

CHAPTER 152: FLOOD HAZARD PREVENTION

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GENERAL PROVISIONS

§ 152.01 STATUTORY AUTHORITY.

The Legislature of the state has, in NMSA Ch. 3, Art. 41, delegated the responsibility to local governmental units to adopt regulations designed to minimize flood losses. Therefore, the governing body of the city does adopt this chapter pursuant to state statutes.

('87 Code, § 8-4-1) (Ord. 84-113; Am. Ord. 90-042; Am. Ord. 91-038; Am. Ord. 96-018)

§ 152.02 FINDINGS OF FACT.

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

(B) *Flood losses.* These flood losses are caused by the cumulative effect of urbanization which increases flood frequency, flood heights and velocities, and/or the occupancy of flood hazard areas by uses that are vulnerable to floods and hazardous to other lands because they are inadequately flood-proofed, elevated or otherwise protected from flood damage.

(C) *Erosion hazard.* There exists within the city, areas which are subject to soil erosion caused by flowing water which results in loss of property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for erosion protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

(D) *Erosion losses.* These losses are caused by cumulative effects of urbanization, inadequately treated flood and drainage facilities and uses that allow construction of facilities in areas of hazard.

('87 Code, § 8-4-2) (Ord. 84-113; Am. Ord. 90-042; Am. Ord. 91-038; Am. Ord. 96-018)

Cross-reference:

Erosion Control; Storm Drainage, see Chapter 153

§ 152.03 INTENT AND PURPOSE.

(A) *Purpose.* 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 flood hazard areas, floodways and erosion hazard areas by provisions designed:

- (1) To protect human life and health;
- (2) To minimize expenditure of public money for costly flood and erosion control projects;
- (3) To minimize the need for rescue and relief efforts associated with flooding and erosion 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, streets, and bridges located in areas of special flood and/or erosion hazard;
- (6) To help maintain a stable tax base by providing for the second sound use and development of areas of special flood and/or erosion hazard so as to minimize future flood blight areas;
- (7) To ensure that potential buyers are notified that property is located in an area of special flood and/or erosion hazard; and
- (8) To ensure that those who occupy the areas of special flood and/or erosion hazard assume responsibility for their actions.

(B) *Methods of reducing losses.* In order to accomplish its purposes, this chapter includes methods and provisions for:

- (1) Restricting or prohibiting uses which are dangerous to health, safety and property in times of flood, or cause excessive increases in flood heights or velocities;
- (2) Requiring that uses vulnerable to flood or erosion, including facilities which serve the uses, be protected against flood damage at the time of initial construction;
- (3) Controlling the alteration of natural floodplains, stream channels and natural protective barriers, which help accommodate or channel flood waters;
- (4) Controlling filling, grading, dredging and other development which may increase flood or erosion damage

within the flood hazard areas, floodways and erosion hazard areas; and

(5) Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or which may increase flood or erosion hazards in other areas.

('87 Code, § 8-4-3) (Ord. 84-113; Am. Ord. 90-042; Am. Ord. 91-038; Am. Ord. 96-018)

§ 152.04 DEFINITIONS.

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

ALLUVIAL FAN FLOODING. Flooding occurring on the surface of an alluvial fan or similar land form 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 land form below which the flow path of the major stream that formed the fan becomes unpredictable and alluvial fan flooding can occur.

APPEAL. A request for a review of the Floodplain Administrator's interpretation of any provision of this chapter or a decision on a request for a variance.

AREA OF EROSION HAZARD. The land within the community that lies within 25 feet of the top of the bank of an unlined or untreated major channel.

AREA OF SHALLOW FLOODING. The area in which the base flood depths range from one to three feet; a clearly defined channel does not exist and the path of flooding is unpredictable and indeterminate and where velocity flow may be evident. The flooding is characterized by ponding or sheet flow.

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

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

BASEMENT. Any area of the building having its floor subgrade (below ground level) on all sides.

CITY ADMINISTRATION. The Mayor of the city or his designee.

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-made 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 or materials.

ELEVATED BUILDING. A nonbasement building:

(1) Built, in the case of a building in Zones A1-30, AE, A, A99, AO, AH, B, C, X and D to have the top of the elevated floor elevated above the ground level by means of pilings, columns (post and piers), or shear walls parallel to the

flow of water; and

(2) Adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of Zones A1-30, AE, A, A99, AO, AH, B, C, X, and D, **ELEVATED BUILDING** also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters.

