

**TITLE 8: FLOODPLAIN**

CHAPTER 1 TITLE, INTENT, STANDARDS AND OBJECTIVES ..... 1

## **TITLE 8 FLOOD PLAINS**

### **CHAPTER 1 TITLE, INTENT, STANDARDS AND OBJECTIVES**

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#### **SECTION 8-1-1 PURPOSE**

This Title is enacted pursuant to the police powers granted to the City by the Illinois Municipal Code. This Chapter is adopted in order to accomplish the following specific purposes:

- A. To assure that new development does not increase the flood or drainage hazards to others, or create unstable conditions susceptible to erosion;
- B. To minimize potential losses due to periodic flooding;
- C. To protect new buildings and major improvements to buildings from flood damage;
- D. To protect human life and health from the hazards of flooding;
- E. To lessen the burden on the taxpayer for flood control projects, repairs to flood-damaged public facilities and utilities, and flood rescue and relief operations;
- F. To make federally subsidized flood insurance available for property in the City by fulfilling the requirements of the National Flood Insurance Program;
- G. To comply with the rules and regulations of the National Flood Insurance Program codified as 44 CFR 59-79, as amended;
- H. To protect, conserve and promote the orderly development of land and water resources;
- I. To preserve the natural hydrologic and hydraulic functions of watercourses and floodplains and to protect water quality and aquatic habitats; and
- J. To preserve the natural characteristics of stream corridors in order to moderate flood and storm water impacts, improve water quality, reduce soil erosion, protect aquatic and riparian habitat, provide recreational opportunities, provide aesthetic benefits and enhance community and economic development.

## SECTION 8-1-2 DEFINITIONS

The following words, terms, and phrases shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning.

**"A" and "A" numbered zones:** Those areas in the floodplain subject to a one (1) percent or greater change of flooding in any given year.

**Act:** An act in relation to the regulation of the rivers, lakes, and streams of the State of Illinois, ILCS 5/5 et seq. 6/5

**Applicant:** Any person, firm, corporation or agency which submits an application.

**Base flood:** The flood having a one (1) percent probability of being equaled or exceeded in any given year. The base flood is also known as the one hundred (100) year frequency flood event. Application of the base flood elevation at any location is as defined in Section 5 of this Chapter.

**Base flood elevation:** The elevation in relation to mean sea level of the crest of the base flood.

**Building:** A structure that is principally above ground and is enclosed by walls and a roof. The term includes a gas or liquid storage tank, a manufactured home or a prefabricated building. This term also include recreational vehicles and travel trailers to be installed on a site for more than one hundred eighty (180) days.

**Dam:** All obstructions, wall embankments or barriers, together with their abutments and appurtenant works, if any, constructed for the purpose of storing or diverting water or creating a pool. Underground water storage tanks are not included. This definition specifically excludes "levees" as defined in this Section.

**Development:** Any manmade change to real estate including:

- A. Construction, reconstruction, repair, or placement of a building or any addition to a building;
- B. Installing a manufactured home on a site, preparing a site for a manufactured home, or installing a travel trailer on a site for more than one hundred eighty (180) days;
- C. Mining, dredging, filling, grading, paving, excavation, or drilling operations;
- D. Redevelopment of a construction site;
- E. Storage of equipment or materials;
- F. Clearing of land as an adjunct of construction.
- G. Channel modifications or any other activity that might change the direction, height, or velocity of flood or surface water.

Development does not include maintenance of existing buildings and facilities such as reroofing or resurfacing of roads when there is no increase in elevation; or gardening, plowing, and similar agricultural practices that do not involve filling, grading, or construction of levees.

**DWR:** Illinois Department of Transportation, Division of Water Resources.

**Elevation certificate:** A form published by the federal emergency management agency that is used to certify the elevation to which a building has been elevated.

**FEMA:** Federal emergency management agency and its regulations at 44 CFR 59-79 effective as of November 1, 1989.

**Fill:** The placing, storing, or dumping of any material such as, but not limited to, earth, clay, sands, concrete, rubble, or waste of any kind upon the surface of the ground which results in increasing the natural ground surface elevation.

**Flood:** A general and temporary condition of partial or complete inundation of normally dry land areas from overflow of inland or tidal waters, or the unusual and rapid accumulation or runoff of surface waters from any source.

**Flood frequency:** A period of years, based on a statistical analysis, during which a flood of a stated magnitude may be equaled or exceeded.

