

TITLE XV: LAND USAGE

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CHAPTER 150: BUILDING REGULATIONS

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GENERAL PROVISIONS

§ 150.01 TITLE.

This chapter and all ordinances supplemental or amendatory hereto, shall be known as the

“Building Code of the City of Salem, Indiana,” may be cited as such, and will be referred to herein as “this chapter.”

(Ord. 718, passed 4-8-91)

§ 150.02 PURPOSE.

The purpose of this chapter is to provide minimum standards for the protection of life, health, environment, public safety and general welfare, and for the conservation of energy in the design and construction of buildings and structures.

(Ord. 718, passed 4-8-91)

§ 150.03 SCOPE.

The provisions of this chapter apply to the construction, alteration, repair, use, occupancy, location, maintenance, and addition to all buildings and structures, other than fences and industrialized building systems or mobile structures certified under IC 22-15-4, within the planning and zoning jurisdiction of the city, as determined from time to time by the Plan Commission pursuant to the provisions of I.C. 36-7-4-205.

(Ord. 718, passed 4-8-91; Am. Ord. 820, passed 2-13-95; Am. Ord. 845, passed 12-11-95)

PERMITS

§ 150.15 ADOPTION OF RULES BY REFERENCE.

(A) Building rules of the Indiana Fire Prevention and Building Safety Commission as set out in the following Articles of Title 675 of the Indiana Administrative Code are hereby incorporated by reference in this chapter and shall include later amendments to those Articles as the same are published in the Indiana Register or the Indiana Administrative Code with effective dates as fixed therein:

- (1) Article 13 - Building Codes.
 - (a) Fire and Building Safety Standards.
 - (b) Indiana Building Code.
 - (c) Indiana Building Code Standards.
 - (d) Indiana Handicapped Accessibility Code.
- (2) Article 14 - One- and Two-Family Dwelling Code.

Indiana One- And Two-Family Dwelling Code.

- (3) Article 16 - Plumbing Code.

Indiana Plumbing Code.

- (4) Article 17 - Electrical Code.

(a) Indiana Electrical Code.

(b) Safety Code for Health Care Facilities.

- (5) Article 18 - Mechanical Code.

Indiana Mechanical Code.

- (6) Article 19 - Energy Conservation Code.

(a) Indiana Energy Conservation Code.

(b) Modification to the Model Energy Code.

- (7) Article 20 - Swimming Pool Code

Indiana Swimming Pool Code

(B) Copies of adopted building rules, codes and standards are on file in the office of the Clerk/Treasurer at the city hall.

(Ord. 718, passed 4-8-91)

§ 150.16 PERMIT REQUIRED; APPLICATION.

(A) A permit shall be obtained before beginning construction, alteration or repair of any building or structure, using forms furnished by the Building Commissioner. A permit shall also be obtained before beginning construction or alteration of a fence using forms furnished by the Building Commissioner. All fees for permits issued herein shall be paid to the City Clerk/Treasurer. The installation, alteration, extension or replacement of electrical wiring, panels and devices in any structure by a person other than the owner/occupant of an existing residence shall also require a permit.

(B) No building permit shall be issued for the foregoing purposes, unless the application for a permit is accompanied by a plat or sketch of the proposed location showing lot boundaries, by plans and specifications showing the work to be done and by a copy of the recorded warranty deed for the property or a copy of the recorded plat if the lot is part of a subdivision receiving final approval by the Plan

Commission. In addition, a copy of a design release, issued by the State Building Commissioner and the State Fire Marshal pursuant to IC 22-15-3-1, shall be provided to the Building Commissioner before issuance of a permit for construction covered by such design release.

(Ord. 718, passed 4-8-91; Am. Ord. 1056, passed 11-13-01; Am. Ord. 1181, passed 3-8-05) Penalty, see § 150.99

§ 150.17 COMPLIANCE WITH OTHER LAWS; CERTIFICATE OF OCCUPANCY.

(A) All work done under any permit shall be in full compliance with all other ordinances pertaining thereto, including the provisions of the zoning code as set out in Chapter 156 and the provisions of the Flood Plain Management Code as set out in Chapter 152.

(B) No certificate of occupancy for any building or structure erected, altered or repaired after the adoption of this chapter shall be issued unless such building or structure was erected, altered or repaired in compliance with the provisions of this chapter.

(C) (1) All owners or occupants of buildings within the city which have been assigned a street number or address shall cause the addresses to be permanently attached and plainly indicated by appropriate figures in a public and conspicuous place near the outside front entrance of the building. If a building is not visible from a city street or if a building is 200 feet or more from a city street, the assigned building number (address) shall be displayed at the entrance to the access road or driveway to such building by means of a separate marker or by means of a mailbox. Each number attached to a building or placed on a separate marker indicating the number assigned to such building shall be of durable, weatherproof material which is either reflective or easily visible from the street and is of a size not less than three inches by three inches. Such assigned numbers (addresses) shall also be placed on each side of any mailbox serving the building. Where mailboxes are grouped, such numbers shall be placed on the front or lid of each box. Where the mailbox is on a different street than the building, the number of such building and appropriate street name or number shall be displayed on the mailbox.

(2) The Plan Commission shall monitor the progress of the implementation of this subsection pursuant to its powers granted under I.C. 36-7-4-405(b) and shall require that each structure (other than an accessory structure) for which a building permit is issued shall comply with this subsection as a condition of receiving a building permit.

(Ord. 718, passed 4-8-91; Am. Ord. 1064, passed 12-11-01) Penalty, see § 150.99

§ 150.18 IMPROVEMENT LOCATION PERMIT FEES.

Permits required by § 150.16(A) shall be issued upon prior payment of inspection fees according to the following schedule:

(A) For each application for an improvement location permit, the following fees shall be assessed:

- (1) \$2/100 square feet of floor area for single-family and two-family dwellings with a minimum fee of \$15;
- (2) \$2/100 square feet of floor area for private garages or a \$15 minimum fee;
- (3) \$2/100 square feet of surface area for private swimming pools or \$15 minimum fee;
- (4) \$2/100 square feet of floor area for commercial, public and industrial buildings or a \$15 minimum fee;
- (5) \$2/100 square feet of surface area for public swimming pools or \$15 minimum fee;
- (6) \$2/100 square feet of floor area for accessory buildings (porches, decks, storage buildings, pole barns over 120 square feet and carports) or a \$15 minimum fee;
- (7) \$15 for fences or accessory buildings under 120 square feet in area.

(B) For each application for an improvement location permit, inspections shall be made according to the following schedule:

<i>Type</i>	<i>Single Required Inspection</i>	<i>Fees Per Inspection</i>	<i>Total Inspection Fees</i>
1 or 2 family dwelling detached	7	\$15	\$105
Apartment, hotels, each unit	7	\$15	\$105
Business, Commercial, public	7	\$15	\$105
Educational, Institutional, Church	7	\$15	\$105
Gas-Fired Appliance/Equipment Permit	1	\$15	\$15
Industrial, Warehouse, Bulk Storage	7	\$15	\$105
Mobile Homes, Temporary Structures	5	\$15	\$75
Accessory Buildings (Residential Use)	3	\$15	\$ 45
Addition/Alterations (all occupancies)	3	\$15	\$ 45
Accessory Buildings (under 120 sq. ft.)	1	\$15	\$ 15
Electrical Permit	1	\$15	\$ 15

(1) For unusually large or complex buildings or structures, the Building Commissioner shall have the power to increase the number of required inspections by 50%.

