

## CHAPTER 152: FLOOD DAMAGE PREVENTION

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### **GENERAL PROVISIONS**

#### **§ 152.01 STATUTORY AUTHORIZATION; FINDINGS OF FACT; PURPOSE AND OBJECTIVES.**

(A) *Statutory authorization.* Article XVIII, Section 3, of the Ohio Constitution, grants municipalities the legal authority to adopt land use and control measures for promoting the health, safety, and general welfare of its citizens. Therefore, City Council ordains this chapter.

(B) *Findings of fact.*

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

(2) These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazards, which increase flood heights and velocities, and, when inadequately anchored, damage uses in other areas. Uses that are inadequately floodproofed, elevated or otherwise protected from flood damage also contribute to the flood loss.

(C) *Statement of purpose.* It is the purpose of this chapter to promote the public health, safety and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

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- (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 areas of special flood hazard;
- (6) Help maintain a stable tax base by providing for the proper use and development of areas of special flood hazard so as to minimize future flood blight areas;
- (7) Ensure that potential buyers are aware that property is in an area of special flood hazard; and
- (8) Ensure that those occupy the areas of special flood hazard assume responsibility for their actions.

(D) *Methods of reducing flood losses.* In order to accomplish its purposes; this chapter includes the methods and provisions for:

- (1) Restricting or prohibiting uses which are dangerous to health, safety and property due to water hazards, or which result in damaging 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 help accommodate or channel 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 floodwater or which may increase flood hazards in other areas.

(\*74 Code, § 153.01) (Ord. 93-1055, passed 2-23-93)

### § 152.02 DEFINITIONS

Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.

***ACCESSORY STRUCTURE.*** A structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal structure.

***APPEAL.*** A request for a review of the Building Official's interpretation of any provision of this chapter or a request for a variance.

***AREA OF SPECIAL FLOOD HAZARD.*** The land in the flood plain within a community subject to a one percent or greater chance of flooding in any given year.

***BASE FLOOD.*** The flood having a one percent or greater chance of being equaled or exceeded in any given year. The base flood may also be referred to as the 100-year flood.

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

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**DEVELOPMENT.** Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

**FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA).** The agency with the overall responsibility for administering the National Flood Insurance Program.

**FLOOD or FLOODING.** 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 usual and rapid accumulation or runoff of surface waters from any source.

**FLOOD INSURANCE RATE MAP (FIRM).** The official map on which the Federal Emergency Management Agency has delineated the areas of special flood hazard.

**FLOOD INSURANCE STUDY.** The official report in which the Federal Emergency Management Agency has provided flood profiles, floodway boundaries, and the water surface elevations of the base flood.

**FLOODWAY.** The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

**HISTORIC STRUCTURE.** Any structure that is:

- (1) Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or a preliminary determination by the Secretary of the Interior as meeting the requirements for individual listings 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 the Interior; or

- (4) Individually listed on a local inventory of historic places in the 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.

**LOWEST FLOOR.** The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor; provided that such enclosure is built in accordance with the applicable design requirements for enclosures below base flood elevation specified in this chapter.

**MANUFACTURED HOME.** A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. It includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days.

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**MANUFACTURED HOME PARK OR SUBDIVISION.** A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale. This definition shall exclude any manufactured home park as defined in R.C. § 3733.01, over which the Public Health Council has exclusive rule marking power.

**NEW CONSTRUCTION.** Structures for which the “start of construction” commenced on or after the initial effective date of the city’s Flood Insurance Rate Map, and includes any subsequent improvements to such structures.

**RECREATIONAL VEHICLE.** A vehicle which is:

- (1) Built on a single chassis;
- (2) 400 square feet or less when measured at the largest horizontal projection;
- (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 recreation, camping, travel, or seasonal use.

**START OF CONSTRUCTION.** The date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. 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 foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling

units or not part of the main structure. 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 dimension of a building.

**STRUCTURE.** A walled and roofed building, manufactured home, or gas or liquid storage tank that is principally above ground.

**SUBSTANTIAL IMPROVEMENT.** Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure before 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, however, include:

- (1) Any project for improvement of a structure to correct existing violations of the state or local Health, Sanitary or Safety Code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions;
- (2) Any alterations of a “historic structure”, provided that the alteration will not preclude the structure’s continued designation as a “historic structure”; or
- (3) Any improvement to a structure, which is considered new construction.

