



# Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

Fax (503) 378-5518

[www.lcd.state.or.us](http://www.lcd.state.or.us)

## NOTICE OF ADOPTED AMENDMENT

December 22, 2006

TO: Subscribers to Notice of Adopted Plan or Land Use Regulation Amendments

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: City of Dallas Plan Amendment  
DLCD File Number 005-06



The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. Copies of the adopted plan amendment are available for review at DLCD offices in Salem, the applicable field office, and at the local government office.

Appeal Procedures\*

**DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: January 4, 2007**

This amendment was submitted to DLCD for review prior to adoption with less than the required 45-day notice. Pursuant to ORS 197.830 (2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

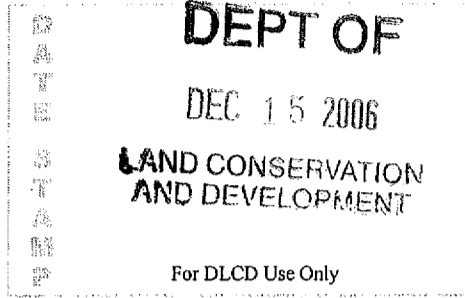
**\*NOTE: THE APPEAL DEADLINE IS BASED UPON THE DATE THE DECISION WAS MAILED BY LOCAL GOVERNMENT. A DECISION MAY HAVE BEEN MAILED TO YOU ON A DIFFERENT DATE THAN IT WAS MAILED TO DLCD. AS A RESULT YOUR APPEAL DEADLINE MAY BE EARLIER THAN THE DATE SPECIFIED ABOVE.**

Cc: Gloria Gardiner, DLCD Urban Planning Specialist  
Jason Locke, DLCD Regional Representative  
Christine Valentine, Dlcd Natural Hazards & Floodplains Specialist  
Jerry Wyatt, City of Dallas

<paa> ya/

**FROM 2 Notice of Adoption**

THIS FORM **MUST BE MAILED** TO DLCD  
**WITHIN 5 WORKING DAYS AFTER THE FINAL DECISION**  
PER ORS 197.610, OAR CHAPTER 660 - DIVISION 18



Jurisdiction: CITY OF DALLAS Local file number: DDC 2-06  
Date of Adoption: DECEMBER 4, 2006 Date Mailed: DECEMBER 14, 2006  
Date original Notice of Proposed Amendment was mailed to DLCD: AUGUST 28, 2006

- Comprehensive Plan Text Amendment
- Land Use Regulation Amendment
- New Land Use Regulation
- Comprehensive Plan Map Amendment
- Zoning Map Amendment
- Other: \_\_\_\_\_

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached".  
Update to the Dallas Development Code, Development Standards, Floodplain changes,  
and add Adult Entertainment code.

Describe how the adopted amendment differs from the proposed amendment. If it is the same, write "SAME".  
If you did not give Notice for the Proposed Amendment, write "N/A".  
Same

Plan Map Changed from: \_\_\_\_\_ to: \_\_\_\_\_  
Zone Map Changed from: \_\_\_\_\_ to: \_\_\_\_\_  
Location: \_\_\_\_\_ Acres Involved: \_\_\_\_\_  
Specify Density: Previous: \_\_\_\_\_ New: \_\_\_\_\_  
Applicable Statewide Planning Goals: 1, 2  
Was and Exception Adopted?  YES  NO

DLCD File No.: 005-06 (15505)

Did the Department of Land Conservation and Development receive a Notice of Proposed Amendment.....

**Forty-five (45) days prior to first evidentiary hearing?**  Yes  No

If no, do the statewide planning goals apply?  Yes  No

If no, did Emergency Circumstances require immediate adoption?  Yes  No

Affected State or Federal Agencies, Local Governments or Special Districts:

City of Dallas

Local Contact: Jerry Wyatt Phone: (503) 831 - 3565 Extension:

Address: 187 SE Court Street City: Dallas

Zip Code + 4: 97338- Email Address: jerry.wyatt@ci.dallas.or.us

### ADOPTION SUBMITTAL REQUIREMENTS

This form **must be mailed** to DLCD **within 5 working days after the final decision**  
per ORS 197.610, OAR Chapter 660 - Division 18.

1. Send this Form and TWO (2) Copies of the Adopted Amendment to:

**ATTENTION: PLAN AMENDMENT SPECIALIST  
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT  
635 CAPITOL STREET NE, SUITE 150  
SALEM, OREGON 97301-2540**

2. Submit **TWO (2) copies** the adopted material, if copies are bounded please submit **TWO (2) complete copies** of documents and maps.

3. Please Note: Adopted materials must be sent to DLCD not later than **FIVE (5) working days** following the date of the final decision on the amendment.

4. Submittal of this Notice of Adoption must include the text of the amendment plus adopted findings and supplementary information.

5. The deadline to appeal will not be extended if you submit this notice of adoption within five working days of the final decision. Appeals to LUBA may be filed within **TWENTY-ONE (21) days** of the date, the Notice of Adoption is sent to DLCD.

