

CHAPTER 151: FLOOD DAMAGE PREVENTION

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Pflugerville – Land Usage

GENERAL PROVISIONS

§ 151.01 SHORT TITLE.

This chapter shall be known, and may be cited, as the Flood Damage Prevention Ordinance of the City of Pflugerville, Texas.
(Ord. 254-87-04-28, passed 4-28-87)

§ 151.02 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. Terms not defined herein shall be construed in accordance with customary usage.

ALLUVIAL FAN FLOODING. Flooding occurring on the surface of an alluvial fan or similar landform which originates at the apex and is characterized by high-velocity flows; active processes of erosion, sediment transport, and deposition; and unpredictable flow paths.

APEX. A point on an alluvial fan or similar landform below which the flow path of the major stream that formed the fan becomes unpredictable and alluvial fan flooding can occur.

APPURTENANT STRUCTURE. A structure which is on the same parcel of property as the principal structure to be insured and the use of which is incidental to the use of the principal structure.

AREA OF FUTURE CONDITIONS FLOOD HAZARD. The land area that would be inundated by the 1-percent-annual chance (100 year) flood based on future conditions hydrology.

AREA OF SHALLOW FLOODING. A designated AO, AH, AR/AO, AR/AH, or VO zone on a community's Flood Insurance Rate Map (FIRM) with a 1 percent or greater annual chance of flooding to an average depth of 1 to 3 feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

AREA OF SPECIAL FLOOD HAZARD. Any land situated in floodplain subject to a 1 percent or greater chance of flooding in any given year. Such area may be designated as Zone A on the Flood Hazard Boundary Map (FHBM). After detailed ratemaking has been completed in preparation for publication of the FIRM, Zone A usually is refined into ZONES A, AE, AH, AO, AI-99, VO, VI-30, VE, or V.

BASE FLOOD. A flood having a 1 percent chance of being equaled or exceeded in any given year.

BASE FLOOD ELEVATION. The elevations shown on the Flood Insurance Rate Map (FIRM) and found in the accompanying Flood Insurance Study (FIS) for Zones A, AE, AH, A1-A30, AR, V1-V30, or VE that indicated the water surface elevation resulting from the flood that has a 1 percent chance of equaling or exceeding that level in any given year.

BASEMENT. Any area 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 supporting foundation system.

CRITICAL FEATURE. An integral and readily identifiable part of a flood protection system, without which the flood protection provided by the entire system would be compromised.

DEVELOPMENT. Any man-made³ change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment of materials.

ELEVATED BUILDING. For insurance purposes, a non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

EXISTING CONSTRUCTION. For the purposes of determining rates, structures for which the “start of construction” commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date. “Existing construction” may also be referred to as “existing structures”.

EXISTING MANUFACTURED HOME PARK OR SUBDIVISION. 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 floodplain management regulations adopted by a community.

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).

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

FLOOD ELEVATION STUDY. An examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards.

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

FLOOD INSURANCE STUDY (FIS) see *Flood Elevation Study*

FLOODPLAIN OR FLOOD-PRONE AREA. Any land area susceptible to being inundated by water from any source (see definition of flooding).

FLOODPLAIN MANAGEMENT. The operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and floodplain management regulations.

FLOODPLAIN MANAGEMENT REGULATIONS. Zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

FLOOD PROTECTION SYSTEM. Those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the area within a community subject to a "special flood hazard" and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

FLOOD PROOFING. Any combination of structural and non-structural 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.

FLOODWAY. see *Regulatory Floodway*

FUNCTIONALLY DEPENDENT USE. A use, which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

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 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 a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or

(4) Individually listed on a local inventory or 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.

LEVEE. A man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding.

LEVEE SYSTEM. A flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

LOWEST FLOOR. The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking or vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; **provided** that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirement of Section 60.3 of the National Flood Insurance Program regulations.

MANUFACTURED HOME. A structure transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

MANUFACTURED HOME PARK OR SUBDIVISION. A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

MEAN SEA LEVEL. For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

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.

NEW MANUFACTURED HOME PARK OR SUBDIVISION. 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 on or after the effective date of floodplain management regulations adopted by a community.

