

CHAPTER 151: FLOODPLAIN REGULATIONS

Section

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§ 151.01 AUTHORITY; PURPOSE.

(A) Authority. This chapter is adopted pursuant to the powers granted by ILCS Ch. 65, Act 5, §§ 1-2-1, 11-12-12, 11-30-2, 11-30-8, and 11-31-2.

(B) Purpose. This chapter is adopted for the following purposes:

- (1) To prevent unwise developments from increasing the flood or drainage hazard to others;
- (2) To protect new buildings and major improvements to buildings from flood damage;
- (3) To protect human life and health from the hazards of flooding;
- (4) 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;
- (5) To maintain property values and a stable tax base by minimizing the potential for creating flood blight areas;

(6) To make federally subsidized flood insurance available for property in the village; and

(7) To provide for the orderly growth and development of an environment that is especially sensitive to changes from human activity.

§ 151.02 PROVISIONS FOR ACCOMPLISHING THE PURPOSE.

(A) All new development proposals in the special flood hazard areas shall be reviewed and approved by the responsible village official.

(B) This review is to ensure the following:

(1) New development will not change the flow of flood or other surface drainage waters so that other properties become more susceptible to damage.

(2) New developments will not create special hazards or nuisances when flooded.

(3) New buildings and major improvements to existing buildings will not be subject to damage by the base flood.

§ 151.03 DEFINITIONS.

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

ASC or **AREA OF STATE CONCERN.** That portion of riverine SFHAs where permits are required. The ASC for the village is generally identified as such on the Area of State Concern Map of the village identified in Title XVII of this Code of Ordinances.

BASE FLOOD or **100- YEAR FLOOD.** The flood having a 1 % probability of being equalled or exceeded in any given year. The base flood elevation at any location is as defined in § 151.04 below.

BUILDING. A structure that is principally above ground and is enclosed by walls and a roof. The term includes a gas or liquid storage tank in order that such tanks will be constructed to the same flood damage protection standards. The term also includes recreation vehicles and travel trailers which have been installed on a site for more than 180 days.

DEVELOPMENT.

(1) Any man-made change to real estate, including:

(a) Construction, reconstruction, or placement of a building or an addition to a building valued at more than \$1,000;

(b) Drilling, mining, installing utilities or facilities, construction of roads, bridges, or similar projects valued at more than \$1,000;

(c) Construction or erection of levees, walls, or fences;

(d) Filling, dredging, grading, excavating, or other nonagricultural alterations of the ground surface;

(e) Storage of materials; or

(f) Any other activity that might change the direction, height, or velocity of flood or surface waters.

(2) **DEVELOPMENT** does not include:

(a) The maintenance of existing building and facilities, such as reroofing or resurfacing roads;

(b) Repairs made to a damaged building that do not change the building's exterior dimensions and that are valued at less than 50 % of the value of the building before the damage occurred; or

(c) Gardening, plowing, and similar agricultural practices that do not involve filling, grading, or construction of levees.

FLOOD. A general and temporary condition of inundation of normally dry land areas from the overflow, the unusual and rapid accumulation, or the runoff of surface waters from any source.

FLOODWAY. That portion of the SFHA required to store and convey the base flood. If not prohibited, building or placing obstructions in a floodway will increase flood damages to other properties.

FPE or FLOOD PROTECTION ELEVATION. The elevation of the base flood, plus one foot, at any given location in the SFHA.

MOBILE HOME. Includes mobile homes, manufactured homes and pre-fabricated buildings.

SFHA or SPECIAL FLOOD HAZARD AREA. Those lands within the jurisdiction of the village that are subject to inundation by the base flood. The SFHAs of the village are generally

identified as such on the flood insurance rate map of the village identified in Title XVII of this Code of Ordinances.

§ 151.04 BASE FLOOD ELEVATION.

(A) This chapter's protection standard is the base flood according to the best data available to the state Water Survey's Floodplain Information Repository. Whenever a party disagrees with the best available data, that party may finance the detailed engineering study needed to replace existing data with better data and submit it to the state Water Survey.

(B) The base flood elevation for the SFHAs of the village shall be as delineated on the 100-year flood profiles in the Flood Insurance Study of the village prepared by the Federal Insurance Administration identified in Title XVII of this Code of Ordinances.