EROSION. The removal or deposition of soil from or to the bed or banks of a major channel.

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 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:

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

FLOODPLAIN ADMINISTRATOR. The individual designated in § 152.46(B) to administer and implement the provisions of this chapter and other appropriate sections of 44 CFR (National Flood Insurance Program Regulations) pertaining to floodplain management.

FLOOD INSURANCE RATE MAP or FIRM. An official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards 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, water surface elevation of the base flood, as well as the Flood Insurance Rate Map.

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 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 areas within a community subject to a special flood hazard and the extent of the depths of associated flooding. Such a system typically includes 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 or 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.

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.

HABITABLE FLOOR. Any floor usable for living purposes, which includes working, sleeping, eating, cooking, recreation or a combination thereof. A floor used only for storage purpose is not a **HABITABLE FLOOR**.

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 of 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 of vehicles, building access or storage in an area other than a basement area is not considered a building's **LOWEST FLOOR**; provided that the 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.

MAJOR CHANNEL. Any channel which would collect or convey a peak discharge of 100 cubic feet per second or more in the event of a 1% chance flood.

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.

MAYOR. The Mayor of the city or his designated representative.

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 the 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 the 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.

PROFESSIONAL ENGINEER. A professional engineer registered in the state and formally trained as a civil engineer.

PUBLIC DRAINAGE SYSTEM. The path that storm runoff or other flow will follow from the furthest upstream parcels of land to city limits.

RECREATIONAL VEHICLE. A vehicle which is:

- (1) Built on a single chassis;
- (2) Four hundred square feet or less when measured at the largest horizontal projections;

(3) Designed to be self-propelled or permanently towable by a light duty truck; and

(4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

START OF CONSTRUCTION.

(1) 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.

(2) 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.

(3) 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. 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% of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENTS. Any reconstruction, rehabilitation, addition or other improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure before start of construction of the improvement. This includes structures which have incurred 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 health, sanitary or safety specifications which have been identified by the local code enforcement official and which are the minimum necessary 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 to a person from the requirement of this chapter when specific enforcement would result in unnecessary hardship. A ***VARIANCE***, therefore, permits construction or development in a manner otherwise prohibited by this chapter. (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), or (d)(3), 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 riverine areas.

('87 Code, § 8-4-4) (Ord. 84-113; Am. Ord. 90-042; Am. Ord. 91-038; Am. Ord. 96-018; Am. Ord. 01-020)

§ 152.05 APPLICABLE LANDS.

This chapter shall apply to all areas of special flood hazards and areas of erosion hazard within the jurisdiction of the city, which includes its extraterritorial planning and platting jurisdiction.

('87 Code, § 8-4-5) (Ord. 84-113; Am. Ord. 90-042; Am. Ord. 91-038; Am. Ord. 96-018)

§ 152.06 ESTABLISHMENT OF FLOOD HAZARD AREAS.

The areas of special flood hazard identified by the Federal Emergency Management Agency in a scientific and engineering report entitled, "The Flood Insurance Study for Sandoval County, New Mexico and Incorporated Areas," dated July 16, 1996, with accompanying Flood Insurance Rate Maps and (FIRM) and any revisions are hereby adopted by reference and declared to be a part of this chapter.

('87 Code, § 8-4-5) (Ord. 84-113; Am. Ord. 90-042; Am. Ord. 91-038; Am. Ord. 96-018)

§ 152.07 ABROGATION AND GREATER RESTRICTIONS.

Except as otherwise provided herein, this chapter is not intended to repeal, abrogate or impair any existing ordinances, easements, covenants or deed restrictions. However, where this chapter and any other ordinance, easement, covenant or deed restriction conflicts or overlaps, whichever imposes the more stringent restrictions shall prevail.

('87 Code, § 8-4-5) (Ord. 84-113; Am. Ord. 90-042; Am. Ord. 91-038; Am. Ord. 96-018)

§ 152.08 INTERPRETATION.

In the interpretation and application of this chapter, all provisions shall be:

- (A) Considered as minimum requirements;
- (B) Liberally construed in favor of the city; and
- (C) Deemed neither to limit nor repeal any other powers granted under state statutes.

('87 Code, § 8-4-5) (Ord. 84-113; Am. Ord. 90-042; Am. Ord. 91-038; Am. Ord. 96-018)

§ 152.09 WARNING; DISCLAIMER OF LIABILITY.