**Flood fringe:** That portion of the floodplain outside of the regulatory floodway.

**Flood insurance rate maps (FIRM):** Maps prepared by the Federal Emergency Management Agency that depict the special flood hazard areas (SFHA) within a community. These maps include insurance rate zones and floodplains and may or may not depict floodways.

**Floodplain:** That area with water and ground surface elevations at or below the base flood or the one hundred (100) year frequency flood elevation. Floodplains may also include detached special flood hazard areas, ponding areas, etc. The floodplain is also known as the special flood hazard area (SFHA). The floodplains are those lands within the jurisdiction of the county that are subject to inundation by the base flood or one hundred (100) year frequency flood. The floodplains of the City are generally identified as such on the Flood Insurance Rate Map prepared by the Federal Emergency Management Agency for Peoria County dated June 1, 1983.

**Floodproofing:** Any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

**Floodproofing certificate:** A form published by the Federal Emergency Management Agency that is used to certify that a building designed and constructed to be structurally dry and floodproofed to the flood protection elevation.

**Flood protection elevation (FPE):** The elevation of the base flood or one hundred (100) year frequency flood plus two (2) feet of freeboard at any given location in the SFHA.

**Floodway:** That portion of the floodplain required to store and convey the base flood. The floodway for Dry Run Creek shall be as delineated on the Flood Boundary Floodway Map prepared by FEMA. and dated June 1, 1983. The floodways for any remaining floodplains of the City shall be according to the best data available from Federal, State, or other sources.

**Freeboard:** An increment of elevation added to the base flood elevation to provide a factor of safety for uncertainties in calculations, unknown localized conditions, wave actions and unpredictable effects such as those caused by ice or debris jams.

**Historic structure:** Any structure that is:

- A. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- B. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- C. Individually listed on a State inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- D. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
  1. By an approved State program as determined by the Secretary of the Interior; or
  2. Directly by the Secretary of the Interior in states without approved programs.

**Letter of map revision (LOMR):** Letter that revises base flood or one hundred (100) year frequency flood elevations, flood insurance rate zones, flood boundaries or floodways as shown on an effective FIRM.

**Levee:** A continuous dike or ridge of earth for confining water away from an area of land which would otherwise flood.

**Manufactured home:** A structure, transportable in one (1) or more sections, which is built on a permanent chassis and is designated for use with or without a permanent foundation when connected to the required utilities. The term "manufactured home" also includes park trailers, travel trailers and other similar vehicles placed on site for more than one hundred eighty (180) consecutive days.

**Manufactured home park or subdivision:** A parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.

**Mitigation:** Mitigation includes those measures necessary to minimize the negative effects which floodplain development activities might have on the public health, safety and welfare. Examples of mitigation include soil erosion and sedimentation control and channel restoration.

**New construction:** For the purpose of determining insurance rates, structures for which the start of construction commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, "new construction" means structures for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

**NGVD:** National Geodetic Vertical Datum of 1929. Reference surface set by the National Geodetic Survey deduced from a continental adjustment of all existing adjustments in 1929.

**Registered professional architect:** An architect registered in the State of Illinois, under the Illinois Architectural Practice Act of 1989.

**Registered professional engineer:** An architect registered in the State of Illinois, under the Illinois Structural Engineering Licensing Act, (225 ILCS 340/1 & 225 ILCS 340/38), or the Professional Engineering Practice Act of 1989.

**Regulatory floodway:** The channel, including on-stream lakes, and that portion of the floodplain adjacent to a stream or watercourse as designated by DWR, which is needed to store and convey the existing and anticipated future one hundred (100) year frequency flood discharge with no more than a one-tenth-foot (1/10') increase in stage due to the loss of flood conveyance or storage, and no more than a ten (10) percent increase in velocities. To locate the regulatory floodway boundary on any site, the regulatory floodway boundary should be scaled off the regulatory floodway map (or charts consulted where applicable) and located on a site plan, using reference marks common to both maps. Where interpretation is needed to determine the exact location of the regulatory floodway boundary, DWR should be contacted for the interpretation.

**Riverine SFHA:** Any SFHA subject to flooding from a river, creek, intermittent stream, ditch, stream lake system or any other identified channel. This term does not include areas subject to flooding from lakes, ponding areas, areas of sheet flow, or other areas not subject to overbank flooding.

