

CHAPTER 156: FLOOD HAZARD AREAS

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§ 156.01 STATUTORY AUTHORIZATION.

The Indiana Legislature granted the power to local units of government in the flood hazard areas in order to reduce the potential for loss of life and property, reduce the potential for extraordinary public expenditures for flood protection and relief. Under the authority granted to local units of government to control land use within their jurisdiction, which includes taking into account the effects of flooding, the Decatur City Council hereby adopts the following flood plain management regulations in order to accomplish the following:

- (A) to prevent unwise developments from increasing flood or drainage hazards to others;
- (B) to protect new buildings and major improvements to buildings from flood damage;
- (C) to protect human life and health from the hazards of flooding;
- (D) to lessen the burden on the taxpayer for flood control projects, repairs to flood-damaged public facilities and utilities, and flood rescue and relief operations;
- (E) to maintain property values and a stable tax base by minimizing the potential for creating flood blighted areas;
- (F) to make federally subsidized flood insurance available for property in the flood hazard district by fulfilling the requirements of the National Flood Insurance Program.

§ 156.02 DEFINITIONS.

For the purpose of this ordinance, the following definitions are adopted:

- (A) Building - see “structure.”
- (B) Development - any man-made change to improved or unimproved real estate

including but not limited to:

1. Construction, reconstruction, or placement of a building or any addition to a building;
2. Installing a manufactured home on a site, preparing a site for a manufactured home or installing a travel trailer on a site for more than 180 days;
3. Installing utilities, erection of walls and fences, construction of roads, or similar projects;
4. Construction of flood control structures such as levees, dikes, channel improvements, etc.;
5. Mining, dredging, filling, grading, excavation, or drilling operations;
6. Construction and/or reconstruction of bridges or culverts;
7. Storage of materials; or
8. Any other activity that might change the direction, height, or velocity of flood or surface waters.

“Development” does not include activities such as the maintenance of existing buildings and facilities such as painting, re-roofing; resurfacing roads; or gardening, plowing, and similar agricultural practices that do not involve filling, grading, excavation, or the construction of permanent buildings.

(C) Existing manufactured home park or subdivision - means 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 flood plain management regulations adopted by a community.

(D) Expansion to an existing manufactured home park or subdivision - means 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).

(E) FHBM - means Flood Hazard Boundary Map.

(F) FIRM - means Flood Insurance Rate Map.

(G) Flood - a general and temporary condition of partial or complete inundation of normally dry land areas from the overflow, the unusual and rapid accumulation, or the runoff of surface waters from any source.

(H) Flood plain - the channel proper and the areas adjoining any wetland, lake or watercourse which have been or hereafter may be covered by the regulatory flood. The flood plain includes both the flood way and the flood way fringe districts.

(I) Flood Protection Grade or the "FPG" - means the elevation of the regulatory flood plus two feet at any given location in the SFHA.

(J) Flood way - means the channel of a river or stream and those portions of the flood plains adjoining the channel which are reasonably required to efficiently carry and discharge the peak flood flow of the regulatory flood of any river or stream.

(K) Flood way fringe - means those portions of the flood hazard areas lying outside the flood way.

(L) Letter of Map Amendment (LOMA) - An amendment to the currently effective FEMA map that establishes that a property is not located in a Special Flood Hazard Area (SFHA). A LOMA is only issued by FEMA.

Letter of Map Revision (LOMR) - An official revision to the currently effective FEMA map. It is issued by FEMA and changes flood zones, delineations, and elevations.

(M) Lowest Floor - means the lowest of the following:

1. the basement floor;
2. the garage floor, if the garage is the lowest level of the building;
3. the first floor of buildings elevated on pilings or constructed on a crawl space with permanent openings; or
4. the floor level of any enclosure below an elevated building where the walls of the enclosure provide any resistance to the flow of flood waters unless;
 - (a). the walls are designed to automatically equalize the hydrostatic flood forces on the walls by allowing for the entry and exit of flood waters, through providing a minimum of two openings (in addition to doorways and windows) having a total area of one (1) square foot for every two (2) square feet of enclosed floor area subject to flooding. The bottom of all such openings shall be no higher than one (1) foot above **GRADE**.
 - (b). such enclosed space shall be usable for non-residential purposes and building access.

