

Chapter 12.60 - FLOOD HAZARD AREA REGULATIONS

Sections:

12.60.010 - Findings.

- A. The flood hazard areas of the city are subject to periodic inundation which can result in the loss of life and property, health and safety hazards, the disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and the impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.
- B. Such flood losses are caused, among other things, by the cumulative effect of obstructions in areas of special flood hazard which increase flood heights and velocities and, when inadequately anchored, damage uses in other areas. Uses which are inadequately floodproofed, elevated, or otherwise protected from flood damage also contribute to the flood loss.

(Prior code § 10-6.101)

12.60.020 - 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:

- A. To protect human life and health;
- B. To minimize the 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 damages to public facilities and utilities, such as water and gas mains, electric, telephone, and sewer lines, streets, and bridges located in areas of special flood hazard;
- F. To help maintain a stable tax base by providing for the secondary use and development of areas of special flood hazard so as to minimize future flood blight areas;
- G. To insure that potential buyers are notified that property is in an area of

special flood hazard; and

- H. To insure that those who occupy the areas of special flood hazard assume responsibility for their actions.

(Prior code § 10-6.102)

12.60.030 - Methods of reducing flood losses.

In order to accomplish its purposes, this chapter includes methods and provisions for:

- A. Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards or which result in damaging increases in erosion or in flood heights or velocities;
- B. Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of their initial construction;
- C. Controlling the alteration of natural floodplains, stream channels, and natural protective barriers which help accommodate or channel floodwaters;
- D. Controlling filling, grading, dredging, and other development which may increase flood damage; and
- E. Preventing or regulating the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards in other areas.

(Prior code § 10-6.103)

Article 2. - Definitions

12.60.040 - Definitions.

For the purposes of this chapter, unless otherwise apparent from the context, certain words and phrases used in this chapter are defined as follows:

- A. "Appeal" shall mean a request for a review of the floodplain administrator's interpretation of any provision of this chapter or a request for a variance.
- B.

"Area of shallow flooding" shall mean a designated AH or AO Zone on the flood insurance rate map (FIRM). The base flood depths range from one foot to three feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and velocity flow may be evident.

- C. "Area of special flood related erosion hazard" shall mean the area subject to severe flood related erosion losses. The area is designated as Zone E on the flood insurance rate map (FIRM).
- D. "Area of special flood hazard." See "Special flood hazard area."
- E. "Area of special mudslide (i.e., mudflow) hazard" shall mean the area subject to severe mudslides (i.e., mudflows). The area is designated as Zone M on the flood insurance rate map (FIRM).
- F. "Base flood" shall mean the flood having a one percent chance of being equaled or exceeded in any given year (also called the 100-year flood).
- G. "Basement" shall mean any area of a floor which is more than four feet below the grade for more than fifty (50) percent of the total perimeter and more than eight feet below the grade at any point.
- H. "Breakaway wall" shall mean any type of wall, whether solid or lattice, and whether constructed of concrete, masonry, wood, metal, plastic, or any other suitable building material, which wall is not part of the structural support of the building and which is designed to break away under abnormally high tides or wave action without causing any damage to the structural integrity of the building on which it is used or any building to which it might be carried by floodwaters. A breakaway wall shall have a safe design loading resistance of not less than ten (10) and not more than twenty (20) pounds per square foot. The use of breakaway walls shall be certified by a registered engineer or architect and shall meet the following conditions:
 - 1. Breakaway wall collapse shall result from a water load less than that which would occur during the base flood; and
 - 2. The elevated portion of the building shall not incur any structural damage due to the effects of wind and water loads acting simultaneously in the event of the base flood; and
 - 3.

In no event shall a breakaway wall be approved which has the potential to cause blockage in downstream culverts, constitute a hazard, or contribute to an existing hazardous condition.

