

## CHAPTER 12 – PLANNING & ZONING

### ARTICLE 13 - FLOOD HAZARD AREAS

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**Sections 12-13-101 to 199, inclusive. Definitions and General Provisions.**

**Section 12-13-101 General Purpose.**

**Section 12-13-101.1** The flood hazard areas of City of Pierre, South Dakota, are subject to periodic inundation which could result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, and extraordinary public expenditures for flood protection and relief, all of which adversely affect the public health, safety, and general welfare.

**Section 12-13-101.2** These flood losses are created by the cumulative effect of obstructions in floodplains which cause an increase in flood heights and velocities, and by the occupancy of flood hazard areas by uses vulnerable to floods and hazardous to other lands because they are inadequately elevated, , flood-proofed, or otherwise protected from flood damage.

**Section 121-13-101.3** It is the purpose of this ordinance to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

1. Protect human life and health;
2. Minimize expenditure of public money for costly flood control projects;
3. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
4. Minimize prolonged business interruptions;
5. Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains;
6. Help maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize future flood blight areas; and
7. Insure that potential buyers are notified that property is in a flood area.

**Section 12-13-101.4** In order to accomplish its purposes, this ordinance uses the following methods:

- 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 floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- 3) Controlling the alteration of natural flood plains, stream channels, and natural protective barriers, which are involved in the accommodation of flood waters;
- 4) Controlling filling, grading, dredging, and other development which may increase flood damage; and,
- 5) Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas.

**Section 12-13-102 Definitions.**

Section 12-13-102.1 Unless specifically defined below, words or phrases used in this ordinance shall be interpreted to give them the meaning they have in common usage and to give this ordinance its most reasonable application.

**“Alluvial Fan Flooding”** means 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”** means 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.

**"Area of shallow flooding"** means a designated AO, AH, or VO Zone on the community's Flood Insurance Rate Map (FIRM) with a one percent chance or greater annual chance of flooding to an average depth from one to three 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"** means the land in the flood plain within a community subject to a one percent or greater chance of flooding in any given year. The area may be designated 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, A1-99, VO, V1-30, VE or V.

**"Base flood"** means the flood having a one percent chance of being equaled or exceeded in any given year.

**"Basement"** means any area of the building having its floor sub-grade (below ground level) on all sides.

**"Critical Feature"** means 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"** means 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"** means a non-basement building (i) 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, or in the case of a building in Zones V1-30, VE, or V, to have the bottom of the lowest horizontal structure member of the elevated floor elevated above the ground level by means of pilings, columns (posts and piers), or shear walls parallel to the floor of the water and (ii) 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. In the case of Zones V1-30, VE, or V, "elevated building", even though the lower area is enclosed by means of breakaway walls if the breakaway walls meet the standards of Section 60.3(e)(5) of the National Flood Insurance Program regulations.

**"Existing Construction"** means for the purpose 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"** 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

floodplain management regulations adopted by a community.

**“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).

**“Flood”** or **“Flooding”** means a general and temporary condition of partial or complete inundation of normally dry land areas from:

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

**“Flood Insurance Rate Map”** (FIRM) means the official map 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”** means the official report provided in which the Federal Emergency Management Agency has provided flood profiles, as well as the Flood Boundary - Floodway Map and the water surface elevation of the base flood.

**“Floodplain or Flood-Prone Area”** means any land area susceptible to being inundated by water from any source (see definition of flooding).

**“Floodplain Management”** means the operation of an overall program of corrective and preventative measures for reducing flood damage, including, but not limited to, emergency preparedness plans, flood control works and floodplain management regulations.

**“Floodplain Management Regulations”** means 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”** means 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 hurricane tidal barriers, dams, reservoirs, levees or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

**“Flood Proofing”** means 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 - (Regulatory Floodway)"** means 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 more than one foot.

**"Functionally Dependent Use"** means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term included 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"** means the highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a structure.

**"Historic Structure"** means 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 of historic places in communities with historic preservation programs that have been certified either:
  - a. By an approved state program as determined by the Secretary of the Interior; or
  - b. Directly by the Secretary of the Interior in states without approved programs.