(N) Manufactured home - means 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 attached to the required utilities. The term "manufactured home" does not include a recreational vehicle."

(O) New manufactured home park or subdivision - means 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 flood plain management regulations adopted by a community.

(P) Recreation vehicle - means a vehicle which is (1) built on a single chassis; (2) 400 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.

(Q) Regulatory Flood - means the flood having a one percent probability of being equaled or exceeded in any given year, as calculated by a method and procedure which is acceptable to and approved by the Indiana Natural Resources Commission. The regulatory flood elevation at any location is as defined in Section 5 of this ordinance. The "Regulatory Flood" is also known by the term "Base Flood."

(R) SFHA or Special Flood Hazard Area - means those lands within the jurisdiction of the City/Town that are subject to inundation by the regulatory flood. The SFHAs of the City are generally identified as such on the FIRM or Flood Insurance Rate Map of the City prepared by the Federal Emergency Management Agency and dated October 16, 2003 including all amendments, or replacements thereof. The SFHAs of those parts of unincorporated Adams County that are within the extraterritorial jurisdiction of the City or that may be annexed into the City are generally identified as such on the FIRM prepared for Adams County by the Federal Emergency Management Agency and dated October 16, 2003.

(S) Structure - means a structure that is principally above ground and is enclosed by walls and a roof. The term includes a gas or liquid storage tank, a manufactured home, or a prefabricated building. The term also includes recreational vehicles and travel trailers to be installed on a site for more than 180 days.

(T) Substantial Improvement means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 40 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage" regardless of the actual repair work performed. The term does not include improvements of structures to correct existing violations of state or local health, sanitary, or safety code requirements or any alteration of a "historic structure", provided that the alteration will not preclude the structures continued designation as a "historic structure".

§ 156.03. DUTIES OF THE ADMINISTRATOR.

The Zoning Administrator for the City of Decatur is appointed to review all development and subdivision proposals to insure compliance with this ordinance, including but not limited to the following duties:

(A) Ensure that all development activities within the SFHAs of the jurisdiction of the City/Town meet the requirements of this ordinance.

(B) Provide information and assistance to citizens upon request about permit procedures and flood plain construction techniques.

(C) Ensure that construction authorization has been granted by the Indiana Natural Resources Commission for all development projects subject to Section 6 of this ordinance, and maintain a record of such authorization (either copy of actual permit or letter of recommendation).

(D) Maintain a record of the “as-built” elevation of the lowest floor (including basement) of all new/and or substantially improved buildings constructed in the SFHA.

(E) Maintain a record of the engineer’s certificate and the “as built” flood proofed elevation of all buildings subject to Section 7 of this Ordinance.

(F) Cooperate with state and federal flood plain management agencies to improve base flood and flood way data and to improve the administration of this ordinance. Submit reports as required for the National Flood Insurance Program.

(G) Maintain for public inspection and furnish upon request regulatory flood data, SFHA maps, copies of DNR permits and letters of recommendation, federal permit documents, and “as built” elevation and flood proofing data for all buildings constructed subject to this ordinance.

§ 156.04 REGULATORY FLOOD ELEVATION.

This ordinance’s protection standard is the regulatory flood. The best available regulatory flood data is listed below. Whenever a party disagrees with the best available data, the party submitting the detailed engineering study needs to replace existing data with better data and submit it to the Department of Natural Resources for review and approval.

(A) The regulatory flood elevation and floodway limits for the SFHAs in the City shall be delineated on the 100 year profiles in the Flood Insurance Study of the City dated October 16, 2003 and the corresponding FIRM dated October 16, 2003 prepared by the Federal Emergency Management Agency including any amendments to or replacements thereof.

(B) The regulatory flood elevation for each SFHA delineated as an “AH Zone” or “AO Zone” shall be that elevation (or depth) delineated on the Flood Insurance Rate Map of the (City, Town or County).

(C) The regulatory Flood Elevation and the floodway limits for each of the remaining SFHAs delineated as an “A Zone” on the Flood Insurance Rate Map of the (City, Town or County) shall be according to the best data available as provided by the Department of Natural Resources.

