

CHAPTER 152: FLOOD HAZARD AREAS

Section

Statutory Authorization, Findings of Fact, Statement of Purpose, and Objectives

[152.01](#) Statutory authorization

[152.02](#) Findings of fact

[152.03](#) Statement of purpose

[152.04](#) Objectives

Definitions

[152.05](#) Definitions

General Provisions

[152.06](#) Lands to which this chapter applies

[152.07](#) Basis for establishing regulatory flood data

[152.08](#) Establishment of floodplain development permit

[152.09](#) Compliance

[152.10](#) Abrogation and greater restrictions

[152.11](#) Discrepancy between mapped floodplain and actual ground elevations

[152.12](#) Interpretation

[152.13](#) Warning and disclaimer of liability

[152.14](#) Increased cost of compliance (ICC)

Administration

[152.25](#) Designation of administrator

[152.26](#) Permit procedures

[152.27](#) Duties and responsibilities of the Floodplain Administrator

Flood Hazard Reduction

[152.35](#) General standards

[152.36](#) Specific standards

[152.37](#) Standards for subdivision proposals

[152.38](#) Critical facilities

[152.39](#) Standards for identified floodways

[152.40](#) Standards for identified fringe

[152.41](#) Standards for SFHAs without established base flood elevations and/or floodways/fringes

152.42 Standards for Flood-Prone Areas

Variance Procedures

[152.50](#) Designation of variance appeals board

[152.51](#) Duties of variance and appeals board

[152.52](#) Variance procedures

[152.53](#) Conditions for variances

[152.54](#) Variance notification

[152.55](#) Historic structures

[152.56](#) Special conditions

[152.99](#) Penalty

STATUTORY AUTHORIZATION, FINDINGS OF FACT, STATEMENT OF PURPOSE, AND OBJECTIVES

§ 152.01 STATUTORY AUTHORIZATION.

The Indiana Legislature has, in I.C. 36-7-4 and I.C. 14-28-4, granted the power to local government units to control land use within their jurisdictions. Therefore, the Town Council does hereby adopt the following flood management regulations.

(’92 Code, § 9-160) (Ord. 94-39, passed 11-10-94; Am. Ord. 2009-13, passed 8-27-09)

§ 152.02 FINDINGS OF FACT.

(A) The flood hazard areas of the Town are subject to periodic inundation that results 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.

(B) These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities, and by the occupancy in flood hazard areas by uses vulnerable to floods or hazardous to other lands that are inadequately elevated, floodproofed or otherwise unprotected from flood damages.

(Ord. 2009-13, passed 8-27-09)

§ 152.03 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:

- (A) Restrict or prohibit uses that are dangerous to health, safety and property due to water or erosion hazards, which result in damaging increases in erosion or in flood heights or velocities;
- (B) Require that uses vulnerable to floods, including facilities that serve such uses, be protected against flood damage at the time of initial construction;
- (C) Control the alteration of natural floodplains, stream channels, and natural protective barriers involved in the accommodation of flood waters;
- (D) Control filling, grading, dredging and other development that may increase erosion or flood damage;
- (E) Prevent or regulate the construction of flood barriers that will unnaturally divert floodwaters or that may increase flood hazards to other lands; and
- (F) Make federally subsidized flood insurance available for structures and their contents in the Town by fulfilling the requirements of the National Flood Insurance Program.

(92 Code, § 9-161) (Ord. 94-39, passed 11-10-94; Am. Ord. 2009-13, passed 8-27-09)

§ 152.04 OBJECTIVES.

The objectives of this chapter are:

- (A) To protect human life and health;
- (B) To minimize expenditure of public money for costly flood control projects;
- (C) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (D) To minimize prolonged business interruptions;
- (E) To minimize damage to public facilities and utilities, such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains;
- (F) To 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 flood-blight areas; and
- (G) To identify property owners in flood areas through plat maps and department personnel knowledge.

(Ord. 2009-13, passed 8-27-09)

DEFINITIONS

§ 152.05 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.

A ZONE. Portions of the SFHA in which the principal source of flooding is runoff from rainfall, snowmelt, or a combination of both. In A zones, floodwaters may move slowly or rapidly, but waves are usually not a significant threat to buildings. These areas are labeled as Zone A, Zone

AE, Zones A1-A30, Zone AO, Zone AH, Zone AR and Zone A99 on a FIRM. The definitions are presented below:

ZONE A. Areas subject to inundation by the one-percent annual chance flood event. Because detailed hydraulic analyses have not been performed, no base flood elevation or depths are shown. **ZONE AE** and **ZONES A1-A30.** Areas subject to inundation by the one-percent annual chance flood event determined by detailed methods. Base flood elevations are shown within these zones. (**ZONE AE** is on new and revised maps in place of **ZONES A1-A30.**)

ZONE AO. Areas subject to inundation by one-percent annual chance shallow flooding (usually sheet flow on sloping terrain), where average depths are between one (1) and three (3) feet. Average flood depths derived from detailed hydraulic analyses are shown within this zone. **ZONE AH.** Areas subject to inundation by one-percent annual chance shallow flooding (usually areas of ponding) where average depths are one (1) to three (3) feet. Average flood depths derived from detailed hydraulic analyses are shown within this zone.

ZONE AR. Areas that result from the decertification of a previously accredited flood protection system that is determined to be in the process of being restored to provide base flood protection. **ZONE A99.** Areas subject to inundation by the one-percent annual chance flood event, but which will ultimately be protected upon completion of an under-construction Federal flood protection system. These are areas of special flood hazard where enough progress has been made on the construction of a protection system, such as dikes, dams and levees, to consider it complete for insurance-rating purposes. **ZONE A99** may only be used when the flood protection system has reached specified statutory progress toward completion. No base flood elevations or depths are shown.

ACCESSORY STRUCTURE (APPURTENANT STRUCTURE). A structure with a floor area of 400 square feet or less that is located on the same parcel of property as the principal structure, and the use of which is incidental to the use of the principal structure. **ACCESSORY STRUCTURES** should constitute a minimal initial investment, may not be used for human habitation, and be designed to have minimal flood damage potential. Examples of accessory structures are detached garages, carports, storage sheds, pole barns, and hay sheds.

ADDITION (TO AN EXISTING STRUCTURE). Any walled and roofed expansion to the perimeter of a structure, in which the **ADDITION** is connected by a common load-bearing wall other than a firewall. Any walled and roofed addition, which is connected by a firewall or is separated by independent perimeter load-bearing walls, is new construction.

APPEAL. A request for a review of the Floodplain Administrator's interpretation of any provision of this chapter.

