

CHAPTER 154: FLOOD HAZARD REGULATIONS

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§ 154.01 STATUTORY AUTHORITY.

The Legislature of the State has, in § 3-18-7 NMSA 1978, delegated the responsibility to local governmental units to adopt regulations designed to minimize flood losses.
(Ord. 2009-02, passed 1-26-2009)

§ 154.02 FINDINGS OF FACT.

(A) The flood hazard areas of the City are subject to periodic inundation that results in loss of life and property, health and safety hazards, disruption of commerce and government services, and extraordinary public expenditures for flood protection and relief, all of which adversely affect the public health, safety and general welfare.

(B) These flood losses are created by the cumulative effect of obstructions in flood plains, which cause an increase in flood heights and velocities, and by the occupancy of flood hazard areas by uses vulnerable to floods and hazardous to other lands because they are inadequately elevated, floodproofed or otherwise protected from flood damage.
(Ord. 2009-02, passed 1-26-2009; Am. Ord. 2017-06, passed 1-8-2018)

§ 154.03 PURPOSE OF CHAPTER.

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) Protect human life and health;

(B) Minimize expenditure of public money for costly flood control projects;

(C) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

any given year. The area may be designated as zone A on the Flood Hazard Boundary Map (FHBM). After detailed ratemaking has been completed in preparation for publication of the FIRM, zone A is usually refined into zones A, AE, AO, AH, A1-99, VO, V1-30, VE and V.

BASE FLOOD. The flood having 1% chance of being equaled or exceeded in any given year.

CRITICAL FEATURE. An integral and readily identifiable part of a flood protection system, without which the flood protection provided by the entire system would be compromised.

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

ELEVATED BUILDING. A nonbasement building:

(1) Built, in the case of a building in zones A1-30, AE, A, A99, AO, AH, B, C, X and D, to have the top of the elevated floor, or in the case of a building zones V1-30, VE and V, to have the bottom of the lowest horizontal structural member of the elevated floor, elevated above the ground level by means of pilings, columns (posts and piers) or shear walls parallel to the flow of the water; and

(2) Adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of zones A1-30, AE, A, A99, AO, AH, B, C, X and D, the term **ELEVATED BUILDING** also includes a building elevated by means of fill or solid foundation perimeter walls, with openings sufficient to facilitate the unimpeded movement of floodwaters. In the case of zones V1-30, VE and V, the term **ELEVATED BUILDING** also includes a building otherwise

meeting the definition of elevated building, even though the lower area is enclosed by means of breakaway walls, if the breakaway walls meet the standards of § 60-3(3)(5) of the National Flood Insurance Program regulations.

EXISTING CONSTRUCTION. For the purposes of determining rates, structures for which the start of construction commenced before the effective date of the FIRM, or before January 1, 1975, for FIRMs effective before that date. **EXISTING CONSTRUCTION** may also be referred to as **EXISTING STRUCTURES**.

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

EXISTING MOBILE HOME PARK OR MOBILE HOME SUBDIVISION. A parcel or contiguous parcels of land divided into two or more mobile home lots for rent or sale, for which the construction of facilities for servicing the lot on which the mobile home is to be affixed (including, at a minimum, the installation of utilities, either final site grading or the pouring of concrete pads, and the construction of streets) is completed before the effective date of this chapter.

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 final site grading or the pouring of concrete pads).

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 that have been approved by the Secretary of the Interior; or

(4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

(a) By an approved state program as determined by the Secretary of the Interior; or

(b) Directly by the Secretary of the Interior in states without approved programs.

LEVEE. A manmade structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control or divert the flow of water so as to provide protection from temporary flooding.

LEVEE SYSTEM. A flood protection system that consists of levees and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

LOWEST FLOOR. The **LOWEST FLOOR** of the lowest enclosed area, including basement. An unfinished or flood-resistant enclosure, usable solely for parking or vehicles, building access or storage, in an area other than a basement area, is not considered a building's **LOWEST FLOOR**, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of § 60.3 of the National Flood Insurance Program regulations.

MANUFACTURED HOME. A structure, transportable in one 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.

MEAN SEA LEVEL. For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum to which base flood elevations shown on a community's flood insurance rate map are referenced.

MOBILE HOME. A structure, transportable in one or more sections, built on a permanent chassis and designed to be used, with or without a permanent foundation, when connected to the required utilities. The term **MOBILE HOME** does not include a recreational vehicle or a travel trailer.