**"Levee System"** means 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"** means 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 such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of Section 60.3 of the National Flood Insurance Program regulations.

**"Manufactured Home"** means a structure that is transportable in one or more sections, built on a permanent chassis, and designed to be used with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include recreational vehicles or travel trailers.

**"Manufactured Home Park or Subdivision"** means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

**“Mean Sea Level”** means, for the purpose of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1988 or other datum, to which base flood elevations shown on a community’s Flood Insurance Rate Map (FIRM) are referenced.

**"New Construction"** means, 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 **“Mobile Home Subdivision”** means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale for which the construction of facilities for servicing the lot (including, at a minimum, the installation of utilities, either final site grading or the pouring of concrete pads, and the construction of streets) is completed on or after the effective date of floodplain management regulations adopted by a community.

**“Recreational 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 for use not as a permanent dwelling, but as temporary living quarters for recreational, camping, travel, or seasonal use.

**"Start of Construction"** (for other than new construction of 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, 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 a basement, footings, piers, or foundation 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"** means a walled and roofed building, a manufactured home, or a gas or liquid storage tank, that is principally above ground.

**“Substantial Damage”** means 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 improvement"** means 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 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 improvements of a structure to comply with existing State or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official which are solely necessary to assure safe living conditions, or
- 2) any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places, provided that the alteration will not preclude the structure's continued designation as a "historic structure".

**"Variance"** means a grant of relief to a person from the requirements of this ordinance, when specific enforcement would result in unnecessary hardship, which permits construction in a manner that would otherwise be prohibited by this ordinance. For full requirements see Section 60.6 of the National Flood Insurance Program (NFIP) regulations.

**"Violation"** means 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) of the NFIP regulations is presumed to be in violation until such time as that documentation is provided.

**"Water Surface Elevation"** means the height, in relation to the national Geodetic Vertical datum (NVGD) of 1988 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

## **Section 12-13-103 General Provisions.**

### **Section 12-13-103.1 Lands to Which the Ordinance Applies**

This Ordinance shall apply to all areas of special flood hazard within the jurisdiction of the City of Pierre, South Dakota, including the Extra-Territorial limits.

### **Section 12-13-103.2 Basis for Establishing the Areas of Special Flood Hazard**

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 the City of Pierre, South Dakota", dated May 17, 2004, with accompanying Flood Insurance Rate Maps and Flood boundary -

Floodway Maps is hereby adopted by reference and declared to be a part of this Ordinance. The Flood Insurance Study is on file in the Office of the City Engineer at 222 East Dakota Avenue, Pierre, South Dakota.

The City of Pierre shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a Federal, State, or other source, as criteria for requiring that new construction, substantial improvements, or other development in Zone A.

#### **Section 12-13-103.2.1 Establishment of Development Permit**

A Development Permit shall be required to ensure conformance with the provisions of this ordinance.

#### **Section 12-13-103.2.2 Compliance**

No structure or land shall hereafter be located, altered, or have its use changed without full compliance with the terms of this ordinance and other applicable regulations.

#### **Section 12-13-103.3 Penalties for Noncompliance**

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this Ordinance and other applicable regulations. Violation of the provisions of this Ordinance by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Any person who violates this Ordinance or fails to comply with any of its requirements shall upon conviction be subject to the penalties under Section 1-3-101 of the Code of Ordinances, City of Pierre, South Dakota. Nothing herein contained shall prevent the City of Pierre from taking such other lawful action as is necessary to prevent or remedy any violation.

#### **Section 12-13-103.4 Abrogation and Greater Restrictions**

This Ordinance is not intended to repeal, abrogate, or impair any exiting easements, covenants, or deed restrictions. However, where this Ordinance and other ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

#### **Section 121-13-103.5 Interpretation**

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

- 1) Considered as minimum requirements;
- 2) Liberally construed in favor of the governing body; and,
- 3) Deemed neither to limit nor repeal any other powers granted under State statutes.



