

66-1

ORDINANCE NUMBER 66
A FLOOD PLAIN MANAGEMENT ORDINANCE
RESTRICTING FUTURE DEVELOPMENT

The Council of the City of Shelly does ordain as follows:

SECTION 1: Statutory Authorization: The Legislature of the State of Minnesota in Minnesota Statutes, Chapter 103F and Chapter 462 has delegated the responsibility to local government units to adopt regulations designed to minimize flood losses.

SECTION 2: Statement of Purposes: The development of the floodplain district of the City of Shelly could result in the potential loss of life and property, create health and safety hazards, and lead to extraordinary public expenditures for flood protection and relief. Since development of these areas is not essential to the orderly growth of the community and since these lands are suitable for open space uses that do not require structures or fill, the Council of the City of Shelly does ordain as follows:

SECTION 3: Designation of the Flood Plain District: The Flood Insurance Study for the City of Shelly prepared by the FEMA and dated July 18, 1994 and the Flood Insurance Rate Map dated July 18, 1994 contained therein are hereby declared to be the Official Zoning map (with the exception of the land petitioned to be detached from the City limits in May 1993 with the legal description included at the end of this ordinance) for the City of Shelly and are hereby adopted by reference and declared to be a part of this ordinance. The Flood Insurance Study shall be on file in the office of the City Clerk. The Flood Plain District for the City of Shelly shall include those areas which lie within the 100 year Flood Boundary on the Flood Insurance Rate map dated July 18, 1994.

SECTION 4: Permitted Uses in the Flood Plain District: The following uses have a low flood damage potential and do not obstruct flood flows. These uses shall be permitted within the Flood Plain District to the extent that they are not prohibited by any other ordinance and provided they do not require structures, fill or storage of materials or equipment.

- 4.11 Agricultural uses such as general farming, pasture, grazing, forestry, sod farming, and wild crop harvest.
- 4.12 Industrial- Commercial uses such as parking areas and airport landing strips.
- 4.13 Private and public recreational uses such as golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat

launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, shooting preserves, target range, trap and skeet ranges, hunting and fishing areas, and single or multiple purpose recreational trails.

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

All other uses and all uses that require structures, fill or the storage of materials or equipment shall be prohibited.

SECTION 5: Administration:

- 5.1 Zoning Administrator: The Mayor of the city shall be the Zoning Administrator to administer and enforce this Ordinance. If the Zoning administrator finds a violation of the provisions of this Ordinance the Zoning Administrator shall notify the person responsible for such violation.

5.2 Permit Requirements:

- 5.21: Permit Required. A permit issued by the Zoning Administrator in conformity with the provisions of this Ordinance shall be secured prior to the addition, or alteration of any building, structure, or portion thereof; prior to the use or change of use of a building, structure or land; and prior to the change or extension of a nonconforming use.

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

- 5.23 State and Federal Permits. Prior to granting a Permit or processing an application for a Conditional Use Permit or Variance, the Zoning Administrator shall determine that the applicant has obtained all necessary State and Federal Permits.

5.3 Variance Procedures

- 5.31 Board of Adjustment. A Board of Adjustment is hereby

established consisting of the City Council members. The Board of Adjustment shall adopt rules for the conduct of the business and may exercise all of the powers conferred on such Boards by State law.

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

5.33 Variances. The Board may authorize upon appeal in specific cases such relief or variance from the terms of this Ordinance as will not be contrary to the public interest and only for those circumstances 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 Board of Adjustment shall clearly identify in writing the specific conditions that existed consistent with the criteria specified in the respective enabling variance. No Variance shall have the effect of allowing in any district uses prohibited in that district, 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.

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

5.35 Decisions. The Board shall arrive at a decision on such appeal or Variance within 10 days. In passing upon an appeal, the Board may, so long as such action is in conformity with the provisions on this Ordinance, reverse or affirm, wholly or in part, or modify the order, requirement,



decision or determination of the Zoning Administrator or other public official. It shall make its decision in writing setting forth the findings of fact and the reasons for its decisions. In granting a Variance the Board may prescribe appropriate conditions and safeguards, which are in conformity with the purposes of this Ordinance. Violations of such conditions and safeguards, when made a part of the terms under which the Variance is granted, shall be deemed as violation of this Ordinance punishable under Section 7.0. A copy of all decisions granting Variances shall be forwarded by mail to the Commissioner of Natural Resources within ten (10) days of such action.

