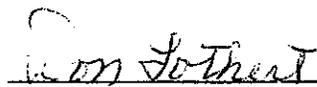


CITY OF DANUBE
ORDINANCE # 94

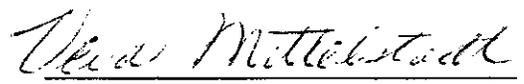
OFFICIAL TITLE AND SUMMARY

- I. Title. AN ORDINANCE REQUIRING PROCUREMENT, AND ESTABLISHING PROCEDURES FOR ISSUANCE, OF BUILDING PERMITS; ESTABLISHING BUILDING SETBACK REQUIREMENTS; ESTABLISHING CONFORMING AND NON-CONFORMING USES OF COMMERCIAL AND RESIDENTIAL PROPERTY; AND RESTRICTIONS ON FENCES.
- II. Summary. THE CITY COUNCIL OF THE CITY OF DANUBE DOES HEREBY ORDAIN AS FOLLOWS:
- 1) The Ordinance rearranges various provisions of Danube City Ordinances No. 45, 47, 59, 66, and 67.
 - 2) The Ordinance includes definitions of words and phrases utilized in the Ordinance; the division of residential and commercial districts in the City of Danube; conforming uses for residential and commercial districts in the City of Danube; provisions relative to non-conforming uses in the various districts; lot setback requirements; requirements for obtaining building permits for fences and other alterations and improvements of real property and the procedure to be followed; general building permit and zoning provisions; and provisions relative to variances and enforcement of this Ordinance.
- III. Notice. THIS TITLE AND SUMMARY HAVE BEEN PUBLISHED TO CLEARLY INFORM THE PUBLIC OF THE INTENT AND EFFECT OF THE CITY OF DANUBE'S ORDINANCE ON ZONING AND BUILDING PERMITS. A COPY OF THIS ORDINANCE, IN ITS ENTIRETY, IS AVAILABLE FOR INSPECTION BY ANY PERSON DURING REGULAR OFFICE HOURS AT THE OFFICES OF THE CITY CLERK OF THE CITY OF DANUBE, 400 MAIN STREET, DANUBE, MN 56230.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF DANUBE
THE 4th DAY OF December, 1996.



Don Lothert - Mayor



Attest: Veva Mittelstadt
City Clerk

CITY OF DANUBE
ORDINANCE # 94

AN ORDINANCE REQUIRING PROCUREMENT, AND ESTABLISHING PROCEDURES FOR ISSUANCE, OF BUILDING PERMITS; ESTABLISHING BUILDING SETBACK REQUIREMENTS; ESTABLISHING CONFORMING AND NON-CONFORMING USES OF COMMERCIAL AND RESIDENTIAL PROPERTY; AND RESTRICTIONS ON FENCES.

Section 1. This Ordinance shall be referred to as the Building Permits and Zoning Ordinance.