RECREATIONAL VEHICLE. A vehicle which is (i) built on a single chassis; (ii) 400 square feet or less when measured at the largest horizontal projections; (iii) designed to be self-propelled or permanently towable by a light duty truck; and (iv) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

REGULATORY 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 a designated height.

REPETITIVE LOSS. The flood-related damage sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each flood event, on the average, equals or exceeds 25% of the market value of the structure before the damage occurred.

RIVERINE. Relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

SPECIAL FLOOD HAZARD AREA. see *Area of Special Flood Hazard*

START OF CONSTRUCTION. (for other than new construction or substantial improvements under the Coastal Barrier Resources Act (Pub. L. 97-348)), includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 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 basement, footings, piers or foundations or the erection 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. For floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

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 percent of the market value of the structure before the damage occurred. Substantial damage also means flood related damage sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each flood event, on the average, equals or exceeds 25 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 50 percent of the market value of the structure before "start of construction" of the improvement. This term includes structures which have incurred "repetitive loss" or "substantial damage", regardless of the actual repair work performed. The term does not, however, include either: (1) 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 (2) Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure."

VARIANCE. A grant of relief by a community from the terms of a floodplain management regulation. (For full requirements see Section 60.6 of the National Flood Insurance Program regulations.)

VIOLATION. The failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Section 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided.

WATER SURFACE ELEVATION. The height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.
(Ord. 254-87-04-28, passed 4-28-87; Am. Ord. 379-93-05-25, passed 5-25-93)

§ 151.03 APPLICATION OF REGULATIONS.

The regulations set out in this chapter shall apply to all areas of special flood hazard within the corporate limits of the city.
(Ord. 254-87-04-28, passed 4-28-87)

§ 151.04 BASIS FOR ESTABLISHING AREAS OF SPECIAL FLOOD HAZARD.

The areas of special flood hazard identified by the Federal Emergency Management Agency in the current scientific and engineering report entitled, "The Flood Insurance Study (FIS) for Travis County and incorporated areas," dated August 18, 2014, with accompanying Flood Insurance Rate Maps (FIRMs) dated August 18, 2014, and any revisions thereto are hereby adopted by reference and declared to be a part of this ordinance.

§ 151.05 COMPLIANCE.

No structure or tract of land shall hereafter be located, altered, or have its use changed without full compliance with the provisions of this chapter and other applicable regulations. (Ord. 254-87-04-28, passed 4-28-87) Penalty, see § 151.99

§ 151.06 INTERPRETATION.

(A) In interpreting and applying the provisions of this chapter, the provisions shall be deemed to be minimum requirements, shall be liberally construed in favor of the governing body, and shall be deemed neither to limit nor repeal any other powers granted under state statutes.

(B) It is not intended by this chapter to interfere with, abrogate, or annul any easements, covenants, or other agreements between parties, or any statute, local ordinance, or regulation, except that, if this chapter imposes a greater restriction or higher standards, this chapter shall control.

(C) The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. On rare occasions greater floods can and will occur and flood heights may be increased by manmade or natural causes. This chapter does not imply that land outside the areas of special flood hazards 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 community or any official or employee thereof for any flood damages that result from reliance on this chapter or any administrative decisions lawfully made thereunder.

(Ord. 254-87-04-28, passed 4-28-87)

DEVELOPMENT PERMITS

§ 151.20 ESTABLISHMENT OF DEVELOPMENT PERMIT

A development permit shall be required for all development located within any flood-prone area of the city to ensure conformance with the provisions of this chapter.

(Ord. 254-87-04-28, passed 4-28-87)

§ 151.21 PERMIT APPLICATION

(A) Application for a development permit shall be presented to the Floodplain Administrator on forms furnished by the City Secretary to administer and implement the provisions of this ordinance and other appropriate sections of 44 CFR (Emergency Management and Assistance – National Flood Insurance Program Regulations) pertaining to floodplain management.