AREA OF SHALLOW FLOODING. A designated AO or AH Zone on the community's Flood Insurance Rate Map (FIRM), with base flood depths from one (1) to three (3) feet, where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

BASE FLOOD. The flood having a one percent chance of being equaled or exceeded in any given year.

BASE FLOOD ELEVATION (BFE). The elevation of the one-percent annual chance flood.

BASEMENT. That portion of a structure having its floor sub-grade (below ground level) on all sides.

BUILDING. See **STRUCTURE**.

COMMUNITY. A political entity that has the authority to adopt and enforce floodplain ordinances for the area under its jurisdiction.

COMMUNITY RATING SYSTEM (CRS). A program developed by the Federal Insurance Administration to provide incentives for those communities in the regular program that have gone beyond the minimum floodplain management requirements to develop extra measures to provide protection from flooding.

CRITICAL FACILITY. A facility for which even a slight chance of flooding might be too great. Critical facilities include, but are not limited to, schools, nursing homes, hospitals, police, fire, and emergency response installations, installations that produce, use or store hazardous materials or hazardous waste.

DEVELOPMENT. Any man-made change to improved or unimproved real estate, including but not limited to, the following:

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

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

ELEVATED STRUCTURE. A non-basement structure, built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, filled stem wall foundations (also called chain walls), pilings or columns (posts and piers).

ELEVATION CERTIFICATE. A certified statement that verifies a structure's elevation information.

EMERGENCY PROGRAM. The first phase under which a community participates in the NFIP. It is intended to provide a first layer amount of insurance, at subsidized rates, on all insurable structures in that community before the effective date of the initial FIRM.

EXISTING MANUFACTURED HOME PARK OR SUBDIVISION. 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 community's first floodplain ordinance.

EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION. 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).

FEMA. The Federal Emergency Management Agency.

FIVE-HUNDRED-YEAR FLOOD (500-YEAR FLOOD). The flood that has a two-tenths percent (0.2%) chance of being equaled or exceeded in any year.

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

FLOOD BOUNDARY AND FLOODWAY MAP (FBFM). An official map on which the FEMA or Federal Insurance Administration (FIA) has delineated the areas of flood hazards and regulatory floodway.

FLOOD INSURANCE RATE MAP (FIRM). An official map of a community, on which FEMA has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

FLOOD INSURANCE STUDY (FIS). The official hydraulic and hydrologic report provided by FEMA. The report contains flood profiles, as well as the FIRM, and the water surface elevation of the base flood.

FLOOD-PRONE AREA. Any land area acknowledged by a community as being susceptible to inundation by water from any source. (See **FLOOD**).

FLOOD PROTECTION GRADE (FPG). The elevation of the regulatory flood plus two (2) feet at any given location in the SFHA. See **FREEBOARD**.

FLOODPLAIN. The channel proper and the areas adjoining any wetland, lake or watercourse that have been, or hereafter may be, covered by the regulatory flood. The floodplain includes both the floodway and the fringe districts.

FLOODPLAIN MANAGEMENT. The operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including but not limited to, emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.

FLOODPLAIN MANAGEMENT REGULATIONS. This chapter and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances, and other applications of police power that control development in flood-prone areas. This term describes federal, state or local regulations, in any combination thereof, which provide standards for preventing and reducing flood loss and damage. **FLOODPLAIN MANAGEMENT REGULATIONS** are also referred to as floodplain regulations, floodplain ordinance, flood damage prevention ordinance, and floodplain management requirements.

FLOODPROOFING (DRY FLOODPROOFING). A method of protecting a structure that ensures that the structure, together with attendant utilities and sanitary facilities, is watertight to the floodproofed design elevation, with walls that are substantially impermeable to the passage of water. All structural components of these walls are capable of resisting hydrostatic and hydrodynamic flood forces, including the effects of buoyancy, and anticipated debris-impact forces.

FLOODPROOFING CERTIFICATE. A form used to certify compliance for nonresidential structures as an alternative to elevating structures to or above the FPG. This certification must be by a registered Professional Engineer or Architect.

FLOODWAY. The channel of a river or stream and those portions of the floodplains adjoining the channel that are reasonably required to efficiently carry and discharge the peak flood flow of the regulatory flood of any river or stream.

FREEBOARD. A factor of safety, usually expressed in feet above the BFE that is applied for the purposes of floodplain management. It is used to compensate for the many unknown factors that could contribute to flood heights greater than those calculated for the base flood.

FRINGE. Those portions of the floodplain lying outside the floodway.

HARDSHIP (AS RELATED TO VARIANCES OF THIS CHAPTER). The exceptional **HARDSHIP** that would result from a failure to grant the requested variance. The Board of Zoning Appeals requires that the variance is exceptional, unusual and peculiar to the property involved. Mere economic or financial **HARDSHIP** alone is NOT exceptional. Inconvenience, aesthetic considerations, physical handicaps, personal preferences, or the disapproval of one's neighbors likewise cannot, as a rule, qualify as an exceptional **HARDSHIP**. All of these problems can be resolved through other means without granting a variance, even if the alternative is more expensive, or requires the property owner to build elsewhere or put the parcel to a different use than originally intended.

HIGHEST ADJACENT GRADE. The highest natural elevation of the ground surface, prior to the start of construction, next to the proposed walls of a structure.

HISTORIC STRUCTURE. Any structure individually listed on the National Register of Historic Places or the Indiana State Register of Historic Sites and Structures.

INCREASED COST OF COMPLIANCE (ICC). The cost to repair a substantially damaged structure that exceeds the minimal repair cost and that is required to bring a substantially damaged structure into compliance with the local flood damage prevention ordinance. Acceptable mitigation measures are elevation, relocation, demolition, or any combination

thereof. All renewal and new business flood insurance policies with effective dates on or after June 1, 1997, will include ICC coverage.

IDNR. Indiana Department of Natural Resources.

LETTER OF FINAL DETERMINATION (LFD). A letter issued by FEMA during the mapping update process which establishes final elevations and provides the new flood map and flood study to the community. The **LFD** initiates the six month adoption period. The community must adopt or amend its floodplain management regulations during this 6 month period unless the community has previously incorporated an automatic adoption clause.

LETTER OF MAP CHANGE (LOMC). A general term used to refer to the several types of revisions and amendments to FEMA maps that can be accomplished by letter. They include the definitions presented below:

LETTER OF MAP AMENDMENT (LOMA). An amendment to the currently effective FEMA map that establishes that a property is not located in a SFHA through the submittal of property specific elevation data. A **LOMA** is only issued by FEMA.