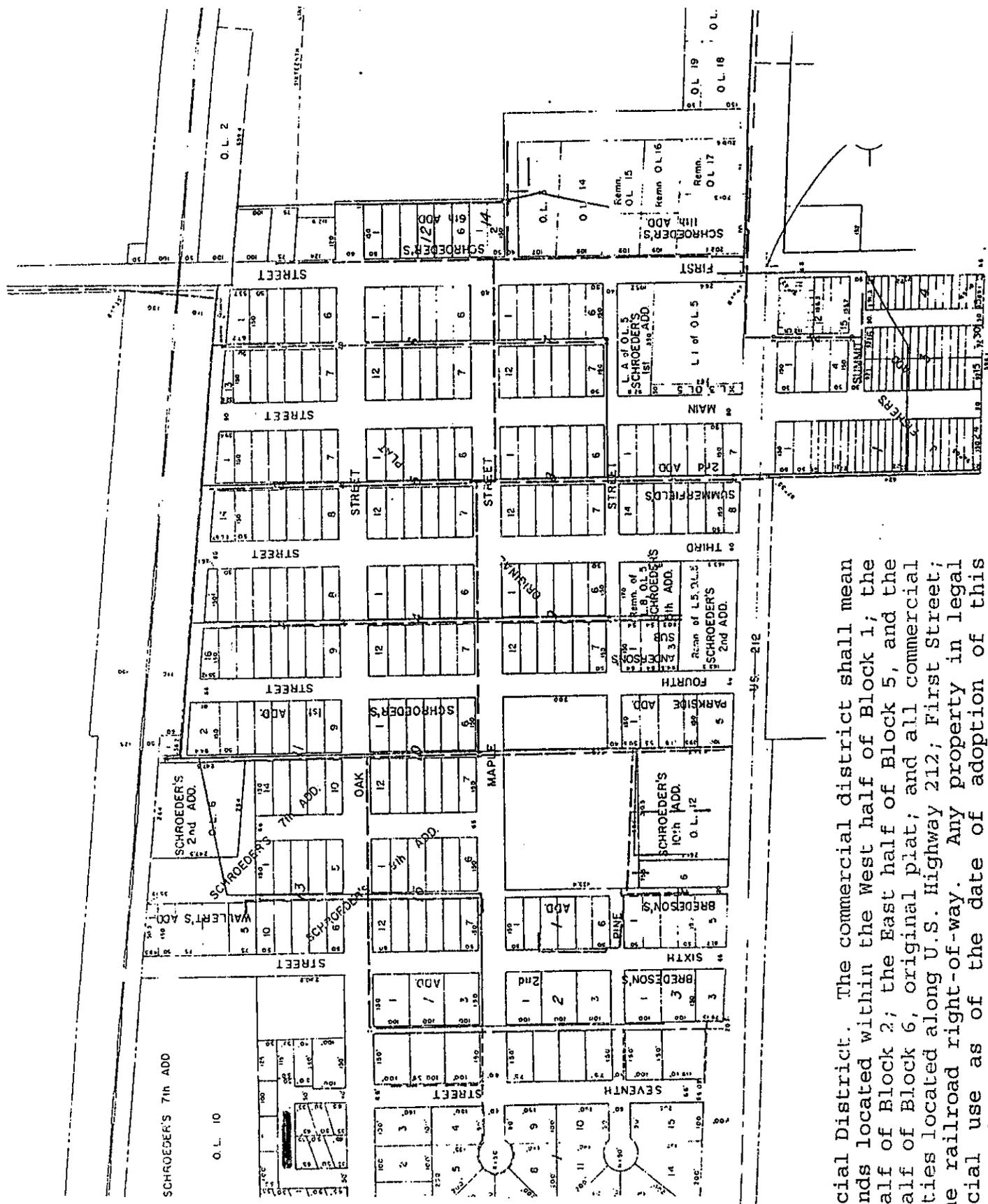
Section 2. Division of Districts. For the purpose of this Ordinance, the City of Danube is divided into two use districts as follows:

1. Residential District. The residential district shall include all of the territory in the City not zoned as commercial.
2. Commercial District. The commercial district shall mean all lands located within the West half of Block 1; the East half of Block 2; the East half of Block 5, and the West half of Block 6, original plat; and all commercial properties located along U.S. Highway 212; First Street; and the railroad right-of-way. Any property in legal commercial use as of the date of adoption of this Ordinance shall be deemed to be in the Commercial District.

It shall be the duty of the Clerk to keep on file in the City Office a map of the City indicating the zones as herein described and as they may be constituted by amendment hereto from time to time. This map shall be made available to the public upon request at any reasonable time.

Section 3. Definitions.

1. "Lot" means the area within the outside boundary lines of a City Lot, or two or more contiguous lots owned by the same person(s).
2. "Accessory Building" means any buildings unattached to the principle dwelling or other buildings on the lot including, but not limited to, garages, pool houses, pools/spas (as defined by Danube City Ordinance No. 92) and sheds.
3. "Side Lot Line" means the property line perpendicular to the adjoining street. For a corner lot, the side lot line means the longest property line perpendicular to a City street.
4. "Property line" shall mean the outside property lines of a City Lot, or two or more contiguous Lots owned by the same person(s).
5. "Building Permit" as used in this Ordinance refers solely to the permit required by this Ordinance and, if granted, such building permit does not reflect any compliance with the Minnesota State Building Code.



Commercial District. The commercial district shall mean all lands located within the West half of Block 1; the East half of Block 2; the East half of Block 5, and the West half of Block 6, original plat; and all commercial properties located along U.S. Highway 212; First Street; and the railroad right-of-way. Any property in legal commercial use as of the date of adoption of this Ordinance shall be deemed to be in the Commercial District.

6. "Manufactured Home" shall have the same definition as given in Minnesota Statutes Section 327.31, Subd. 6.