(B) A development permit application shall be accompanied by:

(1) Payment of the fee set out in § 151.57;

(2) Two sets of site plans drawn to scale including the following:

(a) Location, dimensions, and elevation of all proposed landscape alterations, and existing and proposed structures, and their location in relation to areas of special flood hazard;

(b) Elevation in relation to mean sea level: (i) of the lowest floor, including the basement, of all new and substantially improved structures; and (ii) to which any nonresidential structure is proposed to be floodproofed;

(3) Certification from a registered professional engineer or architect that the structural design, specifications, and plans for the construction of any nonresidential structure is in accordance with the floodproofing criteria set out in § 151.36(B) of this chapter; and

(4) Description of the extent to which any watercourse or natural drainage is proposed to be altered or relocated as a result of proposed development.

(C) The Floodplain Administrator shall maintain detailed written records of each development permit application.

(Ord. 254-87-04-28, passed 4-28-87)

§ 151.22 BASIS FOR GRANTING PERMIT.

The decisions of the Floodplain Administrator to either approve or deny an application for a development permit shall be based on compliance with the provisions of this chapter and on the following additional factors:

(A) Danger to life and property due to flooding or erosion damage;

(B) Susceptibility of the proposed structure and its contents to flood damage and the effect of such damage on the individual owner;

(C) Danger that material may be swept away from the site onto other property resulting in possible injury;

(D) Compatibility of the proposed use with existing and anticipated development;

(E) Accessibility to the property in times of flood for ordinary and emergency vehicles;

(F) Costs of providing governmental services during and after flood conditions including maintenance and repair of streets and bridges, and public utilities and facilities such as sewer, gas, electrical and water systems;

(G) 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;

(H) Necessity of the facility of a waterfront location, where applicable;

(I) Availability of alternate locations, not subject to flooding or erosion damage, for the proposed use; and

(J) Relationship of the proposed use to the city's comprehensive plan for that area.
(Ord. 254-87-04-28, passed 4-28-87)

PROVISIONS FOR FLOOD HAZARD REDUCTION

§ 151.35 GENERAL STANDARDS

In all areas of special flood hazard the following general standards shall be required:

(A) All new construction and substantial improvements shall be:

(1) Designed or modified and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;

(2) Constructed:

(a) By methods and practices that minimize flood damage;

(b) With materials resistant to flood damage; and

(c) With electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

(B) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.

(C) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from the systems into flood waters.

(D) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

(E) In any area that has been removed from the floodplain via a Letter of Map Revision Based on Fill (LOMR-F), any existing or new structure, addition, or substantial improvement must meet the required elevation freeboard requirements. (Ord. 254-87-04-28, passed 4-28-87)

§ 151.36 SPECIFIC STANDARDS.

In all areas of special flood hazards where base flood elevation data has been provided as set forth in: §§ 151.04, 151.55(B)(8), and 151.37(B), the following standards shall be required:

(A) New construction and substantial improvement of any residential structure shall have the lowest floor, including the basement, elevated no lower than two (2) feet above the base flood elevation. A registered professional engineer, architect, or land surveyor shall submit an elevation certificate to the Floodplain Administrator that the standard of this division (A) is satisfied.

(B) New construction and substantial improvements of any commercial, industrial, or other nonresidential structure shall:

1) have the lowest floor, including the basement, elevated to no lower than two feet above the base flood level or,

2) be floodproofed to a level no lower than two (2) feet above the level of the base flood elevation, provided that all areas of the building (including mechanical and utility equipment) 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 the effects of buoyancy. A registered professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice as outlined in this division (B). A record of such certification which includes the specific elevation in relation to mean sea level to which such structures are floodproofed shall be maintained by the Floodplain Administrator.

(C) Require that all manufactured homes to be placed within Zone A on a community's FHBM or FIRM shall be installed using methods and practices which minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist 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 requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.

(D) Require that manufactured homes that are placed or substantially improved within Zones A1-30, AH, and AE on the community's FIRM on sites (i) outside of a manufactured home park or subdivision, (ii) in a new manufactured home park or subdivision, (iii) in an expansion to an

existing manufactured home park or subdivision, or (iv) in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as a result of a flood, be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to no lower than two feet above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

(E) Require that manufactured homes be placed or substantially improved on sites in an existing manufactured home park or subdivision with Zones A1-30, AH and AE on the community's FIRM that are not subject to the provisions of paragraph (4) of this section be elevated so that the lowest floor of the manufactured home is at no lower than two (2) feet above the base flood elevation, or

(F) Enclosures for new construction and substantial improvements, with fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:

(1) A minimum of two openings on separate walls having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.