(2) The Building Commissioner shall in all cases designate the state of construction when each required inspection must be requested by the permit holder. No concrete shall be placed for foundations without prior inspection. No electrical, gas, mechanical, plumbing, or thermal insulation work shall be covered without prior inspection.

(3) A complete set of approved plans and specifications shall be maintained on the construction or job site. Where additional inspections are required due to failure of permit holder to have a complete

set of approved plans and specifications on the work site or to have work ready for inspection at a designated stage of construction, the Building Commissioner shall have the power to assess a reinspection fee of \$15 for each additional inspection. Re-inspection fees shall be paid to the Clerk/Treasurer prior to the issuance of a certificate of occupancy.

(C) *Late permit fee.* Any improvement location permit applied for after the commencement of construction shall be subject to an additional fee of \$100.

(D) *Electrical permit fees.* The fee for the issuance of an electrical permit only shall be \$15.

(E) *Gas-fired appliance/equipment permit fees.* The fee for the issuance of a gas-fired appliance/equipment permit only shall be \$15.

(F) *Annual report.* The Building Commissioner shall submit an annual report to the Plan Commission in regard to all permits issued, fees collected, inspections performed and costs of the operation of the office of the Building Commissioner for the purpose of reviewing whether any adjustments of permit and inspection fees is necessary.

(Ord. 718, passed 4-8-91; Am. Ord. 1076, passed 4-9-02; Am. Ord. 1181, passed 3-8-05)

§ 150.19 REVIEW OF APPLICATION.

Prior to the issuance of any building permit, the Building Commissioner shall:

(A) Review all building permit applications to determine compliance with the provisions of state building codes;

(B) Review all building permit applications to determine compliance with the provisions of the zoning code;

(C) Review all building permit applications for new construction or substantial improvements to determine whether the proposed building site will be reasonably safe from flooding as determined from the Flood Plain Management Code;

(D) Review building permit applications or major repairs within the flood plain area having special flood hazards to determine that the proposed repair:

- (1) Uses construction materials and utility equipment that are resistant to flood damage; and
- (2) Uses construction methods and practices that will minimize flood damage.

(E) Review building permit applications for new construction or substantial improvements within the flood plain area having special flood hazards to assure that the proposed construction (including pre-fabricated and mobile homes):

(1) Is protected against flood damage;

(2) Is designed (or modified) and anchored to prevent flotation, collapse, or lateral movement of the structure, flood damage; and

(3) Uses construction methods and practices that will minimize flood damage.

(Ord. 718, passed 4-8-91)

§ 150.20 INSPECTIONS; INSPECTION ASSISTANCE.

(A) After the issuance of any building permit, the Building Commissioner shall make, or shall cause to be made, inspections of the work being done as are necessary to insure full compliance with the provision of this chapter and the terms of the permit. Re-inspections of work found to be incomplete or not ready for inspection are subject to assessment of re-inspection fees as prescribed in this chapter.

(B) The Chief of the Fire Department or his designated representative, shall assist the Building Commissioner in the inspection of fire suppression, detection and alarm systems and shall provide reports of such inspection to the Building Commissioner.

(Ord. 718, passed 4-8-91)

ADMINISTRATION AND ENFORCEMENT

§ 150.30 AUTHORITY OF BUILDING COMMISSIONER.

The City Building Commissioner is hereby established. The Building Commissioner is hereby authorized and directed to administer and enforce the provisions of this chapter. Whenever in this chapter, it is provided that anything must be done to the approval or subject to the direction of the Building Commissioner or any other officer of the Building Commission, this shall be construed to give such officer only the discretion of determining whether this chapter has been complied with; and no such provision shall be construed as giving any officer discretionary powers as to what this chapter shall be, or power to require conditions not prescribed by ordinances or to enforce this chapter in an arbitrary or discriminatory manner. Any variance from adopted building rules are subject to approval under IC 22-13-2-7(b).

(Ord. 718, passed 4-8-91)

§ 150.31 RIGHT OF ENTRY.

Upon presentation of proper credentials, the Building Commissioner or his duly authorized representative may enter at reasonable times any building, structure or premises in the city to perform any duty imposed upon him by this chapter.

(Ord. 718, passed 4-8-91)

§ 150.32 WORKMANSHIP; STOP ORDER.

(A) All work on the construction, alteration and repair of buildings and other structures shall be performed in a workmanlike manner according to accepted standards and practices in the trade.

(B) Whenever any work is being done contrary to the provisions of this chapter, the Building Commissioner may order the work stopped by notice in writing served on any person engaged in the doing or causing such work to be done, and any such work until authorized by the Building Commissioner to proceed with the work.

(Ord. 718, passed 4-8-91)

§ 150.33 RIGHT OF APPEAL.

All persons have the right to appeal the Building Commissioner's decision first through the Plan Commission and then to the Fire Prevention and Building Safety Commission of Indiana in accordance with the provisions of IC 22-12-7 and IC 4-21.5-3-7.

(Ord. 718, passed 4-8-91)

§ 150.34 VIOLATIONS.

It shall be unlawful for any person, firm or corporation, whether as owner, lessee, sub-lessee, or occupant to erect, construct, enlarge, alter, repair, improve, remove, convert, demolish, equip, use, occupy or maintain any building or structure, other than fence, in the city or cause or permit the same to be done, contrary to or in violation of the provisions of this chapter.

(Ord. 718, passed 4-8-91)

§ 150.35 REMEDIES.

The Building Commissioner shall in the name of the Plan Commission bring action in the Circuit Court of Washington County, Indiana, for mandatory and injunctive relief in the enforcement of and to secure compliance with any order or orders made by the Building Commission, and any such action for mandatory relief may be joined with an action to recover the penalties provided for in this chapter.

(Ord. 718, passed 4-8-91)

§ 150.99 PENALTY.

If any person, firm or corporation shall violate any of the provisions of this chapter, or shall do any act prohibited herein, or shall within the time prescribed by the Building Commissioner, fail, neglect or refuse to obey any lawful order given by the Building Commissioner in connection with the provisions of this chapter, for each such violation, failure or refusal, the violator shall be fined not less than \$15, nor more than \$500. Each day of such unlawful activity as is prohibited by the first sentence of this section shall constitute a separate offense.

(Ord. 718, passed 4-8-91)

CHAPTER 151: EROSION CONTROL

Section

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- 151.03 Applicability
- 151.04 Definitions

Erosion Control Requirements and Permits

- 151.15 Design criteria, standards and specifications for erosion control measures
- 151.16 Control of erosion and sediment during land disturbing activities
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GENERAL PROVISIONS

§ 151.01 AUTHORITY.