**Special flood hazard area (SFHA):** Any base flood area subject to flooding from a river, creek, intermittent stream, ditch, or any other identified channel or ponding and shown on a flood insurance rate map as an "A" or "A" numbered zone.

**Start of construction:** The date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within one hundred eighty (180) days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading,

and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings piers, or foundations or the erections (of) temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

**Structure:** The results of a manmade change to the land constructed on or below the ground, including the construction, reconstruction or placement of a building or any addition to a building; installing a manufactured home on a site; preparing a site for a manufactured home or installing a travel trailer on a site for more than one hundred eighty (180) days. This, however, does not include private antennas, fences, mailboxes, flagpoles, birdbaths, sidewalks, driveways, and similar items used for landscaping or decorative purposes.

**Substantial damage:** Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred.

**Substantial improvement:** Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either (a) any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions or (b) any alteration of an historic structure, provided that the alteration will not preclude the structure's continued designation as an historic structure.

**Variance:** A deviation from the regulations and standards adopted by this Chapter which the Zoning Board of Appeals is permitted to grant when strict enforcement would cause undue hardship owing to circumstances unique to the individual property, lot, building, structure, use, or premises for which the variance is sought.

**Zoning Administrator:** The person whom the Mayor designates to enforce this Chapter. The Mayor may designate the County Zoning Administrator or such other person who is to enforce the provisions of this Chapter within the City of West Peoria.

**Zoning board of appeals:** The County Zoning Board of Appeals, also referred to as the Zoning Board, until such time as the City of West Peoria appoints a Zoning Board of Appeals and then the City Zoning Board of Appeals.

### SECTION 8-1-3 HOW TO USE THIS CHAPTER

The Zoning Administrator shall be responsible for fulfilling all of the duties listed in Section 8-1-4.

To fulfill those duties, the Zoning Administrator first should use the criteria listed in Section 8-1-8 to determine whether the development site is located within a floodplain. Once it has been determined that a site is located within a floodplain, the Zoning Administrator must determine whether the development site is within a flood fringe or a regulatory floodway. If the site is within a flood fringe, the Zoning Administrator shall require the minimum requirements of Section 8-1-6 be met. If the site is within a floodway, the Zoning Administrator shall require adherence to Section 8-1-7.

In addition, the general requirements of Section 8-1-8 shall be met for all developments meeting the requirements of Section 8-1-6. The Zoning Administrator shall assure that all subdivision proposals shall meet the requirements of Sections 8-1-7 and 8-1-8.

Variations granted by the Zoning Board of Appeals shall comply with the requirements of Section 8-1-10. The Zoning Board shall complete all notification requirements as set forth in Sections 8-1-10 L and 8-1-10 M.

In order to assure that property owners obtain permits as required in this Chapter, the Zoning Administrator may take any and all actions as outlined in Section 8-1-14.

#### SECTION 8-1-4 DUTIES OF THE ENFORCEMENT OFFICIAL

The Zoning Administrator shall be responsible for the general administration and enforcement of this Chapter which shall include the following:

- A. Determining floodplain designation. Check all new development sites to determine whether they are in a special flood hazard area (SFHA). If they are in a SFHA., determine whether they are in a floodway, or a floodplain fringe. Enforce requirements of Sections 8-1-6, 8-1-7, and 8-1-8 and on all development in the floodplain.
- B. Dam safety requirements. Ensure that a DWR dam safety permit has been issued or a letter indicating no dam safety permit is required, if the proposed development activity includes construction of a dam as defined in Section 8-1-2. Regulated dams may include weirs, restrictive culverts or impoundment structures.
- C. Other permit requirements. Ensure that any and all required federal, state, and local permits are received prior to the issuance of a floodplain development permit. See Title 11, Fee Schedule.
- D. Plan review and permit issuance. Ensure that any and all development activities within SFHAs located within the jurisdiction of the City meet the requirements of this Chapter and issue a floodplain development permit in accordance with the provisions of both this Chapter and other regulations of this community when the development meets the conditions of this Chapter.
- E. Inspection review. Inspect all development projects before, during and after construction to assure proper elevation of structures and to ensure compliance with the provisions of this Chapter.
- F. Elevation and floodproofing certificate. Maintain for public inspection and furnish upon request base flood data, SFHA and regulatory floodway maps, copies, of federal and state permit documents, documentation of variances, conditional letters of map revision, letters of map revision, letters of map amendment, "as built" elevation and floodproofing documentation, and elevation and floodproofing certificates for all buildings constructed subject to this Chapter. See Title 11, Fee Schedule.
- G. Cooperation with other agencies. Cooperate with state and federal floodplain management agencies to improve base flood or one hundred (100) year frequency flood and floodway data and to improve the administration of this Chapter. Submit data to DWR and the Federal Emergency Management Agency for proposed revisions of a regulatory map. Submit reports as required for the National Flood Insurance Program. Notify the federal emergency management agency of any proposed amendments to this Chapter.
- H. Promulgate regulations. Promulgate rules and regulations as necessary to administer and enforce the provisions of this Chapter subject, however, to the review and approval of DWR and FEMA for any chapter.