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

SECTION 6 Non conforming Uses

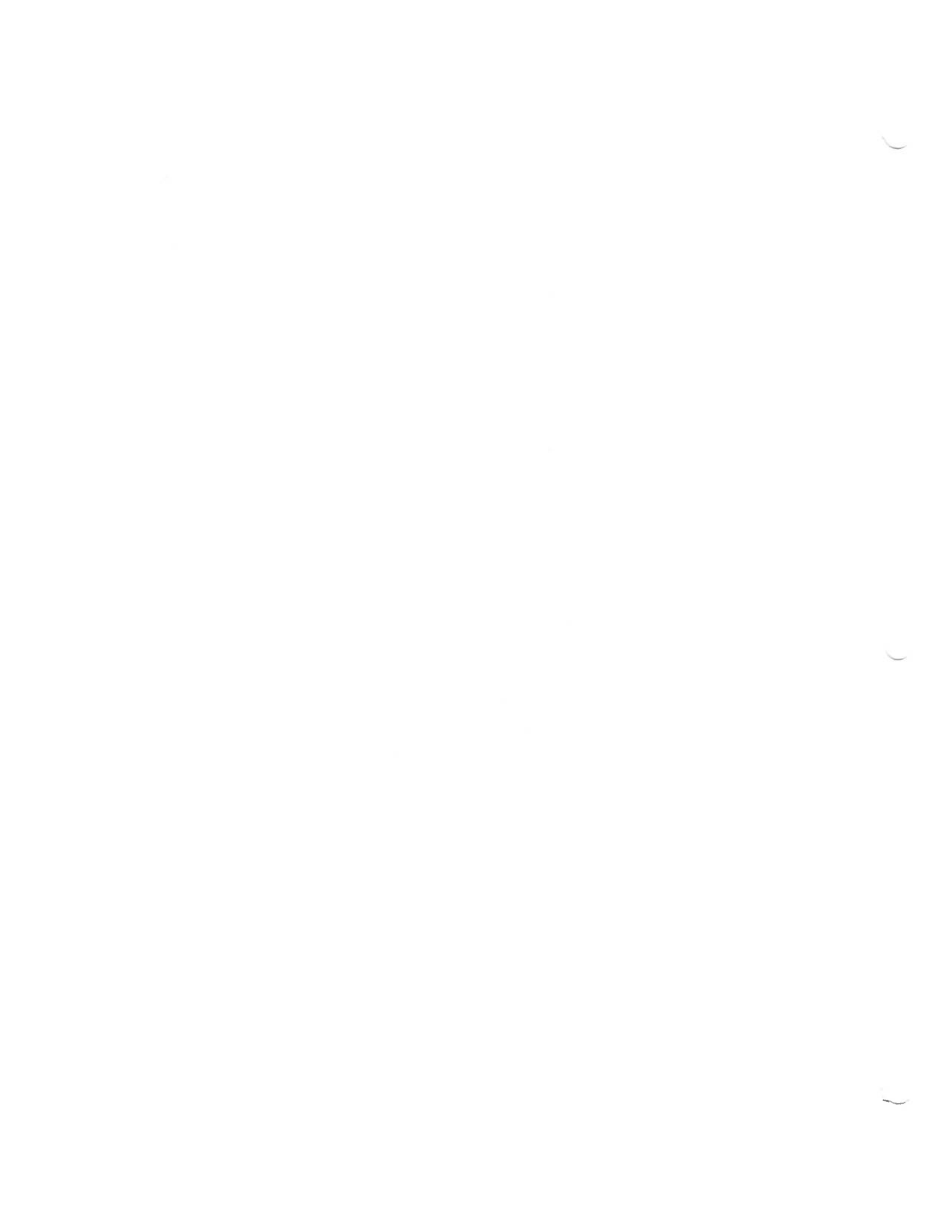
6.1 A structure or the use of a structure or premises which was lawful before the passage or amendment of the Ordinance but which is not in conformity with the provisions of this Ordinance may be continued subject to the following conditions:

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

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

6.13 If any nonconforming use or 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.

SECTION 7: Penalties for Violations. Violation of the provisions of this Ordinance or failure to comply with any of its requirements (including violations of conditions and



66-5

safeguards established in connection with grants of Variances or Conditional Uses) shall constitute a misdemeanor and shall be punishable as defined by law.

SECTION 8: Amendments. The flood plain designation on the Official 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 regional flood and is contiguous to lands outside the flood plain. Special exceptions to this rule may be permitted by the Commissioner of Natural Resources if he determines that, through other measures, lands are adequately protected for the intended use.

All amendments to this Ordinance, including amendments to the Official Zoning Map, must be submitted to and approved by the Commissioner of Natural Resources prior to adoption. 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 9: Effective Date: All prior Ordinances in conflict hereof are hereby repealed, and this Ordinance shall be effective from and after its passage and publication according to law.

Adopted by the City Council of Shelly, Minnesota, the 4 day of April 1994..