(2) The bottom of all openings shall be no higher than 1 foot above grade.

(3) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

(G) Require that recreational vehicles placed on sites within Zones A1-30, AH, and AE on the community's FIRM either (1) be on the site for fewer than 180 consecutive days, or (2) be fully licensed and ready for highway use, or (3) meet the permit requirements of § 151.21, and the elevation and anchoring requirements for "manufactured homes" in subsections (C), (D), and (E) of this section. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.

§ 151.37 STANDARDS FOR PROPOSED SUBDIVISIONS

(A) All proposed subdivisions, including manufactured home parks, shall:

(1) Be in conformance with the provisions of this chapter;

(2) Have adequate drainage measures in order to reduce exposure to flood hazards; and

(3) Have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed so as to minimize or eliminate flood damage.

(B) In all areas of special flood hazard where base flood elevation data are not available, the applicant shall provide a hydrologic and hydraulic engineering analysis that generates base flood elevation for all subdivision proposals, and other proposed developments at least 5 acres or 5 lots in size. These studies shall be submitted to FEMA with a request for map revision.

(1) All preliminary plans for platted subdivisions shall identify the flood hazard area and elevation of the base flood.

(2) All final subdivision plats will provide the boundary of the special flood hazard area, the floodway boundary, and base flood elevation.

(3) Approval shall not be given for streets within a subdivision which would be subject to flooding in the base flood. All street surfaces must be located at or above the base flood elevation.

(Ord. 254-87-04-28, passed 4-28-87)

§ 151.38 STANDARDS FOR AREAS OF SHALLOW FLOODING.

(A) Located within the areas of special flood hazard established in § 151.04, are areas designated as areas of shallow flooding. These areas have special flood hazards associated with base flood depths of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, where velocity flow may be evident, and where flooding is characterized by ponding or sheet flow.

(B) The following provisions shall apply to areas of shallow flooding:

(1) All new construction and substantial improvement of residential structures shall have the lowest floor, including the basement, elevated above the highest adjacent grade, at least as high as the depth number specified in feet on the community's FIRM or at least two feet if no depth number is specified on the FIRM.

(2) All new construction and substantial improvements of nonresidential structures shall:

(a) Have the lowest floor, including the basement, elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM or at least two feet if no depth number is specified on the FIRM; or

(b) Together with attendant utility and sanitary facilities, be designed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads of effects of buoyancy.

(3) A registered professional engineer or architect shall submit a certification to the Floodplain Administrator that the standards of this section are satisfied.

(4) Drainage paths around structures situated on slopes shall be required within Zones AH or AO to guide flood waters around and away from such structures.
(Ord. 254-87-04-28, passed 4-28-87) Penalty, see § 151.99

§ 151.39 FLOODWAYS.

Located within areas of special flood hazard established in § 151.04 are areas designated as floodways which have a high erosion potential and are extremely hazardous due to the velocity of their flood waters which carry debris and potential projectiles. The following provisions apply to floodways:

(A) Encroachments shall be prohibited, including fill, new construction, substantial improvements, and other development unless certification by a professional registered engineer or architect is provided demonstrating that such encroachments will not result in any increase in flood levels within the community during the occurrence of the base flood discharge.

(B) Subject to satisfaction of the requirements of division (A), above, all new construction and substantial improvements situated within a floodway must comply with all the applicable flood hazard reduction provisions.
(Ord. 254-87-04-28, passed 4-28-87) Penalty, see § 151.99

§ 151.40 INSPECTION.

(A) Periodic inspection of the site being developed pursuant to this flood damage prevention chapter may be made by the Floodplain Administrator to check for compliance with the development permit approved for the site. The procedure for inspection shall conform with the procedures for inspections insofar as such procedures are reasonably susceptible to such application.

(B)(1) The development permit holder shall request a final inspection of the site development. The Floodplain Administrator shall perform the final inspection and shall determine whether the development conforms with the plans and specifications approved for such site.