Section 4. Residential District. Conforming Uses. In the residential district, unless otherwise provided in this Ordinance, no building or premises shall be used, and no building hereafter be erected or structurally altered, except for one or more of the following uses:

1. A private dwelling, including a manufactured home which is constructed in compliance with Minnesota Statutes Sections 327.31 through 327.35, constructed on or installed upon, and permanently affixed to, a permanent masonry foundation and having at least 720 square feet of floor space on the ground floor level and having a width and depth of at least 20 feet at the narrowest points of the structure.
2. Crop farming or truck gardening; plant nurseries or greenhouses.
3. Recreational or community buildings which are publicly owned and operated.
4. Parks and playgrounds, golf courses, or clubs of not less than forty acres.
5. Parks, playground, churches, libraries, museums, schools, and memorial buildings, including name plates and bulletin boards, provided these are placed in back of the prescribed set back lines.
6. Temporary signs, not more than six square feet in area, pertaining to the leasing or sale of premises, such signs to be placed in back of the prescribed set back lines.
7. A single accessory building per Lot except as follows:
 - a) If the principle dwelling does not have an attached garage, then two accessory buildings, one of which is an unattached garage, are allowed.
 - b) A swimming pool/spa is not considered an accessory building only for the purposes of this Section 3.7.All accessory buildings must comply with the setback requirements in Section 8 of this Ordinance and be on a permanent masonry foundation, except storage sheds of dimensions 10' x 12' or less if such storage shed has a floor 6 inches or more above surrounding ground level which is supported by wood joists treated with preservatives or other suitable materials and has metal or other skirting to prevent access by animals to the area under the shed. No accessory building may exceed a height of 14 feet from the lowest ground level at its base to the highest peak of its roof.

Any land which may be added to the City in the future shall be placed in the residential district until special action of the City Council as hereinafter provided shall definitely assign such land to other use district.

Section 5. Commercial District. Conforming Uses. In the commercial district, unless otherwise provided in this Ordinance, no building or premises shall be used, and no building shall hereafter be erected or structurally altered except for one or more of the following uses:

1. All uses permitted in Section 3.
2. Retail commercial merchandising establishments such as grocery stores, dry goods, and department stores, drug stores, bakeries, candy and ice cream shops, jewelry stores, and other similar enterprises.
3. Public garages, gasoline filling stations, battery service stations, tire service stations.
4. Licensed places of amusement, restaurants, offices, financial institutions, telephone and telegraph businesses, newspaper or job printing, book binding, dress making shops, shoe repairing or dyeing shops.
5. Carpenter, furniture repairing or upholstery shop, electrical, metal working, tinsmithing, plumbing, water, gas or steam fitting shop, paint or paper hanging shop.
6. Mortuaries and funeral homes, but only by special permit of the City Council.
7. Any use of the same general character as the uses hereinbefore specifically permitted, provided such business or use is not obnoxious by reason of omission of dust, odor, gas, smoke or noise or by reason of being an excessive fire hazard.
8. Creameries, milk distributing stations, bottling works, laundries.
9. Storehouses, express and hauling office or station, ice plants, coal or lumber sales or storage yards, blacksmith shop, grain elevators and storage warehouses, railroad yards and roundhouses.
10. Gasoline and oil bulk stations and distributing plants.
11. Contractors' plants and accessory storage yards, but this shall not be so construed as to permit automobile or general junk yards.
12. Sexually Oriented Businesses or Adult Uses in compliance with Danube City Ordinances 87, 90, and 91.

Section 6. Non-conforming Uses. Provisions.

1. The lawful use of a building or premises existing at the time that this Ordinance takes effect may be continued, although such use does not conform to the provisions hereof. Such use may be extended through the building provided no structural alterations are made therein, other than those required by Ordinance or law. If such non-conforming use consists of a substantial building and is discontinued for one year or more, any future use of the building must be in conformity with the provisions of this Ordinance. However, if any non-conforming use of lands on which there are no substantial buildings is discontinued for any length of time, any future use of