LETTER OF MAP REVISION (LOMR). An official revision to the currently effective FEMA map. It is issued by FEMA and changes flood zones, delineations and elevations.

LETTER OF MAP REVISION BASED ON FILL (LOMR-F). An official revision by letter to an effective NFIP map. A **LOMR-F** provides FEMA's determination concerning whether a structure or parcel has been elevated on fill above the BFE and excluded from the SFHA.

LOWEST ADJACENT GRADE. The lowest elevation, after completion of construction, of the ground, sidewalk, patio, deck support, or basement entryway immediately next to the structure.

LOWEST FLOOR. The lowest of the following:

- (1) The top of the lowest level of the structure;
- (2) The top of the basement floor;
- (3) The top of the garage floor, if the garage is the lowest level of the structure;
- (4) The top of the first floor or of buildings elevated on pilings or pillars;
- (5) The top of the first floor of the structure constructed with a crawl space, provided that the lowest point of the interior grade is at or above the BFE and construction meets requirements of division (6)(a); or
- (6) The top of the floor level of any enclosure, other than a basement, below an elevated structure, where the walls of the enclosure provide any resistance to the flow of flood waters, unless:
 - (a) The walls are designed to automatically equalize the hydrostatic flood forces on the walls by allowing for the entry and exit of flood waters, by providing a minimum of two (2) openings (in addition to doorways and windows) in a minimum of two exterior walls; if a structure has more than one enclosed area, each shall have openings on exterior walls;
 - (b) The total net area of all openings shall be at least one (1) square inch for every one (1) square foot of enclosed area. The bottom of all such openings shall be no higher than

- one (1) foot above grade the exterior grade or the interior grade immediately beneath each opening, whichever is higher; and
- (c) Such enclosed space shall be usable for the parking of vehicles and building access.

MANUFACTURED HOME. A structure, transportable in one (1) or more sections, built on a permanent chassis and designed for use, with or without a permanent foundation, when attached to the required utilities. The term **MANUFACTURED HOME** does not include a “recreational vehicle.”

MANUFACTURED HOME PARK OR SUBDIVISION. A parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.

MAP PANEL NUMBER. The four-digit number followed by a letter suffix assigned by FEMA on a flood map. The first four digits represent the map panel, and the letter suffix represents the number of times the map panel has been revised. (The letter "A" is not used by FEMA, the letter "B" is the first revision.)

MARKET VALUE. The building value, excluding the land (as agreed to between a willing buyer and seller), as established by what the local real estate market will bear. **MARKET VALUE** can be established by independent certified appraisal, replacement cost depreciated by age of building (actual cash value), or adjusted assessed values.

MITIGATION. Sustained actions taken to reduce or eliminate long-term risk to people and property from hazards and their effects. The purpose of **MITIGATION** is two-fold: to protect people and structures, and to minimize the cost of disaster response and recovery.

NATIONAL FLOOD INSURANCE PROGRAM (NFIP). The federal program that makes flood insurance available to owners of property in participating communities nationwide through the cooperative efforts of the federal government and the private insurance industry.

NATIONAL GEODETIC VERTICAL DATUM OF 1929 (NGVD). As corrected in 1929, a vertical control datum used as a reference for establishing varying elevations within the floodplain.

NEW CONSTRUCTION. Any structure for which the “start of construction” commenced after the effective date of the community's first floodplain ordinance.

NEW MANUFACTURED HOME PARK OR SUBDIVISION. A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the community’s first floodplain ordinance.

NON-BOUNDARY RIVER FLOODWAY. The floodway of any river or stream other than a boundary river.

NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD 88). As adopted in 1993, a vertical control datum used as a reference for establishing varying elevations within the floodplain.

OBSTRUCTION. Includes, but is not limited to, any dam, wall, wharf, embankment, levee, dike, pile, abutment, protection, excavation, canalization, bridge, conduit, culvert, building, wire,

fence, rock, gravel, refuse, fill, structure, vegetation or other material in, along, across or projecting into any watercourse that may alter, impede, retard or change the direction and/or velocity of the flow of water; or due to its location, its propensity to snare or collect debris carried by the flow of water, or its likelihood of being carried downstream.

ONE-HUNDRED YEAR FLOOD (100-YEAR FLOOD). The flood that has a one percent (1%) chance of being equaled or exceeded in any given year. Any flood zone that begins with the letter A is subject to the one-percent annual chance flood. See **REGULATORY FLOOD**.

ONE-PERCENT ANNUAL CHANCE FLOOD. The flood that has a one percent (1%) chance of being equaled or exceeded in any given year. Any flood zone that begins with the letter A is subject to the one-percent annual chance flood. See **REGULATORY FLOOD**.

PHYSICAL MAP REVISION (PMR). An official republication of a community's FEMA map to effect changes to base (one-percent annual chance) flood elevations, floodplain boundary delineations, regulatory floodways, and planimetric features. These changes typically occur as a result of structural works or improvements, annexations resulting in additional flood hazard areas, or correction to base flood elevations or SFHAs.

PUBLIC SAFETY AND NUISANCE. Anything injurious to the safety or health of an entire community, neighborhood or any considerable number of persons, or that unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, river, bay, stream, canal or basin.

RECREATIONAL VEHICLE. A vehicle that is: (1) built on a single chassis; (2) four hundred (400) square feet or less, when measured at its largest horizontal projections; (3) designed to be self-propelled or permanently towable by a light duty truck; and (4) designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational camping, travel or seasonal use.

REGULAR PROGRAM. The phase of the community's participation in the NFIP where more comprehensive floodplain management requirements are imposed and higher amounts of insurance are available, based upon risk zones and elevations determined in a FIS.

REGULATORY FLOOD. The flood having a one percent (1%) probability of being equalized or exceeded in any given year, as calculated by a method and procedure acceptable to and approved by the IDNR and FEMA. The regulatory flood elevation at any location is as defined in § [152.07](#) of this chapter. The **REGULATORY FLOOD** is also known by the terms “base flood”, one-percent annual flood” and “100-year flood”.

REPETITIVE LOSS. Flood-related damages sustained by a structure on two (2) separate occasions during a ten (10) year period for which the cost of repairs at the time of each such flood event, on the average, equaled or exceeded twenty-five percent (25%) of the market value of the structure before the damage occurred.

SECTION 1316. That section of the National Flood Insurance Act of 1968, as amended, which states that no new flood insurance coverage shall be provided for any property that the Administrator finds has been declared by a duly constituted state or local zoning authority or other authorized public body to be in violation of state or local laws, regulations or ordinances,

that intended to discourage or otherwise restrict land development or occupancy in flood-prone areas.