### **Section 12-13-103.6 Warning and Disclaimer of Liability**

The degree of flood protection required by this Ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This Ordinance does not imply that land outside the area of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This Ordinance shall not create liability on the part of the City of Pierre, any officer or employee thereof or the Federal Emergency Management Agency, for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

### **Section 12-13-104 Administration.**

#### **Section 12-13-104.1 Designation of the Floodplain Administrator**

The City Engineer, or his delegate, is hereby appointed the Floodplain Administrator to administer and implement the provisions of this ordinance and other appropriate sections of 44 CFR (National Flood Insurance Program Regulations) pertaining to floodplain management by granting or denying development permit applications in accordance with its provisions.

#### **Section 12-13-104.2 Duties and Responsibilities of the Floodplain Administrator**

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

- 1) Maintain and hold open for public inspection all records pertaining to the provisions of this ordinance.
- 2) Review permit applications to determine whether proposed building site, including the placement of manufactured homes, will be reasonably safe from flooding.
- 3) Review, approve or deny all applications for development permits required by adoption of this ordinance.
- 4) Review permits for proposed development to assure that all necessary permits have been obtained from those Federal, State or local governmental agencies (including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334) from which prior approval is required.
- 5) Where interpretation is needed as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the Floodplain administrator shall make the necessary interpretation.
- 6) Notify, in riverine situations, adjacent communities and the State Coordinating Agency, which is the South Dakota Department of Environment and Natural Resources, prior to

any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.

- 7) Assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.
- 8) When base flood elevation data has not been provided in accordance with Section 12-13-103.2, the Floodplain Administrator shall obtain, review and reasonably utilize any base flood elevation data and floodway data available from a Federal, State, or other source, in order to administer the provisions of Section 12-13-105.2 (A-B).
- 9) When a regulatory floodway has not been designated, the Floodplain Administrator must require 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.
- 10) Under the provisions of 44 CFR, Chapter 1, Section 65.12, of the National Flood Insurance Program regulations, a community may approve certain development in Zones A1-30, AE, AH, on the community's FIRM which increases the water surface elevation of the base flood by more than one foot, provided that the community first applies for a conditional FIRM revision through FEMA (Conditional Letter of Map Revision – CLMR).

### **Section 12-13-104.3 Establishment of Development Permit**

A Development Permit shall be obtained before construction or development begins within any area of special flood hazard established in Section 12-13-103. Application for a Development Permit shall be made on forms furnished by the Floodplain Administrator and may include, but not be limited to; plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, including the placement of manufactured homes, fill, storage of materials, drainage facilities, landscape alterations, and the location of the foregoing.

Additionally the following information is required:

- 1) Elevation (in relation to mean sea level), of the lowest floor (including basement) of all new and substantially improved structures;
- 2) Elevation in relation to mean sea level to which any structure has been flood proofed;
- 3) Certification by a registered professional engineer or architect that the flood proofing methods for any nonresidential structure meet the flood proofing criteria in Section 12-13-105.2 (B) - Nonresidential Construction;
- 4) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

- 5) Maintain a record of all such information in accordance with Section 12-13-104.2 (1)

#### **Section 12-13-104.4 Permit Provisions**

Approval or denial of a Development Permit by the Floodplain Administrator shall be based on all of the provisions of this ordinance and the following relevant factors:

- 1) The danger to life and property due to flooding or erosion damage;
- 2) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- 3) The danger that materials may be swept onto other lands to the injury of others;
- 4) The compatibility of the proposed use with existing and anticipated development;
- 5) The safety of access to the property in times of flood for ordinary and emergency vehicles;
- 6) 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;
- 7) 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;
- 8) The necessity to the facility of a waterfront location, where applicable;
- 9) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
- 10) The relationship of the proposed use to the comprehensive plan for that area.

#### **Section 12-13-104.5 Variance Procedure - Board of Adjustment**

- 1) The Board of Adjustment as established under Section 2-4-105, Code of Ordinances, City of Pierre, South Dakota, shall hear and decide appeals and requests for variances from the requirements of this ordinance.
- 2) The Board of Adjustment shall hear and render judgment on an appeal only 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 ordinance.