This chapter is adopted under the authority granted by IC 36-1-4-11, 36-7-4, and all acts supplemental and amendatory thereto. This authority provides for the administration, enforcement and amendment of this chapter for controlling soil erosion in the city.
(Ord. 684, passed 5-7-90)

§ 151.02 FINDINGS AND PURPOSE.

(A) The Common Council of the city finds that soil erosion resulting from non-agricultural, land disturbing activities causes a significant amount of sediment and other pollutants to be transported off-site to locations including ditches, streams, wetlands, lakes and reservoirs.

(B) The purpose of this chapter is to conserve the natural resources, to protect the quality of air and water, and to protect and promote the health, safety and welfare of people, to the extent practicable by minimizing the amount of sediment and other pollutants resulting from soil erosion due to land disturbing activities, from being transported offsite to adjacent public or private lands including ditches, streams, lakes, wetlands and reservoirs.

(Ord. 684, passed 5-7-90)

§ 151.03 APPLICABILITY.

This chapter applies to non-agricultural land disturbing activities on land within the boundaries and jurisdiction of the city.

(Ord. 684, passed 5-7-90)

§ 151.04 DEFINITIONS.

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

ADMINISTERING AUTHORITY. The designated unit of government given the duties to issue permits.

AGRICULTURAL LAND USE. Use of any land for the production of animal or plant life, including forestry, pasturing or yarding livestock, and planting, growing, cultivating, and harvesting crops for human or livestock consumption.

EROSION. The detachment and movement of soil, sediment or rock fragments by water, wind, ice, or gravity.

EROSION CONTROL MEASURE. A practice or a combination of practices to control erosion and resulting sedimentation.

EROSION CONTROL PLAN. A written description of pertinent information concerning erosion control measures designed to meet the requirements of this chapter as submitted by the applicant for review and approval by the City Building Inspector on behalf of the Plan Commission.

LAND DISTURBING ACTIVITY. Any man-made change of the land surface, including removing vegetative cover, excavating, filling, transporting, and grading in the context of this chapter. It includes any non-agricultural land disturbing activities on sites which also require a local improvement

location permit.

NON-AGRICULTURAL LAND USE. Commercial use of land for the manufacturing and wholesale or retail sale of goods or services, residential or institutional use of land intended primarily to shelter people, highway use of land including lanes, alleys, and streets, and other land uses not included under agricultural land use.

PERSON. Any entity, including any individual, corporation, or public body, holding title to or having an interest in land, operating, leasing, renting, or having made other arrangements with the title holder by which the title holder authorizes use of his or her land.

RUNOFF. The portion of precipitation from such sources as rainfall, snow-melt, or irrigation water that flows over the ground surface.

SITE. The entire area included in the legal description of the land on which the land disturbing activity has been proposed in the permit application.
(Ord. 684, passed 5-7-90)

EROSION CONTROL REQUIREMENTS AND PERMITS

§ 151.15 DESIGN CRITERIA, STANDARDS AND SPECIFICATIONS FOR EROSION CONTROL MEASURES.

All erosion control measures including but not limited to those required to comply with this chapter shall meet the design criteria, standards, and specifications for erosion control measures similar to or the same as those outlined in the Field Office Technical Guide of the USDA Soil Conservation Service.
(Ord. 684, passed 5-7-90)

§ 151.16 CONTROL OF EROSION AND SEDIMENT DURING LAND DISTURBING ACTIVITIES.

Control of erosion and sediment is the responsibility of an applicant. Applicability and requirements are defined as follows:

(A) *Applicability.* This section applies to the following sites with land disturbing activities:

(1) Those requiring a subdivision plat approval or local improvement location permit for the construction of commercial, residential, industrial, or institutional buildings on lots of approved subdivision plats;

(2) Those involving grading, removal of protective ground cover or vegetation, excavation,

land filling, or other land disturbing activity affecting a surface area of 10,000 square feet or more;

(3) Those involving excavation, filling, or a combination of excavation and filling affecting 400 cubic yards or more of soil, sand, gravel, stone, or other material;

(4) Those involving street, highway, road, or bridge construction, enlargement, relocation, or reconstruction; and

(5) Those involving the laying, repairing, replacing, or enlarging of an underground pipe or utility for a distance of 300 feet or more.

(B) *Erosion and other sediment control requirements.* The following requirements shall be met on all sites.

(1) *Site de-watering.* Sediment-laden water flowing from the site shall be detained by temporary sediment basins. Also, water shall not be discharged in a manner that causes erosion in the receiving channel.

(2) *Waste and material disposal.* Wastes or unused building materials, including but not limited to garbage, debris, cleaning wastes, waste water, toxic materials, and hazardous substances shall not be carried by runoff from a site. Proper disposal of all wastes and unused building materials, in line with the nature of the waste or material, is required.

(3) *Tracking.* Sediment being tracked from a site onto public or private roadways shall be minimized. This can be accomplished initially by a well planned layout of roads, access drives, and parking areas of sufficient width and length. However, protective covering also may be necessary.

(4) *Sediment removal.* Public or private roadways shall be kept cleared of accumulated sediment. If appreciable sedimentation occurs after a storm event, the sediment shall be deposited on the parcels of land, if in the site, from where it likely originated.

(5) *Drain inlet protection.* All storm drain inlets shall be protected with straw bales, filter fabric, or equivalent barriers meeting accepted design criteria, standards, and specifications.

(6) *Site erosion control.* The following items apply only to the time period when land disturbing activities are taking place:

(a) Runoff passing through a site from adjacent areas shall be controlled by diverting it around disturbed areas. Alternatively, the existing channel may be improved to prevent erosion or sedimentation from occurring.

(b) Runoff from a disturbed area shall be controlled by one or more of the following measures:

1. Barring unforeseeable weather conditions, all disturbed ground left inactive for seven or more days shall be stabilized prior to April 1 or October 1 whichever first occurs after such

period of inactivity, by seeding, sodding, mulching, covering, or by other equivalent erosion control measures.

2. With disturbed areas within a site of ten acres or more, where drainage is in the same direction or where runoff will result in loss of soil, an abatement or recovery program is required. Where feasible, one or more sedimentation basins shall be constructed. Each sedimentation basin shall have a depth of at least three feet and have sufficient surface area to trap the sediment. The size of sedimentation basin should be at least 1% of its drainage area. Sediment shall be removed from time to time to maintain a minimum three foot depth. When the disturbed area is stabilized, the sediment basin can be removed. However if erosion is likely to continue, the sediment basin shall be maintained by the existing or subsequent landowners. The discharge rate from a sediment basin shall not cause scouring in the receiving channel.

3. With disturbing areas within a site having less than ten acres, filter fences, straw bales, or equivalent erosion control measures, placed along all sideslopes and downslope sides of the site shall be required. Also if concentrated runoff passes through the site, filter fences shall be placed along the edges of the concentrated flow area to reduce the amount of sediment removed from the site. However, if these measures are not sufficient to control off-site sedimentation, a sediment basis may still be required.