SPECIAL FLOOD HAZARD AREA (SFHA). Those lands within the jurisdictions (including extraterritorial jurisdictions) of the Town subject to inundation by the regulatory flood. The SFHAs of the Town are generally identified as such on the FIRM of Hendricks County and Incorporated Areas prepared by FEMA and dated September 25, 2009 as well as any future updated, amendments, or revisions, prepared by FEMA with the most recent date. (These areas are shown on a FIRM as Zone A, AE, A1-A30, AH, AR, A99 or AO.)

START OF CONSTRUCTION. Includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction or improvement was within one hundred eighty (180) days of the permit date. The actual start means the first placement or permanent construction of a structure on a site, such as the pouring of slabs or footings, installation of piles, construction of columns, or any work beyond the stage of excavation for 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, 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 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. A ***STRUCTURE*** that is principally above ground and is enclosed by walls and a roof. The term includes a gas or liquid storage tank, a manufactured home, or a prefabricated building. The term also includes recreational vehicles to be installed on a site for more than one hundred eighty (180) days.

SUBSTANTIAL DAMAGE. Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT. Any reconstruction, rehabilitation, addition or other improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure before the “start of construction” of the improvement. This term includes structures that have incurred “substantial damage” or “repetitive loss”, regardless of the actual repair work performed. The term does not include improvements of structures to correct existing violations of state or local health, sanitary or safety code requirements, or any alteration of a “historic structure”; provided that the alteration will not preclude the structure's continued designation as a “historic structure”.

SUSPENSION. The removal of a participating community from the NFIP because the community has not enacted and/or enforced the proper floodplain management regulations required for participation in the NFIP.

VARIANCE. A grant of relief from the requirements of this chapter, which permits construction in a manner otherwise prohibited by this chapter, where specific enforcement would result in unnecessary hardship.

VIOLATION. The failure of a structure or other development to be fully compliant with this chapter. A structure or other development without the elevation, other certification, or other evidence of compliance required in this chapter is presumed to be in violation until such time as that documentation is provided.

WATERCOURSE. A lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. **WATERCOURSE** includes specifically designated areas in which substantial flood damage may occur.

WATER SURFACE ELEVATION. The height, in relation to the North American Vertical Datum of 1988 (NAVD 88), National Geodetic Vertical Datum of 1929 (NGVD) or other datum, where specified, of floods of various magnitudes and frequencies in the floodplains of riverine areas.

X ZONE. The area where the flood hazard is less than that in the SFHA. Shaded X zones shown on recent FIRMs (B zones on older FIRMs) designate areas subject to inundation by the flood with a two-tenths percent (0.2%) chance of being equaled or exceeded (the 500-year flood). Unshaded X zones (C zones on older FIRMs) designate areas where the annual exceedance probability of flooding is less than two-tenths percent (0.2%).

ZONE. A geographical area shown on a FIRM that reflects the severity or type of flooding in the area.

ZONE A. See definition for **A ZONE**.

ZONES B, C AND X. Areas identified in the community as areas of moderate or minimal hazard from the principal source of flood in the area. However, buildings in these zones could be flooded by severe, concentrated rainfall coupled with inadequate local drainage systems. Flood insurance is available in participating communities, but is not required by regulation in these zones. (**ZONE X** is used on new and revised maps in place of **ZONES B AND C**.)

(^c92 Code, § 9-162) (Ord. 94-39, passed 11-10-94; Am. Ord. 2000-20, passed 10-12-00; Am. Ord. 2009-13, passed 8-27-09)

GENERAL PROVISIONS

§ 152.06 LANDS TO WHICH THIS CHAPTER APPLIES.

This chapter shall apply to all SFHAs within the jurisdiction of the Town.

(Ord. 2009-13, passed 8-27-09)

§ 152.07 BASIS FOR ESTABLISHING REGULATORY FLOOD DATA.

This chapter's protection standard is the regulatory flood. The best available regulatory flood data is listed below.

(A) The regulatory flood elevation, floodway and fringe limits for the studied SFHAs of the Town shall be as delineated on the one-percent annual chance flood profiles in the Flood Insurance Study of Hendricks County and Incorporated Areas, and the corresponding FIRM prepared by FEMA dated September 25, 2009.

(B) The regulatory flood elevation, floodway and fringe limits for each of the unstudied SFHAs of the Town delineated as an “A Zone” on the FIRM of Hendricks County and Incorporated Areas dated September 25, 2009 as well as any future updates, amendments, or revisions, prepared by FEMA with the most recent date, shall be according to the best data available as provided by the IDNR; provided the upstream drainage area from the subject site is greater than one square mile. Whenever a party disagrees with the best available date, the party needs to replace existing data with better data that meets current engineering standards. To be considered, this data must be submitted to the Indiana Department of Natural Resource for review, subsequently approved.

(C) In the absence of a published FEMA map, or absence of identification on a FEMA map, the regulatory flood elevation, floodway, and fringe limits of any watercourse in the community’s known flood-prone areas shall be according to the best data available as provided by the IDNR; provided the upstream drainage area from the subject site is greater than on square mile.

(D) Upon issuance of a Letter of Final Determination (LFD), any more restrictive data in the new (not yet effective) mapping/study shall be utilized for permitting and construction (development) purposes, replacing all previously effective less restrictive flood hazard data provided by FEMA.

(’92 Code, § 9-164) (Ord. 94-39, passed 11-10-94) Am. Ord. 2009-13, passed 8-27-09)

§ 152.08 ESTABLISHMENT OF FLOODPLAIN DEVELOPMENT PERMIT.

A floodplain development permit shall be required in conformance with the provisions of this chapter prior to the commencement of any development activities in areas of special flood hazard.

(Ord. 2009-13, passed 8-27-09) Penalty, see § [152.99](#)

§ 152.09 COMPLIANCE.

No structure shall hereafter be located, extended, converted or structurally altered within the SFHA without full compliance with the terms of this chapter and other applicable regulations. No land or stream within the SFHA shall hereafter be altered without full compliance with the terms of this chapter and other applicable regulations.

(Ord. 2009-13, passed 8-27-09) Penalty, see § [152.99](#)

§ 152.10 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 conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

(Ord. 2009-13, passed 8-27-09)

§ 152.11 DISCREPANCY BETWEEN MAPPED FLOODPLAIN AND ACTUAL GROUND ELEVATIONS.

(A) In cases where there is a discrepancy between the mapped floodplain (SFHA) on the FIRM and the actual ground elevations, the elevation provided on the profiles shall govern.