The degree of flood and erosion 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 and erosion may be increased by man-made or natural causes. This chapter does not imply that land outside the area of special flood and/or erosion hazard, or uses permitted within the areas will be free from flooding, flood damages or erosion damages. This chapter shall not create liability on the part of the city, any officer or employee thereof, for any flood or erosion damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.

(`87 Code, § 8-4-5) (Ord. 84-113; Am. Ord. 90-042; Am. Ord. 91-038; Am. Ord. 96-018)

FLOOD HAZARD REDUCTION

§ 152.20 ANCHORING AND STRUCTURAL DESIGN.

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

(B) All manufactured homes shall be elevated and anchored to resist flotation, collapse or lateral movement by providing over-the-top and frame ties to ground anchors.

(`87 Code, § 8-4-7) (Ord. 84-113; Am. Ord. 90-042; Am. Ord. 91-038; Am. Ord. 96-018)

§ 152.21 CONSTRUCTION MATERIALS AND METHODS.

(A) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood and erosion damage.

(B) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood and erosion damage.

(C) All new construction or substantial improvements shall be constructed 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.

(`87 Code, § 8-4-7) (Ord. 84-113; Am. Ord. 90-042; Am. Ord. 91-038; Am. Ord. 96-018)

§ 152.22 UTILITIES.

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

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

(C) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding and out of erosion hazard areas.

('87 Code, § 8-4-7) (Ord. 84-113; Am. Ord. 90-042; Am. Ord. 91-038; Am. Ord. 96-018)

§ 152.23 SUBDIVISION PROPOSALS.

(A) All subdivision proposals shall be consistent with the need to minimize flood and erosion damage.

(B) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood and erosion damage.

(C) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.

(D) Base flood elevation data shall be provided by the developer with subdivision proposals and other proposals for proposed development whenever the flood insurance rate maps indicate that the land in question is impacted by a special flood hazard area. The determination will be approved by the City Engineer.

(E) All subdivision proposals shall have adequate erosion treatment of channels in accordance with generally accepted engineering standards.

('87 Code, § 8-4-7) (Ord. 84-113; Am. Ord. 90-042; Am. Ord. 91-038; Am. Ord. 96-018)

§ 152.24 RESIDENTIAL CONSTRUCTION.

New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated a minimum of one foot above flood elevation and be completely outside the area of erosion hazard. A registered professional engineer, architect or land surveyor shall submit a certification to the Floodplain Administrator that the standard of this subsection is satisfied.

('87 Code, § 8-4-7) (Ord. 84-113; Am. Ord. 90-042; Am. Ord. 91-038; Am. Ord. 96-018)

§ 152.25 NONRESIDENTIAL CONSTRUCTION.

New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated a minimum of one foot above the base flood elevation; or together with attendant utility and sanitary facilities, shall:

(A) Be flood proofed so that below one foot above the base flood level the structure is watertight with walls substantially impermeable to the passage of water;

(B) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;

(C) Be completely outside the area of erosion hazard; and

(D) Be certified by a professional engineer that the standards of this section are satisfied. The certifications shall be provided to the Floodplain Administrator.

('87 Code, § 8-4-7) (Ord. 84-113; Am. Ord. 90-042; Am. Ord. 91-038; Am. Ord. 96-018)

§ 152.26 ENCLOSURES.

(A) 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 flood waters.

(B) 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 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 one 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 flood waters.

('87 Code, § 8-4-7) (Ord. 84-113; Am. Ord. 90-042; Am. Ord. 91-038; Am. Ord. 96-018)

§ 152.27 MANUFACTURED HOMES.

(A) All manufactured homes to be placed or substantially improved within Zone A shall be installed using methods and practices that minimize the potential for flood damage. For the purpose of this requirement, manufactured homes must be elevated such that the lowest floor of the home is a minimum of one foot above the base flood elevation, and anchored to resist floatation, 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.

(B) All manufactured homes to be placed or substantially improved within zones A1-30, AH and AE on the community's FIRM shall be placed on a permanent foundation that is adequately anchored and designed to resist floatation, collapse or lateral movement, such that the lowest floor of the home is elevated a minimum of one foot above the base flood elevation and the home is securely anchored in accordance with the provisions of division (A) above.

('87 Code, § 8-4-7) (Ord. 84-113; Am. Ord. 90-042; Am. Ord. 91-038; Am. Ord. 96-018)

§ 152.28 RECREATIONAL VEHICLES.

