

CHAPTER 151: FLOOD DAMAGE PREVENTION

Section

General Provisions

- 151.01 Statutory authorization
- 151.02 Findings of fact
- 151.03 Statement of purpose
- 151.04 Objectives
- 151.05 Definitions
- 151.06 Lands to which this chapter applies
- 151.07 Basis for establishing the areas of special flood hazard
- 151.08 Establishment of development permit
- 151.09 Compliance
- 151.10 Abrogation and greater restrictions
- 151.11 Interpretation
- 151.12 Warning and disclaimer of liability

Flood Hazard Reduction

- 151.25 General standards
- 151.26 Specific standards
- 151.27 Standards for streams without established base flood elevations and/or floodways
- 151.28 Standards for subdivision proposals
- 151.29 Standards for areas of shallow flooding (AO Zones)

Administration and Enforcement

- 151.40 Designation of local administrator
- 151.41 Development permit and certification requirements
- 151.42 Duties and responsibilities of the local administrator
- 151.43 Administrative procedures
- 151.44 Variance procedures

- 151.99 Penalty

GENERAL PROVISIONS**§ 151.01 STATUTORY AUTHORIZATION.**

The Legislature of the State of North Carolina has in §§ 143-215.51 through 143-215.61 Parts 3, 5, and 8 of Article 19 of Chapter 160A (G.S. §§ 160A-331 *et seq.*, 160A-456 *et seq.*); and G.S. Article 8 of Chapter 160A (G.S. §§ 160A-174 *et seq.*), delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the Mayor and Board of Aldermen do ordain this chapter.
(`92 Code, § 91.01) (Ord. passed 8-6-90)

§ 151.02 FINDINGS OF FACT.

(A) The flood hazard areas of the town are subject to periodic inundation which results in loss of life, property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures of 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, flood-proofed, or otherwise unprotected from flood damages.
(`92 Code, § 91.02) (Ord. passed 8-6-90)

§ 151.03 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 or 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 invalid in the accommodation of flood waters;

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

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

(`92 Code, § 91.03) (Ord. passed 8-6-90)

§ 151.04 OBJECTIVES.

The objectives of this chapter are:

(A) To protect human life and health;

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

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

(D) To minimize prolonged business interruptions;

(E) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets, and bridges located in floodplains;

(F) To help maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize flood blight areas; and,

(G) To insure that potential home buyers are notified that property is in a flood area.

(`92 Code, § 91.04) (Ord. passed 8-6-90)

§ 151.05 DEFINITIONS.

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

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

APPEAL. A request from a review of the local administrator's interpretation of any provision of this chapter.

AREA OF SHALLOW FLOODING. A designated AO or VO Zone on a 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.

AREA OF SPECIAL FLOOD HAZARD. The land in the floodplain within a community subject to a 1% or greater chance of being equaled or exceeded in any given year.

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

BASEMENT. That lowest level or story which has its floor subgrade on all sides.

BREAKAWAY WALL. A wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or the supporting foundation system. A breakaway wall shall have a design safe loading resistance of not less than ten and no more than 20 pounds per square foot. A wall with loading resistance of more than 20 pounds per square foot requires a professional engineer or architect's certificate.

BUILDING. Any structure built for support, shelter, or enclosure for any occupancy or storage.

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

ELEVATED BUILDING. A non-basement building (a) built, in the case of a building in Zones A1-A30, AE, A, A99, AO, AH, B, C, or X to have the top of the elevated floor, or in the case of a building in Zones V1-V30, VE, or V to have the bottom of the lowest horizontal structural member of the elevated floor above the ground by means of pilings, columns (posts and piers), shear walls parallel to the flow of water and, (b) adequately anchored so as not to impair the structural integrity of the building during a flood up to the magnitude of the base flood. In the case of Zones A1-A30, AE, A, A99, AO, AH, B, C, and X, "**ELEVATED BUILDING**" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters. In the case of Zones V1-V30, VE, or V, "elevated building" also includes a building otherwise meeting the definition of "elevated building," even though the area below is enclosed by means of breakaway-walls if the breakaway walls meet the standards of § 151.26(E).

EXISTING MANUFACTURED HOME PARK or MANUFACTURED HOME 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 street and either final site grading or the pouring of concrete pads) is completed before the effective date of this chapter.

EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION. The preparation of the 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 slabs).

FLOOD or FLOODING. A general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland or tidal waters; and,
- (2) The unusual and rapid accumulation of runoff of surface waters from any source.

FLOOD HAZARD BOUNDARY MAP (FHBM). An official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazard have been defined as Zone A.

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

FLOOD INSURANCE STUDY. The official report provided by the Federal Emergency Management Agency. The report contains flood profiles, as well as the Flood Boundary Floodway Map and the water surface elevation of the base flood.