(D) The regulatory flood elevation and floodway limits for the SFHAs of those parts of unincorporated Adams County that are within the extra-territorial jurisdiction of the City or that may be annexed into the City shall be as delineated on the 100 year flood profiles in the Flood Insurance Study of Adams County dated October 16, 2003 prepared by the Federal Emergency Management Agency.

If the SFHA is delineated as “AH Zone or AO Zone,” the elevation (or depth) will be delineated on the County Flood Insurance Rate Map. If the SFHA is delineated as “Zone A” on the County Flood Insurance Rate Map, the regulatory flood elevation and floodway limits shall be according to the best data available as provided by the Department of Natural Resources.

§ 156.05 IMPROVEMENT LOCATION PERMIT.

No person, firm, corporation, or governmental body not exempted by state law shall commence any “development” in the SFHA without first obtaining an Improvement Location Permit from the City of Decatur. The Plan Commission shall not issue an Improvement Location Permit if the proposed “development” does not meet the requirements of this ordinance.

(A) The application for an Improvement Location Permit shall be accompanied by the following:

- (1). A description of the proposed development.
- (2) Location of the proposed development - sufficient to accurately locate property and structure in relation to existing roads and streams.
- (3) Legal description of the property site.
- (4) A site development plan showing existing and proposed structure locations and existing and proposed land grades.
- (5) Elevation of lowest floor (including basement) of all proposed structures. Elevation should be in National Geodetic Vertical Datum of 1929 (NGVD).

(B) Upon receipt of an application for an Improvement Location Permit, the Building Official shall determine if the site is located within an identified flood way or within the flood plain where the limits of the flood way have not yet been determined.

(1) If the site is in an identified flood way the Building Official shall require the applicant to forward the application, along with all pertinent plans and specifications, to the Department of Natural Resources and apply for a permit for construction in a flood way.

Under the provisions of **IC 14-28-1** a permit from the Natural Resources Commission is required prior to the issuance of a local building permit for any excavation, deposit, construction or obstruction activity located in the flood way. This includes land preparation activities such as filling, grading, clearing and paving etc. undertaken before

the actual start of construction of the building.

No action shall be taken by the Building Official until a permit has been issued by the Natural Resources Commission granting approval for construction in the flood way. Once a permit has been issued by the Natural Resources Commission, the Building Official may issue the local Improvement Location Permit, provided the provisions contained in Sections 7 and 8 of this ordinance have been met. The Improvement Location Permit cannot be less restrictive than the permit issued by the Natural Resources Commission.

(2) If the site is located in an identified flood way fringe, then the Building Official may issue the local Improvement Location Permit provided the provisions contained in Section 7 and 8 of this ordinance have been met. The key provision is that the lowest floor of any new or substantially improved structure shall be at or above the Flood Protection Grade.

(3) If the site is in an identified flood plain where the limits of the flood way and flood way fringe have not yet been determined (shown as Zone A on the Flood Insurance Rate Map), and the drainage area upstream of the site is greater than one square mile, the Building Official shall require the applicant to forward the application, along with all pertinent plans and specifications, to the Department of Natural Resources for review and comment.

No action shall be taken by the Building Official until either a permit for construction in the flood way or a letter of recommendation citing the 100 year flood elevation and the recommended Flood Protection Grade has been received from the Department of Natural Resources.

Once the Building Official has received the proper permit or letter of recommendation approving the proposed development, an Improvement Location Permit may be issued provided the conditions of the ILP are not less restrictive than the conditions received from the Natural Resources and the provisions contained in Section 6 and 7 of this ordinance have been met.

(4) If the site is in an identified floodplain where the limits of the floodway and floodway fringe have not been determined and the drainage area upstream of the site is less than one square mile, the Zoning Administrator shall require the applicant to provide an engineering analysis showing the limits of the floodway, floodway fringe and 100 year elevation of the site.

Upon receipt, the Zoning Administrator may issue the local Improvement Location Permit provided the provision contained in Sections 6 and 7 of this ordinance have been met.

§ 156.06 PREVENTING INCREASED DAMAGES.