- I. "Development" shall mean any manmade change to improved or unimproved real estate, including, but not limited to, buildings or other structures or mining, dredging, filling, grading, paving, excavation, or drilling operations.
- J. "Flood or flooding" shall mean a general and temporary condition of partial or complete inundation of normally dry land areas from (1) the overflow of floodwaters, (2) the unusual and rapid accumulation or runoff of surface waters from any source, and/or (3) the collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining, exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm or by an unanticipated force of nature, such as a flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in this subsection.
- K. "Flood Boundary and Floodway Map" shall mean the official map on which the Federal Emergency Management Agency or Federal Insurance Administration has delineated both the areas of flood hazard and the floodway.
- L. "Flood Insurance Rate Map (FIRM)" shall mean the official map on which the Federal Emergency Management Agency or Federal Insurance Administration has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.
- M. "Flood Insurance Study" shall mean the official report provided by the Federal Insurance Administration which includes flood profiles, the FIRM, the flood boundary and floodway map, and the water surface elevation of the base flood.
- N. "Floodplain or flood prone area" shall mean any land area susceptible to being inundated by water from any source (see the definition of "flooding").
- O. "Floodplain management" shall mean the operation of an overall program of corrective and preventive measures for reducing flood damages, including, but not limited to, emergency preparedness plans, flood control works, and floodplain management regulations.

- P. "Floodplain management regulations" shall mean the zoning provisions, subdivision regulations, building codes, health regulations, special purpose regulations (such as floodplain regulations, grading regulations, and erosion control regulations), and other applications of police powers. "Floodplain management regulations" describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.
- Q. "Floodproofing" shall mean any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damages to real estate or improved real property, water and sanitary facilities, and structures and their contents.
- R. "Floodway" shall mean the channel of a river or other watercourse and the adjacent land areas which must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot, also referred to as "regulatory floodway." The floodway is delineated on the flood boundary and floodway map.
- S. "Functionally dependent use" shall mean a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. "Functionally dependent use" shall include only docking facilities, port facilities which are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but shall not include long-term storage or related manufacturing facilities.
- T. "Highest adjacent grade" shall mean the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
- U. "Lowest floor" shall mean the lowest floor of the lowest enclosed area (including the basement). An unfinished or flood resistant enclosure, usable solely for the parking of vehicles, building access, or storage in an area other than a basement area, is not considered a building's lowest floor provided such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this chapter.
- V. "Manufactured home" shall mean a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities.

For floodplain management purposes, "manufactured home" shall also include park trailers, travel trailers, and other similar vehicles placed on a site for greater than one hundred eighty (180) consecutive days.

- W. "Manufactured home park or subdivision" shall mean a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for sale or rent.
- X. "Mean sea level" shall mean, for the 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.
- Y. "New construction" shall mean, for floodplain management purposes, structures for which the "start of construction" commenced on or after July 24, 1980.
- Z. "One-hundred-year flood" or "100-year flood" shall mean a flood which has a one percent annual probability of being equalled or exceeded. Such term is identical to "base flood."
- AA. "Person" shall mean an individual or his agent, firm, partnership, association, or corporation, or agent of such groups, or the state or its agencies, or political subdivisions.
- AB. "Remedy a violation" shall mean to bring the structure or other development into compliance with state or local floodplain management regulations or, if this is not possible, to reduce the impacts of its noncompliance. Ways impacts may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of this chapter or otherwise deterring future similar violations, or reducing federal, financial exposure with regard to the structure or other development.
- AC. "Riverine" shall mean relating to, formed by, or resembling a river (including tributaries), stream, brook, or the like.
- AD. "Special flood hazard area (SFHA)" shall mean an area having special flood or flood related erosion hazards and shown on an FHBM or FIRM as Zone A, AO, A1-30, AE, A99, or AH.
- AE.

"Start of construction" shall mean and include substantial improvement and shall mean the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, or other improvement was within one hundred eighty (180) days of the permit date.

- AF. "Structure" shall mean that which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.
- AG. "Substantial improvement" shall mean any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure either:
 - 1. Before the improvement or repair is started; or
 - 2. If the structure has been damaged and is being restored, before the damage occurred.

