

TITLE XV: LAND USEAGE

Chapter

150. PLANNING AND ZONING

151. FLOOD DAMAGE PREVENTION

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CHAPTER 150: Planning and Zoning

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GENERAL PROVISIONS

§ 150.01 Adoption of Plans.

The City's plans and provisions regarding land use, zoning, and subdivisions are laid out in a documents provided by a third party and are hereby incorporated herein by this reference as though fully set forth, and the adoption of the code or ordinances of the city shall include but not supersede such plans and provisions.

(Prior Code, § 2-1-1)

§ 150.02 Outdoor Smoking Shelters.

(A) An outdoor smoking shelter is:

(1) An attached addition to;

(2) Detached structure located on the same lot as a structure or an immediately adjacent lot which is used for retail alcoholic beverage sales; or

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(3) If attached structure has any doorway, they can be no closer than five feet from the existing structures doorway(s).

(B) Outdoor smoking shelters shall:

- (1) Comply with all provisions of the Building Code, as adopted, regardless of size;
 - (2) Have not more than 75% of the aggregate wall area enclosed. For purposes of this section, enclosed shall include areas that are enclosable by permanent or temporary doors, walls or windows;
 - (3) Not have more than two walls constructed of opaque material;
 - (4) Be lighted with appropriate weatherproof fixtures;
 - (5) Not be taller than the primary structure;
 - (6) Be aesthetically similar to the primary structure, except for transparent or open walls; and
 - (7) For all structures, a permit is required.
- (Prior Code, § 2-1-2) (Ord. 2011-07, passed 10-3-2011)

NUMBERING OF BUILDINGS

§ 150.15 Requirement of Numbering.

All buildings, industrial, commercial or residential, shall be numbered and the owners of the property shall place upon such buildings legible numbers.

(Prior Code, § 3-1-1)

Statutory reference:

Similar provisions, see SDCL § 9-45-2

§ 150.16 Numbering of Avenues.

The avenues running north from Cross Street shall be numbered odd on the east side starting with 101 and even on the west side starting with 102. The avenues running south from Cross Street shall be numbered even on the west side starting with 102 and odd on the east side starting with 101.

(Prior Code, § 3-1-2)

Statutory reference:

Similar provisions, see SDCL § 9-45-2

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§ 150.17 Numbering on Streets.

The streets running west starting from the state line shall be numbered even on the south side starting with 102 and odd on the north side starting with 101.

(Prior Code, § 3-1-3)

Statutory reference:

Similar provisions, see SDCL § 9-45-2

§ 150.18 Finance Officer Duties; Numbering of Buildings.

The Finance Officer, under the supervision of the City Council, shall designate upon application the proper number of each building or house. In the event that the owner of the property shall fail, neglect to or refuse to place said numbers on said building or house as herein provided, the city may cause the same to be supplied and placed at the expense of the owner thereof and include the same as a special assessment on said property upon the return of said Finance Officer showing that such numbering has been so done by the city.

(Prior Code, § 3-1-4)

Statutory reference:

Similar provisions, see SDCL § 9-45-2

§ 150.19 Placement of Numbers on Buildings.

The numbers to be placed upon the building or house shall be legible and of such sufficient size as to be easily read from the street in front of the building or house. The numbers shall be put above, to the right or to the left of the front entrance of the building or house, whichever area is the more feasible.

(Prior Code, § 3-1-5)

Statutory reference:

Similar provisions, see SDCL § 9-45-2

§ 150.20 Compliance Dates.

On existing buildings or houses, all numbers shall be put on by January 1, 1998. On new construction, numbering must be completed six months after the building permit is issued.

(Prior Code, § 3-1-6)

Statutory reference:

Similar provisions, see SDCL § 9-45-2

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CHAPTER 151: FLOOD DAMAGE PREVENTION

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GENERAL PROVISIONS

§ 151.01 Statutory Authorization.

(A) The legislature of the state has in SDCL Ch. 9-36 delegated the responsibility of local government units to adopt regulations designated to minimize flood losses. Therefore, the City Council ordains the following.

(B) The city elects to comply with the requirements of the National Flood Insurance Act of 2004 (Pub Law No. 90-488, as amended, being 42 U.S.C. §§ 4001 et seq.). The national flood insurance program, established in the aforesaid Act, provides that areas of the town having a special flood hazard be identified by the Federal Emergency Management Agency and that floodplain management measures be applied in such flood hazard areas. The national flood insurance program was broadened and modified with the passage of the Flood Disaster Protection Act of 1973 and other legislative measures. It was further modified by the National Flood Insurance Reform Act of 1994. The national flood insurance program is administered by the Federal Emergency Management Agency, a component of the U.S. Department of Homeland Security. (Ord. 2009-06, passed 11-2-2009)

§ 151.02 Finding of Fact.