(B) If the elevation of the site in question is below the base flood elevation, that site shall be included in the SFHA and regulated accordingly.

(C) If the elevation (natural grade) of the site in question is above the base flood elevation and not located within the floodway, that site shall be considered outside the SFHA and the floodplain regulations will not be applied. The property owner should be advised to apply for a LOMA.

(Ord. 2009-13, passed 8-27-09)

§ 152.12 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.

(Ord. 2009-13, passed 8-27-09)

§ 152.13 WARNING AND DISCLAIMER OF LIABILITY.

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 can and will occur on rare occasions. Therefore, this chapter does not create any liability on the part of the Town, the IDNR, or the State of Indiana, for any flood damage that results from reliance on this chapter or any administrative decision made lawfully thereunder.

(⁹² Code, § 9-170) (Ord. 94-39, passed 11-10-94; Am. Ord. 2009-13, passed 8-27-09)

ADMINISTRATION

§ 152.25 DESIGNATION OF ADMINISTRATOR.

The Town Council hereby appoints the Building Commissioner to administer and implement the provisions of this chapter, and is herein referred to as the Floodplain Administrator.

(Ord. 2009-13, passed 8-27-09)

§ 152.26 PERMIT PROCEDURES.

Application for a floodplain development permit shall be made to the Floodplain Administrator, on forms furnished by him or her, prior to any development activities, and may include, but not be limited to, the following: plans in duplicate and drawn to scale showing the nature, location, dimensions and elevations of the area in question; existing or proposed structures, earthen fill, storage of materials or equipment, drainage facilities, and the location of the foregoing. Specifically the following information is required:

(A) *Application stage.*

(1) All applications shall be sent for technical review by an engineer. The applicant shall sign a financial responsibility statement. Review technical fees shall be reimbursed by the applicant to the Town.

(2) Submit with the flood development permit application an application fee in accordance with the established fee schedule.

(3) Submit the following:

(a) A description of the proposed development;

(b) Location of the proposed development sufficient to accurately locate property and structure in relation to existing roads and streams;

(c) A legal description of the property site;

(d) A site development plan showing existing and proposed development locations and existing and proposed land grades;

(e) Elevation of the top of the planned lowest floor (including basement) of all proposed buildings. Elevation should be in NAVD 88 or NGVD;

(f) Elevation (in NAVD 88 or NGVD) to which any nonresidential structure will be floodproofed; and

(g) Description of the extent to which any watercourse will be altered or related as a result of proposed development. A hydrologic and hydraulic engineering study is required and any watercourse changes submitted to IDNR for approval and then to FEMA as a Letter of Map Revision.

(B) *Construction stage.*

(1) Upon placement of the lowest floor, before framing continues, to include any approved floodproofing, it shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the NAVD 88 or NGVD elevation of the lowest floor or floodproofed elevation, as built.

(a) Such certification shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by the same.

(b) When floodproofing is utilized for a particular structure, such certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same.

(2) Any work undertaken prior to submission of the certification shall be at the permit holder's risk.

(3) The Floodplain Administrator shall review the lowest floor and floodproofing elevation survey data submitted.

(4) The permit holder shall correct deficiencies detected by such review before any further work is allowed to proceed.

(5) Failure to submit the survey, or failure to make the corrections required hereby, shall be cause to issue a stop-work order for the project.

(92 Code, § 9-165) (Ord. 94-39, passed 11-10-94; Am. Ord. 2000-20, passed 10-12-00; Am. Ord. 2009-13, passed 8-27-09) Penalty, see § [152.99](#)

(C) Finished Construction.

Upon completion of construction, an elevation certification which depicts the “as-builts” lowest floor elevation is required to be submitted to the Floodplain Administrator. If the project includes a floodproofing measure, floodproofing certification is required to be submitted by the applicant to the Floodplain Administrator.

§ 152.27 DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR.

The Floodplain Administrator and/or designated staff is hereby authorized and directed to enforce the provisions of this chapter. The Administrator is further authorized to render interpretations of this chapter that are consistent with its spirit and purpose.

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

- (A) Review all floodplain development permits to assure that the permit requirements of this chapter have been satisfied;
- (B) Inspect and inventory damaged structures in SFHA and complete substantial damage determinations;
- (C) Ensure that construction authorization has been granted by the IDNR for all development projects subject to § [152.39](#) and § [152.41](#)(A) of this chapter, and maintain a record of such authorizations (either copy of actual permit or floodplain analysis/regulatory assessment);
- (D) Ensure that all necessary federal or state permits have been received prior to issuance of the local floodplain development permit. Copies of such permits are to be maintained on file with the floodplain development permit;
- (E) Maintain and track permit records involving additions and improvements to residences located in the floodway and floodplain.
- (F) Notify adjacent communities and the State Floodplain Coordinator prior to any alteration or relocation of a watercourse, and submit copies of such notifications to FEMA;
- (G) Maintain for public inspection, and furnish upon request, local permit documents, damaged structure inventories, substantial damage determinations, regulatory flood data, SFHA maps, Letters of Map Change (LOMC), copies of IDNR permits, letters of authorization, and floodplain analysis and regulatory assessments (letters of recommendation), federal permit documents, and as-built elevation and floodproofing data for all buildings constructed subject to this chapter;
- (H) Utilize and enforce all Letters of Map Change (LOMC) or Physical Map Revisions (PMR) issued by FEMA for the currently effective SFHA maps of the community;
- (I) Assure that maintenance is provided within the altered or relocated portion of the watercourse so that its flood-carrying capacity is not diminished;

(J) Verify and record the actual elevation of the lowest floor (including basement) of all new or substantially improved structures, in accordance with § [152.26](#);

(K) Verify and record the actual elevation to which any new or substantially improved structures have been floodproofed, in accordance with § [152.26](#);

(L) Review certified plans and specifications for compliance.

(M) *Stop-work orders.*

(1) Upon notice from the Floodplain Administrator, work on any building, structure or premises that is being done contrary to the provisions of this chapter shall immediately cease.

(2) Such notice shall be in writing and shall be given to the owner of the property, or to his or her agent, or to the person doing the work, and shall state the conditions under which work may be resumed;

(N) *Revocation of permits.*

(1) The Floodplain Administrator may revoke a permit or approval, issued under the provisions of the chapter, in cases where there has been any false statement or misrepresentation as to a material fact in the application or plans on which the permit or approval was based.

(2) The Floodplain Administrator may revoke a permit, upon determination by the Floodplain Administrator that the construction, erection, alteration, repair, moving, demolition, installation or replacement of the structure for which the permit was issued is in violation of, or not in conformity with, the provisions of this chapter.