6. In addition to sending the Notice of Adoption to DLCD, you must notify persons who participated in the local hearing and requested notice of the final decision.

7. **Need More Copies?** You can copy this form on to 8-1/2x11 green paper only; or call the DLCD Office at (503) 373-0050; or Fax your request to:(503) 378-5518; or Email your request to **mara.ulloa@state.or.us** - ATTENTION: PLAN AMENDMENT SPECIALIST.

ORDINANCE NO.1670

An Ordinance Amending Chapter 3.11 of the Dallas Development Code, regarding Floodplain Management.

Whereas, after due notice and public hearing, the Dallas Planning Commission recommended to the City Council that it adopt certain amendments to the Floodplain Management Chapter of the Dallas Development Code; and

Whereas, after due notice and public hearing, the City Council, by motion duly made and seconded, accepted the Planning Commission's recommendation and voted to amend the Floodplain Management Chapter of the Dallas Development Code in the manner set forth below. NOW, THEREFORE,

THE CITY OF DALLAS DOES ORDAIN AS FOLLOWS:

Section 1. DDC Chapter 3.11 is amended by adding the following section thereto:

**"3.11.15 Definitions.**

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application.

APPEAL means a request for a review of the interpretation of any provision of this ordinance or a request for a variance.

AREA OF SHALLOW FLOODING means a designated AO, or AH Zone on the Flood Insurance Rate Map (FIRM). The base flood depths range from one to three feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and, velocity flow may be evident. AO is characterized as sheet flow and AH indicates ponding.

AREA OF SPECIAL FLOOD HAZARD means the land in the flood plain within a community subject to a one percent or greater chance of flooding in any given year. Designation on maps always includes the letters A or V.

BASE FLOOD means the flood having a one percent chance of being equaled or exceeded in any given year. Also referred to as the "100-year flood." Designation on maps always includes the letters A or V.

BASEMENT means any area of the building having its floor subgrade (below ground level) on all sides.

CRITICAL FACILITY means 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.

**DEVELOPMENT** means 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 located within the area of special flood hazard.

**ELEVATED BUILDING** means for insurance purposes, a nonbasement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, post, piers, pilings, or columns.

**EXISTING MANUFACTURED HOME PARK OR SUBDIVISION** means a manufactured home park 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 adopted floodplain management regulations.

**EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION** means 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** means 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/or*
- (2) The unusual and rapid accumulation of runoff of surface waters from any source.

**FLOOD INSURANCE RATE MAP (FIRM)** means the official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

**FLOOD INSURANCE STUDY** means the official report provided by the Federal Insurance Administration that includes flood profiles, the Flood Boundary-Floodway Map, and the water surface elevation of the base flood.

**FLOODWAY** means 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.

**LOWEST FLOOR** means the lowest floor of the lowest enclosed 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 enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance found at Section 5.2-1 (2)

MANUFACTURED HOME means 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" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

NEW CONSTRUCTION means structures for which the "start of construction" commenced on or after the effective date of this ordinance.

NEW MANUFACTURED HOME PARK OR SUBDIVISION means 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 adopted floodplain management regulations.

RECREATIONAL VEHICLE means a vehicle which is:

- (a) Built on a single chassis;
- (b) 400 square feet or less when measured at the largest horizontal projection;
- (c) Designed to be self-propelled or permanently towable by a light duty truck; and
- (d) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, 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, placement or other 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 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, or foundations or the erection of temporary forms; nor does it include the installation of the property or 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 means a walled and roofed building including a gas or liquid storage tank that is principally above ground.

SUBSTANTIAL DAMAGE means 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 IMPROVEMENT means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either:

- (1) Before the improvement or repair is started; or
- (2) If the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition "substantial improvement is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

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 to assure safe living conditions or

(2) Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

VARIANCE means a grant of relief from the requirements of this ordinance which permits construction in a manner that would otherwise be prohibited by this ordinance.

WATER DEPENDENT means a structure for commerce or industry which cannot exist in any other location and is dependent on the water by reason of the intrinsic nature of its operations."

Section 2. The date "December 1, 1986" in DDC 3.11.20 is hereby changed to "December 19, 2006".

Section 3. DDC 3.11.30(2) is amended to read as follows:

"(2) **Floodway development prohibited.** Except for public utilities and transportation facilities, development within the floodway is prohibited. For public utilities and transportation facilities, the city will prohibit encroachments, including fill, new construction, substantial improvements, and other development unless certification by a registered professional civil engineer is provided demonstrating through hydrological and hydraulic analyses performed in accordance with standard engineering practice that encroachments shall not result in any increase in flood levels during the occurrence of the base flood. If the no-rise requirement is satisfied then public utilities and transportation facilities shall comply with all applicable flood hazard reduction provisions of this Chapter."

Section 4. The word "resist", in DDC 3.11.50(1) is changed to "prevent".

Section 5. DDC 3.11.60(5) is amended by adding the following sentence there to:  
"Failure to elevate at least 2 feet above grade in these zones may result in higher insurance rates."