(c) Erosion from all soil storage piles shall be controlled by placing straw bales, filter fence, or other appropriate barriers around the piles. Adjacent storm drain inlets shall be protected using similar filter barriers. Moreover, any soil storage pile containing more than ten cubic yards of material shall be located at least 25 feet upslope from a roadway or a drainage channel. Furthermore, if remaining in existence for more than seven days, the storage pile shall be stabilized by mulching, vegetative cover, tarps, or other means. Storage piles containing less than ten cubic yards of material may be located closer than 25 feet to a roadway or a drainage channel but shall be covered with tarps or a suitable alternative if in existence for less than seven days. However, if a pile is in existence for more than seven days, barriers also shall be placed around the pile.

(Ord. 684, passed 5-7-90)

§ 151.17 MAINTENANCE OF EROSION CONTROL MEASURES.

During the period of land disturbance at a site, all sedimentation basins and other erosion control measures necessary to meet the requirements of this chapter shall be applied by the applicant or subsequent landowner. If sedimentation shall likely be a problem after land disturbing activities have ceased, some or all of the sediment basins and other erosion control measures shall be maintained by the applicant or subsequent landowner for as long as the problem exists.

(Ord. 684, passed 5-7-90)

§ 151.18 PERMIT APPLICATION, EROSION CONTROL PLAN, AND PERMIT ISSUANCE.

No person shall begin a land disturbing activity subject to this chapter without receiving approval of an erosion control plan. An application should be made at the time of the preliminary plat submittal

or local improvement location permit application to minimize the time delay before a project can begin. By submitting an application, the applicant is implying that the Plan Commission has been given permission to enter the site to obtain information required for the review of the erosion control plan.

(A) *Content of the erosion control plan for land disturbing activities covering more than one acre, in a given site.*

(1) *Existing site map.* A map of existing site conditions on a minimum scale of one inch equals 100 feet and adequate to show the site and adjacent areas, including:

- (a) Site boundaries and adjacent lands which accurately identify the site location;
- (b) Lakes, streams, wetlands, channels, ditches, and other water courses on and immediately adjacent to the site;
- (c) One hundred year floodplains, flood fringes, and floodways;
- (d) Location of the predominant soil types as identified by the soil survey as determined by a certified professional soil scientist;
- (e) Vegetative cover such as grass, weeds, and trees;
- (f) Location and dimensions of storm water drainage systems and natural drainage patterns on and immediately adjacent to the site;
- (g) Locations and dimensions of utilities, structures, roads, highways, and paving; and
- (h) Site topography at a contour interval not to exceed five feet.

(2) *Plan of final site conditions.* A plan of final site conditions on the same scale as the existing site map showing the site changes.

(3) *Site construction plan.* A site construction plan including:

- (a) Locations and dimensions of all proposed land disturbing activities;
- (b) Locations and dimensions of all temporary soil stockpiles;
- (c) Locations and dimensions of all erosion control measures necessary to meet the requirements of this chapter;
- (d) Schedule of the anticipated starting and completion dates of each land disturbing activity including the installation of erosion control measures needed to meet the requirements of this chapter; and
- (e) Provisions for maintenance of the erosion control measures during construction.

(B) *Content of erosion control plan for land disturbing activities covering less than one acre, in a given site.* An erosion control plan statement describing the site and erosion control and including a development schedule and a simple map showing the location of the control measures is all that is required.

(C) *Review of erosion control plan.* The City Building Inspector on behalf of the Plan Commission shall promptly review the application and erosion control plan in conjunction with the subdivision plat and local improvement permit application to determine whether the requirements of this chapter have been met. If the conditions are met, the City Building Inspector shall approve the plan, inform the applicant, and issue a permit. If the conditions are not met, the City Building Inspector shall inform the applicant in writing and either may require additional information or may disapprove the plan. If requested additional information is submitted, the City Building Inspector shall again determine whether the plan meets the requirements of this chapter. If the plan is disapproved, the City Building Inspector shall inform the applicant in writing including reasons for disapproval.

(D) *Permits.*

(1) *Surety bond.* As a condition of approval and issuance of the permit, the Building Inspector on behalf of the Plan Commission may require the applicant to provide a surety bond or an irrevocable letter of credit when the erosion control plan has been approved to guarantee a good faith execution of the erosion control plan and any permit conditions. A surety bond shall be required for permits for sites of more than five acres in areas where a detailed erosion control plan is required to be filed under the provisions of division (A) above.

(2) *Permit conditions.* All permits shall require the applicant to:

(a) Notify the Building Inspector at least 24 hours before commencing with any land disturbing activity;

(b) Notify the Building Inspector of the completion of any erosion control measures within seven days after their installation;

(c) Obtain permission from the Building Inspector prior to modifying the erosion control plan;

(d) Install all erosion control measures as identified in the approved erosion control plan;

(e) Maintain all road drainage systems, storm water drainage systems, erosion control measures, and other facilities identified in the erosion control plan until the project has been terminated (see § 151.17 for continuing maintenance responsibility);

(f) Where legal, remove sediment resulting from land disturbing activities from adjacent surfaces and drainage ways (and/or repair erosion damage ways); and

(g) Allow the Building Inspector to enter the site for verifying compliance with the

erosion control plan or for performing any work necessary to bring the site into compliance with the erosion control plan.

(Ord. 684, passed 5-7-90) Penalty, see § 151.99

§ 151.19 INSPECTION.

To ensure compliance with the erosion control plan, the Building Inspector on behalf of the Plan Commission shall inspect sites having ongoing, land disturbing activities at least once a month during the period between March 1 and November 30 and at least twice during the period between December 1 and February 28. If land disturbing activities are being carried out without a permit, the City Building Inspector shall issue a stop-work order pursuant to the provisions of IC 36-1-4-11 and IC 36-1-6-2.

(Ord. 684, passed 5-7-90)

ADMINISTRATION AND ENFORCEMENT

§ 151.30 BUILDING INSPECTOR MAY POST STOP-WORK ORDER.

(A) The Building Inspector shall post a stop-work order if:

(1) Any land disturbing activity regulated under this chapter is being undertaken without a permit;

(2) The erosion control plan is not being implemented in good faith; or

(3) The conditions of the permit are not being met.

(B) Upon appeal to the Building Inspector, a stop-work order or the revocation may be retracted.

(C) Ten days after posting a stop-work order, the Building Inspector may issue a notice of intent to the violator stating that 14 days after issuing the notice of intent, the Board of Public Works and Safety will use the surety bond to perform work necessary to provide compliance with this chapter.

(D) If, within five days after notification, a permit holder does not comply with the erosion control plan or permit conditions, the Building Inspector on behalf of the Plan Commission shall revoke the permit.

(E) Any person violating any of the provisions of this chapter shall be subject to a forfeiture or fine as set forth in § 151.99.