#### SECTION 8-1-5 BASE FLOOD ELEVATIONS

The protection standard of this Chapter is based on the flood insurance study (FIS) and amendments thereto of the County dated December 1, 1982, as amended, prepared under the direction of the Federal Emergency Management Agency (FEMA.), Federal Insurance Administration (FIA), and is hereby adopted for the purpose of this Chapter and is on file in the office of the Zoning Administrator. The flood insurance study

includes the flood insurance rate maps (FIRM) dated June 1, 1983, as amended, which delineate the SFHA as areas that are susceptible to the base flood, and the flood boundary and floodway maps dated June 1, 1983, as amended, which delineate the regulatory floodway. The flood insurance study data shall take precedence over other base flood elevation data for the purpose of this Chapter.

- A. The base flood elevation at any particular location shall be as delineated on the base flood profile in the flood insurance study; provided, that for any proposed subdivision or new development greater than fifty (50) lots or five (5) acres, whichever is the lesser, the applicant shall provide the base flood elevation data for each lot or platted parcel located in an SFHA. Base flood data received from the Federal Insurance Administration shall take precedence over data from other sources.
- B. If a disagreement arises concerning the best available flood data, the applicant may engage a registered professional engineer to conduct a detailed engineering study and submit it to DWR and FEMA for their review and determination.
- C. A development permit for a site located in a floodway (or in a riverine SFHA where no floodway has been identified) shall not be issued unless the applicant first obtains a permit or written documentation that a permit is not required from the Illinois Department of Transportation, Division of Water Resources, issued pursuant to 615 ILCS 5/5 et seq. See Title 11, Fee Schedule.
- D. Letter of map revision (LCMR). To effect a map change to the County floodway and floodplain maps, an ICMR for a SFHA property to be protected by a proposed levee must be obtained from FEMA subject to the following criteria:
  1. The applicant shall submit the following to the Zoning Administrator who shall in turn submit this information to FEMA and DWR:
    - a) Site plan of area proposed for levee protection and an overlay of corresponding flood boundary lines.
    - b) Elevations of site and proposed levee.
    - c) Design plans for proposed levee, gates, and closures.
    - d) Detailed report listing proposed levee material to be utilized; width, length and height above grade, internal drainage facilities, gates, and closures.
    - e) Proposed maintenance and inspection schedule.
  2. The applicant shall submit to the Zoning Administrator written proof that the proposed levee has been reviewed and approved by the applicable federal and state agencies.
  3. No building permits shall be issued until said maps are amended by FEMA, approved by DWR and received by the County Zoning Administrator excluding the proposed building site from the floodway or base flood level boundaries, unless said proposal is in accordance with all other pertinent parts of this Chapter.
  4. If said site is excluded by official map change from the floodway boundaries but not the base flood level boundaries, or if the official map change is not approved by either FEMA or DWR, all other pertinent parts of this Chapter shall apply to development on the proposed building site.

## SECTION 8-1-6 OCCUPATION AND USE OF FLOOD FRINGE AREAS

Development in the flood fringe will be permitted if protection is provided against the base flood or one hundred (100) year frequency flood by proper elevation of structures and if other provisions of this Chapter are met. No use will be permitted which adversely affects the capacity of drainage facilities or systems. Developments located within the flood fringe shall meet the requirements of this Section, along with the requirements of Section 8-1-8.

- A. Development Permit
  1. No person, firm, corporation, or governmental body not exempted by state law shall commence any development in the flood fringe without first obtaining a development permit from the Zoning Administrator. See Title 11, Fee Schedule.