- 3) Any person or persons aggrieved by the decision of the Board of Adjustment may appeal such decision in the courts of competent jurisdiction.
- 4) In passing upon such applications, the Board of Adjustment shall consider all technical evaluations, all relevant factors, and standards specified in other sections of this ordinance.
- 5) Upon consideration of the factors of Section 12-13-104.2, 12-13-104.3, 12-13-104.4, and the purposes of this ordinance, the Board of Adjustment may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.
- 6) Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the relevant factors in Section 12-13-104.4 – Permit Provisions, have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
- 7) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- 8) The Floodplain Administrator shall maintain the records of all appeal actions, including technical information, and report any variances to the Federal Emergency Management Agency upon request.
- 9) Variances may be issued for the repair or rehabilitation of historic structures 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 to preserve the historic character and design of the structure.

**Section 12-13-104.6 Conditions for Variance**

- 1) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- 2) Variances shall only be issued upon:
  - (a) a showing of good and sufficient cause;
  - (b) a determination that failure to grant the 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, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

- 3) Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a 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.
- 4) Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:
  - (a) The criteria outlined in Section 12-13-104.5, (1-9), are met, and
  - (b) The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

## **Section 12-13-105 Provisions for Flood Hazard Reduction.**

### **Section 12-13-105.1 General Standards**

In all areas of special flood hazards the following provisions are required for all new construction and substantial improvements:

#### **A. Anchoring**

- 1) All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
- 2) All manufactured homes shall be anchored to resist flotation, collapse, or lateral movement by providing over-the-top and frame ties to ground anchors. Special requirements shall be that:
  - (a) over-the-top ties be provided at each of the four corners of the manufactured home, with two additional ties per side at intermediate locations, with manufactured homes less than 50 feet long requiring one additional tie per side;
  - (b) frame ties be provided at each corner of the home with five additional ties per side at intermediate points, with manufactured homes less than 50 feet long requiring four additional ties per side;
  - (c) all components of the anchoring system be capable of carrying a force of 4,800 pounds; and
  - (d) any additions to the manufactured home be similarly anchored.

#### **B. Construction Materials and Methods**

- 1) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

- 2) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

**C. Utilities**

- 1) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- 2) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters; and,
- 3) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
- 4) 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.

**D. Subdivision Proposals**

- 1) All subdivision proposals shall be consistent with the need to minimize flood damage.
- 2) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;
- 3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and,
- 4) Base flood elevation data shall be provided for subdivision proposals and other proposed development which contain at least 50 lots or 5 acres (whichever is less).

**Section 12-13-105.2 Specific Standards**

In all areas of special flood hazards where base flood elevation data have been provided as set forth in Section 12-13-103.2, 12-13-104.2 (8), and Section 12-13-106, the following standards are required:

**A. Residential Construction**

New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to a minimum of two (2) feet above base flood elevation. A registered professional engineer, architect, or land surveyor shall submit a certification to the

Floodplain Administrator that the standard of this subsection as proposed in Section 12-13-104.3 is satisfied.

Electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding. Refer to Section 12-13-105.2 (E) regarding crawlspace construction.

## **B. Nonresidential Construction**

New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated to a minimum of two (2) feet above the level of the base flood elevation; or, together with attendant utility and sanitary facilities, shall:

- 1) be flood proofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;
- 2) have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and,
- 3) be certified by a registered professional engineer or architect that the standards of this subsection are satisfied. Such certifications shall be provided to and maintained by the Floodplain Administrator.
- 4) Electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

## **C. Enclosures**

For all new construction and substantial improvements, fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exist of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect, must meet or exceed the following minimum criteria or must comply with the provisions of 12-13-105 (F):

- a.) 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.
- b.) The bottom of all openings shall be no higher than one foot above grade.
- c.) Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

#### **D. Manufactured Homes and Recreational Vehicles**

- 1) 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 on a permanent foundation such that the lowest floor of the manufactured home is a minimum of two (2) feet above the base flood elevation and be securely anchored to an adequately anchored foundation system in accordance with the provisions of Section 12-13-105.1 (A).
- 2) All 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 a minimum of two (2) feet above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
- 3) Require that manufactured homes be placed or substantially improved on sites in an existing manufactured home park or subdivision within Zones A1-30, AH and AE on the community's FIRM that are not subject to the provisions of paragraph D (1-2) of this section be elevated so that either:
  - a. The lowest floor of the manufactured home is a minimum of two (2) feet above the base flood elevation, or
  - b. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength 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.
- 4) Require that recreational vehicles placed on sites within Zones A1-30, AH, and AE on the community's FIRM either:
  - a. Be on the site for fewer than 180 consecutive days,
  - b. Be fully licensed and ready for highway use, or
  - c. Meet the requirements of Section 12-13-104.3, and the elevation and anchoring requirements for "manufactured homes" in paragraph D 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.