(A) Recreational vehicles placed on sites within Zones A1-30, AH, and AE on the community's FIRM shall either:

(1) Be on the site for fewer than 180 consecutive days;

(2) Be fully licensed and ready for highway use; or

(3) Meet the permit requirements of § 152.45(B) and the elevation and anchoring requirements for manufactured

homes in § 152.27.

(B) 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.

('87 Code, § 8-4-7) (Ord. 84-113; Am. Ord. 90-042; Am. Ord. 91-038; Am. Ord. 96-018)

§ 152.29 FLOODWAYS.

(A) Located within areas of special flood hazard established in § 152.06 are areas designed as floodways.

(B) Since the floodway is an extremely hazardous area due to the velocity of the flood waters which carry debris, potential projectiles and erosion potential, the following provisions apply:

(1) *Encroachment prohibitions.* Prohibit encroachments, including fill, new construction, substantial improvements and other development within the adopted regulatory floodway unless it has been demonstrated through hydraulic analysis performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in the flood levels within the community during the occurrence of the base flood discharge.

(2) *Flood hazard reducers.* If the provisions of this section are satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of this chapter.

(3) *Mobile home placement.* Prohibit the placement of any mobile homes, within the regulatory floodway.

(4) *Hazardous materials.* Prohibit storage of hazardous materials within the regulatory floodway.

('87 Code, § 8-4-7) (Ord. 84-113; Am. Ord. 90-042; Am. Ord. 91-038; Am. Ord. 96-018)

§ 152.30 AREAS OF SHALLOW FLOODING.

(A) Located within the areas of special flood hazard established in § 152.06, are areas designated as 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 and where the path of flooding is unpredictable and where velocity flow may be evident.

(B) Flooding is characterized by ponding or sheet flow; therefore, the following provisions apply:

(1) All new construction and substantial improvements of residential structures have the lowest floor (including basement) elevated above the highest adjacent grade at least one foot higher than the depth number specified in feet on the community's FIRM (as least three feet if no depth number is specified).

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

(a) Have the lowest floor (including basement) elevated above the highest adjacent grade at least one foot higher than the depth number specified in feet on the community's FIRM (at least three feet if no depth number is specified).

(b) Together with the attendant utility and sanitary facilities be designed so that 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 to an elevation that equals or exceeds the sum of the elevation of the highest adjacent grade plus the flood depth number specified in feet on the FIRM plus one foot.

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

(d) Require within Zones AH or AO adequate drainage paths around structures on slopes, to guide flood waters around and away from proposed structures.

('87 Code, § 8-4-7) (Ord. 84-113; Am. Ord. 90-042; Am. Ord. 91-038; Am. Ord. 96-018)

§ 152.31 ZONES WITHOUT REGULATORY FLOODWAYS.

When a regulatory floodway has not been designated, 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 and it is also demonstrated that any proposed increase in the water surface elevation of the base flood will not increase the potential for flood damages to occur at any location in the community.

('87 Code, § 8-4-7) (Ord. 84-113; Am. Ord. 90-042; Am. Ord. 91-038; Am. Ord. 96-018)

ADMINISTRATION AND ENFORCEMENT

§ 152.45 PERMIT REQUIRED; COMPLIANCE.

(A) Any permit, license or certificate issued in conflict with the provisions of this chapter is void. ('87 Code, § 8-4-5)

(B) A special hazard zone development permit shall be obtained from the Floodplain Administrator or his or her designee before development begins within any area of special flood hazard or erosion hazard established in § 152.06.

(1) Application for a special flood hazard zone development permit shall be presented to the Floodplain Administrator on forms furnished by him or her and may include, but not be limited to plans in duplicate drawn to scale showing the location, dimensions and elevation of proposed landscape alterations, existing and proposed structures, including the placement of manufactured homes, and the location of the foregoing in relation to areas of special flood hazard. Additionally, the following information is required:

(a) Elevation in relation to mean sea level, of the lowest floor (including basement) of all new and substantially improved structures;

(b) Elevation in relation to mean sea level to which any nonresidential structure shall be flood proofed;

(c) The shortest horizontal distance from bank of unlined or untreated drainage course to the proposed structure;

(d) A certificate from a registered professional engineer or architect that the nonresidential flood proofed

structure shall meet the flood proofing criteria of § 152.25; and

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

(2) The Floodplain Administrator or his designee will initially review completed applications to determine if the data provided is sufficient to pass make an informed decision on. The Floodplain Administrator may request submission of additional items that may include, but not be limited to hydrologic and or hydraulic analysis by a registered professional engineer in the state.