(92 Code, § 9-163) (Ord. 94-39, passed 11-10-94; Am. Ord. 2000-20, passed 10-12-00; Am. Ord. 2009-13, passed 8-27-09)

FLOOD HAZARD REDUCTION

§ 152.35 GENERAL STANDARDS.

In all SFHAs and all known flood-prone areas, the following provisions are required:

(A) New construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure;

(B) Manufactured homes shall be anchored to prevent flotation, collapse or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable state requirements for resisting wind forces;

(C) New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage below the FPG;

(D) New construction and substantial improvements shall be constructed by methods and practices that minimize flood damage;

(E) Electrical, heating, ventilation, plumbing, air conditioning equipment, utility meters and other service facilities shall be located at/above the FPG or designed so as to prevent water from

entering or accumulating within the components below the FPG. Water and sewer pipes, electrical and telephone lines, submersible pumps, and other waterproofed service facilities may be located below the FPG;

(F) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

(G) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

(H) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding;

(I) Any alteration, repair, reconstruction or improvements to a structure that is in compliance with the provisions of this chapter shall meet the requirements of “new construction” as contained in this chapter; and

(J) Any alteration, repair, reconstruction or improvement to a structure that is not in compliance with the provisions of this chapter, shall be undertaken only if the nonconformity is not further extended, or replaced.

(H) Compensatory Storage Required for Fill - Fill within the area of special flood hazard shall result in no net loss of natural floodplain storage. The volume of the loss of floodwater storage due to filling in the special flood hazard area shall be offset by providing an equal volume of flood storage by excavation or other compensatory measures at or adjacent to the development site.

(Ord. 2009-13, passed 8-27-09) Penalty, see § [152.99](#)

§ 152.36 SPECIFIC STANDARDS.

In all SFHAs, the following provisions are required:

(A) *Building protection requirement.* In addition to the requirements of § [152.35](#), all structures to be located in the SFHA shall be protected from flood damage below the FPG. This building protection requirement applies to the following situations:

(1) Construction or placement of any structure having a floor area greater than four hundred (400) square feet;

(2) Addition or improvement made to any existing structure:

(a) Where the cost of the addition or improvement equals or exceeds fifty percent (50%) of the value of the existing structure (excluding the value of the land);

(3) Reconstruction or repairs made to a damaged structure where the costs of restoring the structure to its before-damaged condition equals or exceeds fifty percent (50%) of the market value of the structure (excluding the value of the land) before damage occurred;

(4) Installing a travel trailer or recreational vehicle on a site for more than one hundred eighty (180) days;

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

(6) Reconstruction or repairs made to a repetitive loss structure.

(B) Residential construction.

(1) New construction or substantial improvement of any residential structure (or manufactured home) shall have the lowest floor, including basement, at or above the FPG (two (2) feet above the base flood elevation).

(2) Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movement of floodwaters shall be provided in accordance with the standards of § [152.36\(D\)](#).

(3) New development proposals will be designed, to the maximum extent practicable, so residential building sites, walkways, driveways, and roadways are located on land with a natural grade with elevation not less than the base flood elevation and with evacuation routes leading directly out of the floodplain area (dryland access).

(C) Nonresidential construction.

(1) New construction or substantial improvement of any commercial, industrial or nonresidential structure (or manufactured home) shall either have the lowest floor, including basement, elevated to or above the FPG (two (2) feet above the base flood elevation) or be floodproofed to or above the FPG. Should solid foundation perimeter wall be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwater shall be provided in accordance to the standards of § 152.36(D). Structures located in all “A Zones” may be floodproofed in lieu of being elevated, if done in accordance with the following:

(a) A registered professional engineer or architect shall certify that the structure has been designed so that, below the FPG, the structure and attendant utility facilities are watertight and capable of resisting the effects of the regulatory flood. The structure design shall take into account flood velocities, duration, rate of rise, hydrostatic pressures, and impacts from debris or ice. Such certification shall be provided to the official as set forth in § [152.27\(J\)](#).

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

(2) New development proposals will be designed, to the maximum extent practicable, so non-residential building sites, walkways, driveways, and roadways are located on land with a natural grade with elevation not less than the BFE and with evacuation routes leading directly out of the floodplain area.

(D) Elevated structures.

(1) New construction or substantial improvements of elevated structures shall have the lowest floor at or above the FPG.

(2) Designs must meet the following minimum criteria:

- (a) Provide a minimum of two (2) openings located in a minimum of two exterior walls (having a total net area of not less than one (1) square inch for every one (1) square foot of enclosed area);
- (b) The bottom of all openings shall be no more than one (1) foot above the exterior grade or the interior grade immediately beneath each opening, whichever is higher;
- (c) Openings may be equipped with screens, louvers, valves or other coverings or devices, provided they permit the automatic flow of floodwaters in both directions;
- (d) Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door), or limited storage of maintenance equipment used in connection with the premises (standard exterior door), or entry to the living area (stairway or elevator);
- (e) The interior portion of such enclosed area shall not be partitioned or finished into separate rooms; and
- (f) The interior grade of such enclosed areas shall be at an elevation at or higher than the exterior grade.

(E) *Structures constructed on fill.* A residential or nonresidential structure may be constructed on a permanent land fill, in accordance with the following:

- (1) The fill shall be placed in layers no greater than one (1) foot deep before compacting to ninety-five percent (95%) of the maximum density obtainable with the Standard Proctor Test method, which shall be retained in the permit file. Fill shall be composed of clean granular or earthen material;
- (2) The fill should extend at least ten (10) feet beyond the foundation of the structure before sloping below the BFE;
- (3) The fill shall be protected against erosion and scour during flooding by vegetative cover, riprap or bulkheading. If vegetative cover is used, the slopes shall be no steeper than three (3) horizontal to one (1) vertical;
- (4) The fill shall not adversely affect the flow of surface drainage from or onto neighboring properties; and
- (5) The top of the lowest floor, including basements, shall be at or above the FPG.

(F) *Standards for manufactured homes and recreational vehicles.* Manufactured homes and recreational vehicles to be installed or substantially improved on a site for more than one hundred eighty (180) days must meet one (1) of the following requirements:

- (1) These requirements apply to all manufactured homes to be placed on a site outside a manufactured home park or subdivision; in a new manufactured home park or subdivision; in an expansion to an existing manufactured home park or subdivision; or in an existing manufactured home park or subdivision on which a manufactured home has incurred “substantial damage” as a result of a flood:
 - (a) The manufactured home shall be elevated on a permanent foundation such that the lowest floor shall be at or above the FPG and securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

(b) Fully enclosed areas formed by foundation and other exterior walls below the FPG shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls as required for elevated structures in § 152.36(D).

