

# CHAPTER 151: FLOOD DAMAGE PREVENTION

## ***General Provisions***

- 151.01 Statutory authorization
- 151.02 Findings of fact
- 151.03 Purpose; objectives
- 151.04 Definitions
- 151.05 Interpretation
- 151.06 Application; jurisdiction
- 151.07 Compliance
- 151.08 Basis for establishing areas of special flood hazard
- 151.09 Warning and disclaimer of liability

## ***Permits***

- 151.25 Building/zoning permit required; application

## ***Flood Hazard Reduction***

- 151.40 General Standards
- 151.41 Specific standards
- 151.42 Standards for streams without established base flood elevations or floodways

## ***Administration***

- 151.55 Flood Safety and Control Officer; duties and responsibilities
- 151.56 Variance procedures
- 151.99 Enforcement and penalty

## **GENERAL PROVISIONS**

### **§ 151.01 STATUTORY AUTHORIZATION.**

The legislature of the state has delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the Common Council does ordain the following sections set forth in this chapter.

(Ord. 28-87, passed 1-5-88)

### **§ 151.02 FINDINGS OF FACT.**

(A) The flood hazard areas of the city are subject to periodic inundation which results in loss of life, property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

(B) These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities, and by the occupancy in flood hazard areas by uses vulnerable to floods or hazardous to other lands which are inadequately elevated, floodproofed, or otherwise unprotected from flood damages.

(Ord. 28-87, passed 1-5-88)

### **§ 151.03 PURPOSE; OBJECTIVES.**

(A) It is the purpose of this chapter to promote the public health, safety, and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

(1) Restrict or prohibit uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;

(2) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

(3) Control the alteration of natural flood plains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters;

(4) Control filling, grading, dredging, and other development which may increase erosion or flood damage; and

(5) Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.

(B) The objectives of this chapter are:

(1) To protect human life and health;

(2) To minimize expenditure of public money for costly flood control projects;

- (3) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
  - (4) To minimize prolonged business interruptions;
  - (5) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, and sewer lines, and streets and bridges located in flood plains;
  - (6) To help maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize flood blight areas; and
  - (7) To insure that potential home buyers are notified that property is in a flood area.
- (Ord. 28-87, passed 1-5-88)

#### **§ 151.04 DEFINITIONS.**

For the purpose of this chapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

"ADDITION TO AN EXISTING BUILDING." Any walled and roofed expansion to the perimeter of a building in which the addition is connected by a common load-bearing wall other than a fire wall. Any walled and roofed addition which is connected by a fire wall or is separated by independent perimeter load-bearing walls is new construction.

"APPEAL." A request for a review of the city's interpretation of any provision of this chapter or a request for a variance.

"AREA OF SHALLOW FLOODING." A designated AO or VO Zone on a community's Flood Insurance Rate Map (FIRM) with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

"AREA OF SPECIAL FLOOD HAZARD." The land in the flood plain within a community subject to a 1% or greater chance of flooding in any given year.

"BASE FLOOD." The flood having a 1% chance of being equalled or exceeded in any given year.

"BASEMENT". That portion of a building having its floor subgrade (below ground level) on all sides.

"BREAKAWAY WALL". A wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or the supporting foundation system.

"BUILDING". Any structure built for support, shelter, or enclosure for any occupancy or storage.

"BUILDING/ZONING PERMIT." The building/zoning permit is issued by the Flood Safety and Control Officer when the regulations of this chapter are satisfied. Issuance of a building/zoning permit does not relieve the builder/developer from the obligations to comply with pertinent state and local ordinances.

"DEVELOPMENT." Any man-made change to improved or unimproved real estate, including, but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, drilling operations, or permanent storage of materials.

"ELEVATED BUILDING". A non-basement building built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, pilings, columns (posts and piers), shear walls, or breakaway walls.

"EXISTING MANUFACTURED HOME PARK OR SUBDIVISIONS." A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the first floodplain management ordinance adopted by the city based on specific technical base flood elevation data which established the area of special flood hazards.

"EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION." The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

"FILL MATERIAL." Any foreign matter or material introduced into the area of special flood hazard or floodway, which changes the existing elevations and/or contours for that particular section of the river. Fill material is normally considered rock, construction debris, earth, asphalt or any material which, in the opinion of the Flood Safety and Control Officer, is a change to the area of special flood hazard or floodway. It is the intent of this definition to cover any foreign matter or material that is introduced into the area of special flood hazard or flood way that did not exist on the site prior to the adoption of this ordinance.

"FLOOD" or "FLOODING." A general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland or tidal water; or
- (2) The unusual and rapid accumulation or runoff of surface waters from any source.

"FLOOD HAZARD BOUNDARY MAP (FHBM)." An official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazard have been defined as Zone A.

"FLOOD INSURANCE RATE MAP (FIRM)." An official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

"FLOOD INSURANCE STUDY." The official report provided by the Federal Emergency Management Agency. The report contains flood profiles, as well as the Flood Boundary-Floodway Map and the water surface elevation of the base flood.

"FLOOD SAFETY AND CONTROL OFFICER." An individual appointed by the Mayor and confirmed by the Common Council. The Director of the Planning Commission shall assume the responsibilities of the Flood Safety and Control Officer unless otherwise ordered by the Mayor or City Council.

"FLOODWAY." The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

"FLOOR." The top surface of an enclosed area in a building (including the basement); i.e., the top of the slab in concrete slab construction or the top of wood

flooring in wood frame construction. The term does not include the floor of a garage used solely for parking vehicles.

"FUNCTIONALLY DEPENDENT FACILITY." A facility which cannot be used for its intended purpose unless it is located or carried out in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, ship repair, or seafood processing facilities. The term does not include long-term storage, manufacture, sales, or service facilities.

"HEC II." The Army Corps of Engineers' step back water computer program.

"HIGHEST ADJACENT GRADE." The highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a structure.

"HISTORIC STRUCTURE." Any structure that is:

(1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

(2) 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;

(3) Individually listed on state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or

(4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

(a) By an approved state program as determined by the Secretary of the Interior, or

(b) Directly by the Secretary of the Interior in states without approved programs.

"MEAN SEA LEVEL." The average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within the flood plain. For purposes of this chapter, the term is synonymous with National Geodetic Vertical Datum (NGVD).

"MANUFACTURED HOME." A structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term also includes part trailers and similar transportable structures, placed on a site for 180 consecutive days or longer and intended to be improved property.

"NATIONAL GEODETIC VERTICAL DATUM (NGVD)." As corrected in 1929, is a vertical control used as a reference for establishing varying elevations within the flood plain.

"NEW CONSTRUCTION." Structures for which the "start of construction" commenced on or after the effective date of this chapter and includes any subsequent improvements to such structures.

"NEW MANUFACTURED HOME PARK OR SUBDIVISION." A manufactured home park or subdivision for which construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of this chapter.

"SIGNIFICANT." The term as defined by this chapter shall not be construed as exceeding more than six inches in the increase of flood water elevations. The six inch measurement is based on the accuracy of the HEC II analysis used by the Army Corps of Engineers in defining the floodway hazard. The HEC II computer run is accurate to six inches.

"START OF CONSTRUCTION." The first placement of permanent construction of a structure (including a manufactured home) on a site, such as the pouring of slabs or footings, installation of piles, construction of columns, or any work beyond the stage of excavation or the placement of a manufactured home on a foundation. Permanent construction does include land preparation, such as clearing, grading, and filling; it includes the installation of streets and/or walkways; it includes excavation for a basement, footings, piers, or foundations, or the erection of temporary forms; it includes the installation on the property of accessory buildings.

"STRUCTURE." A walled and roofed building that is principally above ground, manufactured home, a gas or liquid storage tank, or other man-made facilities or infrastructures.

"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 50% of the market value of the structure before the damage occurred.

"SUBSTANTIAL IMPROVEMENT."