(2) If the site development does not conform with all the plans and specifications approved for the development site, the Building Official shall submit to the permit holder a list of deficiencies. The permit holder shall thereafter request a reinspection and the procedures set forth in division (B)(1) above, shall be repeated.

(C) Until all development for which a development permit was issued is complete and all such development has been approved by the Floodplain Administrator, no certificate of occupancy or utility service connection for permanent utility service will be issued or approved by the city.
(Ord. 254-87-04-28, passed 4-28-87)

ADMINISTRATION AND ENFORCEMENT

§ 151.55 FLOODPLAIN ADMINISTRATOR.

(A) The Building Official is hereby designated as the Floodplain Administrator to administer and implement the provisions of this chapter and other appropriate section of 44 CFR (National Flood Insurance Program Regulations) pertaining to flood plain management.

(B) Duties and responsibilities of the Floodplain Administrator shall include, but not be limited to, the following:

(1) Maintenance and holding open for public inspection all records pertaining to the provisions of this chapter;

(2) Review of permit applications to determine whether proposed building sites are reasonably safe from flooding;

(3) Review, approval, or denial of all applications for development permits required by this chapter;

(4) Review of all permits for proposed development to assure that all necessary permits have been obtained from those federal, state, or local governmental agencies (including § 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334) from which prior approval is required;

(5) Interpretation of the exact location of the boundaries of areas of special flood hazard, when in question;

(6) Notification, in riverine situations, of adjacent communities and the Texas Water Commission prior to any alteration or relocation of a watercourse and submission of evidence of such notification to the Federal Emergency Management Agency;

(7) Ascertainment that the flood carrying capacity within any altered or relocated portion of a watercourse has been maintained; and

(8) Obtainment, review, and utilization of any base flood elevation data and floodway data available from federal, state, or other sources, in order to administer the provisions of this chapter, if such information is not identified by the Federal Emergency Management Agency in its flood hazard boundary map of the city.

(9) Requiring, when a regulatory floodway has not been designated, that no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30 and AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

(Ord. 254-87-04-28, passed 4-28-87)

§ 151.56 APPEALS TO BOARD OF ADJUSTMENT.

(A) *General.* The Board of Adjustment shall hear and decide appeals under this chapter.

(B) *Basis.* Written appeals may be made to the Board of Adjustment on the following bases:

(1) Where it is alleged there is error in any order, requirement, decision, or determination made by the Floodplain Administrator in the enforcement of this chapter.

(2) Variances shall only be issued upon showing a good and sufficient cause that is not contrary to the public interest, a determination that failure to grant the variance would result in exceptional hardship to the applicant, and a determination that by granting the variance, the spirit of the ordinance is observed, substantial justice is done and the variance will 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.

(C) *Procedure.*

(1) A written application for appeal to the Board of Adjustment must be taken within 15 days after the decision has been rendered by the Floodplain Administrator. The application shall be filed with the City Secretary, specifying the grounds therefore, and shall be accompanied by payment of a fee as prescribed in § 151.57.

(2) The Floodplain Administrator shall forthwith transmit to the Board of Adjustment all the papers constituting the record upon which the action appealed from was taken.

(D) *Hearing.*

(1) The Board of Adjustment shall hold a public hearing on all appeals made to it.

(2) Before a public hearing may be scheduled regarding an appeal, a complete application, which includes the following items, must be submitted to the Administrator in accordance with the Zoning Code Supplemental Schedule:

(a) Complete application form included in the Zoning Code Supplemental Schedule;

(b) Filing fee; and,

(c) Names and addresses of the owners of land within the proposed area and within 200 feet of the boundary of the area which is the subject of the requested appeal in the form indicated in the Zoning Code Supplemental Schedule.

(3) Not later than 15 days before the scheduled public hearing date, notice of the hearing must be published at least one time in the city's official newspaper or a paper of general circulation in the City, which includes the date of the public hearing, time of the public hearing, location, and a general description of the request before the Board.

(4) Notice must also include:

(a) Placing signs, in the amount determined by the Administrator on every street right-of-way adjacent to the land under consideration.