**VARIANCE.** A grant of relief to a person from the requirements of this chapter, which permits construction in a manner that would otherwise be prohibited by this chapter.  
(’74 Code, § 153.01) (Ord. 93-1055, passed 2-23-93)

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('74 Code, § 153.01) (Ord. 93-1055, passed 2-23-93)

### **§ LANDS TO WHICH REGULATIONS APPLY.**

This chapter shall apply to all areas of special flood hazard within the jurisdiction of the city as directed by the Federal Emergency Management Agency, including any additional flood hazard areas annexed by the city that are not identified on the effective flood insurance rate map. ('74 Code, § 153.01) (Ord. 93-1055, passed 2-23-93)

### **§ 152.04 BASIS FOR ESTABLISHING AREAS OF SPECIAL FLOOD HAZARD.**

The areas of special flood hazard have been identified by the Federal Emergency Management Agency in a scientific and engineering report titled "Flood Insurance Study for the City of Mt. Healthy". This study, with accompanying Flood Boundary and Floodway Maps and/or Flood Insurance Rate Maps dated May 17, 2004 and any revisions thereto is hereby adopted by reference and declared to be a part of this chapter. The flood insurance study is on file at the City of Mt. Healthy, 7700 Perry Street, Mt. Healthy, Ohio, 45231. ('74 Code, § 153.01) (Ord. 93-1055, passed 2-23-93)

### **§ 152.05 COMPLIANCE.**

Unless specifically exempted from filing for a development permit as stated in § 152.21, no structure or land shall hereafter be located, erected, constructed, repaired, extended, converted, enlarged or altered without full compliance with the terms of this chapter and all other applicable regulations which apply to uses within the jurisdiction of this chapter. ('74 Code, § 153.01) (Ord. 93-1055, passed 2-23-93)

### **§ 152.06 ABROGATION AND GREATER RESTRICTIONS.**

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

### **§ 152.07 INTERPRETATION.**

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

(A) Considered as minimum requirements;

(B) Liberally construed in favor of the governing body; and

(C) Deemed neither to limit nor repeal any other powers granted under state statutes. Where a provision of this chapter may be in conflict with a state law, such state law shall take precedence over the chapter.

('74 Code, § 153.01) (Ord. 93-1055, passed 2-23-93)

### **§ 152.08 WARNING AND DISCLAIMER OF LIABILITY.**

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

('74 Code, § 153.01) (Ord. 93-1055, passed 2-23-93)

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(’74 Code, § 153.01) (Ord. 93-1055, passed 2-23-93)

### ADMINISTRATION

#### § 152.20 ESTABLISHMENT OF DEVELOPMENT PERMIT.

A development permit shall be obtained before construction or development begins within any area of special flood hazard established in § 152.04. Application for a development permit shall be made on forms furnished by the Building Official 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, fill, storage of materials, drainage facilities, and the location of the foregoing; and a description of the extent to which any watercourse will be altered or relocated as a result of proposed development. If base flood elevation data are available, the following information is also required:

(A) Elevation in relation to mean sea level of lowest floor, including basement, of all proposed structures;

(B) Elevation in relation to mean sea level to which any proposed structure will be floodproofed; and

(C) Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in § 152.36.

(D) Description of the extent to which any watercourse will be altered or relocated as a result of the proposed development and certification by a registered professional engineer that the flood carrying capacity of the watercourse will not be diminished.

(’74 Code, § 153.01) (Ord. 93-1055, passed 2-23-93)

#### § 152.21 EXEMPTION FROM FILING A DEVELOPMENT PERMIT.

An application for a development permit shall not be required for maintenance work such as roofing, painting, and basement sealing, or for small development activities (except for filling and grading) valued at less than \$1,000.

#### § 152.22 DESIGNATION OF THE FLOOD DAMAGE PREVENTION ADMINISTRATOR.

The Chief Building Official is hereby appointed to administer and implement this chapter by granting or denying development permit applications in accordance with its provisions.

(’74 Code, § 153.01) (Ord. 93-1055, passed 2-23-93)

#### § 152.23 DUTIES AND RESPONSIBILITIES OF BUILDING OFFICIAL.

(A) *Permit review.*

(1) Review all development permits to determine that the permit requirements of this chapter have been satisfied.

(2) Review all development permits to assure that all necessary permits have been received from those federal, state or local governmental agencies from which prior approval is required. The applicant shall be responsible for obtaining such permits as required including permits issued by the Department of the Army under Section 10 of the *Rivers and Harbors Act*, 33 USC 1 *et seq.* and Section 404 of the *Clean Water Act*, 33 USC 1251 *et seq.*

(3) Review all development permits to determine if the proposed development is located within a designated floodway. Floodways are delineated in the Flood Boundary and Floodways Map or the Flood Insurance Rate Map of the Flood Insurance Study. Floodways may be delineated in other sources of flood information. If the proposed development is located within a designated floodway, assure that the encroachment provision of § 152.37 is met.