(F) Compliance with the provisions of this chapter also may be enforced by injunction.
(Ord. 684, passed 5-7-90)

§ 151.31 PROJECT TERMINATION.

An orderly and timely termination of a project with land disturbing activities should be planned between all persons involved with a site.

(A) Nearing the end of the project, but prior to final land grading, seeding, and mulching, the person holding the permit should petition in writing, the Building Inspector to allow the installation of utility lines on the site. Those persons involved in the installation of utility lines shall perform their work promptly to minimize the time period during which some of the land may be left in a relatively unprotected state. After the utility lines have been installed, the person holding the permit shall promptly complete all erosion control activities.

(B) When a project has been completed, the person holding the permit shall petition, in writing, the Building Inspector for approval of erosion control measures which are to remain on the site. The Building Inspector shall subsequently inspect the site to evaluate the adequacy of these control measures.

(1) If the erosion control measures are approved, any surety bonds and/or letters of credit shall be released forthrightly. However, maintenance responsibilities (see § 151.17) shall remain with the person owning the land.

(2) If the erosion control measures are not approved because they are not in line with either the erosion control plan or the general principles of this chapter, the Building Inspector shall notify, in writing, the person holding the permit of unacceptable features. After a minimum period of two weeks during which corrective measures are taken, a petition, again in writing, may be sent asking the Building Inspector to evaluate the adequacy of the erosion control measures. If, in good faith, the Building Inspector again decides that the erosion control measures are inadequate, the Building Inspector may delay the release of any surety bonds and/or letters of credit for up to two months. After an agreed upon time period of two months or longer has elapsed without correct measures being taken, the Board of Public Works and Safety may use the surety bonds to finance changes or additions to the erosion control measures needed to complete the project.

(Ord. 684, passed 5-7-90)

§ 151.32 ADMINISTRATIVE APPEALS AND JUDICIAL REVIEW.

(A) *Local Executive Body or Board of Appeals.*

(1) The Board of Zoning Appeals shall hear and decide appeals where it is alleged that there is error in any order, decision, or determination made by the Building Inspector on behalf of the Plan Commission in administering this chapter.

(2) Upon appeal, the Board of Appeals or other designated unit of government may authorize variances from the provisions of this chapter which are not contrary to the public interest and, where owing to special conditions, a literal enforcement of the provisions of this chapter will result in unnecessary hindrances; and

(3) The Board of Appeals or other similarly designated unit of government shall use the rules, procedures, duties and powers authorized by statute in hearing and deciding appeals and authorizing variances.

(B) *Judicial review.* Final decisions of the Board of Zoning Appeals are subject to review by the Circuit Court of Washington County, provided an appeal is filed within 30 days from the date of the final decision of the Board of Zoning Appeals.

(Ord. 684, passed 5-7-90)

§ 151.99 PENALTY.

Any person violating any of the provisions of this chapter shall be subject to a forfeiture or fine of not less than \$25 nor more than \$1,000 and the costs of prosecution for each violation. Each day a violation exists shall constitute a separate offense.

(Ord. 684, passed 5-7-90)

CHAPTER 152: FLOOD CONTROL

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GENERAL PROVISIONS**§ 152.01 STATUTORY AUTHORIZATION.**

The Indiana Legislature has in IC 36-7-4 granted the power to local government units to control land use within their jurisdictions. Therefore, the City Council of the City of Salem, Indiana does hereby adopt the following floodplain management regulations.

(Ord. 2017-4, passed 3-13-17)

§ 152.02 FINDINGS OF FACT.

(A) The flood hazard areas of the City of Salem are subject to periodic inundation which 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 which are inadequately elevated, inadequately flood-proofed, or otherwise unprotected from flood damages.

(Ord. 2017-4, passed 3-13-17)

§ 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 which 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 which 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 which are involved in the accommodation of flood waters.

(D) Control filling, grading, dredging, and other development which may increase erosion or flood damage.

(E) Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.

(F) Make federal flood insurance available for structures and their contents in the city by fulfilling the requirements of the National Flood Insurance Program.

(Ord. 2017-4, passed 3-13-17)

§ 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.

(Ord. 2017-4, passed 3-13-17)

§ 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 1% annual chance flood event. Because detailed hydraulic analyses have not been performed, no base flood elevation or depths are shown.

ZONE AE AND A1-30. Areas subject to inundation by the 1% 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 1% annual chance shallow flooding (usually sheet flow on sloping terrain) where average depths are between one and three feet. Average flood depths derived from detailed hydraulic analyses are shown within this zone.

ZONE AH. Areas subject to inundation by 1% annual chance shallow flooding (usually areas of ponding) where average depths are between one and three 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 1% 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 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 to three 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 1% chance of being equaled or exceeded in any given year.

BASE FLOOD ELEVATION (BFE). The elevation of the 1% annual chance flood.

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

BOUNDARY RIVER. The part of the Ohio River that forms the boundary between Kentucky and Indiana.

BOUNDARY RIVER FLOODWAY. The floodway of a boundary river.

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 which produce, use or store hazardous materials or hazardous waste.

D ZONE. Unstudied areas where flood hazards are undetermined, but flooding is possible. Flood insurance is available in participating communities but is not required by regulation in this zone.

DEVELOPMENT.

- (1) Any man-made change to improved or unimproved real estate including but not limited to:
 - (a) Construction, reconstruction, or placement of a structure or any addition to a structure;
 - (b) 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 180 days;
 - (c) Installing utilities, erection of walls and fences, construction of roads, or similar projects;
 - (d) Construction of flood control structures such as levees, dikes, dams, channel improvements, etc.;
 - (e) Mining, dredging, filling, grading, excavation, or drilling operations;
 - (f) Construction and/or reconstruction of bridges or culverts;
 - (g) Storage of materials; or
 - (h) Any other activity that might change the direction, height, or velocity of flood or surface waters.

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

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. This certification must be signed and sealed by a land surveyor, engineer, or architect authorized by law to certify 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.

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 Federal Emergency Management Agency (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, FBFM (where applicable), 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 feet at any given location in the SFHA (see **FREEBOARD**).

FLOODPLAIN. The channel proper and the areas adjoining any wetland, lake, or watercourse which 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 which 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 non-residential 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 flood plains adjoining the channel which 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, which 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 STRUCTURES. Any structures 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.

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 six-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 Letter of Map Amendment (LOMA), Letter of Map Revision (LOMR), and Letter of Map Revision based on Fill (LOMR-F). The definitions are presented below:

LETTER OF MAP AMENDMENT (LOMA). An amendment by letter 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 elevation described among 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 of a structure elevated on pilings or pillars.
- (5) 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 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 square inch for every one square foot of enclosed area; the bottom of all such openings shall be no higher than one foot above the exterior grade or the interior grade immediately beneath each opening, whichever is higher; and

(c) Such enclosed space shall be usable solely for the parking of vehicles and building access.

MANUFACTURED HOME. A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when 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 or more manufactured home lots for rent or sale.