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

(B) These flood losses are created by the cumulative effect of obstructions in floodplains which cause an increase in flood heights and velocities, and by the occupancy of flood hazards areas by uses vulnerable to floods and hazards to other lands because they are inadequately elevated, floodproofed or otherwise protected from flood damage. (Ord. 2009-06, passed 11-2-2009)

§ 151. 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 do to flood conditions in specific areas by provisions designed to:

(A) Protect human life and health;

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

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

(D) Minimize prolonged business interruptions;

(E) 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) 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 future flood blight areas; and

(G) Ensure that potential buyers are notified that property is in a flood area.

(Ord. 2009-06, passed 11-2-2009)

§ 151.04 Methods of Reducing Flood Losses.

In order to accomplish its purpose, this chapter uses the following methods:

(A) Restrict or prohibit uses that are dangerous to health, safety or property in times of flood, or cause excessive increases 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 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.

(Ord. 2009-06, passes 11-2-2009)

§ 151.05 Definitions.

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

Alluvial Fan flooding. Flooding occurring on the surface of an alluvial fan or similar landform which originates at the apex and is characterized by high-velocity flows; active processes of erosion, sediment transport and deposition; and unpredictable flow paths.

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Apex. A point on an alluvial fan or similar landform below which the flow path of the major stream that formed the fan becomes unpredictable and alluvial fan flooding can occur.

Area of Shallow Flooding. A designated AO, AH or AO zone on a community's flood insurance rate map (FIRM) with a 1% chance or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Area of Special Flood Hazard. The land in the floodplain within a community subject to a 1% or greater chance of flooding in any given year. The area may be designated a Zone A on the flood hazard boundary map (FHBM). After detailed ratemaking has been completed in preparation for publication of the FIRM, Zone A usually is redefined into Zones A, AE, AH, AO, A1-99, VO, V1-30, VE or V.

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

Base Flood Elevation (BFE). The water surface elevation of the 1% annual chance of flood. The height in relation to mean sea level expected to be reached by the waters of the base flood at pertinent points in the floodplains of coastal and riverine areas.

Basement. An area of the building having its floor sub-grade (below ground level) on all sides.

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

Development. Any human-made change in improved and 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 built, in the case of a building in Zones A1-30, AE, A, A99, AO, AH, B, C, X, and D, to have the top of the elevated floor, or in the case of a building in Zones V1-30, VE or V, to have the bottom of the lowest horizontal structure member of the elevated floor elevated above the ground level by means of pilings, columns (posts and piers) or shear walls parallel to the flow of the water; and adequately anchored so as not to impart the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of Zones A1-30, AE, A, A99, AO, AH, B, C, X and D, **Elevated Buildings** 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 V1-30, VE or V, **Elevated Building** also includes a building otherwise meeting the definition of **Elevated Building**, even though the lower areas is enclosed by means of the breakaway walls met the standards of 44 C.F.R. § 60.3(e)(5).

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Existing Construction. For the purposes of determining rates, structures for which the “start of construction” commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date. ***Existing Construction*** may also be referred to as “existing structures.”

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

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).

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; or
- (2) The unusual and rapid accumulation of runoff of surface water from any source.

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 hazards 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, water surface elevation of the base flood, as well as the flood boundary floodway map.

Floodplain or Flood-Prone Area. Any land area susceptible to being inundated by water from any source (see definition of flooding).

Floodplain Management. The operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and floodplain management regulations.

Floodplain Management Regulations. Zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance and erosion control ordinance) and other applications of law enforcement power. The team describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

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Flood Protection System. Those physical structural works for which funds have been authorized appropriated, and expanded and which have been constructed specifically to modify flooding in order to reduce the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

Flood Proofing. Any combination of structural and non-structural additions, changes or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures, and their contents.

Floodway (Regulatory 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 a designated height.

Functionally Dependent Use. A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

Highest Adjacent Grade. The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Historic Structure. Any structure that is:

- (1) Listed individually in the National Register of Historical Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the 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 in states which historic preservation programs which have been approved by the Secretary of Interior; or
- (4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - (a) By an approved state program as determined by the Secretary of the Interior; or
 - (b) Directly by the Secretary of the Interior in states without programs.

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Levee. A human-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.

Levee System. A flood protection system which consists of a levee or levees and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

Lowest Floor. The **Lowest Floor** of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking or vehicles, building access or storage in an area other than a basement area is not considered a building's **Lowest Floor**; provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirement of 44 C.F.R. § 60.3(e)(5)

Manufactured Home. A structure transported in on or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. 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. For purposes of the national flood insurance program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's flood insurance rate map are referenced.

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

New Manufactured Home Park or Subdivision. A manufactured home park or subdivision for which the construction of facilities for serving 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 grade or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.