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

FLOOR. The top surfaces of an enclosed area in a building (including basement), i.e., top of slab in concrete slab construction or top of wood flooring in wood frame construction. The term does not include the floor of a garage used solely for parking vehicles.

FUNCTIONALLY DEPENDENT FACILITY. A facility which cannot be used for its intended purpose unless it is located or carried out in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, ship repair, or seafood processing facilities. The term does not include long-term storage, manufacture, sales, or service facilities.

HISTORIC STRUCTURE. Any structure that is:

(1) Listed individually in the National Register of Historic Places (a listing maintained by the US Department of Interior) or preliminarily determined by the Secretary of Interior as meeting the requirements for individual listing on the National Register;

(2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

(3) Individually listed on a state inventory of historic places;

(4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified by an approved state program as determined by the Secretary of the Interior, or directly by the Secretary of Interior in states without approved programs.

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

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

LOWEST FLOOR. The lowest floor of the lowest unclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or storage in an area other than a basement area is not considered a building's lowest floor provided that such an enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this chapter.

MANUFACTURED HOME. A structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected 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.

MEAN SEA LEVEL. The average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within the floodplain. For purposes of this chapter, the term is synonymous with **NATIONAL GEODIC VERTICAL TATUM (NGVD)**

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

NEW CONSTRUCTION. Structures for which the "**START OF CONSTRUCTION**" commenced on or after the effective date of this chapter and includes any subsequent improvements to such structures.

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

NONCONFORMING BUILDING OR USE. Any legally existing building or use which fails to comply with the provisions of this chapter.

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 projection;
- (3) Designed to be self-propelled or permanently towable by a light duty truck; and
- (4) Designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel, or seasonal use.

REMEDY A VIOLATION. To bring the structure or other development into compliance with state or local floodplain management regulations, or, if this is not possible, to reduce the impacts of its noncompliance. Ways that impacts may be reduced include protecting the structure or other affected development from flood damages implementing the enforcement provisions of the ordinance or otherwise deterring future similar violations, or reducing federal financial exposure with regard to the structure or other development.

Bryson City - Land Usage

START OF CONSTRUCTION. (For other than new construction or substantial improvement, under the Coastal Barrier Resources Act (16 USC 3501 *et seq.*)), includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, or improvement was within 180 days of the permit data. The actual start means the first placement of permanent construction of a structure (including a manufactured home) on a site, such as the pouring of slabs or footings, installation of piles, construction of columns, or any work beyond the sewage of excavation or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations, or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of the building, whether or not that alteration affects the external dimensions of the building.

STRUCTURE. For floodplain management purposes, a walled and roofed building, a manufactured home, including a gas or liquid storage tank, or other man-made facilities or infrastructures that are principally above ground.

SUBSTANTIAL DAMAGE. Damage of any origin sustained by a structure whereby the cost if restoring the structure to its before damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred. See definition of "**SUBSTANTIAL IMPROVEMENT.**"

SUBSTANTIAL IMPROVEMENT. Any repair, reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure before the "**START OF CONSTRUCTION**" of the improvement. This term includes structures which have incurred "**SUBSTANTIAL DAMAGE,**" regardless of the actual repair work performed. The term does not, however, include either:

- (1) Any project of improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
- (2) Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

VARIANCE. A grant of relief to a person 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 the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in §§ 151.25 through 151.29 and 151.40 through 151.44 is presumed to be in violation until such time as that documentation is provided.

(`92 Code, § 91.05) (Ord. passed 8-6-90)

§ 151.06 LANDS TO WHICH THIS CHAPTER APPLIES.

This chapter shall apply to all areas of special flood hazard within the jurisdiction of the town.
(`92 Code, § 91.06) (Ord. passed 8-6-90)

§ 151.07 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD.

The areas of special flood hazard identified by the Federal Emergency Management Agency in its Flood Insurance Study dated June 4, 1984 with accompanying maps and other supporting data, and any revision thereto are adopted by reference and declared to be a part of this chapter.

(`92 Code, § 91.07) (Ord. passed 8-6-90)

§ 151.08 ESTABLISHMENT OF DEVELOPMENT PERMIT.

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

(`92 Code, § 91.08) (Ord. passed 8-6-90)

§ 151.09 COMPLIANCE.

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

(`92 Code, § 91.09) (Ord. passed 8-6-90)

§ 151.10 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.

(`92 Code, § 91.10) (Ord. passed 8-6-90)

§ 151.11 INTERPRETATION.

In the interpretation and application of this chapter all provisions shall be considered as minimum requirements; liberally construed in favor of the governing body; and deemed neither to limit nor repeal any other powers granted under state statutes.

(`92 Code, § 91.11) (Ord. passed 8-6-90)

§ 151.12 WARNING AND DISCLAIMER OF LIABILITY.

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

(`92 Code, § 91.12) (Ord. passed 8-6-90)