§ 151.05 DEVELOPMENT PERMIT.

(A) No person, firm, or corporation shall commence any development in the SFHA without first obtaining a development permit from the responsible village official identified in Title XVII of this Code of Ordinances. The responsible village official shall not issue a development permit if the proposed development does not meet the requirements of this chapter.

(B) Application for a development permit shall be made on a form provided by the responsible village official. The application shall be accompanied by drawings of the site, drawn to scale showing property line dimensions and, in those parts of the site that are below the base flood elevation:

- (1) Existing grade elevations and all changes in grade resulting from excavation or filling.
- (2) The direction of flow of surface drainage and flood flows.
- (3) The location of all watercourses and drainage facilities.
- (4) The location and dimensions of all buildings and additions to buildings.
- (5) The elevation of the lowest floor (including basement) of all buildings subject to the requirements of § 151.06 below.

(C) Upon receipt of an application for a development permit, the responsible village official shall compare the elevation of the site to the base flood elevation. Any development located on land higher than the base flood elevation is not in the SFHA and therefore not subject to the requirements of this chapter.

(D) The responsible village official shall inform the applicant of any and all other local, state, and federal permits that may be required for this type of development activity. The development permit will only be issued on the condition that the other specified permits are obtained. The responsible village official shall not issue a use permit or certificate of use or occupancy unless all required permits have been obtained.

Penalty, see § 151.99

§ 151.06 PREVENTING INCREASED DAMAGES.

(A) (1) No development in the SFHA shall create a damaging or potentially damaging increase in flood heights or velocity.

(2) For development proposals located in an Area of State Concern, the responsible village official shall review the development plans to discern if:

- (a) A new obstruction to flood flows would be created;
- (b) The project will involve a channel crossing such as a bridge or pipeline; or
- (c) The project will modify the shape of the channel.

(3) If any of the situations enumerated in division (A)(2) will result from the project, the applicant shall be required to obtain a permit from the state Department of Transportation, Division of Water Resources, issued pursuant to ILCS Ch. 615, Act 5, § 23. The responsible village official shall not issue a development permit, unless the applicant has obtained either a permit under ILCS Ch. 615, Act 5, § 23 or a waiver of permit required from the Division of Water Resources.

(B) No development in the SFHA shall include locating or storing chemicals, explosives, buoyant material, flammable liquid, pollutants, or other hazardous or toxic materials below the FPE unless such materials are stored in a storage tank or floodproofed building constructed according to the requirements of § 151.07 (B)(3).

(C) New and replacement sanitary sewer lines and on-site waste disposal systems may be permitted, provided that all manholes or other above ground openings located below the FPE are watertight.

(D) The total cumulative effect of a proposed development will not increase the base flood elevation more than one foot for the affected hydraulic reach of the stream.

(E) No increase in the base flood elevation may be permitted unless:

(1) The total cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the base flood elevation more than

one foot for the affected hydraulic reach of the stream and will not increase flood damages or potential flood damages;

(2) A permit has been issued by the state Department of Transportation, Division of Water Resources, pursuant to ILCS Ch. 615, Act 5, § 23;

(3) For all projects involving channel modifications or fill, including levees, the village shall submit sufficient data to the Federal Emergency Management Agency to revise the regulatory flood maps and profiles.

Penalty, see § 151.99

§ 151.07 PROTECTING BUILDINGS.

(A) In addition to the damage prevention requirements of § 151.06, all buildings to be located in the SFHA shall be protected from flood damage below the FPE. This building protection requirement applies to the following situations:

(1) Construction or placement of a new building valued at more than \$1,000;

(2) Improvements made to an existing building that increase the first floor area by more than 20%;

(3) Reconstruction or repairs made to a damaged building that are valued at more than 50% of the value of the building before the damage occurred; and

(4) Installing a mobile home on a new site or a new mobile home on an existing site. This building protection requirement does not apply to returning a mobile home to the same site it formerly lawfully occupied.

(B) This building protection requirement may be met by anyone of the following methods:

(1) A building may be constructed on permanent landfill in accordance with the following:

(a) The area to be filled shall be cleared of all standing trees, brush, down timber, trash, and other growth or objects unsuitable for use as foundation material.