2. Application for a flood fringe development permit shall be made on a form provided by the Zoning Administrator. The application shall be accompanied by drawings of the site, drawn to scale, showing property line dimensions; existing grade elevations based on NGVD; all changes in grade resulting from excavation or filling, and the location and dimensions of all buildings and additions to buildings. For all proposed buildings, the elevation of the lowest floor (including basement, cellar, or crawl space) and lowest adjacent grade shall be shown on the submitted plans and the development will be subject to the requirements of Sections 8-1-7 and/or 8-1-8 of this Chapter. See Title 11, Fee Schedule.
3. Upon receipt of a development permit application, the Zoning Administrator shall compare the elevation of the site to the base flood or one hundred (100) year frequency flood elevation. Any development located on land that can be shown to have been higher than the base flood elevation as of the site's first flood insurance rate map identification is not in the SFHA and therefore, not subject to the requirements of this Chapter. The Zoning Administrator shall maintain documentation of the existing ground elevation at the development site and certification that this ground elevation existed prior to the date of the site's first flood insurance rate map identification.
4. The Zoning Administrator shall be responsible for obtaining from the applicant, copies of all other local, state, and federal permits, approvals, or permit-not-required letters that may be required for this type of activity. The Zoning Administrator shall not issue a permit unless all other applicable local, state, and federal permits have been obtained.

B. Preventing Increased Damages

No development or fill in the flood fringe shall create a threat to public health and safety. Construction practices and methods shall minimize flood damages to other properties.

C. Fee

The fee for a floodplain fill permit is five dollars and 00/100 (\$5.00), which shall be paid to Peoria County.

SECTION 8-1-7 REGULATORY FLOODWAYS

- A. There shall be no new construction, fill, or substantial improvements in the designated regulatory floodway.
- B. Nonconforming structures located in a regulatory floodway may remain in use, but shall not be enlarged, replaced or structurally altered. A substantially damaged nonconforming structure shall not be repaired.

SECTION 8-1-8 PERMITTING REQUIREMENTS APPLICABLE TO FLOOD FRINGE AREAS

In addition to the requirements found in Section 8-1-6, the following requirements for all new construction and substantial improvements to structures located in an SFHA, (other than the regulatory floodway), shall be met:

- A. Public health standards. No developments in the flood fringe shall include locating or storing chemicals, explosives, animal wastes, fertilizers, flammable liquids, pollutants, or other hazardous or toxic materials below the flood protection elevation.
- B. Protecting buildings. All buildings located within a flood fringe shall be protected from flood damage below the flood protection elevation.

Building protection criteria apply to the following situations:

1. Construction or placement of a new building.
2. A substantial improvement to an existing building.

3. Installing a manufactured home on a new site or a new manufactured home on an existing site. This building protection requirement does not apply to returning a manufactured home to the same site it lawfully occupied before it was removed to avoid flood damage; and
4. Installing a travel trailer on a site for more than one hundred eighty (180) days. Building protection requirements shall be met by one of the following methods:
  - a) A residential or nonresidential building may be elevated in accordance with the following:
    - (i) The building or improvements shall be elevated on stilts, piles, walls, or other foundation that is permanently open to floodwaters and not be subject to damage by hydrostatic pressure of the base flood or one hundred (100) year frequency flood. Designs for meeting this requirement shall either be certified by a registered professional engineer or a registered professional architect or meet or exceed the following minimum criteria. A minimum of two (2) openings having a total net area of not less than one (1) square inch for every one (1) square foot of enclosed area subject to flooding below the base flood elevation shall be provided. The bottom of all openings shall be no higher than one (1) foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters.
    - (ii) The foundation and supporting members shall be anchored and aligned in relation to flood flows and adjoining structures so as to minimize exposure to known hydrodynamic forces such as current, waves, ice, and floating debris
    - (iii) All areas below the flood protection elevation shall be constructed of materials resistant to flood damage. The lowest floor (including basement, cellar or crawl space) and all electrical, heating, ventilating, plumbing, and air conditioning equipment and utility meters shall be located at or above the flood protection elevation. Water and sewer pipes, electrical and telephone lines, submersible pumps, and other waterproofed service facilities may be located below the flood protection elevation, provided that plans certified by a registered professional engineer or a registered professional architect shall stipulate that the service facilities located below the FPE will be floodproofed. After the building has been built, a registered professional engineer or a registered professional architect shall certify in writing that the total floodproofing of the service facilities located below the FPE has occurred before a certificate of occupancy can be issued.
    - (iv) The areas below the flood protection elevation are usable solely for parking of vehicles. Areas below the BFE shall not be used for the storage of any other goods.
    - (v) Manufactured homes and travel trailers to be installed on a site for more than one hundred eighty (180) days, shall be elevated to or above the flood protection elevation; and, shall be anchored to resist floatation, collapse, or lateral movement by being tied down in accordance with the rules and regulations for the Illinois Mobile Home Tie-Down Act issued pursuant to 77 III. Adm. Code 870.
  - b) Only a nonresidential building may be structurally dry floodproofed (in lieu of elevation), provided that plans certified by a registered professional engineer or a registered professional architect shall indicate that the building will be structurally dry floodproofed below the flood protection elevation, and that the structure and attendant utility facilities are watertight and capable of resisting the effects of the

