

8.1 Floodplain Management

D. PROVISIONS FOR FLOOD HAZARD REDUCTION

1. General Standards

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j. For all construction (residential and non-residential) and substantial improvements within, where allowed, or within 100' of the 1% annual chance (100-year) local or FEMA floodplain limits, the lowest floor (including basements), shall be elevated to two (2) feet above the base flood elevation

A registered professional engineer, architect, or land surveyor shall submit a FEMA Elevation Certificate to the Floodplain Administrator as described in the permit procedures, section 8.1 (C)(3)

k. Filling or the disposal of any materials which will diminish the natural floodplain storage capacity of any waterway or floodplain defined by this ordinance must be compensated with remedial action. Any reduction in floodplain storage or conveyance capacity within the 1% (i.e. 100-Year) floodplain must be offset with a hydraulically equivalent (one-to-one) volume of mitigation sufficient to offset the reduction. Such mitigation shall be within the same watershed and shall be provided on the same property or within the same hydrologic sub-watershed or at an alternate site meeting the approval of the Floodplain Administrator."

l. The landowner shall sign City prepared letter acknowledging the risks in building within the floodplain, acknowledging the possible delay in emergency response to the site, and agreeing to indemnify the City of Boerne against damages resulting from flooding on the owner's property or subject site.

m. All new construction (residential and commercial), or substantial improvements, within the floodplain shall require a no-rise/no-impact certification as described in Chapter 5 of the Engineering Design Manual (EDM). This requirement may be waived by the Floodplain Administrator for open style fences, additions to existing buildings within a conveyance shadow, or other minor improvements that the Floodplain Administrator determines will be insignificant to the floodplain.

n. The Floodplain Administrator may deny a permit for new or substantially improved habitable structures if the project site or vicinity has a history of high-water rescues, repetitive losses, or other historical flooding issues.

o. Depending on the proposed design and the building type, the applicant must meet all FEMA requirements related to crawl space, enclosures, openings, etc. Reference the FEMA NFIP Elevation Certificate and Instructions, 2019 Edition or subsequent updates.

2. Specific standards for A & AE zones

In all areas of special flood hazards where base flood elevation data has been provided as set forth in this Chapter, the following provisions are required:

a. Residential or Other Habitable Construction

- i. New platted lots shall comply with 8.1(D)(3)
- ii. New Construction of a habitable primary dwelling on existing platted lot, platted prior to February 11, 2020, shall have the lowest floor (including basement), elevated to a minimum of two feet above the base flood elevation together with all HVAC and supporting mechanical, electrical, and sanitary facilities. Construction must be in compliance with the above General Standards, 8.1(D)(1).
- iii. Modifications (additions, redevelopment, etc.) and substantial improvements of existing habitable structure, shall have the lowest floor (including basement), elevated to a minimum of two feet above the base flood elevation together with all HVAC and supporting mechanical, electrical, and sanitary facilities. Construction must be in compliance with the above General Standards, 8.1(D)(1).
Where allowed by zoning, new Accessory Dwelling Unit (ADU) structures, other than rebuilding activity of existing structures damaged due to flood or fire damage, within the 1% annual chance (100-year) local and FEMA floodplain limits is not allowed.

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g. Mixed Use Construction

- i. Where allowed by zoning, new mixed use (habitable and commercial, parking garage, etc.) structure may be constructed under the following conditions:
 - (a) Parking garages cannot accept surface flow from outside the structure.
 - (b) Construction must be in compliance with the above General Standards, 8.1(D)(1).

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9. Critical Facilities

Construction of critical facilities (see definition in appendix A) shall be, to the extent possible, located outside the limits of the 0.2% annual chance (500-year) flood plain (Shaded Zone X) and any "A" Zone. Construction of new critical facilities shall be permissible within the base flood plain if no feasible alternative site is available.

- a. Construction of critical facilities on land located in the 0.2% (500-year) flood plain or within the 1 percent or 100-year flood plain shall have the lowest floor elevated to three feet or more above the 0.2% annual chance (500- year) elevation, or twenty-four (24) inches above the crown of the adjacent road, which ever results in a higher elevation.

- b. Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters.
- c. Access routes elevated to or above the level of the base flood shall be provided to all critical facilities to the extent possible.

10. Materials Storage

The following uses are prohibited within a designated floodplain:

- a. Storage or processing of materials that are hazardous, flammable, or explosive in the identified special flood hazard area.
- b. Storage of material or equipment that, in time of flooding, could become buoyant and pose an obstruction to flow in identified floodway areas.

Storage of material or equipment not otherwise prohibited shall be firmly anchored to prevent flotation. Dumpsters shall be located in an enclosure designed to withstand flood conditions. The enclosure shall be constructed to prevent the dumpster from becoming buoyant and a flood hazard. Dumpsters used during construction activities shall be anchored or located in an enclosure.

11. Severability.

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

12. Penalties for Noncompliance.

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this ordinance and other applicable regulations. Violation of the provisions of this ordinance by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$1,000 for each violation, and in addition shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent the City of Boerne from taking such other lawful action as is necessary to prevent or remedy any violation.

Appendix A: Definitions

Critical Development: Critical development is that which is critical to the community's public health and safety, is essential to the orderly functioning of a community, stores or produces highly volatile, toxic or water-reactive materials, or houses occupants that may be insufficiently mobile to avoid loss of life or injury. Examples of critical development include jails, hospitals, schools, daycare facilities, public electric utilities, fire stations, emergency operation centers, police facilities, nursing homes, wastewater treatment facilities, water plants, gas/oil/propane storage facilities, hazardous waste handling and storage facilities and other public equipment storage facilities.

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, equals or exceeds twenty-five percent (25%) of the market value of the structure before such damage occurred.

If any nonconforming use or structure is substantially damaged or experiences a repetitive loss, as defined in this ordinance, it shall not be reconstructed except in conformity with the provisions of this ordinance.

497. **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 percent of the market value of the structure before the damage occurred. Substantial damage also means flood related damage sustained by a structure on two (2) separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before such damage occurred.

498. **Substantial improvement:** Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before "start of construction" of the improvement. This term includes structures which have incurred "repetitive loss" or "substantial damage", regardless of the actual repair work performed. When the combined total of all improvements or repairs made after the adoption of this ordinance equals or exceeds 50 percent of a structure's market value, that structure is considered to be substantially improved. The term does not, however, include either:

- (1) Any project for 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 Permitting and Code Compliance 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."
- (3) Ordinary maintenance and repairs, not part of larger project.