(1) Any combination of repairs, reconstruction, alteration, or improvements to a building, taking place during a five-year period, in which the cumulative cost equals or exceeds 50% of the market value of the building. The market value of the building should be the appraised value of the building prior to the start of the initial repair or improvement, or in the case of damage, the value of the building prior to the damage occurring. This term includes structures which have incurred "SUBSTANTIAL DAMAGE", regardless of the actual repair work performed. For the purposes of this definition, "SUBSTANTIAL IMPROVEMENT" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the building.

(2) The term does not, however, include either:

(a) Any project for improvement of a building required to comply with existing health, sanitary, or safety code specifications which have been identified by the Code Enforcement Official and which are solely necessary to assure safe living conditions; or

(b) Any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.

"SUBSTANTIALLY IMPROVED EXISTING MANUFACTURED HOME PARK OR SUBDIVISION." Where the repair, reconstruction, rehabilitation, or improvement of the streets, utilities, and pads equals or exceeds 50% of the value of the streets, utilities, and pads before the repair, reconstruction, or improvements commenced.

"VARIANCE." A grant of relief from the requirements of this chapter which permits construction in a manner otherwise prohibited by this chapter where specific enforcement would result in unnecessary hardship.

(Ord. 28-87, passed 1-5-88; Am. Ord. 3-93, passed 4-20-93; Am. Ord. 21-2000, passed 10-3-00)

### **§ 151.05 INTERPRETATION.**

In the interpretation and application of this chapter all provisions shall be considered as minimum requirements, liberally construed in favor of the governing body, and deemed neither to limit nor repeal any other powers granted under state statutes.  
(Ord. 28-87, passed 1-5-88)

### **§ 151.06 APPLICATION; JURISDICTION.**

This chapter shall apply to all areas of special flood hazard within the jurisdiction of the city.  
(Ord. 28-87, passed 1-5-88)

### **§ 151.07 COMPLIANCE.**

No structure or land shall hereafter be located, extended, converted, or structurally altered without full compliance with the terms of this chapter and other applicable regulations.  
(Ord. 28-87, passed 1-5-88) [Penalty, see § 151.99](#)

### **§ 151.08 BASIS FOR ESTABLISHING AREAS OF SPECIAL FLOOD HAZARD.**

The areas of special flood hazard identified by the Federal Emergency Management Agency in its Flood Insurance Study, dated March 1979, with accompanying maps and other supporting data, and any revisions thereto are adopted by reference and declared to be a part of this chapter.  
(Ord. 28-87, passed 1-5-88)

### **§ 151.09 WARNING AND DISCLAIMER OF LIABILITY.**

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This chapter does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the city or by any officer or employee thereof for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.  
(Ord. 28-87, passed 1-5-88)

## **PERMITS**

## **§ 151.25 BUILDING/ZONING PERMIT REQUIRED; APPLICATION.**

(A) A building/zoning permit shall be required in conformance with the provisions of this chapter prior to the commencement of any development activities. The building/zoning permit is a multi-purpose permit and shall not be issued until evidence of compliance with all local ordinances is provided.

(B) Application for a building/ zoning permit shall be made to the Flood Safety and Control Officer on forms furnished by him prior to any development activity, and may include, but not be limited to the following plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures; fill; storage of materials; drainage facilities; and the location of the foregoing. Specifically, the following information is required:

(1) Application stage.

(a) Elevation in relation to mean sea level of the proposed lowest floor (including basement) of all structures;

(b) Elevation in relation to mean sea level to which any residential/ nonresidential structure will be floodproofed;

(c) A certificate from a registered professional engineer or architect that the residential/ nonresidential floodproofed structure meets the floodproofing criteria in § 151.41 (B); and

(d) A description of the extent to which any watercourse will be altered or relocated as a result of the proposed development.

(2) Construction stage. The following is required:

(a) Provide a floor elevation or floodproofing certification after the lowest floor is completed, or floodproofing by whatever construction means, it shall be the duty of the permit holder to submit to the Flood Safety and Control Officer a certification of the elevation of the lowest floor, floodproofed elevation. Said certification shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by same. When floodproofing is utilized for a particular building, certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same.