base flood or one hundred (100) year frequency flood. The building design shall take into account flood velocities, duration, rate of rise, hydrostatic and hydrodynamic forces, the effects of buoyancy, and impacts from debris or ice. Dry floodproofing measures shall be operable without human intervention and without an outside source of electricity (levees, berms, floodwalls, and similar works are not considered floodproofing for the purpose of this subsection). After the building has been built, a registered professional engineer or a registered professional architect shall certify in writing that the structure has been dry floodproofed below the FPE before a certificate of occupancy shall be issued for the structure.

- c) A nonconforming structure damaged by flood, fire, wind, or other natural or manmade disaster may be restored unless the damage exceeds fifty (50) percent of its market value before it was damaged, in which case it shall conform to this Chapter.
- d) Tool sheds and detached garages on an existing single-family platted lot may be constructed with the lowest floor below the flood protection elevation in accordance with the following
  - (i) All sheds and garages located below the flood protection elevation (FPE) shall be constructed of water-damage-resistant materials up to the FPE. In addition, all requirements of Section 8-1-6 must be met.
  - (ii) The structure shall be anchored to prevent floatation;
  - (iii) Service facilities such as electrical and heating equipment shall be elevated or floodproofed to the flood protection elevation. A registered professional engineer or a registered professional architect shall inspect the applicable building permit plans and certify that the service facilities are floodproofed;
  - (iv) The building shall be less than six hundred twenty-five (625) square feet in floor size; and
  - (v) The building shall be used only for the storage of vehicles or tools and may not contain other rooms, workshops, greenhouses, or similar uses.

#### SECTION 8-1-9 OTHER DEVELOPMENT REQUIREMENTS

The City Council and the plat officer shall take into account flood hazards, to the extent that they are known in all official actions related to land management, use, and development.

- A. New subdivisions, manufactured home parks, and planned unit developments (PUDs) within the SFHA shall be reviewed to assure that the proposed developments are consistent with Sections 8-1-5 through 8-1-8 of this Chapter and the need to minimize flood damage. Plats, or plans for new subdivisions, manufactured home parks and planned unit developments (PUDs) shall include a signed statement by a registered professional engineer that the plat or plans account for changes in the drainage or surface waters in accordance with the Plat Act (765 ILCS 205/2)
- B. Proposals for new subdivisions, manufactured home parks, travel trailer parks, planned unit developments (PUDs) and additions to manufactured home parks and additions to subdivisions shall include base flood or one hundred (100) year frequency flood elevation data and floodway delineations.
- C. Streets, blocks, lots, parks and other public grounds shall be located and laid out in such a manner as to preserve and utilize natural streams and channels. Wherever possible, the floodplains shall be included within parks or other public grounds.