For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not such alteration affects the external dimensions of the structure. "Substantial improvement", however, shall not include either:

- 1. Any project for the improvement of a structure to comply with existing State or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions; or
 - 2. Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.
- AH. "Variance" shall mean a grant of relief from the requirements of this chapter which variance permits construction in a manner which would otherwise be prohibited by this chapter.
- AI. "Violation" shall mean the failure of a structure or other development to be fully compliant with the city's floodplain management regulations. A structure or other development without an elevation certificate, all required certifications, or other evidence of compliance required by this chapter shall be presumed to be in violation until such time as such documentation is provided.

(Prior code § 10-6.201)

Article 3. - General Provisions

12.60.050 - Lands to which this chapter applies.

This chapter shall apply to all areas of special flood hazard, areas of flood-related erosion hazard, and areas of mudslide (i.e., mud-flow) hazard within the jurisdiction of the city.

(Prior code § 10-6.301)

12.60.060 - Basis for establishing the areas of special flood hazard.

The areas of special flood hazard identified by the Federal Emergency Management Agency (FEMA) in the "Flood Insurance Study (FIS) for the City of Los Altos" dated January 1980, with accompanying Flood Insurance Rate Maps (FIRMs) and Flood Boundary and Floodway Maps (FBFMs), dated July 16, 1980, and all subsequent amendments and/or revisions, are hereby adopted by reference and declared to be a part of this chapter. This FIS and attendant mapping is the minimum area of applicability of this chapter and may be supplemented by studies for other areas which allow implementation of this chapter and which are recommended to the city by the floodplain administrator. The study, FIRMs and FBFMs are on file at the Community Development Department, One North San Antonio Road, Los Altos, CA 94022.

(Prior code § 10-6.302)

(Ord. No. 09-335, § 1, 3-24-2009)

12.60.070 - Compliance.

It shall be unlawful for any structure or land to be constructed, located, extended, converted, or altered without full compliance with this chapter and other applicable regulations.

(Prior code § 10-6.303)

12.60.080 - Abrogation and greater restrictions.

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

(Prior code § 10-6.304)

12.60.090 - 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 city; and
- C. Deemed neither to limit nor repeal any other powers possessed by the city.

(Prior code § 10-6.305)

12.60.100 - Warning and disclaimer of liability.

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This chapter does not imply that land outside the areas of special flood hazard, areas of flood-related erosion hazard, and areas of mudslide (i.e., mudflow) hazard or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the city, or any officer or employee thereof, or the Federal Insurance Administration for any flood damages which result from reliance on this chapter or any administrative decision lawfully made pursuant to this chapter.

(Prior code § 10-6.306)

Article 4. - Administration

12.60.110 - Establishment of development permits.

A development permit shall be obtained before construction or development begins within any area of special flood hazard, area of flood-related erosion hazard, or area of mudslide (i.e., mudflow) established by Section 12.60.060 of Article 3 of this chapter. Applications for development permits shall be made on forms furnished by the floodplain administrator and may include, but not be limited to: plans, drawn to scale, showing the nature, location, dimensions,

and elevations of the area in question; existing or proposed structures, fill, storage of materials, and drainage facilities; and the location of the foregoing. Specifically, the following information shall be required:

- A. The proposed elevation in relation to the mean sea level of the lowest floor (including the basement) of all structures; in Zone AO the elevation of the highest and lowest adjacent grade and the proposed elevation of the lowest floor of all structures;
- B. The proposed elevation in relation to the mean sea level to which any structure will be floodproofed;
- C. All appropriate certifications set forth in subsection (D) of Section 12.60.130 of this article; and
- D. A description of the extent to which any watercourse will be altered or relocated as a result of the proposed development.

(Prior code § 10-6.401)

12.60.120 - Designation of the floodplain administrator.

The city planner is hereby appointed to administer, enforce, and implement this chapter by granting or denying development permits in accordance with its provisions.

(Prior code § 10-6.402)

12.60.130 - Duties and responsibilities of the floodplain administrator.