No development in the SFHA shall create a damaging or potentially damaging increase in flood heights or velocity or threat to public health and safety.

(A) Within the flood way identified on the Flood Boundary and Flood way Map or the Flood Insurance Rate Map, the following standards shall apply:

(1) No development shall be allowed which acting alone or in combination with existing or future similar works, will cause any increase in the elevation of the regulatory flood; and

(2) For all projects involving channel modifications or fill (including levees) the City/Town shall submit a request to the Federal Emergency Management Agency to revise the regulatory flood data.

(B) Within all SFHAs identified as A Zones (no 100 year flood elevation and/or flood way/flood way fringe delineation has been provided) the following standard shall apply:

(1) The total cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the regulatory flood elevation more than one-tenth (0.1) of one foot and will not increase flood damages or potential flood damages.

(C) Public Health Standards in all SFHAs

(1) No development in the SFHA shall include locating or storing chemicals, explosives, buoyant materials, flammable liquids, pollutants, or other hazardous or toxic materials below the Flood Protection Grade, unless such materials are stored in a storage tank or flood proofed building constructed according to the requirements of Section 7 of this ordinance.

(2) New and replacement sanitary sewer lines and on-site waste disposal systems may be permitted providing all manholes or other above ground openings located below the FPG are watertight.

§ 156.07 PROTECTING BUILDINGS. In addition to the damage prevention requirements of Section 6, all buildings to be located in the SFHA shall be protected from flood damage below the FPG.

(A) This building protection requirement applies to the following situations:

(1) construction or placement of any new building having a floor area greater than 400 square feet.

(2) structural alterations made to:

(a) an existing (previously unaltered) building, the cost of which equals or exceeds 40% of the value of the pre-altered building (excluding the value of the land);

(b) any previously altered building;

(3) reconstruction or repairs made to a damaged building the cost of which equals or exceeds 40% of the market value of the building (excluding the value of the land) before

damage occurred;

(4) installing a manufactured home on a new site or a new manufactured home on an existing site. This ordinance does not apply to returning the existing manufactured home to the same site it lawfully occupied before it was removed to avoid flood damage; and

(5) installing a travel trailer on a site for more than 180 days.

(B) This building protection requirement may be met by one of the following methods. The Building Official shall maintain a record of compliance with these building protection standards as required in Section 3 of this ordinance.

(1) A residential or nonresidential building may be constructed on a permanent land fill in accordance with the following:

(a) The fill shall be placed in layers no greater than 1 foot deep before compacting to 95% of the maximum density obtainable with the Standard Proctor Test method.

(b) The fill should extend at least ten feet beyond the foundation of the building before sloping below the FPG.

(c) The fill shall be protected against erosion and scour during flooding by vegetative cover, riprap, or bulkheading. If vegetative cover is used, the slopes shall be no steeper than 3 horizontal to 1 vertical.

(d) The fill shall not adversely affect the flow of surface drainage from or onto neighboring properties.

(e) The lowest floor (see definition of lowest floor in Section 2. Definitions) shall be at or above the FPG.

(2) A residential or nonresidential building may be elevated in accordance with the following:

(a) The building or improvements shall be elevated on posts, piers, columns, extended walls, or other types of similar foundation provided:

(1). Walls of any enclosure below the elevated floor shall be designed to automatically equalize hydrostatic flood forces on the walls by allowing for the entry and exit of flood waters, through providing a minimum of two openings (in addition to doorways and windows) having a total area of one (1) square foot for every two (2) square feet of enclosed floor area subject to flooding. The bottom of all such opening shall be no higher than one (1) foot above the grade.

(2). Any enclosure below the elevated floor is used for non-residential

purposes and building access.

(b) The foundation and supporting members shall be anchored and aligned in relation to flood flows and adjoining structures so as to minimize exposure to known hydrodynamic forces such as current, waves, ice, and floating debris.

(c) All areas below the FPG shall be constructed of materials resistant to flood damage. The lowest floor (including basement) and all electrical, heating, ventilating, plumbing, and air conditioning equipment and utility meters shall be located at or above the FPG. Water and sewer pipes, electrical and telephone lines, submersible pumps, and other waterproofed service facilities may be located below the FPG.