Recreational Vehicle. A vehicle which is:

- (1) Built in a single chassis;

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- (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 a temporary living quarters for recreation, camping or seasonal use.

Start of Construction. Includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement or other improvement construction of a structure on a site, such as the pouring of 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 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. A walled and roofed building, including a gas or liquid storage tank, that is principally aboveground, as well as a manufactured home.

Substantial Damage. Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damage 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 or exceeds 50% of the market value of the structure before “start of construction” of the improvement. This includes structures which have incurred substantial damage, regardless of the actual repair work performed. 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 code enforcement official and which are the minimum necessary conditions; or
- (2) Any alteration of a historic structure that the alteration will not preclude the structure’s continued designation as a historic structure.

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Variance. A grant of relief to a person from the requirement of this chapter when specific enforcement would result in necessary hardship. A **Variance** therefore, permits construction or development in a manner otherwise prohibited by this chapter. (For full requirements, see § 60.6 of the national flood insurance program regulations.)

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 44 C.F.R. § 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(4) or (e)(5) is presumed to be in **Violation** until such time as that documentation is provided.

Water Surface Elevation. The height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.
(Ord. 2009-06, passed 11-2-2009)

§ 151.06 Lands to Which This Chapter Applies.

This chapter shall apply to all areas of special flood hazard within the jurisdiction of the city.
(Ord. 2009-06, passed 11-2-2009)

§ 151.07 Basis for Establishing the Areas of Special Flood Hazard.

The area of special flood hazard identified by the Federal Emergency Management Agency in a scientific and engineering report entitled "The Flood Insurance Study for Big Stone City, South Dakota," dated November 4, 2009, with accompanying flood insurance rate maps and flood boundary floodway maps (FIRM and FBFM) and any revisions thereto are hereby adopted by reference and declared to be a part of this chapter.
(Ord. 2009-06, passed 11-2-2009)

§ 151.08 Establishment of Development Permit.

A development permit shall be required to ensure conformance with the provisions of this chapter.
(Ord. 2009-06, passed 11-2-2009)

§ 151.09 Compliance.

No structure or land shall hereafter be located, altered or have its use changed without full compliance with the terms of this chapter and other applicable regulations.
(Ord. 2009-06, passed 11-2-2009) Penalty, see § 151.99

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§ 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 ordinance, easement, covenant or deed restriction conflicts or overlaps, whichever imposes the more stringent restrictions shall prevail.

(Ord. 2009-06, passed 11-2-2009)

§ 151.11 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; and

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

(Ord. 2009-06, passed 11-2-2009)

§ 151.12 Warning and Disclaimer or Liability.

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. On the rare occasions, greater floods can and will occur and flood heights may be increased by human-made or natural causes. This chapter does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damage. This chapter shall not create liability on the part of the community or any official or employee thereof for any flood damage that results from reliance on this chapter or any administrative decision lawfully made thereunder.

(Ord. 2009-06, passed 11-2-2009)

Administration

§ 151.25 Designation of the Floodplain Administrator.

The zoning administrative official is hereby appointed the Floodplain Administrator to administer and implement the provisions of this chapter and other appropriate sections of C.F.R. Table 44 (national flood insurance program regulations) pertaining to floodplain management.

(Ord. 2009-06, passed 11-2-2009)

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§ 151.26 Duties and Responsibilities of the Floodplain Administrator.

The duties and responsibilities of the Floodplain Administrator shall include, but not be limited to, the following:

- (A) Maintain and hold open for public inspection all records pertaining to the provisions of this chapter;
- (B) Review permit application to determine whether proposed building site, including the placement of manufactured homes, will reasonably safe from flooding;
- (C) Review, approve or deny all applications for development permits required by adoption of this chapter;
- (D) Review permits for proposed development to assure that all necessary permits have been obtained from those federal, state and local government agencies (including § 404 of the Federal Water Pollution Control Act Amendment of 1972, 33 U.S.C. § 1334) from which prior approval is required;
- (E) Where interpretation is needed as to the exact location of the boundaries of the areas or special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the Floodplain Administrator shall make the necessary interpretation;
- (F) Notify, in riverine situations, adjacent communities and the State Coordinating Agency prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency;
- (G) Assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained; and
- (H) When base flood elevation data has not been provided in accordance with § 151.07 of this chapter, the Floodplain Administrator shall obtain, review and reasonably utilize any base flood elevation data and floodway data available from a federal, state or other source, in order to administer the provisions of §§ 151.40 through 151.43 of this chapter.
(Ord. 2009-06, passed 11-2-2009)

§ 151.27 Permit Procedures.