The duties and responsibilities of the floodplain administrator shall include, but not be limited to:

- A. Permit review.
 1. Review all development permits to determine that the permit requirements of this chapter have been satisfied;
 2. Determine that all other required state and federal permits have been obtained;
 3. Determine that the structure which is the subject of the permit review is reasonably safe from damages due to flooding; and

4. Determine that the proposed development does not adversely affect the flood-carrying capacity of the area of special flood hazard. For the purposes of this chapter, "adversely affects" shall mean that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point;
- B. Use of other base flood data. When base flood elevation data has not been provided in accordance with Section 12.60.060 of Article 3 of this chapter, the floodplain administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a Federal, State, or other source in order to administer Article 5 of this chapter. Any such information shall be submitted to the city for adoption;
- C. Watercourses. Whenever a watercourse is to be altered or relocated:
1. Notify adjacent communities and the State Departments of Water Resources and Fish and Game prior to such alteration or relocation of a watercourse and submit evidence of such notification to the Federal Insurance Administration; and
 2. Require that the flood-carrying capacity of the altered or relocated portion of such watercourse is maintained;
- D. Certifications. Obtain and maintain for public inspection and make available as needed:
1. The certification required by subsection (1) of subsection (D) of Section 12.60.140 of Article 5 of this chapter (floor elevations);
 2. The certification required by subsection (2) of subsection (C) of Section 12.60.140 of Article 5 of this chapter (elevations in areas of shallow flooding);
 3. The certification required by subsection (iii) of subsection (3) of subsection (C) of Section 12.60.140 of Article 5 of this chapter (elevation or floodproofing of nonresidential structures);
 4. The certification required by subsection (i) or subsection (ii) of subsection (4) of subsection (C) of Section 12.60.140 of Article 5 of this chapter (wet floodproofing standard);
 5. The certified elevation required by subsection (B) of Section 12.60.170 of

Article 5 of this chapter (subdivision standards); and

6. The certification required by subsection (A) of Section 12.60.190 of Article 5 of this chapter (floodway encroachments);
- E. Boundaries of areas of hazard. Specify the location of the boundaries of the areas of special flood hazard, areas of flood-related erosion hazard, or areas of mudslide (i.e., mudflow) hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The floodplain administrator may rely on data supplied by the Santa Clara Valley Water District and/or applicable United States or state agencies and need not conduct any investigation, study, or hearing; and
- F. Remedy violations. Take action to remedy violations of this chapter.

(Prior code § 10-6.403)

Article 5. - Provisions for Flood Hazard Reduction

12.60.140 - Standards of construction.

In all areas of special flood hazard the following standards shall be required:

- A. Anchoring.
 1. All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
 2. All manufactured homes shall meet the anchoring standards set forth in Section 12.60.180 of this article.
- B. Construction materials and methods.
 1. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
 2. All new construction and substantial improvements shall be constructed using methods and practices which minimize flood damages.
 - 3.

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

4. Within Zones AH and AO, adequate drainage paths shall be required around structures on slopes to guide floodwaters around and away from proposed structures.

C. Elevations and floodproofing.

1. New construction and the substantial improvement of any structure shall have the lowest floor, including the basement, elevated to or above the base flood elevation. Nonresidential structures may meet the standards of subsection (3) of this subsection (C). Upon the completion of the structure, the elevation of the lowest floor, including the basement, shall be certified by a registered professional engineer or surveyor or be verified by the building inspector to be properly elevated. Such certification or verification shall be provided to the floodplain administrator.
2. New construction and the substantial improvement of any structure in Zone AH or AO shall have the lowest floor, including the basement, elevated above the highest adjacent grade at least as high as the depth number specified in feet on the FIRM or at least two feet if no depth number is specified. Nonresidential structures may meet the standards set forth in subsection (3) of this subsection (C). Upon the completion of the structure, the elevation of the lowest floor, including the basement, shall be certified by a registered professional engineer or surveyor or be verified by the building inspector to be properly elevated. Such certification or verification shall be provided to the floodplain administrator.
3. Nonresidential construction shall either be elevated in conformance with subsections (1) or (2) of this subsection (C) or, together with attendant utility and sanitary facilities:
 - i.