(3) Upon receiving sufficient data to evaluate a permit request, the permit will be issued or denied based on all of the provisions of this chapter and the following relevant factors:

(a) The danger to life and property due to flooding or erosion damage;

(b) The susceptibility of the proposed facility and its contents to flood damage and the effect of the damage on the individual owner;

(c) The danger that materials may be swept onto other lands to the injury of others;

(d) The safety of access to the property in times of flood for ordinary and emergency vehicles;

(e) The 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;

(f) 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;

(g) The necessity to the facility of a waterfront location, where applicable; and

(h) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use.

('87 Code, § 8-4-6) (Ord. 84-113; Am. Ord. 90-042; Am. Ord. 91-038; Am. Ord. 96-018)

§ 152.46 FLOODPLAIN ADMINISTRATOR.

(A) (1) The Floodplain Administrator or his designee may make reasonable entry upon any lands and waters within the city's jurisdiction for the purpose of making any investigation, survey, removal or repair contemplated by this chapter. An investigation of any obstruction shall be made by the Floodplain Administrator or his designee either on his own initiative, or on the written request of any two title holders of land abutting the channel or drainage way involved.

(2) (a) Whenever necessary to make an inspection to enforce any of the provisions of this chapter, the Floodplain Administrator or his designee may enter the buildings or premises at all reasonable times to inspect the same or to perform any duty imposed upon him by this chapter; provided that if the building or premises be occupied, he shall first present proper credentials and demand entry; and if the building or premises be unoccupied he shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and demand entry.

(b) If entry is refused, the Floodplain Administrator or his authorized representative shall proceed to obtain a

search warrant by filing a complaint made before the Municipal Court upon oath or affirmation.

(c) The complaint shall:

1. Set forth the particular building, premises or portion thereof sought to be inspected;
2. State that the owner or occupant of the building, premises or portion thereof, has refused entry;
3. State that inspection of the building, premises or portion thereof is necessary to determine whether it complies with the requirements of this chapter;
4. Set forth the particular provisions of this chapter sought to be enforced;
5. Set forth any other reason necessitating the inspection, including knowledge or belief that a particular condition exists in building premises, or portion thereof which constitutes a violation of this chapter; and
6. State that the complainant is authorized by the city to make the inspection. Each inspector shall be furnished with an identification card signed by a representative of the city administration indicating his authority and must present same to the Municipal Court for the purpose of this section, and to other persons, when requested to do so during the performance of his duty. No owner or occupant or any other person having charge, care, or control of any building or premises shall fail or neglect, after proper demand is made as herein provided, to promptly permit entry therein by the authorized inspector for the purpose of inspection and examination pursuant to this chapter.

(3) The powers and duties of the Floodplain Administrator or his designee relative to obstructions in a flood or erosion hazard area shall include the following:

(a) Where an obstruction to a floodway has been created by fallen trees, silt, debris and like matter, the city may remove the obstruction in which case the cost of removal shall be borne by the city;

(b) Where, after investigation, an order has been issued to the owner of an obstruction for its removal or repair and the order is not complied with, within the reasonable time as may be prescribed by the Floodplain Administrator or his designee, or, if the owner cannot be found or determined, the Floodplain Administrator or his designee may cause the removal or repairs to be made. The reasonable cost of the removal or repairs shall constitute a lien against the lots from which the obstruction was removed or on which it was repaired. The lien shall be imposed and foreclosed in the manner provided in NMSA §§ 3-36-1 through 3-36-6.

('87 Code, § 8-4-5) (Ord. 84-113; Am. Ord. 90-042; Am. Ord. 91-038; Am. Ord. 96-018)

(B) (1) The City Engineer is hereby appointed as Floodplain Administrator to administer and implement this chapter and may deny special hazard zone development permits in accordance with its provisions.

(2) Duties of the Floodplain Administrator shall include, but not be limited to:

(a) *Permit review.*

1. Review of all special hazard zone development permits to determine that the requirements of this chapter have been satisfied;

2. Review all special hazard zone development permits to determine that all necessary permits have been obtained from those federal, state or local governmental agencies from which prior approval is required;

3. Review all special hazard zone development permits to determine if the proposed development is located in the floodway and if located in the floodway, assure that the encroachment provisions of § 152.29 are met; and

4. Review all special hazard zone development permits to determine whether proposed building sites will be reasonably safe from flooding.