(2) These requirements apply to all manufactured homes to be placed on a site in an existing manufactured home park or subdivision that has not been substantially damaged by a flood:

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

(b) Fully enclosed areas formed by foundation and other exterior walls below the FPG shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls as required for elevated structures in § 152.36(D).

(3) Recreational vehicles placed on a site shall either:

(a) Be on site for less than one hundred eighty (180) days; or

(b) Be fully licensed and **READY FOR HIGHWAY USE** (defined as being on its wheels or jacking system, attached to the site only by quick disconnect-type utilities and security devices, with no permanently attached additions); or

(c) Meet the requirements for “manufactured homes” as stated earlier in this section.

(⁹² Code, § 9-167) (Ord. 94-39, passed 11-10-94; Am. Ord. 2000-20, passed 10-12-00; Am. Ord. 2009-13, passed 8-27-09) Penalty, see § [152.99](#)

(G) *Accessory Structures*. Relief to the elevation or dry floodproofing standards may be granted for accessory structures. Such structures must meet the following standards:

(1) Shall not be used for human habitation;

(2) Shall not be constructed of flood resistant materials;

(3) Shall be constructed and placed on the lot to offer the minimum resistance to the flow of floodwaters.

(4) Shall be firmly anchored to prevent flotation;

(5) Service facilities such as electrical and heating equipment shall be elevated or floodproofed to or above the FPG; and

(6) Shall be designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls as required for elevated structures in § 152.36(D).

(H) *Above Ground Gas or Liquid Storage Tanks*. All above ground gas or liquid storage tanks shall be anchored to prevent flotation or lateral movement.

§ 152.37 STANDARDS FOR SUBDIVISION PROPOSALS.

(A) All subdivision proposals shall be consistent with the need to minimize flood damage.

(B) All subdivision proposals shall have public utilities and facilities, such as sewer, gas, electrical and water systems, located and constructed to minimize flood damage.

(C) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards.

(D) Base flood elevation data shall be provided for subdivision proposals and other proposed development (including manufactured home parks and subdivisions), which is greater than the lesser of fifty (50) lots or five (5) acres.

(92 Code, § 9-168) (Ord. 94-39, passed 11-10-94; Am. Ord. 2009-13, passed 8-27-09) Penalty, see § [152.99](#)

§ 152.38 CRITICAL FACILITIES.

(A) Construction of new critical facilities shall be, to the extent possible, located outside the limits of the SFHA.

(B) Construction of new critical facilities shall be permissible within the SFHA if no feasible alternative site is available.

(1) Critical facilities constructed within the SFHA shall have the lowest floor elevated to or above the FPG at the site.

(2) Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters.

(3) To the extent possible, access routes elevated to or above the FPG shall be provided to all critical facilities.

(Ord. 2009-13, passed 8-27-09)

§ 152.39 STANDARDS FOR IDENTIFIED FLOODWAYS.

(A) Located within SFHAs, established in § [152.07](#), are areas designated as floodways. The floodway is an extremely hazardous area due to the velocity of floodwaters, which carry debris, potential projectiles, and has erosion potential.

(B) If the site is in an identified floodway, the Floodplain Administrator shall require the applicant to forward the application, along with all pertinent plans and specifications, to the IDNR and apply for a permit for construction in a floodway.

(1) Under the provisions of I.C. 14-28-1, a permit for construction in a floodway from the IDNR is required prior to the issuance of a local building permit for any excavation, deposit, construction or obstruction activity located in the floodway.

(2) This includes land preparation activities, such as filling, grading, clearing and paving, etc., undertaken before the actual start of construction of the structure.

(3) However, it does exclude non-substantial additions/improvements to existing (lawful) residences in a non-boundary river floodway. (I.C. 14-28-1-26 allows construction of non-

substantial additions/improvements to residences in a non-boundary river floodway without obtaining a permit for construction in a floodway from IDNR. Please note that if fill is needed to elevate an addition above the existing grade, prior approval (construction in a floodway permit) for the fill is required from the IDNR.)

(C) No action shall be taken by the Floodplain Administrator until a permit or letter of authorization (when applicable) has been issued by IDNR granting approval for construction in a floodway.

(D) Once a permit for construction in a floodway has been issued by IDNR, the Floodplain Administrator may issue the local floodplain development permit, provided the provisions contained in § [152.35](#) through [152.39](#) of this chapter have been met.

(1) The floodplain development permit cannot be less restrictive than the permit for construction in a floodway issued by IDNR.

(2) However, a community's more restrictive regulations (if any) shall take precedence.

(E) No development shall be allowed that, acting alone or in combination with existing or future development, will adversely affect the efficiency of, or unduly restrict the capacity of the floodway. This adverse effect is defined as an increase in the elevation of the regulatory flood of at least fifteen-hundredths (0.15) of one (1) foot as determined by comparing the regulatory flood elevation under the project condition to that under the natural or pre-floodway condition as proven with hydraulic analyses.

(F) For all projects involving channel modifications or fill (including levees), the Town shall submit the data and request that FEMA revise the regulatory flood data per mapping standard regulations found at 44 CFR § 65.12.

(⁹² Code, § 9-166) (Ord. 94-39, passed 11-10-94; Am. Ord. 2009-13, passed 8-27-09) Penalty, see § [152.99](#)

§ 152.40 STANDARDS FOR IDENTIFIED FRINGE.

If the site is located in an identified fringe, then the Floodplain Administrator may issue the local floodplain development permit, provided the provisions contained in § [152.35](#) through [152.39](#) of this chapter have been met. The key provision is that the top of the lowest floor of any new or substantially improved structure shall be at or above the FPG.

(Ord. 2009-13, passed 8-27-09)

§ 152.41 STANDARDS FOR SFHAS WITHOUT ESTABLISHED BASE FLOOD ELEVATIONS AND/OR FLOODWAYS/FRINGES.

(A) *Drainage area upstream of the site is greater than one (1) square mile.*

(1) If the site is in an identified floodplain where the limits of the floodway and fringe have not yet been determined, and the drainage area upstream of the site is greater than one (1) square mile, the Floodplain Administrator shall require the applicant to forward the application, along with all pertinent plans and specifications, to IDNR for review and comment.

(2) No action shall be taken by the Floodplain Administrator until either a permit for construction in a floodway, or a floodplain analysis/regulatory assessment citing the one-percent annual chance flood elevation and the recommended flood protection grade, has been received from IDNR.