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(B) *Use of other base flood elevation and floodway data.* Areas of special flood hazard where base flood elevation data have not been provided by the Federal Emergency Management Agency in accordance with § 152.04 are designated as Zone A on the community's Flood Insurance Rate Map. Within these areas, the Building Official shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state, or other sources, including data obtained under § 152.36(F), in order to administer § 152.36(A) and (B); and § 152.37.

(C) *Information to be obtained and maintained.* Where base flood elevation data are utilized within areas of special flood hazard on a community's Flood Insurance Rate Map, regardless of the source of such data, the following provisions apply:

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

(2) For all new or substantially-improved floodproofed structures:

(a) Verify and record the actual elevation (in relation to mean sea level) to which the structure was floodproofed; and

(b) Maintain the floodproofing certifications required in § 152.20.

(3) Maintain for public inspection all records pertaining to the provisions of this chapter.

(D) *Alteration of watercourses.*

(1) Notify adjacent communities and the Ohio Department of Natural Resources, Division of Water, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency. A watercourse is considered to be altered if any change occurs within its banks.

(2) Maintain engineering documentation required in § 152.20 that the flood carrying capacity of the altered or relocated portion of said watercourse will not be diminished.

(3) Require that the necessary maintenance will be provided for the altered or relocated portion of said watercourse so that the flood carrying capacity will not be diminished.

(E) *Interpretation of flood boundaries.* Make interpretation, where 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 person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in § 152.24. ('74 Code, § 153.01) (Ord. 93-1055, passed 2-23-93)

### § 152.24 VARIANCE PROCEDURE.

(A) Appeal Board.

(1) The Planning Commission as established by the city shall hear and decide appeals and requests for variances from the requirements of this chapter.

(2) The Planning Commission shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Building Official in the enforcement or administration of this chapter.

(3) Those aggrieved by the decision of the Planning Commission or any taxpayer, may appeal such decision to the Hamilton County Court of Common Pleas, as provided in R.C. Chapter 2506.

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(4) In passing upon such applications, the Planning Commission shall consider all technical evaluations, all relevant factors, standards specified in other sections of this chapter, and:

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

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

(c) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner:

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

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

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

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

(h) The relationship of the proposed use to the comprehensive plan and flood plain management program for that area;

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

(j) The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and

(k) The cost of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

(5) Upon consideration of the factors of subdivision

(4) of this division and the purposes of

this chapter, the Planning Commission may attach such conditions to the granting of variances as it

deems necessary to further the purposes of this chapter.

(6) The Building Official shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request.

### **(B) Conditions for variances.**

(1) Generally, 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 items (a) through (k) in division (A)(4) have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.

(2) 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.

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

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

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5) 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 beyond that which is allowed in this chapter, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public as identified in division (A), or conflict with existing local laws or ordinances.

(6) 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.

(’74 Code, § 153.01) (Ord. 93-1055, passed 2-23-93)

### PROVISIONS FOR FLOOD HAZARD REDUCTION

#### § 152.35 GENERAL STANDARDS.

In all areas of special flood hazards the following standards are required:

##### (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 not otherwise regulated by the Ohio Revised Code pertaining to manufactured home parks shall be anchored to prevent flotation, collapse or lateral movement of the structure resulting from

hydrodynamic and hydrostatic loads, including the effects of buoyancy. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors.

(B) Construction materials and methods.

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

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

(3) All new construction and 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.

(C) Utilities.

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

(2) New replacement sanitary sewerage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from the systems into flood waters; and

(3) Individual waste treatment systems shall be located to avoid impairment to them or contamination from them during flooding.

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### (D) Subdivision proposal.

(1) All subdivision proposals, including manufactured home subdivisions, shall be consistent with the need to minimize flood damage.

(2) All subdivision proposals, including manufactured home subdivisions, shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;

(2) All subdivision proposals, including manufactured home subdivisions, 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, including manufactured home subdivisions, shall have adequate drainage provided to reduce exposure to flood damage; and

(4) All subdivision proposals, including manufactured home subdivisions, shall meet the specific standards of § 152.36(F).