(b) *Use of other base flood and erosion data.* When base flood elevation data has not been provided in accordance with § 152.06, the Floodplain Administrator shall obtain, review and reasonably utilize any base flood elevation data available from a federal, state or other source, in order to administer §§ 152.24 and 152.25.

(c) *Information to be obtained and maintained.*

1. Obtain and record the actual elevation (in relation to mean sea level) of the lowest habitable floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement; and

2. For all new substantially improved flood proofed structures:

a. Obtain and record the actual elevation (in relation to mean sea level); and

b. Maintain the flood proofing certifications required in § 152.25.

(d) *Alteration of watercourses.*

1. Whenever appropriate, notify adjacent communities and local flood control agencies and the State Engineer prior to any alteration or relocation of a watercourse; and

2. Require that maintenance is provided within the altered or relocated portion of the watercourse so that the flood carrying capacity is not diminished.

(e) *Interpretation of flood and erosion hazard maps.* Make interpretations where needed, as to the exact location of the boundaries of the areas of special flood and erosion hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in § 152.48.

(’87 Code, § 8-4-6) (Ord. 84-113; Am. Ord. 90-042; Am. Ord. 91-038; Am. Ord. 96-018)

§ 152.47 VARIANCES.

(A) The Floodplain Administrator shall hear and evaluate requests for variances from the requirements of this chapter in compliance with Section 60.6 of the National Flood Insurance Program Regulations.

(B) (1) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of ½-acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level and not in designated floodway, providing items in § 152.48(B) have been fully considered. As the lot size increases beyond ½-acre, the technical justification required for issuing the variance increases.

(2) Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the New Mexico Cultural Properties Register, without regard to the procedures set forth in the remainder of this section.

(3) Variances shall not be issued within any designated floodway if any increase in flood levels or adverse realignment during the base flood discharge would occur as a result of allowing discharge variances.

(4) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood and erosion hazard, to afford relief.

(5) Variances shall only be issued upon:

(a) A showing of good and sufficient cause;

(b) A determination that failure to grant a variance would result in exceptional hardship to the applicant; and

(c) A determination that the granting of a variance will not result in increased flood heights, erosion hazard, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public as identified in § 152.48(B) or conflict with existing local laws or ordinances.

(87 Code, § 8-4-6) (Ord. 84-113; Am. Ord. 90-042; Am. Ord. 91-038; Am. Ord. 96-018)

§ 152.48 APPEALS.

(A) The governing body shall hear and decide appeals when it is alleged there is an error in any requirement, decision or determination made by the Floodplain Administrator in the enforcement or administration of this chapter.

(B) (1) In passing upon applications for variances and appeals, the Floodplain Administrator or the governing body shall consider all technical evaluations, all relevant factors, standards specified in other sections of this chapter and:

(a) The danger that materials may be swept onto other lands to the injury of others;

(b) The danger to life and property due to flooding or erosion damage;

(c) The susceptibility of the proposed facility and its contents to flood or erosion damage and the effect of the damage on the individual owner;

(d) The importance of the services provided by the proposed facility to the community;

(e) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;

(f) The compatibility of the proposed use with existing and anticipated development;

(g) The relationship of the proposed use to the comprehensive plan and floodplain management program of that area;

(h) The safety of access to the property in times of flood for ordinary and emergency vehicles;

(i) The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters expected at the site; and

(j) The costs 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.

(2) Upon consideration of factors of this division (B) and the purposes of this chapter, conditions to the granting of variances may be attached to approvals as deemed necessary to further the purposes of this chapter.

(3) The Floodplain Administrator or his designees shall maintain the records of all appeal actions, including technical information.

('87 Code, § 8-4-6) (Ord. 84-113; Am. Ord. 90-042; Am. Ord. 91-038; Am. Ord. 96-018)

§ 152.49 POLICIES, PROCEDURES AND FEES.

The Floodplain Administrator shall establish policies, procedures and fees to defray city costs, as required for the administration of this chapter.

('87 Code, § 8-4-6) (Ord. 84-113; Am. Ord. 90-042; Am. Ord. 91-038; Am. Ord. 96-018)

§ 152.99 PENALTY.

A person who violates any provision of this chapter shall be punished by a fine not to exceed \$500 or imprisonment for a period not to exceed 90 days, or both. Each day of violation is considered a separate offense.

('87 Code, § 8-4-5) (Ord. 84-113; Am. Ord. 90-042; Am. Ord. 91-038; Am. Ord. 96-018)

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