SECTION 8-1-10 VARIANCES

- A. Whenever in a specified case, after an application for a permit has been made to the Zoning Administrator and the same has been denied and an appeal is made to the Zoning Board of Appeals, alleging that because of certain exceptional conditions peculiar to the applicant's property, the strict application of the regulations of this Chapter would result in practical difficulties or particular hardship in carrying out the strict letter of any regulation relating to the construction, alteration, or location of buildings or structures in a floodplain; the Zoning Board shall have the power to determine and vary their application in harmony with the general purpose and intent of this chapter.
- B. A variation under this Section shall be permitted only if the Zoning Board finds that it is in harmony with the general purpose and intent of this Chapter and the National Flood Insurance Act of 1968, as amended, and that there are practical difficulties or particular hardships that would result from carrying out the strict letter of the provisions of this Section.
- C. An applicant for a variance shall be required to seek all necessary federal, state, and other permits from applicable regulatory agencies.
- D. Variances shall not be issued within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.
- E. No variance shall be granted unless the applicant demonstrates that:
  - 1. The development activity cannot be located outside the SFHA;
  - 2. There will be no additional threat to public health, safety, beneficial stream uses and functions, (especially aquatic habitat), or creation of a nuisance;
  - 3. There will be no additional public expense for flood protection, lost environmental stream uses and functions, rescue or relief operations, policing, or repairs to stream bed and banks, roads, utilities, or other public facilities;
  - 4. The applicant's circumstances are unique and do not represent a general problem;
  - 5. The granting of the variance will not alter the essential character of the area involved including existing stream uses;
  - 6. Special conditions and circumstances exist which are peculiar to the land or structure involved which are not applicable to other lands or structures under the same circumstances;
  - 7. The literal interpretation of the provisions of this Chapter would deprive the applicant of rights commonly enjoyed by other lands or structures in the same district under the terms of this Chapter;
  - 8. The special conditions and circumstances do not result from the actions of the applicant;
  - 9. The granting of the variance requested will not confer on the applicant any special privilege that is denied by the chapter to other lands or structures under the same circumstances;
  - 10. The reasons set forth in the application justify the granting of the variance and the variance is the minimum variance that will make possible the reasonable use of the property; and
  - 11. The values or character of property within the surrounding area will not be diminished or impaired thereby, nor the nearby property adversely affected.
- F. Public hearing and notice. The variance petition shall be given a public hearing before the Zoning Board of Appeals as for any other petition for variance under the Zoning Ordinance.
- G. The concurring vote of three (3) members of a zoning board consisting of five (5) members or the concurring vote of five (5) members of a zoning board consisting of seven (7) members shall be necessary to effect any variation in this Chapter.
- H. The Zoning Administrator or his delegate shall be the technical consultant to the Zoning Board in person at variance hearings. When necessary, the Zoning Administrator and/or Zoning Board of Appeals shall seek professional advice from qualified engineers or technical experts. An additional fee may be charged to the variance petitioner. The expert's fee shall be paid in full by the applicant

within ten (10) days after the County submits a bill to the petitioner. Failure to pay the bill shall constitute a violation of this Chapter and shall be grounds for the issuance of a stop work order. An expert shall not be hired by the County at the expense of the applicant until the applicant has either consented to such hiring or been given an opportunity to be heard on the subject.

1. The Zoning Administrator's or his delegate's reports and recommendations shall be included in the minutes and made a part of the record of the Zoning Board.
  2. Findings of fact. The action of the Zoning Board in granting or denying a variation shall contain or be accompanied by a finding of fact specifying the reason for the decision.
- I. The chairman of the Zoning Board of Appeals shall require applicants to record all approved variances as a supplement to their deed of record. The petitioner shall pay the recording fee.
- J. The chairman of the Zoning Board of Appeals shall submit in writing to the Zoning Administrator who shall subsequently forward the following to the FEMA regional natural and technological hazards chief:
1. Description of variance (location, name and flood level).
  2. The decision of the Zoning Board of Appeals and their finding of fact relevant to the case.
- K. Upon approval of a variance, the Zoning Board of Appeals shall notify the applicant in writing over the signature of the chairman of the Zoning Board of Appeals 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 twenty-five dollars (\$25.00) for one hundred dollars (\$100.00) of insurance coverage.
  2. Such construction below the base flood level increases risks to life and property.
  3. Such notification shall be maintained with a record of all variance actions.
- L. Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure, and the variance is the minimum necessary to preserve the historic character and design of the structure.
- M. Fees. The petitioner shall pay all required publication costs associated with his or her request. To partially defray the expense of investigating and considering an appeal for variation or a modification of any restrictions imposed by the Zoning Board of Appeals where a public hearing is required, an additional fee of sixty-five dollars (\$65.00) shall be charged the applicant and be collected by the Zoning Administrator, who shall account for the same to the County. The sixty-five dollar (\$65.00) filing fee shall be paid at the time of filing and the publication fee shall be paid prior to any final disposition of the request. Local government units, where their jurisdictional boundaries are located wholly within the county, are exempt from paying the filing fees.