(A) An application for a development permit shall be presented to the Floodplain Administrator on forms furnished by him or her and may include, but not limited to, plans in duplicate drawn to scale showing the location, dimensions and elevation of proposed landscape alterations, existing and proposed structures, including the placement of manufactured homes, and the location of the foregoing in relation to areas of special flood hazard. Additionally, the following information is required:

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(1) Elevation (In relation to means sea level), of the lowest floor (including basement) of all new substantially improved structures;

(2) Elevation in relation to mean sea level to which any non-residential structure shall be floodproofed;

(3) A certificate from a registered professional engineer or architect that the non-residential floodproofed structure shall meet the floodproofing criteria of § 151.41(B) (2) of this chapter;

(4) Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development; and

(5) Maintain a record of all such information in accordance with § 151.26(A) of this subchapter.

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

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

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

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

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

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

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

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

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

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

(10) The relationship of the proposed use to the Comprehensive Plan for the area.
(Ord. 2009-06, passed 11-2-2009)

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§ 151.28 Variance Procedures.

(A) The Appeal Board as established by the community shall hear and render judgement on requests for a variance from the requirements of this chapter.

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

(C) Any person or persons aggrieved by the decision of the Appeal Board may appeal such decision in the courts of competent jurisdiction.

(D) The Floodplain Administrator shall maintain a record of all actions involving an appeal and shall report variances to the Federal Emergency Management Agency upon request.

(E) Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the relevant factors in § 151.27 of this subchapter have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.

(F) Upon consideration of the factors noted above and the intent of this chapter, the Appeal Board may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this chapter (§ 151.03 of this chapter).

(G) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

(H) Variances 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 a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

(I) Prerequisites for granting variances:

(1) Variances shall only be issued upon a determination that variance is the minimum necessary, considering the flood hazard, to afford relief;

(2) Variances shall only be issued upon;

(a) Showing a good and sufficient cause;

(b) A determination that failure to grant the variance would result in exceptional hardship to the applicant; and

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(c) A determination that the granting of a variance will not result in increased flood heights, additional threats to the public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

(3) Any application to whom a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the base flood elevation, and that the cost of flood insurance will be commensurate with the increased risk from the reduced lowest floor elevation.

(J) Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:

(1) The criteria outlined in divisions (A) through (I) above are met; and

(2) The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

(Ord. 2009.06, passed 11-2-2009)

Provisions For Flood Hazard Reduction

§ 151.40 General Standards.

In all areas of special flood hazards, the following provisions are required for all new construction and substantial improvements.

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

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

(C) All new construction or substantial improvements shall be constructed with materials resistant to flood damage.

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

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(E) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.

(F) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from the system into flood waters.

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

(Ord. 2009-06, passed 11-2-2009)

§ 151.41 Specific Standards.

In all areas of special flood hazards where base flood elevation data has been provided as set forth in §§ 151.07, 151.26(H) or 151.42(C), the following provisions are required.

(A) *Residential construction.* New construction and substantial improvement of any residential structure shall have the lowest floor (Including basement), elevated to or above the base flood elevation. A registered professional engineer, architect or land surveyor shall submit a certification to the Floodplain Administrator that the standard of this division (A) as proposed in § 151.27 of this chapter is satisfied.

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

(C) *Manufactured homes.* Require that all manufactured homes to be placed within Zone A on a community's FHBM or FIRM shall be installed using methods and practices which minimize flood damage. For the purpose of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse or lateral movement. Methods of anchoring may include, but not limited to, over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.

(Ord. 2009-06, passed 11-2-2009)

Big Stone City - Land Usage

§ 151.22 Standards for Subdivision Proposals.

(A) Review subdivision proposals and other development, including manufactured home parks or subdivisions, to determine whether such proposals will be reasonably safe from flooding. If a subdivision or other development proposal is in a flood-prone area, assure that such proposals minimize flood damage.

(B) Base flood elevation data shall be generated for subdivision proposals and other proposed development including the placement of manufactured home parks and subdivisions which is greater than 50 lots or five acres, whichever is lesser, if not otherwise provided pursuant to §§ 151.07 or 151.26(H) or this chapter.

(C) All subdivision proposals including the placement of manufactured home parks and subdivisions shall have adequate drainage provided to reduce exposure to flood hazards.

(D) All subdivisions proposals including the placement of manufactured home parks and subdivisions shall have public utilities and facilities, such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.

(Ord. 2009-06, passed 11-2-2009)

§ 151.43 Violation.

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

(Ord. 2009-06, passed 11-2-2009) Penalty, see § 151.00

§ 151.99 Penalty.

Any violation of the provisions of this chapter 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 chapter or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$500 or imprisoned for not more than 30 days, or both, for each violation, and in addition, shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent the city from taking such other lawful action as is necessary to prevent or remedy any violation. (Ord. 2009-06, passed 11-2-2009)