(3) Once the Floodplain Administrator has received the proper permit for construction in a floodway or floodplain analysis/regulatory assessment approving the proposed development, a floodplain development permit may be issued; provided the conditions of the floodplain development permit are not less restrictive than the conditions received from IDNR, and the provisions contained in §§ [152.35](#) through [152.39](#) of this chapter have been met.

(B) *Drainage area upstream of the site is less than one (1) square mile.*

(1) If the site is in an identified floodplain where the limits of the floodway and fringe have not yet been determined and the drainage area upstream of the site is less than one (1) square mile, the Floodplain Administrator shall require the applicant to provide an engineering analysis showing the limits of the floodway, fringe and one-percent annual chance flood elevation for the site.

(2) Upon receipt, the Floodplain Administrator may issue the local floodplain development permit, provided the provisions contained in §152.35 through [152.39](#) of this chapter have been met.

(C) *Total cumulative effect.* The total cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the regulatory flood more than fourteen hundredths (0.14) of one (1) foot, and will not increase flood damages or potential flood damages.

(Ord. 2009-13, passed 8-27-09)

§ 152.42 STANDARDS FOR FLOOD-PRONE AREAS.

All development in known flood-prone areas not identified on FEMA maps or where no FEMA published map is available, shall meet applicable standards as required per § 152.35 through 152.39.

VARIANCE PROCEDURES

§ 152.50 DESIGNATION OF VARIANCE AND APPEALS BOARD.

The Board of Zoning Appeals, as established by the Town Council, shall hear and decide appeals and requests for variances from requirements of this chapter.

(Ord. 2009-13, passed 8-27-09)

§ 152.51 DUTIES OF VARIANCE AND APPEALS BOARD.

The board shall hear and decide appeals when it is alleged an error in any requirement, decision or determination was made by the Floodplain Administrator in the enforcement or administration

of this chapter. Any person aggrieved by the decision of the board may appeal such decision to the Hendricks County Circuit Court, as provided by statute.

(Ord. 2009-13, passed 8-27-09)

§ 152.52 VARIANCE PROCEDURES.

In passing upon such applications, the Board of Zoning Appeals shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this chapter, and:

- (A) The danger to life and property due to flooding or erosion damage;
- (B) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- (C) The importance of the services provided by the proposed facility to the community;
- (D) The necessity to the facility of a waterfront location, where applicable;
- (E) The availability of alternative locations for the proposed use, which are not subject to flooding or erosion damage;
- (F) The compatibility of the proposed use with existing and anticipated development;
- (G) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
- (H) The safety of access to the property in times of flood for ordinary and emergency vehicles;
- (I) The expected height, velocity, duration, rate of rise, and sediment of transport of the floodwaters at the site; and
- (J) The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities, such as sewer, gas, electrical and water systems, and streets and bridges.

(Ord. 2009-13, passed 8-27-09)

§ 152.53 CONDITIONS FOR VARIANCES.

- (A) Variances shall only be issued when there is:
 - (1) A showing of good and sufficient cause;
 - (2) A determination that failure to grant the variance would result in exceptional hardship; and
 - (3) 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 or victimization of the public, or conflict with existing laws or ordinances.
- (B) No variance for a residential use within a floodway subject to § [152.39](#) or § [152.41\(A\)](#) of this chapter may be granted.
- (C) Any variance granted in a floodway subject to § [152.39](#) or § [152.41\(A\)](#) of this chapter will require a permit from IDNR.

(D) Variances to the provisions of § [152.36](#) may be granted only when a new structure is to be located on a lot of one-half (1/2) acre or less in size, contiguous to and surrounded by lots with existing structures constructed below the flood protection grade.

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

(F) Variances may be granted for the reconstruction or restoration of any structure individually listed on the National Register of Historic Places or the Indiana State Register of Historic Sites and Structures.

(G) Any applicant to whom a variance is granted shall be given written notice, specifying the difference between the base flood elevation and the elevation to which the lowest floor is to be built, and stating that the cost of the flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation (see § [152.54](#)).

(H) The Floodplain Administrator shall maintain the records of appeal actions and, upon request, shall report any variances to FEMA or IDNR (see § [152.54](#)).

(’92 Code, § 9-169) (Ord. 94-39, passed 11-10-94; Am. Ord. 2009-13, passed 8-27-09)

§ **152.54 VARIANCE NOTIFICATION.**

(A) Any applicant to whom a variance is granted that allows the lowest floor of a structure to be built below the flood protection grade shall be given written notice over the signature of a community official, that:

(1) The issuance of a variance to construct a structure below the base flood elevation will result in increased premium rates for flood insurance, up to amounts as high as \$25 for \$100 of insurance coverage; and

(2) Such construction below the base flood level increases risks to life and property.

(B) A copy of the notice shall be recorded by the Floodplain Administrator in the Office of the County Recorder, and shall be recorded in a manner so that it appears in the chain of title of the affected parcel of land.

(C) The Floodplain Administrator will maintain a record of all variance actions, including justification for their issuance.

(Ord. 2009-13, passed 8-27-09)

§ **152.55 HISTORIC STRUCTURES.**

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 an “historic structure” and the variance is the minimum to preserve the historic character and design of the structure.

(Ord. 2009-13, passed 8-27-09)

§ **152.56 SPECIAL CONDITIONS.**

(A) Upon the consideration of the factors listed in §§ [152.50](#) through [152.55](#), and the purposes of this chapter, the Board of Zoning Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter.

(Ord. 2009-13, passed 8-27-09)

(B) If any section, clause, sentence or phrase of this chapter is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way effect the validity of the remaining portions of this chapter.

 **§ 152.99 PENALTY.**

Failure to obtain a floodplain development permit in the SFHA, or failure to comply with the requirements of a floodplain development permit or conditions of a variance, shall be deemed to be a violation of this chapter. All violations shall be considered a common nuisance and be treated as such in accordance with the provisions of the Zoning Code. All violations shall be punishable by a fine not to exceed twenty-five hundred dollars (\$2,500).

(A) A separate offense shall be deemed to occur for each day the violation continues to exist.

(B) The Floodplain Administrator shall inform the owner that any such violation is considered a willful act to increase flood damages, and therefore, may cause coverage by a standard flood insurance policy to be suspended.

(C) Nothing herein shall prevent the Town from taking other lawful action to prevent or remedy any violations. All costs connected therewith shall accrue to the person or persons responsible.

(92 Code, § 9-171) (Ord. 94-39, passed 11-10-94; Am. Ord. 2009-13, passed 8-27-09)