(Ord. 2013-01)

## SECTION 8-1-11 APPEALS

- A. Any person aggrieved, or any officer, department, board or bureau of the county may appeal to the Zoning Board of Appeals to review any order, requirement, decision, or determination made by the Zoning Administrator.
- B. Such appeal shall be made within thirty-five (35) days from the date of the action appealed from, by filing with the Zoning Administrator and the Zoning Board a notice of appeal specifying the grounds thereof. The Zoning Administrator shall forthwith transmit to the Zoning Board all papers constituting the record upon which the action appealed from was taken.
- C. An appeal stays all proceedings in furtherance of the action appealed from, unless the Zoning Administrator certifies to the Zoning Board, after the notice of appeal has been filed with him, that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed other than by a restraining order which

may be granted by the Zoning Board or by a court of record on application, on notice to the Zoning Administrator and on due cause shown.

- D. The Zoning Board shall fix a reasonable time for the hearing of the appeal and give due notice thereof to the parties and decide the same within a reasonable time. Upon the hearing, any party may appear in person, by agent or attorney. The Zoning Board may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination as in its opinion ought to be made in the premises, and to that end, shall have all the powers of the Zoning Administrator.
- E. To partially defray the expense of investigating and considering an appeal, a fee of forty-five dollars (\$45.00) shall be charged the appellant and shall be collected by the enforcing officer, who shall account for the same to the County.
- F. Appeals shall be made in conformity with the provisions of the Administrative Review Act of the State. The party making the appeal shall pay the costs of preparing the record on appeal. Copies of any orders or proceedings ordered by the appellant shall be furnished to him at his own cost.

#### SECTION 8-1-12      DISCLAIMER OF LIABILITY

The degree of flood protection required by this Chapter is considered reasonable for regulatory purposes and is based on available information derived from engineering and scientific methods of study. Larger floods may occur or flood heights may be increased by manmade or natural causes. This Chapter does not imply that development, either inside or outside of the SFHA, will be free from flooding or damage. This Chapter does not create liability on the part of the City or County or any officer or employee thereof for any flood damage that results from reliance on this Chapter or any administrative decision made lawfully thereunder.

#### SECTION 8-1-13      NOTICE OF VIOLATION

- A. It shall be the duty of the Zoning Administrator to enforce the provisions of this Chapter and to notify the owner or person in control of any private property of any violation of this Chapter.
- B. Service of such notice shall be made by means of personal service of a copy of the notice or by certified or registered mail of a copy of the notice which is addressed to the residence or usual place of business of the owner or person in control of the private property.
- C. Such notice shall fairly apprise the owner or person in control of the nature of the violation, his duty to abate the violation and the penalty for failure to abate the violation.

#### SECTION 8-1-14      PENALTY

- A. Failure to comply with the requirements of a permit or conditions of a variance resolution shall be deemed to be a violation of this Chapter. Upon due investigation, the Zoning Administrator may determine that a violation of the minimum standards of this Chapter exist.
- B. Such person may be enjoined from continuing such violations.
- C. The violation of the terms of this Chapter is hereby declared to be a petty offense punishable by a fine not to exceed five hundred dollars (\$500.00). Each week the violation remains uncorrected constitutes a separate offense.
- D. The Zoning Administrator shall inform the owner that any such violation is considered a willful act to increase flood damages and, therefore, may cause coverage by a standard flood insurance policy to be suspended.
- E. Nothing herein shall prevent the County from taking such other lawful action to prevent or remedy any violations. All costs connected therewith shall accrue to the person or persons responsible.

SECTION 8-1-15 ABROGATION AND GREATER RESTRICTIONS

This Chapter is not intended to repeal, abrogate or impair any existing easements covenants, or deed restrictions. Where this Chapter and other ordinances, easements, covenants, or deed restrictions conflict or overlap, whichever imposes the more stringent restrictions shall prevail. This Chapter is intended to repeal the original ordinance or resolution which was adopted to meet the national flood insurance program regulations but is not intended to repeal the resolution which the County passed in order to establish initial eligibility for the program.

SECTION 8-1-16 SEPARABILITY

The provisions and Sections of this Chapter shall be deemed separable and the invalidity of any portion of this Chapter shall not affect the validity of the remainder.

SECTION 8-1-17 EFFECTIVE DATE

This Chapter shall be in full force and upon its adoption and publication as provided by law.

(Ord. 1994-24)