(b) The fill shall be placed in layers no greater than one foot deep before compaction.

(c) The surface of the fill shall be at or above the FPE. The fill shall extend at least ten feet beyond the foundation of the building before sloping below the FPE.

(d) The fill shall be protected from erosion and scour during flooding by vegetative cover, rip rap, or bulkheading. If vegetative cover is used, the slopes shall be no steeper than three horizontal to one vertical.

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

(f) The responsible village official shall maintain a record of the as built elevation of the lowest floor of the building.

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

(a) The building or improvements shall be elevated on stilts, piles, walls, crawl space, or other foundation that is permanently open to flood waters and not subject to damage by hydrostatic pressures.

(b) The foundation and supporting members shall be anchored, shaped, and aligned so as to minimize exposure to known hydrodynamic forces such as current, waves, and floating debris.

(c) All areas below the FPE shall be constructed of materials resistant to flood damage. The bottom of the joists of the lowest floor shall be located at or above the FPE. Beneath the lowest elevated floor of an elevated residential building, all electrical, plumbing, ventilating, heating, air conditioning equipment-related duct work, and utility meters shall be located at or above the FPE.

(d) Elevated residential buildings must have permanent openings no more than one foot above grade, and the walls and floor must not be subject to damage by hydrostatic pressures of the base flood.

(e) The responsible village official shall maintain a record of the as built elevation of the lowest floor.

(f) No area below the FPE shall be used for storage of items or materials subject to flood damage unless such items or materials are declared to be property not covered by a standard flood insurance policy of the National Flood Insurance Program.

(g) Any future alteration of the area below the FPE that violates the requirements of this subdivision shall be deemed a violation of this chapter. The responsible village official shall inform the applicant that any such alteration is considered a willful act to increase flood damages and therefore will cause coverage by a standard flood insurance policy to be suspended.

(f) Mobile homes are prohibited in special flood hazard areas.

(3) A nonresidential building may be floodproofed in accordance with the following:

(a) A registered professional engineer shall certify that the building has been designed so that below the FPE, the structure and attendant utility facilities are watertight and capable of resisting the effects of the base flood. The building design shall take into account flood velocities, duration, rate of rise, hydrostatic and hydrodynamic forces, the effect of buoyancy, and impacts from debris or ice.

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

(c) The responsible village official shall maintain the engineer's certificate and a record of the as built elevation to which the building was floodproofed.

Penalty, see § 151.99

§ 151.08 OTHER DEVELOPMENT REQUIREMENTS.

(A) The Village Board of Trustees shall take into account all flood hazards, to the extent that they are known, in all official actions related to land management, use, and development.

(B) The Board of Trustees shall not approve any annexation agreement or plat of subdivision located outside the corporate limits unless such agreement or plat is in accordance with the provisions of this chapter. The responsible village official shall obtain the best available SFHA maps and data for the unincorporated areas.

(C) New subdivisions and planned unit developments, or PUDs, shall meet the requirements of §§ 151.06 and 151.07. Plats or plans for new subdivisions and PUDs shall include a signed statement by a registered professional engineer that the plat or plans account for changes in the drainage of surface waters in accordance with the Plat Act, ILCS Ch. 765, Act 205, § 2.

(D) Plats or plans for new subdivisions and PUDs shall display the following flood data:

(1) The boundary of the SFHA;

(2) The boundary of the floodway, if shown on available SFHA maps;

(3) Easements of lands dedicated to the village for access for channel maintenance purposes; and

(4) The FPE for each building site. Where the base flood elevation is not available from an existing study filed with the state Water Survey, the applicant shall be responsible for calculating the FPE and submitting it to the state Water Survey for review and approval as best available elevation data.

(E) Plans for the development activities to be undertaken by the village in the SFHA shall be reviewed by the responsible village official to ensure that they comply with this chapter. Except as exempted by law, no other local government shall commence any development activity in the SFHA without first obtaining a development permit from the responsible village official.