Be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;

- ii. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
 - iii. Be certified by a registered professional engineer or architect that the standards of this subsection are satisfied. Such certification shall be provided to the floodplain administrator.
4. For all new construction and substantial improvements, fully enclosed areas below the lowest floor which areas are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on the exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting the requirements of this subsection shall either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:
 - i. 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. The bottom of all openings shall be no higher than one foot above the grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided they permit the automatic entry and exit of floodwaters; or
 - ii. The designs shall be certified to comply with a local floodproofing standard approved by the Federal Insurance Administration.
5. Manufactured homes shall also meet the standards set forth in Section 12.60.180 of this article.

(Prior code § 10-6.501)

12.60.150 - Standards for the storage of materials and equipment.

- A. The storage or processing of materials which are, in times of flooding, buoyant, flammable, explosive, or could be injurious to human, animal, or plant life shall be prohibited.
- B.

The storage of other materials or equipment may be allowed if not subject to major damage by floods and firmly anchored to prevent flotation or if readily removable from the area within the time available after a flood warning.

(Prior code § 10-6.502)

12.60.160 - Standards for utilities.

- A. All new and replacement water supply and sanitary sewage systems shall be designed to minimize or eliminate the infiltration of floodwaters into the system and the discharge from systems into floodwaters.
- B. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

(Prior code § 10-6.503)

12.60.170 - Standards for subdivisions.

- A. All preliminary subdivision proposals shall identify the flood hazard area and the elevation of the base flood.
- B. All final subdivision plans shall provide the elevation of the proposed structures and pads. If the site is filled above the base flood, the final pad elevation shall be certified by a registered professional engineer or surveyor and be provided to the floodplain administrator.
- C. All subdivision proposals shall be consistent with the need to minimize flood damage.
- D. All subdivision proposals shall have public utilities and facilities, such as sewer, gas, electrical, and water systems, located and constructed to minimize flood damage.
- E. All subdivisions shall provide adequate drainage to reduce exposure to flood hazards.

(Prior code § 10-6.504)

12.60.180 - Standards for manufactured structures.

All new and replacement manufactured homes and additions to manufactured homes shall:

- A. Be elevated so that the lowest floor is at or above the base flood elevation;
and

- B. Be securely anchored to a permanent foundation system to resist flotation, collapse, or lateral movement.

(Prior code § 10-6.505)

12.60.190 - Floodways.

Located within the areas of special flood hazard established by Section 12.60.060 of Article 3 of this chapter are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles, and erosion potential, the following provisions shall apply:

- A. Encroachments, including fill, new construction, substantial improvements, and other development, shall be prohibited, unless certification by a registered professional engineer or architect is provided demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.
- B. If subsection (A) of this section is satisfied, all new construction and substantial improvements shall comply with all the applicable flood hazard reduction provisions of this article.

(Prior code § 10-6.506)

12.60.200 - Mudslide (i.e., mudflow) prone areas.

- A. The floodplain administrator shall review permits for proposed construction or other development to determine if it is proposed within a mudslide area.
- B. Permits shall be reviewed to determine that the proposed development is reasonably safe from mudslide hazards. Factors to be considered in making such determination shall include, but not be limited to:
 - 1. The type and quality of soils;
 - 2. Evidence of groundwater or surface water problems;
 - 3. The depth and quality of any fill;
 - 4. The overall slope of the site; and
 - 5. The weight any proposed development will impose on the slope.
- C. Within areas which have mudslide hazards, the following requirements shall apply:

1. A site investigation and further review shall be made by persons qualified in geology and soils engineering.
2. The proposed grading, excavations, new construction, and substantial improvements shall be adequately designed and protected against mudslide damages.
3. The proposed grading, excavations, new construction, and substantial improvements shall not aggravate the existing hazard by creating either on-site or off-site disturbances.
4. The drainage, planting, watering, and maintenance shall not endanger the slope stability.