(b) Any work undertaken prior to submission of the certification shall be at the permit holder's risk. The Flood Safety and Control Officer shall review the floor elevation survey data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to any further progressive work. Failure to submit the survey or failure to make any required corrections, shall be cause to issue a stop-work order for the project.

(Ord. 28-87, passed 1-5-88 [Penalty, see § 151.99](#))

## **FLOOD HAZARD REDUCTION**

### **§ 151.40 GENERAL STANDARDS.**

In all areas of special flood hazard the following provisions are required:

(A) New construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure;

(B) Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable state requirements for resisting wind forces;

(C) New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage;

(D) New construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;

(E) Electrical, heating, ventilation, plumbing, air-conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;

(F) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

(G) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters;

(H) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding;

(I) Any alteration, repair, reconstruction, or improvements to a structure on which is in compliance with the provisions of this section, shall meet the requirements of new construction contained in this section; and

(J) A HEC II computer analysis will be run for all developments by the developer to determine off-site effects to flood water elevation on adjoining properties. Any questions concerning the running of the HEC II study shall be directed to and interpreted by the Flood Safety and Control Officer. The HEC II Study will be certified by a licensed engineer.

(K) No fill material is permitted within the area of special flood hazard. Fill material is defined in [§ 151.04](#) Definitions. Any fill material incorporated into the area of special flood hazard will constitute a violation of this ordinance. Fill material placed in the area of special flood hazard must be compensated by removing an equal amount of fill from the area of special flood hazard. The fill introduced and the removal of fill will be documented appropriately with the documentation being submitted to the Flood Safety and Control Officer for approval. The documentation must be certified by a licensed engineer.

(L) Property within the area of special flood hazard may be graded, and the contour elevations within the areas of special flood hazard may be altered or changed upon proper documentation being submitted to the Flood Safety and Control Officer for review and approval. A licensed engineer must certify predevelopment contour and post-development contour changes.

(M) The Flood Safety and Control Officer, at his/her discretion, may require a HEC-2 study to be performed for divisions (K) and (L) above.

(Ord. 28-87, passed 1-5-88; Am. Ord. 21-2000, passed 10-3-00) [Penalty, see § 151.99](#)

## **§ 151.41 SPECIFIC STANDARDS.**

In all areas of special flood hazard where base flood elevation data has been provided as set forth in [§ 151.08](#) and [151.55](#) (B)(9), the following provisions are required:

(A) Residential construction. New construction or substantial improvement of any residential structure shall have the lowest floor, including basement, elevated no lower than three feet above the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of flood waters shall be provided in accordance with standards of division (C) of this section.

(B) Nonresidential construction. New construction or substantial improvement of any commercial, industrial, or nonresidential structure shall have the lowest floor, including basement, elevated no lower than three feet above the level of the base flood elevation. Structures located in all A-zones may be floodproofed in lieu of being elevated provided that all areas of the structure below the required elevation are watertight with walls substantially impermeable to the passage of water and use structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer, surveyor, or architect shall certify that the standards of this division are satisfied. Certification shall be provided to the official as set forth in [§ 151.25](#).

(C) Elevated buildings.

(1) New construction or substantial improvements of elevated buildings that include fully enclosed areas formed by foundation and other exterior walls below the base flood elevation shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls. Designs for complying with this requirement must either be certified by a professional engineer or architect or meet the following minimum criteria:

(a) Provide a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;

(b) The bottom of all openings shall be no higher than one foot above grade;  
and

(c) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.

(2) Electrical, plumbing, and other utility connections are prohibited below the base flood elevation.

(3) Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the living area (stairway or elevator).

(4) The interior portion of such enclosed area shall not be partitioned or finished into separate rooms.