(F) When preparing or revising the comprehensive plan, community development program, housing assistance plan, and other land use or development programs the village shall take the following into consideration:

(1) Preserving SFHA land for open space uses such as farming or recreation;

(2) Acquiring and removing frequently flooded buildings;

(3) Prohibiting hospitals, water treatment plants, natural gas storage, and other critical or especially hazardous facilities from locating in the SFHA;

(4) Identifying the elevations of the base flood and past floods at entrances to public buildings, on street signs, or other prominent locations; and

(5) Other flood hazard mitigation or floodplain management activities that could help accomplish the purposes of this chapter.

Penalty, see § 151.99

§ 151.09 VARIANCES.

(A) Whenever the standards of this chapter place undue hardship on a specific development proposal, the applicant may apply to the Village Zoning Board of Appeals for a variance. The Zoning Board of Appeals shall review the applicant's request for a variance and shall submit its recommendation to the Village Board of Trustees.

(B) No variance shall be granted unless the applicant demonstrates that:

(1) The development activity cannot be located outside the SFHA;

(2) A substantial economic hardship would result if the variance were not granted;

(3) The relief requested is the minimum necessary;

(4) There will be no additional threat to public health or safety or creation of a nuisance;

(5) There will be no additional public expense for flood protection, rescue or relief operations, policing, or repairs to roads, utilities, or other public facilities; and

(6) The provisions of § 151.05(D) can still be met.

(C) The responsible village official shall notify an applicant in writing that a variance from the requirements of § 151.07 that would lessen the degree of protection to a building will:

(1) Result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage;

(2) Increase the risks to life and property; and

(3) Require that the applicant proceed with knowledge of these risks and that he will acknowledge in writing that he assumes the risk and liability.

(D) A variance from the requirements of § 151.07 may be granted to permit a wet floodproofed building, that is, a building to be intentionally flooded during a flood, provided that:

(1) No part of such a building below the FPE may be subject to flood damage;

(2) The variance shall be conditioned on the contents being:

(a) Materials resistant to flood damage;

(b) Items declared property not covered by a standard flood insurance policy of the National Flood Insurance Program; or

(c) Readily movable to a place of protection during a flood provided there will be available personnel and adequate warning

(3) Any future alteration of the area below the FPE that violates the conditions of the variance shall be deemed a violation of this chapter. The responsible village official shall inform the applicant that any such alteration is considered a willful act to increase flood damages and therefore will cause coverage by a standard flood insurance policy to be suspended.

(E) Variances requested in connection with restoration of a site or building documented as worthy of preservation by the state Department of Conservation may be granted using criteria more permissive than the requirements of division (A) above.

§ 151.10 DISCLAIMER OF LIABILITY.

(A) The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on available information derived from engineering and scientific methods of study. Larger floods may occur or flood heights may be increased by man-made or

natural causes. This chapter does not imply that development either inside or outside of the SFHA will be free from flooding or damage.

(B) This chapter does not create liability on the part of the city or any officer or employee thereof for any flood damage that results from reliance on this chapter or any administrative decision made lawfully thereunder.

§ 151.11 ABROGATION AND GREATER RESTRICTIONS.

This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. Where this chapter and other proper legal documents (that is, ordinances, easements, covenants, and the like) conflict or overlap, the more stringent restrictions shall prevail.

§ 151.99 PENALTY.

(A) The responsible village official may, upon due investigation, determine that a violation of this chapter exists.

(B) Upon making such determination the responsible village official shall:

- (1) Notify the property owner by certified mail;
- (2) Allow ten days for correction;
- (3) Reinvestigate;
- (4) If the aberration has been corrected, take no further action;
- (5) If not corrected, turn the matter over to the Village Board;

(6) The responsible village official and, upon resolution of the Village Board, the Village Attorney may make injunctive, or other relief, application to the Circuit Court to secure compliance with this chapter.

(C) Any person who violates this chapter shall, upon conviction thereof, be fined not less than \$25. A separate offense shall be deemed committed upon each day during or on which a violation occurs or continues. Failure to comply with the requirements of a permit or conditions of a variance shall be deemed a violation of this chapter.

(D) Nothing herein shall prevent the village from taking other action to prevent or remedy any violations as provided by appropriate statutes.

(E) All costs connected therewith shall accrue to, and be the responsibility of, the person or persons responsible for the violation.