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 twofold: 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 (NGVD) OF 1929 AS CORRECTED IN 1929. A vertical control 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 which 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-PERCENT ANNUAL CHANCE FLOOD. The flood that has a 1% chance of being equaled or exceeded in any given year. Any flood zone that begins with the letter A is subject to the 1% annual chance flood. See **REGULATORY FLOOD**.

PHYSICAL MAP REVISION (PMR). An official republication of a community's FEMA map to effect changes to base (1% 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 which is injurious to the safety or health of an entire community, neighborhood or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

RECREATIONAL VEHICLE. A vehicle which is:

- (1) Built on a single chassis;
- (2) Four hundred square feet or less when measured at the 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 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 1% chance of being equaled or exceeded in any given year, as calculated by a method and procedure that is acceptable to and approved by the Indiana

Department of Natural Resources and the Federal Emergency Management Agency. The regulatory flood elevation at any location is as defined in § 152.07. The **REGULATORY FLOOD** is also known by the term "Base Flood", "One-Percent Annual Chance Flood", and "100-Year Flood".

REPETITIVE LOSS. Flood-related damages sustained by a structure on two separate occasions during a ten-year period for which the cost of repairs at the time of each such flood event, on the average, equaled or exceeded 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 jurisdiction of the city subject to inundation by the regulatory flood. The SFHAs of the City of Salem are generally identified as such on the Washington County, Indiana and Incorporated Areas Flood Insurance Rate Map dated June 21, 2017 as well as any future updates, amendments, or revisions, prepared by the Federal Emergency Management Agency 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 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of a slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, foundations, or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external 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 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 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 50% of the market value of the structure

before the "start of construction" of the improvement. This term includes structures that have incurred "repetitive loss" or "substantial damage" 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.

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 ordinance 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.

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 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 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**.

ZONE 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.)
(Ord. 2017-4, passed 3-13-17)

§ 152.06 LANDS TO WHICH THIS CHAPTER APPLIES.

This chapter shall apply to all SFHAs and known flood prone areas within the jurisdiction of the City of Salem.
(Ord. 2017-4, passed 3-13-17)

§ 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 within the jurisdiction of the City of Salem shall be as delineated on the 1% annual chance flood profiles in the Flood Insurance Study of Washington County, Indiana and Incorporated Areas and the corresponding Flood Insurance Rate Map dated June 21, 2017 as well as any future updates, amendments, or revisions, prepared by the Federal Emergency Management Agency with the most recent date.

(B) The regulatory flood elevation, floodway, and fringe limits for each of the SFHAs within the jurisdiction of the City of Salem, delineated as an "A Zone" on the Washington County, Indiana and Incorporated Areas Flood Insurance Rate Map dated June 21, 2017 as well as any future updates, amendments, or revisions, prepared by the Federal Emergency Management Agency with the most recent date, shall be according to the best data available as provided by the Indiana Department of Natural Resources, provided the upstream drainage area from the subject site is greater than one square mile. Whenever a party disagrees with the best available data, 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 Resources for review and 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 Indiana Department of Natural Resources, provided the upstream drainage area from the subject site is greater than one 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. (Ord. 2017-4, passed 3-13-17)

§ 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. 2017-4, passed 3-13-17)

§ 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. 2017-4, passed 3-13-17)

§ 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. 2017-4, passed 3-13-17)

§ 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 shall be advised to apply for a LOMA.

(Ord. 2017-4, passed 3-13-17)

§ 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.

(C) Deemed neither to limit nor repeal any other powers granted under state statutes.

(Ord. 2017-4, passed 3-13-17)

§ 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 City of Salem, the Indiana Department of Natural Resources, or the State of Indiana, for any flood damage that results from reliance on this chapter or any administrative decision made lawfully thereunder.

(Ord. 2017-4, passed 3-13-17)

ADMINISTRATION

§ 152.20 DESIGNATION OF ADMINISTRATOR.

The City Council of the City of Salem hereby appoints the Zoning Administrator to administer and implement the provisions of this chapter and is herein referred to as the Floodplain Administrator.

(Ord. 2017-4, passed 3-13-17)

§ 152.21 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 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) A description of the proposed development.
- (2) Location of the proposed development sufficient to accurately locate property and structure(s) in relation to existing roads and streams.
- (3) A legal description of the property site.
- (4) A site development plan showing existing and proposed development locations and existing and proposed land grades.
- (5) Elevation of the top of the planned lowest floor (including basement) of all proposed buildings. Elevation should be in NATO 88 or NGVD.
- (6) Elevation (in NAVD 88 or NGVD) to which any non-residential structure will be floodproofed.

(7) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development. A hydrologic and hydraulic engineering study is required and any watercourse changes submitted to DNR for approval and then to FEMA as a Letter of Map Revision. (See § 152.22(B)(6) for additional information.)

(B) *Construction stage.*

(1) Upon establishment of the lowest floor of an elevated structure or structure constructed on fill, it shall be the duty of the applicant to submit to the Floodplain Administrator a certification of the NAVD 88 or NGVD elevation of the lowest floor, as built. Said certification shall be prepared by or under the direct supervision of a registered land surveyor, professional engineer or architect and certified by the same. The Floodplain Administrator shall review the lowest floor elevation survey data submitted. The applicant shall correct deficiencies detected by such review before any further work is allowed to proceed. Failure to submit the survey or failure to make said corrections required hereby shall be cause to issue a stop-work order for the project. Any work undertaken prior to submission of the elevation certification shall be at the applicant's risk.

(2) Upon establishment of the floodproofed elevation of a floodproofed structure, it shall be the duty of the applicant to submit to the Floodplain Administrator a floodproofing certificate. Certification shall be prepared by or under the direct supervision of a registered professional engineer or architect and certified by same. (The Floodplain Administrator shall review the floodproofing certification submitted.) The applicant shall correct any deficiencies detected by such review before any further work is allowed to proceed. Failure to submit the floodproofing certification or failure to make correction required shall be cause to issue a stop-work order for the project.

(C) *Finished construction.* Upon completion of construction, an elevation certification (FEMA Elevation Certificate Form 81-31 or any future updates) which depicts the "as-built" lowest floor elevation is required to be submitted to the Floodplain Administrator. If the project includes a floodproofing measure, floodproofing certification (FEMA Floodproofing Certificate Form 81-65 or any future updates) is required to be submitted by the applicant to the Floodplain Administrator. (Ord. 2017-4, passed 3-13-17)

§ 152.22 DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR.

(A) 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, which are consistent with its spirit and purpose.

(B) Duties and responsibilities of the Floodplain Administrator shall include, but are not limited to:

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

(2) Inspect and inventory damaged structures in the SFHA and complete substantial damage determinations.

(3) Ensure that construction authorization has been granted by the Indiana Department of Natural Resources for all development projects subject to §§ 152.34 and 152.36(A), and maintain a record of such authorization (either copy of actual permit/authorization or floodplain analysis/regulatory assessment).

