

(2) All new construction and substantial improvements of non-residential buildings may be flood-proofed in lieu of elevation. The structure together with attendant utility and sanitary facilities must be flood-proofed and designed watertight to be completely flood-proofed to at least one foot above the flood depth number specified on the FIRM, with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. If no depth number is specified on the FIRM, the structure shall be flood proofed to at least three feet above the highest adjacent grade. A state registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this chapter and shall provide such certification to the Administrator as set forth above and as required in § 14-304(B).

(3) Adequate drainage paths shall be provided around slopes to guide flood waters around and away from proposed structures.

(G) *Standards for areas protected by flood protection system (A-99 Zones)*. Located within the areas of special flood hazard established in § 14-303(B) are areas of the 100-year floodplain protected by a flood protection system, but where base flood elevations have not been determined. Within these areas (A-99 Zones) all provisions of § 14-304 and this section shall apply.

(H) *Standards for unmapped streams*. Located within the city are unmapped streams where areas of special flood hazard are neither indicated nor identified. Adjacent to the streams the following provisions shall apply.

(1) No encroachments including fill material or other development including structures shall be located within an area of at least equal to twice the width of the stream, measured from the top of each stream bank, unless certification by a state registered professional engineer is provided demonstrating 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 locality.

(2) When a new flood hazard risk zone, and base flood elevation and floodway data is available, new construction and substantial improvements shall meet the standards established in accordance with §§ 14-304 and this section.

(1989 Code, § 14-305) (Ord. 1143, passed 9-25-2007; Ord. 1219, passed 6-9-2009)

#### § 14-306 VARIANCE PROCEDURES.

##### (A) *Board of Floodplain Review*.

(1) *Creation and appointment*. A Board of Floodplain Review is hereby established which shall consist three members appointed by the City Council. The term of membership shall be four years except that the initial individual appointments to the Board of Floodplain Review shall be terms of one, two and three years respectively. Vacancies shall be filled for any unexpired term by the City Council.

(2) *Procedure.* Meetings of the Board of Floodplain Review shall be held at such times, as the Board shall determine. All meetings of the Board of Floodplain Review shall be open to the public. The Board of Floodplain Review shall adopt rules of procedure and shall keep records of applications and actions thereon, which shall be a public record. Compensation of the members of the Board of Floodplain Review shall be set by the City Council.

(3) *Appeals; how taken.* An appeal to the Board of Floodplain Review may be taken by any person, firm or corporation aggrieved or by any governmental officer, department or bureau affected by any decision of the Administrator based in whole or in part upon the provisions of this chapter. The appeal shall be taken by filing with the Board of Floodplain Review a notice of appeal, specifying the grounds thereof. In all cases where an appeal is made by a property owner or other interested party, a fee of \$25 or the cost of publishing a notice of the hearings shall be paid by the appellant. The Administrator shall transmit to the Board of Floodplain Review all papers constituting the record upon which the appeal action was taken. The Board of Floodplain Review shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to parties in interest and decide the same within a reasonable time which shall not be more than ten days from the date of the hearing. At the hearing, any person or party may appear and be hired in person or by agent or by attorney.

(4) *Powers.* The Board of Floodplain Review shall have the following powers.

(a) *Administrative review.* To hear and decide appeals where it is alleged by the applicant that there is error in any order, requirement, permit, decision, determination or refusal made by the Administrator or other administrative official in the carrying out or enforcement of any provisions of this chapter.

(b) *Variance procedures.* In the case of a request for a variance, the following shall apply.

1. The city's Board of Floodplain Review shall hear and decide appeals and requests for variances from the requirements of this chapter.

2. Variances may also be issued for the repair or rehabilitation of historic structures, as defined herein, upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary deviation from the requirements of this chapter to preserve the historic character and design of the structure.

3. In passing upon applications, the Board of Floodplain Review shall consider all technical evaluations all relevant factors, all standards specified in other sections of this chapter, and:

a. The danger that materials may be swept onto other property to the injury of others;

b. The danger to life and property due to flooding or erosion;

- c. The susceptibility of the proposed facility and its contents to flood damage;
- d. The importance of the services provided by the proposed facility to the community;
- e. The necessity of the facility to a waterfront location, in the case of a functionally dependent facility;
- f. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
- g. The relationship of the proposed use to the comprehensive plan and floodplain management program for 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 and the effects of wave action, if applicable, 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.

4. Upon consideration of the factors listed above, and the purposes of this chapter, the Board of Floodplain Review may attach conditions to the granting of variances, as it deems necessary to effectuate the purposes of this chapter.

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

*(B) Conditions for variances.*

(1) Variances shall be issued upon a determination that the variance is the minimum relief necessary, considering the flood hazard and the factors listed in division (A) above.

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

(3) Any applicant to whom a variance is granted shall be given written notice that the issuance of a variance to construct a structure below the base flood elevation will result in increased premium

rates for flood insurance (as high as \$25 for \$100 coverage, and that the construction below the base flood elevation increases risks to life and property.

(4) The Administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request.  
(1989 Code, § 14-306) (Ord. 1143, passed 9-25-2007; Ord. 1219, passed 6-9-2009)

**§ 14-307 LEGAL STATUS PROVISIONS.**

(A) *Conflict with other chapters.* In case of conflict between this chapter or any part thereof, and the whole or part of any existing or future ordinance of the city, the most restrictive shall in all cases apply.

(B) *Severability.* If any section, clause, provision or portion of this chapter shall be held to be invalid or unconstitutional by any court of competent jurisdiction, holding shall not affect any other section, clause, provision or portion of this which is not of itself invalid or unconstitutional.  
(1989 Code, § 14-307) (Ord. 1143, passed 9-25-2007; Ord. 1219, passed 6-9-2009)