- the land must be in conformity with the provisions of this Ordinance.
2. No building shall be erected or altered for use as a dwelling on a lot having less than forty feet frontage on a street.
 3. For the purpose of insuring reasonable visibility in the residential district, it is provided that no structure or fence may be erected or any vegetation maintained other than trees trimmed to a height of eight feet above curb level, and shrubs and hedges trimmed below a height of three feet above curb level, for a distance of approximately thirty feet from the intersection of the property lines of the two streets.
 4. Any building which is partially damaged or destroyed by fire, earthquake, wind, water, or explosion may be restored to its former use, provided that no building which does not conform to the requirements of the use district in which it is located, and which is thus partially damaged or destroyed to the extent of fifty percent or more, may be rebuilt or reconstructed. Estimate of the extent of damage or destruction shall be made by the City Council or its appointed agent.
 5. Public utility buildings to be used for the purpose of rendering service to the community and not for warehouse purposes, for the storage of bulky materials or for the manufacture of any commodity when the City Council shall deem them to be clearly necessary for the public convenience may be permitted in any use district. Such variation from the district regulation may be allowed for such building by the City Council as they deem necessary.
 6. Stables, chicken, or other poultry yards or houses, cow yards or lots, pig pens or sties, or other similar use of property which may be objectionable to adjacent property owners because of unsanitary conditions, odor, breeding of flies or vermin, or general nuisance, may be permitted in the residential district only after the owner of the proposed use has secured the written consent of seventy-five percent of all the property owners within three hundred feet of the proposed use; following this, the proposed use must be approved by a four-fifths' vote of the City Council.

Section 7. Fences. Fences may be placed on property lines, provided no damage of any kind results to abutting property. Prior to issuance of a building permit for any fences, abutting property owners shall be notified and verification of notice submitted to the City Clerk with the application for the building permit. The side of the fence considered to be the face (facing materials as applied to fence posts) shall face abutting property.

Section 8. Setback Requirements.

1. For purposes of this section regarding setback requirements, the following definitions apply:
 - a) "Commercial District". See Section 2-2.
 - b) "New Residential District" shall mean all lands located West of 6th Street; along both sides of 2nd Street East, if used for residential purposes; and any new addition or subdivision.
 - c) "Old Residential District" shall mean all other lands within the City of Danube, except undeveloped farm land.
2. Minimum Setback Requirements.
 - a) Commercial District
 - Front: Property line or sidewalk.
 - Side: 2 feet, unless adjoining buildings share a common party wall.
 - Rear: 10 feet from property line.
 - b) New Residential District
 - Front: 40 feet from curb, or in a line with the other new homes in the same block.
 - Side: 12 feet from property line.
 - Rear: 12 feet from property line or alley.
 - c) Old Residential District
 - Front: In line with existing homes in the same block.
 - Side: 2 feet from property line.
 - Rear: 6 feet from property line.
 - d) Corner Lots: In line with existing buildings on front and side(s).
3. For the purposes of the setbacks required by Section 8-2, roof overhangs shall be considered part of the main structure and within those distance requirements. Variances shall be required if the roof overhang will be closer to the boundary line than the distance specified.
4.
 - a) Where the City Council finds that extraordinary and unnecessary hardship may result from strict compliance with this section, a variance may be granted, provided that such variations will not have the effect of nullifying the intent and purpose of this section.
 - b) An application for a variance shall be filed with the Clerk stating the exceptional conditions and the peculiar difficulties claimed.
 - c) If the City Council shall determine that the special conditions applying to the structure or land in question are peculiar to such property, and do not apply generally to other land or structures in the district in which said land is located, and that the granting of the variance is necessary and that granting of the variance will not in any way impair health, safety, comfort, morals, or in any other respect be contrary to the intent of this

section, and that the granting of such variance will not merely serve as a convenience to the applicant, but is necessary to alleviate demonstrable hardship or difficulty, the City Council may grant such variance and impose conditions and safeguards thereon. Variances may be denied by the City Council and such denial shall constitute a finding and determination that the conditions required for approval do not exist.

Section 9. Building Permits.

1. No person, firm, partnership, or corporation shall, within the City of Danube, erect or construct, or commence the erection of construction of, or alter or commence the alteration of, any type of building, accessory buildings, or fences without first obtaining a Building Permit in accordance with the provisions and procedures set forth in this Ordinance.
2. Application for Permit. Application for a Building Permit shall be made to the City Clerk on forms prescribed and furnished by the Clerk and shall be accompanied by a permit fee in an amount as may be set by the City Council, from time to time, by resolution. Each application for a Building Permit shall be accompanied by a complete set of plans and specifications for the property construction or alteration of the building. The plans shall be drawn to scale showing the dimensions of the lot to be built upon, the size and location of all existing buildings, the size and location of the proposed new buildings or additions and alterations, and the applicable setbacks from the property lines. All applications for a Building Permit shall also include the date of completion of the construction of the new building, addition or alteration and such other information as may be necessary for the proper enforcement of this Ordinance.
Except for fences required under Ordinance No. 92, any application for a building permit for a fence must be accompanied by the written consent of all abutting property owners.
3. Approval of Application. All applications for a Building Permit under this Ordinance shall be referred by the City Clerk to the City Council. If the City Clerk is unable to determine from the application whether granting the permit would result in non-compliance with any provision of this Ordinance, the City Clerk shall refer the application to the Planning Commission to make recommendations to the City Council. After examination of the plans and specifications, the site of the proposed building, alteration, or use, the anticipated completion date, the effect that the proposed building, alteration or use shall have upon the surrounding property and