Robert Anderson
MAYOR

REC'D
COMP
INDEXED
ABST
FEE

Attest:

Nancy Nelson
City Clerk

STATE OF MINNESOTA
COUNTY OF NORMAN
INSTRUMENT NO. 94-0012
I HEREBY CERTIFY THAT THE WITHIN INSTRUMENT WAS FILED IN THIS OFFICE FOR RECORD
ON THE 12th DAY OF April
19 94 at 9:00 O'CLOCK A. M.
AND WAS FULLY RECORDED UNDER
MICROFILM NO. 189834
Emeline Henry
COUNTY RECORDER
DEPUTY

Ret: City of Shelly - to Nancy Nelson
Box 126, Shelly, Mn 56581-0126

\$11.50 pd # 54041

189834

D-294 Shelly

BEFORE THE MUNICIPAL BOARD

OF THE STATE OF MINNESOTA

Kenneth F. Sette	Chair
Robert J. Ferderer	Vice Chair
John W. Carey	Commissioner

IN THE MATTER OF THE PETITION FOR)
 THE DETACHMENT OF CERTAIN LAND FROM)
 THE CITY OF SHELLY PURSUANT TO)
 MINNESOTA STATUTES 414)

FINDINGS OF FACT
CONCLUSIONS OF LAW
AND ORDER

On May 25, 1993, the Minnesota Municipal Board received a petition by all of the property owners for the detachment of certain land from the City of Shelly. A resolution for the detachment of the same land was received from the City of Shelly on May 25, 1993.

After review of the petition and resolution, the Minnesota Municipal Board hereby makes and files the following Findings of Fact, Conclusions of Law, and Order.

FINDINGS OF FACT

1. That a petition was duly filed with the Municipal Board by the requisite number of property owners and a resolution for the detachment of the same property was filed by the City of Shelly.
2. The petition and resolution contained all the information required by statute including a description of the territory proposed for detachment, which is as follows:

Commencing at the Southwest corner of the East Half of the Southwest Quarter (E½SW¼) of Section Eighteen (18), Township One Hundred Forty-six (146), Range Forty-eight (48); thence East along the South Section line of said Section a distance of 1465 feet; thence North on a line parallel with the West line of the East Half of the Southwest Quarter (E½SW¼) of said Section, a distance of 845 feet; thence West on a line parallel with the South Section line of

said Section a distance of 1,465 feet to the West boundary line of the East Half of the Southwest Quarter (E $\frac{1}{2}$ SW $\frac{1}{4}$) of said Section; thence South on the West boundary line of the East Half of the Southwest Quarter (E $\frac{1}{2}$ SW $\frac{1}{4}$) of said Section a distance of 845 feet to the point of beginning. Being 28.42 acres, more or less.

AND

Commencing at the Southwest corner of the Southeast Quarter of the Southwest Quarter (SE $\frac{1}{4}$ SW $\frac{1}{4}$) of Section 18, Township 146, North of Range 48, West of the 5th Principal Meridian, and running North along the west boundary of the Southeast Quarter of the Southwest Quarter (SE $\frac{1}{4}$ SW $\frac{1}{4}$) of Section 18 a distance of 332 feet; thence North 90 degrees East, a distance of 30 feet; thence South 63 degrees 30 minutes East a distance of 108 feet; thence North 78 degrees East a distance of 241 feet; thence North 69 degrees 15 minutes East a distance of 55 feet; thence South parallel to the West boundary a distance of 375 feet; thence North 65 degrees 30 minutes West a distance of 59 feet; thence North 84 degrees 45 minutes West a distance of 132 feet; thence South 80 degrees 15 minutes West a distance of 64 feet; thence North 90 degrees West along the section line a distance of 172 feet, closing at the southwest corner of the Southeast Quarter of the Southwest Quarter (SE $\frac{1}{4}$ SW $\frac{1}{4}$), Section 18, Township 146, Range 48, containing 3.014 acres, more or less;

consisting of 31.434 acres.

3. The area proposed for detachment is situated within the City of Shelly and abuts the municipal boundary.
4. The area proposed for detachment is approximately 31.434 acres.
5. The area proposed for detachment is rural in character and not developed for urban residential, commercial, or industrial purposes.
6. The area proposed for detachment has a farm-house, a barn, and other out buildings located on it.
7. There are no municipal improvements on the area proposed for detachment.
8. The population of the area proposed for detachment is 5.
9. The area abuts the Town of Shelly, Norman County.

CONCLUSIONS OF LAW

1. The Minnesota Municipal Board duly acquired and now has

jurisdiction of the within proceeding.

2. The area subject to detachment is rural in character and not developed for urban residential, commercial, or industrial purposes.

3. The detachment would not unreasonably affect the symmetry of the detaching municipality.

4. The area subject to detachment is not needed for reasonably anticipated future development.

5. An order should be issued by the Minnesota Municipal Board detaching the area described herein.

ORDER

1. IT IS HEREBY ORDERED: That the property described herein in Findings of Fact 2 be, and the same hereby is, detached from the City of Shelly and made a part of the Town of Shelly, the same as if it had originally been made a part thereof.

2. IT IS FURTHER ORDERED: That the population of the City of Shelly is decreased by five persons.

3. IT IS FURTHER ORDERED: That the population of the Town of Shelly is increased by five persons.

4. IT IS FURTHER ORDERED: That the effective date of this order is June 10, 1993.

Dated this 14th day of June, 1993.

MINNESOTA MUNICIPAL BOARD
475 McColl Building
St. Paul, Minnesota 55101

Patricia Lundy
Patricia D. Lundy
Assistant Director

