions regarding the permit.

- (3) The Planning Commission shall take action regarding the permit within 45 days of the date upon which the permit request was filed. If, however, the petitioner fails to appear before the Planning Commission, or if he fails to adequately answer their questions, the Planning Commission may delay action on the request for an additional 30 days. At the end of this second 30-day period, the Planning Commission shall pass its recommendation to the City Council.
- (4) The City Council, within 45 days after receiving the recommendation of the Planning Commission, shall take action to either approve, reject, or refer the permit request back to the Planning Commission for additional information or clarification.
- (5) The Planning Commission shall provide any requested additional information to the City Council within 30 days of a referral back from the City Council.
- (6) The City Council shall take final action on the permit within 30 days of receiving the requested information from the Planning Commission.

All permits issued pursuant to this Section and all concept approvals given by the City Council shall automatically expire unless the erection, alteration, wrecking, moving, development or physical change for which such permit or concept approval was issued or given is commenced in a substantial way within one year after its issuance or unless an extension is granted as provided herein. All permits issued pursuant to this Section shall also automatically expire if, during any consecutive twelve month period after the issuance of such permit, there is no substantial erection, alteration, wrecking, moving, development or physical change for which such permit was issued or unless an extension is granted as provided herein. Permits and concept approvals which would otherwise expire may be extended for periods of sixty days upon approval of the City Council provided that such approval is obtained prior to the expiration of the permit or concept approval. Upon the expiration of a permit or concept approval all fees, and other charges already paid to the City shall remain the property of the City and shall not be refundable.

907.04 Permit Costs.

In the event that the City is asked to consider any aspect of any activity which would require a permit under Section 907.03 prior to the submission of an application for such permit, there shall be imposed by the City at the time such request is made, a fee in an amount set by the City Council to cover those costs which the Council estimates the City may incur during its consideration. If a permit for such activity is eventually applied for, the pre-permit fee, to the extent that it has not been used to cover costs incurred by the City prior to the filing of the permit application, shall be applied as a credit against the permit fee due pursuant to Section 901.03. If a permit is not applied for, any amount of the pre-permit fee that is unused shall be refunded to the individual or entity by whom it

was paid.