residences, and such other information as may be necessary for proper consideration of the application, including any recommendation by the Planning Commission, the City Council shall decide whether the permit applied for shall be granted or denied. Such decision of the City Council to be by a majority of the members present at a regularly called meeting of the City Council.

4. Issuance of Permit. If the application is approved by the City Council, the City Clerk shall issue the required permit.
5. Posting Permit. A copy of the permit shall be posted in a conspicuous place on the premises during the prosecution or existence of the work authorized.
6. Permit Duration. All work described in the application and the building permit, if granted, must be completed within one year from the date of issuance of the permit.

Section 10. General Provisions.

1. In all future platted additions to the City, all streets shall be at least 66 feet wide and each lot shall have the minimum front footage of 100 feet and a minimum depth of 150 feet.
2. Any previous Ordinances or parts of Ordinances which may be found to be in conflict with the provisions of this Ordinance, are hereby repealed.
3. Should any section, provision, clause, or phrase of this Ordinance be held to be invalid in the Court, such decision shall not invalidate any other parts of this Ordinance.
4. The provisions of this Ordinance defining the division of districts may be amended, changed, or altered only by a majority vote of the City Council and only after a public hearing which has been duly advertised. This action may initiate with the Council, or may be commenced by a petition of not less than fifty percent of the property owners affected by the proposed change or alteration and fifty percent of those property owners within three hundred feet of the proposed change.
5. No public sidewalks in commercial or residential areas may be abandoned, replaced or altered without a permit approved by the City Council.

Section 11. Variances. Except as provided for a variance of setback requirements as described in Section 8, any application for a Building Permit which, if granted, would result in non-compliance with the terms of this Ordinance, must also include the written consent of the owners of at least seventy-five percent of the real property within 300 feet of the proposed building activity. Upon receipt of such application, the City Council shall provide notice to all property owners within such 300 foot radius who have not consented in writing to the application and shall publish the notice (at least seven days before the hearing) of a Public Hearing

to consider the application.

Section 12. Vested Rights. No person, firm partnership, or corporation shall acquire any vested right to construct, alter, or maintain any building because of money spent or work done prior to obtaining a Building Permit required by the terms of this Ordinance, and shall not acquire any vested right to use any building or land for any purpose where such use is begun without first obtaining a Permit required by the terms of this Ordinance.

Section 13. Violations.

1. Any person or corporation violating the provisions of this Ordinance by failing to secure a permit, or who proceeds after the refusal of the City Council to grant a permit, shall be guilty of a misdemeanor and upon conviction thereof shall be punished according to law. Each day a violation of this Ordinance continues shall constitute a separate violation hereof and shall be subject to separate punishment.
2. In addition to any other penalty provided for herein, any person, firm, partnership, or corporation who fails to complete the building or alteration within the time limit set forth in the permit shall be guilty of a petty misdemeanor as defined in the Statutes of the State of Minnesota and shall be liable for sentence or a fine of not more than \$20.00 per day. Each day that the building or alteration is not completed passes the date established in the permit shall constitute a separate violation hereof and be subject to separate punishment.
3. If any building or structure is built, constructed, altered, erected, added to, or placed in violation of this Ordinance, the City Council may order that the same be removed forthwith or be made to comply with the requirements of this Ordinance, and in case of the refusal or neglect of the owner to so remove or comply with the requirements of this Ordinance within 10 days after notice of such order, such owner shall be guilty of a misdemeanor and upon conviction thereof shall be punished according to law. The continued violation of such order and each day such violation continues shall constitute a separate violation hereof and shall be subject to separate punishment.

Section 14. Enforcement. The City Council may, by resolution, appoint a Planning Commission to make finding and recommendations to the City Council regarding applications for variances requested under Section 9-3 and Section 11.

Section 15. Effective Date. This Ordinance become effective upon its passage and publication according to law.

Passed and adopted by the City Council of the City of Danube
this 4th day of December, 1996.

Don Lothert
Don Lothert, Mayor

Veva Mittelstadt
Attest: Veva Mittelstadt
City Clerk