(3) Manufactured homes and travel trailers (also called recreational vehicles) to be installed or substantially improved on a site for more than 180 days must meet one of the following anchoring requirements:

(a) The manufactured home shall be elevated on a permanent foundation such that the lowest floor shall be at or above the FPG and securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement. This requirement applies to all manufactured homes to be placed on a site;

(1). outside a manufactured home park or subdivision;

(2). in a new manufactured home park or subdivision;

(3). in an expansion to an existing manufactured home park or subdivision; or

(4). in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as a result of a flood.

(b) The manufactured home shall be elevated so that the lowest floor to the manufactured home chassis is supported by reinforced piers or other foundation elements that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

This requirement applies to all manufactured homes to be placed on a site in an existing manufactured home park or subdivision that has not been substantially damaged by a flood.

(4) Recreation vehicles placed on a site shall either:

(a) be on the site for less than 180 consecutive days;

(b) be fully licensed and ready for highway use (defined as being 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); or

(c) meet the requirements for “manufactured homes” in paragraph (3) of this section.

(5) A non-residential building may be flood proofed to the FPG (in lieu of elevating) if done in accordance with the following:

(a) a Registered Professional Engineer shall certify that the building has been designed so that below the FPG, the structure and attendant utility facilities are watertight and capable of resisting the effects of the regulatory flood. The Building design shall take into account flood velocities, duration, rate of rise, hydrostatic pressures, and impacts from debris or ice.

(b) Flood proofing measures shall be operable without human intervention and without an outside source of electricity.

§ 156.08 OTHER DEVELOPMENT REQUIREMENTS.

(A) The (Plan Commission, Building Commissioner, or other review agency or official) shall review all proposed subdivisions to determine whether the subdivision lies in a flood hazard area as defined elsewhere by ordinance. If the (review agency or official) finds the subdivision to be so located, the (review agency or individual) shall forward plans and materials to the Indiana Department of Natural Resources for review and comment. The (review agency or individual) shall require appropriate changes and modifications in order to assure that:

(1) it is consistent with the need to minimize flood damages;

(2) all public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize immanent flood damage;

(3) adequate drainage is provided so as to reduce exposure to flood hazards;

(4) onsite waste disposal systems, if provided, will be so located and designed to avoid impairment of them or contamination from them during the occurrence of the regulatory flood.

(B) Developers shall record the 100 year flood elevation on all subdivision plats containing lands identified elsewhere by ordinance as within a flood hazard area prior to

submitting the plats for approval by the Plan Commission.

(C) All owners of manufactured home parks or subdivisions located within the SFHA identified as Zone A on the community's FHMB or FIRM develop an evacuation plan for those lots located in Zone A and file it with the local Plan Commission and have it filed and approved by the appropriate community emergency management authorities.

§ 156.09 VARIANCES.

(A) The Board of Zoning Appeals may consider issuing a variance to the terms and provisions of this ordinance provided the applicant demonstrates that:

(1) there exists a good and sufficient cause for the requested variance;

(2) the strict application of the terms of this ordinance will constitute an exceptional hardship to the applicant, and

(3) the granting of the requested variance will not increase flood heights, create additional threats to public safety, cause additional public expense, create nuisances, cause fraud or victimization of the public, or conflict with existing laws or ordinances.

(B) The Board of Zoning Appeals may issue a variance to the terms and provisions of this ordinance subject to the following standards and conditions:

(1) No variance or exception for a residential use within a flood way subject to Section 6 (a) or (b) may be granted.

(2) Any variance or exception granted in a flood way subject to Section 6 (a) or (b) will require a permit from Natural Resources.

(3) Variances or exceptions to the Building Protection Standards of Section 8 may be granted only when a new structure is to be located on a lot of one-half acre or less in size, contiguous to and surrounded by lots with existing structures constructed below the flood protection grade.

(4) Variance or exception may be granted for the reconstruction or restoration of any structure individually listed on the Register of Historic Places or the Indiana State Survey of Historic Architectural, Archaeological and Cultural Sites, Structures, Districts, and Objects;
Ord. 1998-5, passed 4/21/98.