NEW CONSTRUCTION. For the purposes of determining insurance rates, structures for which the start of construction commenced on or after the effective date of an initial FIRM, or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, **NEW CONSTRUCTION** means structures for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by a community, and includes any subsequent improvements to such structures.

NEW MANUFACTURED HOME PARK OR 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 floodplain management regulations adopted by a community.

NEW MOBILE HOME PARK OR MOBILE HOME SUBDIVISION. A parcel (or contiguous parcels) of land divided into two or more mobile home lots for rent or sale, for which the construction of

VIOLATION. The failure of a structure or other development to be fully compliant with the community’s floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in § 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4) or (e)(5) of the National Flood Insurance Program regulations is presumed to be in violation until such time as that documentation is provided.

WATER SURFACE ELEVATION. The height, in relation to the National Geodetic Vertical Datum of 1929, or other datum, where specified, of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.
(Ord. 2009-02, passed 1-26-2009; Am. Ord. 2017-06, passed 1-8-2018)

§ 154.06 LANDS TO WHICH THIS CHAPTER APPLIES.

This chapter shall apply to all areas of special flood hazard within the jurisdiction of the City.
(Ord. 2009-02, passed 1-26-2009)

§ 154.07 BASIS FOR ESTABLISHING AREAS OF SPECIAL FLOOD HAZARD.

The areas of special flood hazard identified by the Federal Emergency Management Agency in a scientific and engineering report entitled, “The Flood Insurance Study for Ruidoso Downs,” dated November 5, 2014, with accompanying Flood Insurance Rate Maps and Flood Hazard Boundary-Floodway Maps, and any revisions thereto, are hereby adopted by reference and declared to be a part of this chapter.
(Ord. 2009-02, passed 1-26-2009; Ord. 2011-04, passed 9-12-2011; Ord. 2014-06, passed 10-14-2014)

§ 154.08 DEVELOPMENT PERMIT REQUIRED.

A development permit shall be required to ensure conformance with the provisions of this chapter.
(Ord. 2009-02, passed 1-26-2009)

§ 154.09 COMPLIANCE WITH CHAPTER AND OTHER REGULATIONS.

No structure or land shall hereafter be located, altered or have its use changed without full compliance with the terms of this chapter and other applicable regulations.
(Ord. 2009-02, passed 1-26-2009) Penalty, see § 10.99

§ 154.10 ABROGATION OF EXISTING RESTRICTIONS; CONFLICTING REGULATIONS.

This chapter is not intended to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, where this chapter and another provision conflict or overlap, whichever imposes the more stringent restrictions shall prevail.
(Ord. 2009-02, passed 1-26-2009) Penalty, see § 10.99

§ 154.11 INTERPRETATION OF CHAPTER.

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

- (A) Considered as minimum requirements;
- (B) Liberally constructed in favor of the Council; and
- (C) Deemed neither to limit nor repeal any other powers granted under State statutes.

(Ord. 2009-02, passed 1-26-2009; Am. Ord. 2017-06, passed 1-8-2018)

§ 154.12 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. On rare occasions, greater floods can

§ 154.15 ISSUANCE OF DEVELOPMENT PERMIT.

(A) *Application.* Application for a development permit shall be presented on forms furnished by the Floodplain Administrator, and may include, but shall not be limited to, plans in duplicate, drawn to scale, showing the locations, dimensions and elevation of proposed landscape alterations and existing and proposed structures, and their location in relation to areas of special flood hazard. Additionally, the following information is required:

(1) Elevation, in relation to mean sea level, of the lowest floor, including basement, of all new and substantially improved structures.

(2) Elevation, in relation to mean sea level, to which any nonresidential structure shall be floodproofed.

(3) A certificate from a registered professional engineer or architect that the nonresidential floodproofed structure shall meet the floodproofing criteria of § 154.17.

(4) A description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development.

The Floodplain Administrator shall maintain a record of all such information in accordance with § 154.14(A).

(B) *Criteria for approval.* Approval or denial of a development permit by the Floodplain Administrator shall be based on all of the provisions of this chapter and the following relevant factors:

(1) The danger to life and property due to flooding or erosion damage.

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

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

(4) The compatibility of the proposed use with existing and anticipated development.

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

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

(7) The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters, and the effects of wave action, if applicable, expected at the site.

(8) The necessity to the facility of a waterfront location, where applicable.

(9) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use.

(10) The relationship of the proposed use to the comprehensive plan for that area. (Ord. 2009-02, passed 1-26-2009; Am. Ord. 2017-06, passed 1-8-2018) Penalty, see § 10.99

§ 154.16 VARIANCES.