(4) Ensure that all necessary federal or state permits have been received prior to issuance of the local floodplain development permit. Copies of such permits/authorizations are to be maintained on file with the floodplain development permit.

(5) Maintain and track permit records involving additions and improvements to residences located in the floodway.

(6) 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.

(7) 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 DNR 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.

(8) 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.

(9) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.

(10) Review certified plans and specifications for compliance.

(11) Verify and record the actual elevation of the lowest floor (including basement) of all new or substantially improved structures, in accordance with § 152.21.

(12) Verify and record the actual elevation to which any new or substantially improved structures have been floodproofed in accordance with § 152.21.

(13) Perform a minimum of three inspections to ensure that all applicable ordinance and floodplain development requirements have been satisfied. The first upon the establishment of the Flood Protection Grade reference mark at the development site; the second upon the establishment of the structure's footprint/establishment of the lowest floor; and the final inspection upon completion and submission of the required finished construction elevation certificate. Authorized city officials shall have the right to enter and inspect properties located in the SFHA.

(14) *Stop work orders.*

(a) 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.

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

(15) *Revocation of permits.*

(a) 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 the material fact in the application or plans on which the permit or approval was based.

(b) 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.

(Ord. 2017-4, passed 3-13-17)

PROVISIONS FOR FLOOD HAZARD REDUCTION

§ 152.30 GENERAL STANDARDS.

In all SFHAs and 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.

(J) Parking lots, driveways, and sidewalks within the SFHA shall be constructed with permeable materials.

(K) Whenever any portion of the SFHA is authorized for use, the volume of space which will be occupied by the authorized fill or structure below the BFE shall be compensated for and balanced by an equivalent volume of excavation taken below the BFE. The excavation volume shall be at least equal to the volume of storage lost (replacement ratio of one to one) due to the fill or structure.

(1) The excavation shall take place in the floodplain and in the same property in which the authorized fill or structure is located.

(2) Under certain circumstances, the excavation may be allowed to take place outside of but adjacent to the floodplain provided that the excavated volume will be below the regulatory flood elevation, will be in the same property in which the authorized fill or structure is located, will be accessible to the regulatory flood water, will not be subject to ponding when not inundated by flood water, and that it shall not be refilled.

(3) The excavation shall provide for true storage of floodwater but shall not be subject to ponding when not inundated by flood water.

(4) The fill or structure shall not obstruct a drainage way leading to the floodplain.

(5) The grading around the excavation shall be such that the excavated area is accessible to the regulatory flood water.

(6) The fill or structure shall be of a material deemed stable enough to remain firm and in place during periods of flooding and shall include provisions to protect adjacent property owners against any increased runoff or drainage resulting from its placement.

(7) Plans depicting the areas to be excavated and filled shall be submitted prior to the actual start of construction or any site work; once site work is complete, but before the actual start of construction, the applicant shall provide to the Floodplain Administrator a certified survey of the excavation and fill sites demonstrating the fill and excavation comply with this subchapter. (Ord. 2017-4, passed 3-13-17)

§ 152.31 SPECIFIC STANDARDS.

In all SFHAs, the following provisions are required:

(A) In addition to the requirements of § 152.30, 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 400 square feet.

(2) Addition or improvement made to any existing structure where the cost of the addition or improvement equals or exceeds 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 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 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.

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

(7) Addition or improvement made to any existing structure with a previous repair, addition or improvement constructed since the community's first floodplain ordinance.

(B) *Residential structures.* 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 feet above the base flood elevation). Should solid foundation perimeter walls be used to elevate a structure,

openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with the standards of § 152.31(D).

(C) *Non-residential structures.* New construction or substantial improvement of any commercial, industrial, or non-residential structure (or manufactured home) shall either have the lowest floor, including basement, elevated to or above the FPG (two feet above the base flood elevation) or be floodproofed to or above the FPG. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with the standards of § 152.31(D). Structures located in all "A Zones" maybe floodproofed in lieu of being elevated if done in accordance with the following:

(1) 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 Floodplain Administrator as set forth in § 152.22(B)(12).

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

(D) *Elevated structures.*

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

(2) Elevated structures with fully enclosed areas formed by foundation and other exterior walls below the flood protection grade 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. Designs must meet the following minimum criteria:

(a) Provide a minimum of two openings located in a minimum of two exterior walls (having a total net area of not less than one square inch for every one square foot of enclosed area).

(b) The bottom of all openings shall be no more than one 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 for 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.

(f) The interior grade of such enclosed area shall be at an elevation at or higher than the exterior grade.

(g) Openings are to be not less than three inches in any direction in the plane of the wall. This requirement applies to the hole in the wall, excluding any device that may be inserted such as typical foundation air vent device.

(h) Property owners shall be required to execute a flood openings/venting affidavit acknowledging that all openings will be maintained as flood vents, and that the elimination or alteration of the openings in any way will violate the requirements of § 152.31(D). Periodic inspections will be conducted by the Floodplain Administrator to ensure compliance. The affidavit shall be recorded, along with the deed, in the office of the Washington County Recorder.

(i) Property owners shall be required to execute and record with the structure's deed a non-conversion agreement declaring that the area below the lowest floor (where the interior height of the enclosure exceeds six feet) shall not be improved, finished or otherwise converted; the community will have the right to inspect the enclosed area. The non-conversion agreement shall be recorded in the office of the Washington County Recorder.

(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 foot deep before compacting to 95% of the maximum density obtainable with either the Standard or Modified Proctor Test method. The results of the test showing compliance shall be retained in the permit file.

(2) The fill shall extend 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 bulk heading. If vegetative cover is used, the slopes shall be no steeper than three horizontal to one vertical.

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

(5) The top of the lowest floor including basements shall be at or above the FPG.

(6) Fill shall be composed of clean granular or earthen material.

(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 180 days must meet one 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 § 152.31(D).

(c) Flexible skirting and rigid skirting not attached to the frame or foundation of a manufactured home are not required to have openings.

(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 36 inches in height above grade and 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 § 152.31(D).

(c) Flexible skirting and rigid skirting not attached to the frame or foundation of a manufactured home are not required to have openings.

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

(a) Be on site for less than 180 days;

(b) Be fully licensed and ready for highway use (defined as being 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); or

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

(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 be constructed of flood resistant materials.

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

(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.

(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 § 152.31(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.

(Ord. 2017-4, passed 3-13-17)

§ 152.32 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 50 lots or five acres.

(E) All subdivision proposals shall minimize development in the SFHA and/or limit density of development permitted in the SFHA.

(F) All subdivision proposals shall ensure safe access into/out of SFHA for pedestrians and vehicles (especially emergency responders).
(Ord. 2017-4, passed 3-13-17)

§ 152.33 CRITICAL FACILITY.