(D) Floodways. Located within areas of special flood hazard established in [§ 151.08](#), are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris and potential projectiles, and has erosion potential, the following provisions shall apply:

(1) Encroachments, including fill, new construction, substantial improvements, and other developments are prohibited unless certification (with supporting data) by a registered professional engineer is provided demonstrating that encroachments shall not result in any increase in flood levels during occurrence of the base flood discharge;

(2) If division (1) above is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of this chapter.

(3) The placement of manufactured homes (mobile homes) are prohibited, except in an existing manufactured homes (mobile homes) park or subdivision. A replacement manufactured home may be placed on a lot in an existing manufactured home park or subdivision provided the anchoring standards of [§ 151.40\(B\)](#), and the elevation standards of [§ 151.41\(A\)](#), and of [§ 151.40\(J\)](#) are met.

(E) Standards for manufactured homes and recreational vehicles.

(1) All manufactured homes placed or substantially improved outside of a manufactured home park or subdivision, in a new manufactured home park or subdivision, in an expansion to an existing manufactured home park or subdivision, or in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as the result of a flood, must meet all the requirements for new construction, including elevation and anchoring.

(2) All manufactured homes placed or substantially improved in an existing manufactured home park or subdivision must be elevated so that:

(a) The lowest floor of the manufactured home is elevated to or above the level of the base flood elevation, and

(b) The manufactured home chassis is supported by reinforced piers or other foundation elements of at least an equivalent strength, of no less than 36 inches in height above grade.

(c) The manufactured home must be securely anchored to the adequately anchored foundation system to resist flotation, collapse, and lateral movement.

(d) In an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as the result of a flood, any manufactured home place or substantially improved must meet the standards of division (E)(2)(a) through (c).

(Ord. 28-87, passed 1-5-88; Am. Ord. 3-93, passed 4-20-93; Am. Ord. 21-2000, passed 10-3-00) [Penalty, see § 151.99](#)

## **§ 151.42 STANDARDS FOR STREAMS WITHOUT BASE FLOOD ELEVATIONS OR FLOODWAYS.**

Located within the areas of special flood hazard established in [§ 151.08](#), where small streams and sinkholes exist but where no base flood data has been provided or where no floodways have been provided, the following provisions apply:

(A) No encroachments, unless certification by a registered professional engineer is provided demonstrating that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

(B) New construction or substantial improvements of structures shall be elevated or floodproofed to elevations established in accordance with [§ 151.55\(B\)\(9\)](#). (Ord. 28-87, passed 1-5-88) [Penalty, see § 151.99](#)

## **ADMINISTRATION**

### **§ 151.55 FLOOD SAFETY AND CONTROL OFFICER; DUTIES AND RESPONSIBILITIES.**

(A) The Flood Safety and Control Officer is appointed to administer and implement the provisions of this chapter.

(B) Duties of the Flood Safety and Control Officer shall include, but not be limited to:

(1) Review all building/zoning permits to assure that the permit requirements of this chapter have been satisfied.

(2) Advise the permittee that additional federal or state permits may be required, and if specific federal or state permits are known, require that copies of the permits be provided and maintained on file with the development permit.

(3) Notify adjacent communities and the National Resources and Environmental Protection, Division of Water prior to any alteration or relocation of a watercourse, and submit evidence of the notification to the Federal Emergency Management Agency.

(4) Assure that maintenance is provided within the altered or relocated portion of the watercourse so that the flood-carrying capacity is not diminished.

(5) Verify and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures in accordance with § 151.25 (B)(2).

(6) Verify and record the actual elevation (in relation to mean sea level) to which the new or substantially improved structures have been floodproofed in accordance with § 151.25 (B)(2).

(7) When floodproofing is utilized for a particular structure, the Flood Safety and Control Officer shall obtain certification from a registered professional engineer or architect in accordance with § 151.41(B).

(8) Where interpretation is needed as to the exact location of the boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), the Flood Safety and Control Officer shall make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this chapter.

(9) When base flood elevation data or floodway data has not been provided in accordance with § 151.08, then the Flood Safety and Control Officer shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state, or other source, in order to administer the provisions of this chapter.