(b) Mailing letters to all owners of land within the boundary and within 200 feet of the boundary of the subject area that include the date of the public hearing, time of the public hearing, location, and a general description of the request before the Board.

(E) *Stay.* An appeal, properly filed as herein provided, shall stay all development proceedings in furtherance of the action appealed from, unless the Floodplain Administrator shall certify to the Board that, by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property. In the event of such exemption from a stay, development proceedings shall not be stayed except by a restraining order by a court of record properly ordering same.

(F) *Decision of the Board.*

(1) The Board shall decide the appeal within 45 days from the date of its filing with the Administrator.

(2) The following factors should be considered by the Board in making its determination on any appeal:

(a) Variances for reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, may be granted without regard to the qualification set forth in the remainder of this division;

(b) The provisions of § 151.22 shall be considered for variances requested for new construction and substantial improvements to be erected on a lot of on-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level; provided, however, that as the lot size increases beyond one-half acre, the technical justification required for issuing the variance increases;

(c) A variance shall not be granted within a designated floodway if any increase in flood levels during the base flood discharge, or if any additional threats to public safety, would result;

(d) Only the minimum variance required to afford relief to the applicant shall be granted; and

(e) The granting of the variance shall not result in increased flood heights, additional threats to public safety, extraordinary public expense, the creation of nuisances, fraud on or victimization of the public, or conflict with existing local laws or ordinances.

(3) The concurring vote of four members of the Board shall be necessary to reverse any order, requirement, decision, or determination of the Floodplain Administrator, to decide in favor of the applicant on any matter on which it is required to pass under this chapter, or to effect any variance in the chapter.

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

(G) *Appeal of Board's decision.*

(1) Any person or persons, jointly or severally aggrieved by any decision of the Board, or any taxpayer or any officer or board of the municipality may present to the court of jurisdiction a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of illegality.

(2) The petition shall be presented to the court within ten days after the filing of the decision in the office of the Board and not thereafter.

(H) Report to the Federal Emergency Management Agency. The Floodplain Administrator shall maintain a record of all actions involving an appeal and shall report any variance granted by the Board of Adjustment to the Federal Emergency Management Agency upon request.

(Ord. 254-87-04-28, passed 4-28-87)

§ 151.57 FEES

(A) *Establishment.* The City Council shall establish by resolution a fee structure for fees to be paid at the time of filing an application for a development permit or an appeal under this chapter. The fees shall be posted in the office of the City Secretary and may be amended by action of the City Council.

(B) *Administration.*

(1) For each action requiring payment of a fee under this chapter, the City Secretary or a duly authorized designate, shall:

(a) Maintain a record of all fees paid and of all costs incurred by the city for plan review and for inspection and reinspection;

(b) Bill the development permit applicant or holder for any costs incurred by the city that exceed the amount of the fee deposit; and

(c) Refund any unutilized fee deposit at the conclusion of the 45-day period following the termination of the development process.

(2) The payment of the applicable fee is a prerequisite to any action under this chapter which entails payment of a fee.
(Ord. 254-87-04-28, passed 4-28-87)

§ 151.58 VIOLATIONS.

In case any property is developed or used in violation of this chapter, the Floodplain Administrator is authorized and directed to institute any appropriate action to assure enforcement and compliance with this chapter.
(Ord. 254-87-04-28, passed 4-28-87)

§ 151.99 PENALTY.

(A) Any person or corporation who shall violate any of the provisions of this chapter, or who fails to comply herewith or with any of the requirements hereof, or who shall develop any property in violation of any development plan submitted and permit approved hereunder, shall be liable to a maximum fine of not more than \$500 for each day any such violation shall continue. Each violation may be considered a separate offense. The owner or owners of any property or premises, or part thereof, where anything in violation of this chapter shall be placed, or shall exist, and any architect, engineer, builder, contractor, agent, person, or corporation employed in connection therewith, and who may have assisted in the commission of any such violation, shall be guilty of a separate offense, and upon conviction thereof, shall be fined as herein provided.

(B) Nothing herein contained shall prevent the city from taking other lawful action as is necessary to prevent or remedy any violation of this chapter.
(Ord. 254-87-04-28, passed 4-28-87; Am. Ord. 260-87-08-11, passed 8-11-87)