Construction of new critical facilities shall be, to the extent possible, located outside the limits of the SFHA. Construction of new critical facilities shall be permissible within the SFHA if no feasible alternative site is available. Critical facilities constructed within the SFHA shall have the lowest floor elevated to or above the FPG at the site. Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes elevated to or above the FPG shall be provided to all critical facilities to the extent possible.
(Ord. 2017-4, passed 3-13-17)

§ 152.34 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. 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 Indiana Department of Natural Resources and apply for a permit for construction in a floodway. Under the provisions of IC 14-28-1 a permit for construction in a floodway from the Indiana Department of Natural Resources is required prior to the issuance of a local building permit for any excavation, deposit, construction, or obstruction activity located in the floodway. This includes land preparation activities such as filling, grading, clearing and paving etc. undertaken before the actual start of construction of the structure. However, it does exclude non-substantial additions/improvements to existing (lawful) residences in a non-boundary river floodway. (IC 14-28-1-26 allows construction of a non-substantial addition/improvement to a residence in a non-boundary river floodway without obtaining a permit for construction in the floodway from the Indiana Department of Natural Resources. Please note that if fill is needed to elevate an addition above the existing grade, prior approval for the fill is required from the Indiana Department of Natural Resources.)

(B) No action shall be taken by the Floodplain Administrator until a permit or letter of authorization (when applicable) has been issued by the Indiana Department of Natural Resources granting approval for construction in the floodway. Once a permit for construction in a floodway or letter of authorization has been issued by the Indiana Department of Natural Resources, the Floodplain Administrator may issue the local Floodplain Development Permit, provided the provisions contained in §§ 152.30 through 152.37 have been met. The Floodplain Development Permit cannot be less restrictive than the permit for construction in a floodway issued by the Indiana Department of Natural Resources. However, a community's more restrictive regulations (if any) shall take precedence.

(C) No development shall be allowed, which acting alone or in combination with existing or future development, that will adversely affect the efficiency of, or unduly restrict the capacity of the floodway. This adverse affect is defined as an increase in the elevation of the regulatory flood of at least fifteen-hundredths (0.15) of a 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.

(D) For all projects involving channel modifications or fill (including levees) the city shall submit the data and request that the Federal Emergency Management Agency revise the regulatory flood data per mapping standard regulations found at 44 CFR § 65.12.
(Ord. 2017-4, passed 3-13-17)

§ 152.35 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 §§ 152.30 through 152.37 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. 2017-4, passed 3-13-17)

§ 152.36 STANDARDS FOR SFHAS WITHOUT ESTABLISHED BASE FLOOD ELEVATION AND/OR FLOODWAYS/FRINGES.

(A) Drainage area upstream of the site is greater than one 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 square mile, the Floodplain Administrator shall require the applicant to forward the application, along with all pertinent plans and specifications, to the Indiana Department of Natural Resources for review and comment.

(2) No action shall be taken by the Floodplain Administrator until either a permit for construction in a floodway (including letters of authorization) or a floodplain analysis/regulatory assessment citing the one-percent annual chance flood elevation and the recommended Flood Protection Grade has been received from the Indiana Department of Natural Resources.

(3) Once the Floodplain Administrator has received the proper permit for construction in a floodway (including letters of authorization) 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 the Indiana Department of Natural Resources and the provisions contained in §§ 152.30 through 152.37 have been met.

(B) *Drainage area upstream of the site is less than one 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 square mile, the Floodplain Administrator shall require the applicant to provide an engineering analysis showing the limits of the floodplain and 1% 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 §§ 152.30 through 152.37 have been met.

(C) The total cumulative effect of the proposed development, when combined with all other existing and anticipated development shall not adversely affect the efficiency of, or unduly restrict the capacity of the floodway. This adverse affect is defined as an increase in the elevation of the regulatory flood of at least fifteen-hundredths (0.15) of a 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.

(Ord. 2017-4, passed 3-13-17)

§ 152.37 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 §§ 152.30 through 152.37.
(Ord. 2017-4, passed 3-13-17)

VARIANCE PROCEDURES

§ 152.50 DESIGNATION OF VARIANCE AND APPEALS BOARD.

The Board of Zoning Appeals shall hear and decide appeals and requests for variances from requirements of this chapter.

(Ord. 2017-4, passed 3-13-17)

§ 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 is 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 Washington County Circuit Court.

(Ord. 2017-4, passed 3-13-17)

§ 152.52 VARIANCE PROCEDURES.

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

- (A) The danger of 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 of the facility to 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.
 - (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. 2017-4, passed 3-13-17)

§ 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.
 - (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 flood way subject to §§ 152.34 or 152.36(A) may be granted.

(C) Any variance granted in a flood way subject to §§ 152.34 or 152.36(A) will require a permit from the Indiana Department of Natural Resources.

(D) Variances to the Provisions for Flood Hazard Reduction of § 152.31, may be granted only when a new structure is to be located on a lot of one-half 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 (refer to § 152.55).

(G) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the Flood Protection Grade 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 report any variances to the Federal Emergency Management Agency or the Indiana Department of Natural Resources upon request (see § 152.54).

(Ord. 2017-4, passed 3-13-17)

§ 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 flood protection grade 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 flood protection grade increases risks to life and property. 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.

(B) The Floodplain Administrator shall maintain a record of all variance actions, including justification for their issuance.
(Ord. 2017-4, passed 3-13-17)

§ 152.55 HISTORIC STRUCTURE.

Variations 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. 2017-4, passed 3-13-17)

§ 152.56 SPECIAL CONDITIONS.

Upon the consideration of the factors listed in §§ 152.50 through 152.56, and the purposes of this chapter, the Board of Zoning Appeals may attach such conditions to the granting of variations as it deems necessary to further the purposes of this chapter.
(Ord. 2017-4, passed 3-13-17)

§ 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 for the City of Salem. All violations shall be punishable by a fine not exceeding \$1,000 plus court cost.

(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 city from taking such other lawful action to prevent or remedy any violations. All costs connected therewith shall accrue to the person or persons responsible.
(Ord. 2017-4, passed 3-13-17)

CHAPTER 153: PLANNING

Section

- 153.01 Comprehensive Plan
- 153.02 Plan Commission

§ 153.01 COMPREHENSIVE PLAN.

The City Comprehensive Plan is hereby adopted and incorporated by reference the same as if set out in full herein. Two copies of the Comprehensive Plan are on file in the office of the Clerk/Treasurer and are available for public inspection.

('86 Code, § 36-7-4-500)

Cross-reference:

Conformance with subchapter; Comprehensive Plan required, see § 154.30

Statutory reference:

Comprehensive Plan, see IC 36-7-4-500

§ 153.02 PLAN COMMISSION.

The City Plan Commission is hereby established. The Commission shall act in compliance with the requirements concerning its membership, terms, meetings, expenses, offices, secretary, duties, offices, powers, and gifts as set forth in IC 36-7-4-200 et seq., as amended.

('86 Code, § 36-7-4-200) (Ord. 140, passed 8-4-52; Am. Ord. 412, passed 4-6-81)

Cross-reference:

Approval of Plan Commission required for plat or replat of subdivision, see § 154.15

Statutory reference:

Plan Commission, see IC 36-7-4-200