(Prior code § 10-6.507)

12.60.210 - Flood related erosion prone areas.

- A. The floodplain administrator shall require permits for proposed construction and other development within all flood related erosion prone areas known to the city.
- B. Such permits shall be reviewed to determine whether the proposed site alterations and improvements will be reasonably safe from flood related erosion and will not cause flood related erosion hazards or otherwise aggravate the existing hazard.
- C. If a proposed improvement is found to be in the path of flood related erosion or would increase the erosion hazard, such improvement shall be relocated, or adequate protective measures shall be taken to avoid aggravating the existing erosion hazard.
- D. Within Zone E on the flood insurance rate map, a setback is required for all new development from the ocean or a lake, bay, river front, or other body of water to create a safety buffer consisting of a natural vegetative or contour strip. Such buffer shall be designated according to the flood related erosion hazard and erosion rate, in relation to the anticipated "useful life" of structures, and depending upon the geologic, hydrologic, topographic, and climatic characteristics of the land. The buffer may be used for suitable open space purposes, such as for agricultural, forestry, and wildlife habitat areas, among other things, and for other activities using temporary and portable structures only.

(Prior code § 10-6.508)

Article 6. - Appeals and Variances

12.60.220 - Appeal board.

- A. The council shall hear and decide appeals and requests for variances from the requirements of this chapter.
- B. The Council shall hear and decide appeals when it is alleged there is an error in any interpretation, requirement, decision, or determination made by the floodplain administrator in the enforcement or administration of this chapter. Appeals of a determination made by the floodplain administrator shall be made within ten (10) days after the decision of the floodplain administrator. The standard for the review of factual questions shall be substantial evidence, and the burden of proof shall be on the applicant.
- C. In acting upon such applications, the council shall consider all technical evaluations, all relevant factors, standards specified in other sections of this chapter; and
 1. The danger that materials may be swept onto other lands to the injury of others;
 2. The danger to life and property due to flooding or erosion damage;
 3. The susceptibility of the proposed facility and its contents to flood damages and the effect of such damages on the individual owner;
 4. The importance of the services provided by the proposed facility to the community;
 5. The necessity to the facility of a waterfront location, where applicable;
 6. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
 7. The compatibility of the proposed use with existing and anticipated development;
 8. The relationship of the proposed use to the comprehensive plan and floodplain management program for the area;
 9. The safety of access to the property in times of flood for ordinary and emergency vehicles;
 10. The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters expected at the site; and

11. The costs of providing governmental services during and after flood conditions, including the maintenance and repair of public utilities and facilities, such as sewers, gas, electricity, and the water system, and streets and bridges.
- D. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level provided the provisions of subsection (C) of this section have been fully considered.
 - E. Upon the consideration of the factors of subsection (C) of this section and the purposes of this chapter, the city may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter.
 - F. The floodplain administrator shall maintain the records of all appeal actions and report any variances to the Federal Insurance Administration upon request.

(Prior code § 10-6.601)

12.60.230 - Conditions for variances.

- A. Variances may be granted for the reconstruction, rehabilitation, or restoration of structures listed in the National Register of Historic Places or the State Inventory of Historic Places without regard to the procedures set forth in the remainder of this section.
- B. Variances shall not be granted within any designated floodway if any increase in flood levels during the base flood discharge would result.
- C. Variances shall only be granted upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- D. Variances shall only be granted upon:
 1. A showing of good and sufficient cause;
 2. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
 3. A determination that the granting of a variance will not result in increased flood heights, additional threats to the public safety, extraordinary public expense, create nuisances, cause fraud on or the victimization of the public, or conflict with existing local laws.

- E. Variances may be issued for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided the provisions of subsections (A) through (D) of this section are satisfied and that the structure or other development is protected by methods which minimize flood damages during the base flood and create no additional threat to the public safety.
- F. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the regulatory flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation. A copy of such notice shall be recorded by the floodplain administrator in the office of the county recorder.

(Prior code § 10-6.602)