(10) All records pertaining to the provisions of this chapter shall be maintained in the office of the Flood Safety and Control Officer shall be open for public inspection. (Ord. 28-87, passed 1-5-88)

### **§ 151.56 VARIANCE PROCEDURES.**

(A) The Hopkinsville - Christian County Planning Commission as established by the Common Council shall hear and decide appeals and requests for variances from the requirements of this chapter.

(B) The Hopkinsville - Christian County Planning Commission shall hear and decide appeals when it is alleged that there is an error in any requirement, decision, or determination made by the Flood Safety and Control Officer in the enforcement or administration of this chapter.

(C) Any person aggrieved by the decision of the Flood Safety and Control Officer or any taxpayer may appeal the decision to the County Circuit Court, as provided by law.

(D) Variances may be issued for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places without regard to the procedures set forth in the remainder of this section, except for divisions (H)(1) and (4) of this section, and provided that the proposed reconstruction, rehabilitation, or restoration will not result in the structure losing its historical designation.

(E) In passing upon such applications, the Hopkinsville-Christian County Planning Commission shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this chapter, and:

- (1) The danger that materials may be swept onto other lands to the injury of others.
- (2) The danger to life and property due to flooding or erosion damage.
- (3) The susceptibility of the proposed facility and its contents to flood damage and the effect of the damage on the individual owner.
- (4) The importance of the services provided by the proposed facility to the community.
- (5) The necessity of the facility of a waterfront location, in the case of a functionally-dependent facility.
- (6) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use.
- (7) The compatibility of the proposed use with existing and anticipated development.
- (8) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area.
- (9) The safety of access to the property in times of flood for ordinary and emergency vehicles.
- (10) The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site.

(11) The cost of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

(F) Upon consideration of the factors listed above and the purposes of this chapter, the Hopkinsville - Christian County Planning Commission may attach conditions to the granting of variances as it deems necessary to further the purposes of this chapter.

(G) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

(H) The conditions for variances shall be as follows:

(1) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief; and in the instance of a historical building, a determination that a variance is the minimum necessary so as not to destroy the historic character and design of the building.

(2) Variances shall only be issued upon a showing of good and sufficient cause, a determination that failure to grant the variance would result in exceptional hardship, and a determination that the granting of a variance would not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

(3) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the base flood elevation and the elevation to which the structure is to be built, and stating that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

(4) The Flood Safety and Control Officer shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request.

(Ord. 28-87, passed 1-5-88)

## **§ 151.99 ENFORCEMENT AND PENALTY.**

(A) The provisions of this chapter may be enforced by the Code of Ordinance Enforcement Board established in Ordinance 24-2002, or in the alternative, by the Christian County District Court as a misdemeanor or violation through the powers delegated to the Flood Safety and Control Officer. The decision on where the ordinance will be enforced shall be at the city's discretion. However, nothing contained in Ordinance 24-2002 shall be construed or interpreted to limit those powers delegated to the Flood Safety and Control Officer. Likewise, nothing contained in this chapter shall be construed or interpreted to limit those powers delegated to a Code Enforcement Officer as created in Ordinance 24-2002. Further, any Flood Safety and Control Officer may also become certified as a Code Enforcement Officer.

(B) Any person violating any of the provisions of this chapter or failing to comply with any of its requirements, including violations of conditions and safeguards established in connection with grants of variance or special exceptions, shall constitute an offense under this chapter and shall result in a fine. The first offense shall result in a fine of not greater than \$300. A second offense shall result in a fine of not greater than \$500.

All other offenses shall result in a fine of not greater than \$600. Each day that a violation continues shall constitute a separate offense. Nothing herein contained shall prevent the city from taking other lawful action as is necessary to prevent or remedy any violation.  
(Ord. 28-87, passed 1-5-88; Am. Ord. 31-2002, passed 12-17-02)

**Disclaimer:**

This Code of Ordinances and/or any other documents that appear on this site may not reflect the most current legislation adopted by the Municipality.