(A) The Floodplain Administrator shall hear and render judgment on requests for variances from the requirements of this chapter.

(B) The Commission shall hear and render judgment on an appeal only when it is alleged that there is an error in any requirement, decision or determination made by the Floodplain Administrator in the enforcement or administration of this chapter.

§ 154.17 GENERAL STANDARDS.

In all areas of special flood hazard, the following provisions are required:

(A) All new construction and substantial improvements shall be designed or modified, and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;

(B) All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;

(C) All new construction or substantial improvements shall be constructed with materials and utility equipment resistant to flood damage;

(D) All new construction or substantial improvements shall be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment, and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;

(E) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the system, and discharges from the systems into floodwaters; and

(F) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

(Ord. 2009-02, passed 1-26-2009) Penalty, see § 10.99

§ 154.18 SPECIFIC STANDARDS.

In all areas of special flood hazards where base flood elevation data have been provided as set forth in §§ 154.07, 154.14(H) or 154.17, the following provisions are required.

(A) *Residential construction.* New construction or substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to or above the base flood elevation. A registered professional engineer, architect or land surveyor shall submit a certification to the Floodplain Administrator that the standard of this division, as proposed in § 154.15, is satisfied.

(B) *Nonresidential construction.* New construction or substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated to the level of base flood elevation, or, together with attendant utility and sanitary facilities, be designed so that below the base flood level the structure is watertight, with walls substantially impermeable to the passage of water, and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall develop and/or review structural design, specifications and plans for the construction, and shall certify that such design, specifications and plans are in accordance with accepted standards of practice as outlined in this division. A record of such certification, which includes the specific elevation (in relation to mean sea level) to which such structures are floodproofed, shall be maintained by the Floodplain Administrator.

(C) *Enclosures.* New construction and substantial improvements with fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls, by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect, or meet or exceed the following minimum criteria:

(1) 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.

(3) Meet the permit requirements of this chapter and the elevation and anchoring requirements for manufactured homes in division (D) above.

A recreational vehicle is **READY FOR HIGHWAY USE** if it is on its wheels or jacking system, is attached to the site only by quick-disconnect-type utilities and security devices, and has no permanently attached additions.

(G) *Evacuation plan.* A plan for evacuating residents of all manufactured home parks or subdivisions located within floodprone areas shall be developed and filed with and approved by the Floodplain Administrator.

(H) *Wells, domestic and public.*

(1) No well shall be located in a floodway.

(2) Any well located within any other areas of special flood hazard or A1-30, AH, or AE zones must be capped above the 100-year flood elevation, as certified by a professional engineer or surveyor. (Ord. 2009-02, passed 1-26-2009; Am. Ord. 2017-06, passed 1-8-2018) Penalty, see § 10.99

§ 154.19 STANDARDS FOR AREAS OF SHALLOW FLOODING.

Located within the areas of special flood hazard established in § 154.07 are areas designated as areas of shallow flooding. These areas have special flood hazards associated with base flood depths of one to three feet, where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow; therefore, the following provisions shall apply:

(A) All new construction and substantial improvements of residential structures shall have the lowest floor, including basement, elevated above the highest adjacent grade at least as high as the depth

number specified in feet on the community’s FIRM, or at least two feet if no depth number is specified.

(B) All new construction and substantial improvements of nonresidential structures shall:

(1) Have the lowest floor, including basement, elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community’s FIRM, or at least two feet if no depth number is specified; or

(2) Together with attendant utility and sanitary facilities, be designed so that below the base flood level the structure is watertight, with walls substantially impermeable to the passage of water, and with structural components having the capability of resisting hydrostatic and hydrodynamic loads or effects of buoyancy.

(C) A registered professional engineer or architect shall submit a certification to the Floodplain Administrator that the standards of this section, as proposed in § 154.15(B), are satisfied.

(D) Within zones AH and AO, adequate drainage paths are required around structures on slopes to guide floodwaters around and away from proposed structures. (Ord. 2009-02, passed 1-26-2009; Am. Ord. 2017-06, passed 1-8-2018) Penalty, see § 10.99

§ 154.20 STANDARDS FOR SUBDIVISION PROPOSALS.

(A) All subdivision proposals, including manufactured home parks and subdivisions, shall be consistent with §§ 154.01 through 154.03.

(B) All proposals for the development of subdivisions, including mobile home, trailer or RV parks and subdivisions, shall meet the development permit requirements of §§ 154.15 and 154.17 and other provisions of this chapter.