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

#### **E. Floodways**

Located within areas of special flood hazard established in Section 12-13-103.2 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

- 1) Prohibit encroachments, including fill, new construction, substantial improvements, and other development within the adopted regulatory floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge.
- 2) If Section 12-13-105.2 (E) (1) is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Section 12-13-105. Provision for Flood Hazard Reduction.
- 3) Under the provisions of 44 CFR, Chapter 1, Section 65.12, of the National Flood Insurance Regulations, a community may permit encroachment within the adopted regulatory floodway that would result in an increase in base flood elevations, provided that the community **first** applies for a conditional FIRM and floodway revision through FEMA.

#### **F. Below Grade Residential Crawlspace Construction.**

New construction and substantial improvement of any below-grade crawlspace shall:

- 1) Have the interior grade elevation that is below base flood elevation no lower than two feet below the lowest adjacent grade;
- 2) Have the height of the below-grade crawlspace measured from the interior grade of the crawlspace to the top of the foundation wall, not exceed four feet at any point;
- 3) Have an adequate drainage system that allows floodwaters to drain from the interior area of the crawlspace following a flood;
- 4) Be anchored to prevent flotation, collapse, or lateral movement of the structure and be capable of resisting the hydrostatic and hydrodynamic loads;
- 5) Be constructed with materials and utility equipment resistant to flood damage;
- 6) Be constructed using methods and practices that minimize flood damage;

- 7) 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;
- 8) 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 must meet or exceed the following minimum criteria:
  - (a) 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;
  - (b) The bottom of all openings shall be no higher than one foot above grade;
  - (c) Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

Below-grade crawlspace construction in accordance with the requirements listed above will not be considered basements.

**Source:** Ord. No. 1517, 2002; Ord. No. 1590, 2006

#### **Section 12-13-106 Standards for Subdivision Proposals**

- 1) All subdivision proposals, including the placement of manufactured home parks and subdivisions, shall be consistent with Sections 12-13-101.1, 12-13-101.2, 12-13-101.3, and Section 12-13-101.4 of this ordinance.
- 2) All proposals for the development of subdivisions, including the placement of manufactured home parks and subdivisions, shall meet the Development Permit requirements of Section 12-13-103.2.1, 12-13-104.3, and Section 12-13-105 of this ordinance.
- 3) Base flood elevation data shall be generated for subdivision proposals and other proposed development, including the placement of manufactured home parks and subdivisions, which is greater than 50 lots or 5 acres, whichever is lesser, if not otherwise provided pursuant to Section 12-13-103.2 or Section 12-13-104.2(8) of this ordinance.
- 4) All subdivision proposals, including the placement of manufactured home parks and subdivisions, shall have adequate drainage provided to reduce exposure to flood hazards.
- 5) All subdivision proposals, including the placement of manufactured home parks and subdivisions, shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.

#### **Section 12-13-107 Standards For Areas of Shallow Flooding (AO/AH Zones)**

Located within the areas of special flood hazard established in Section 12-13-103.2, are areas designated as shallow flooding. These areas have special flood hazards associated with base flood depths of 1 to 3 feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and where velocity flows may be evident. Such 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 as high as the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified).
- 2) All new construction and substantial improvements of **non-residential** structures;
  - a. Have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified, 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, as proposed in Section 12-13-104.3 are satisfied.
- 4) Require within Zones AH or AO adequate drainage paths around structures on slopes, to guide flood waters around and away from proposed structures.

**Section 12-13-108 Validity.**

If for any reason any section, paragraph, clause, phrase, or provisions of this Ordinance shall be held invalid, it shall not affect the remaining provisions of this, or any other ordinance of the City, to which these rules and regulations relate.

**Section 12-13-109 to 199, inclusive. Reserved.**