(’74 Code, § 153.01) (Ord. 93-1055, passed 2-23-93)

Penalty, see § 152.99

### § 152.36 SPECIFIC STANDARDS.

In all areas of special flood hazards where base flood elevation data have provided as set forth in § 152.04 or § 152.23, or division (F) of this section, the following provisions are required:

(A) Residential construction. New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to or above the base flood elevation.

(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 the level of the base flood

elevation; or, together with attendant utility and sanitary facilities, shall:

(1) Be floodproofed 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 design and methods of construction are in accordance with accepted standards of practice for meeting the standards of this subdivision. Such certification shall be provided to the official as set forth in § 152.20(C).

(C) Accessory structures. An exception to the elevation or dry floodproofing standards may be granted for accessory structures (that is, sheds, detached garages) containing 576 square feet or less in gross floor area. Such structures must meet the encroachment provisions of § 152.37 and the following additional standards:

(1) They shall not be used for human habitation;

(2) They shall be designed to have low flood damage potential;

(3) They shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of flood waters;

(4) They shall be firmly anchored to prevent flotation; and

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(5) Service facilities such as electrical and heating equipment shall be elevated or floodproofed.

(D) Manufactured homes and recreational vehicles. The following standards shall apply to all new and substantially improved manufactured homes not subject to the manufactured home requirements of R.C. § 3733.01 et seq.:

(1) Manufactured homes shall be anchored in accordance with § 152.35.

(2) Manufactured homes shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is at the base flood elevation.

These standards also apply to recreational vehicles that are either located on sites for 180 days or more, or are not fully licensed and ready for highway use.

(E) Enclosures below the lowest floor. The following standards apply to all new and substantially improved residential and nonresidential structures, which are elevated to the base flood elevation using pilings, columns, or posts. Fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must:

(1) Be certified by a registered professional engineer or architect; or

(2) Must meet or exceed the following 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.

Openings may be equipped with screens, louvers, valves or other openings provided that they permit the automatic entry and exit of flood waters.

(F) Subdivisions and large development. In all areas of special flood hazards where base flood elevation data have not been provided in accordance with § 152.04 or § 152.23, the following standards apply to all subdivision proposals, including manufactured home subdivisions, and other proposed developments containing at least 50 lots or five acres (whichever is less):

(1) The applicant shall provide base flood elevation data performed in accordance with standard engineering practices;

(2) If subdivision (1) above is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of § 152.35 and § 152.36.

(’74 Code, § 153.01) (Ord. 93-1055, passed 2-23-93)

Penalty, see § 152.99

### **§ 152.37 FLOODWAYS.**

(A) *Areas with floodways.* The Flood Insurance Study referenced in § 152.04 identifies a segment within areas of special flood hazard known as floodways. Floodways may also be delineated in other sources of flood information as specified in § 152.23. 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 within all delineated floodway areas:

(1) Prohibit encroachments, including fill, new construction, substantial improvements, and other development unless hydrologic and hydraulic analysis performed in accordance with standard

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engineering practices demonstrates that the proposed encroachment would not result in any increase in flood levels during the occurrence of the base flood discharge.

(2) If subdivision (1) above is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of § 152.36.

(3) Any encroachment within the floodway that would result in an increase in base flood elevations can only be granted upon the prior approval by the Federal Emergency Management Agency. Such requests must be submitted by the Building Official to the Federal Emergency Management Agency and must meet the requirements of the National Flood Insurance Program.

(B) *Areas without floodways.* In all areas of special flood hazards where FEMA has provided base flood elevation data as set forth in § 152.04, but FEMA has not delineated a floodway, the following provisions apply:

(1) New construction, substantial improvements, or other development (including fill) shall only be permitted if it is demonstrated that the cumulative effect of any proposed development, when combined with all other existing and anticipated development, shall not increase the water surface elevation of the base flood more than one foot at any point.

(2) If subdivision (1) above is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of this subchapter.

(’74 Code, § 153.01) (Ord. 93-1055, passed 2-23-93)

Penalty, see § 152.99

### § 152.99 PENALTY.

Violation of the provisions of this chapter or failure to comply with any of its requirements shall constitute a misdemeanor of the fourth degree. Any person who violates this chapter or fails to comply with any of its requirements (including violations of

conditions of and safeguards established in connection with conditions) shall upon conviction thereof be fined or imprisoned as provided by the laws of the city. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the city from taking such other lawful action as is necessary to prevent or remedy any violations.

(’74 Code, § 153.01) (Ord. 93-1055, passed 2-23-93)