Section 6. DDC 3.11.60(6)(b) is amended by adding a subsection thereto as follows:  
"iv) Below-grade crawl spaces are allowed subject to the standards in FEMA Technical Bulletin 11-02."

Section 7. DDC 3.11.60(7)(a) is amended to read as follows: "(a) Have the lowest floor, including basement, elevated one foot above the base flood elevation, below-grade crawlspaces are allowed subject to the standards in FEMA Technical Bulletin 11-02; or,"

Section 8. The citation "DDC 3.11.60(9)" is changed to "DDC 3.11.60(10)", and a replacement for DDC 3.11.60(9) shall be added as follows:

"(9) **Recreational Vehicles.** Recreational vehicles placed within the floodplain are required to either: (a) Be on the site for fewer than 180 consecutive days, (b) Be fully licensed and ready for highway use, 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 elevation and anchoring requirements for manufactured homes."

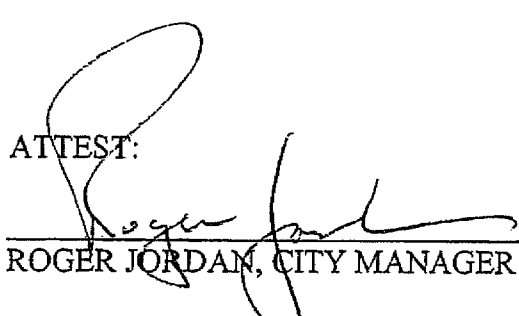
Section 9. DDC 3.11.90(1) is amended to read as follows:

"(1) Notify the Department of Land Conservation and Development, Polk County, and adjacent communities prior to any alteration or relocation of a watercourse and submit evidence of the notification to the Federal Insurance Administration."

Read for the first time: November 20, 2006  
Read for the second time: December 4, 2006  
Passed by the City Council: December 4, 2006  
Approved by the Mayor: December 4, 2006

  
JAMES B. FAIRCHILD, MAYOR

ATTEST:

  
ROGER JORDAN, CITY MANAGER



## **CHAPTER 3.11 – FLOOD PLAIN MANAGEMENT**

### **3.11.10 PURPOSE.**

The purpose of this chapter is to retain floodplains and designated riparian corridors in their natural condition, and to enhance the functions and values of floodplains and riparian corridors where reasonably possible. This chapter:

- (1) Ensures City compliance with Statewide Planning Goal 7 (Natural Disasters and Hazards), and minimizes potential damage to life, property and water quality.
- (2) Promotes public health, safety, and general welfare; and minimizes public and private losses due to flood conditions in specific areas.
- (3) In order to accomplish these purposes, this Chapter includes methods and provisions for:
  - (a) Restricting or prohibiting uses that are dangerous to health, safety, and property due to water or erosion hazards, or that can result in damaging increases in erosion or in flood heights or velocities.
  - (b) Requiring that uses vulnerable to floods, including facilities that serve such uses, be protected against flood damage at the time of initial construction.
  - (c) Controlling the alteration of natural floodplains, stream channels, and stream corridors that help accommodate or channel flood waters and protect fish and wildlife habitat.
  - (d) Control filling, grading, dredging, and other development that may increase flood damage or reduce the functions and values provided by stream corridors and wetlands.
  - (e) Preventing or regulating the construction of flood barriers that will unnaturally divert flood waters or that may increase flood hazards in other areas; and
  - (f) Establishing variance criteria.

### **3.11.20 APPLICABILITY.**

This chapter applies to the 100-Year floodplain and floodway. The 100-year floodplain and floodway are areas of special flood hazard identified in "The Flood Insurance Study, Polk County, Oregon, and Incorporated Areas," dated ~~December 19, 2006~~ (or as subsequently amended), with accompanying Flood Insurance Maps. The Flood Insurance Study is on file at the Department of Community Development.

- (1) **Disclaimer.** The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur. Flood heights may be increased by man-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 damages. This chapter shall not create liability on the part of the City, any officer or employee of the City for any flood damages that result from reliance on this chapter or any administrative decision lawfully made under them.
- (2) **Interpretations.** The Development Official shall administer and implement this chapter by granting or denying development permit applications in accordance with its provisions. The Development Official shall make interpretations, where needed, as to exact location of the boundaries of the areas of special flood hazards. A person contesting the location of the boundary shall bear the burden of demonstrating why the official floodplain map is in error.

### **3.11.30 DEFINITIONS.**

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application.

**APPEAL** means a request for a review of the interpretation of any provision of this ordinance or a request for a variance.

**AREA OF SHALLOW FLOODING** means a designated AO or AH Zone on the Flood Insurance Rate Map (FIRM). The base flood depths range from one to three feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and velocity flow may be evident. AO is characterized as sheet flow and AH indicates ponding.

**AREA OF SPECIAL FLOOD HAZARD** means the land in the flood plain within a community subject to a one percent or greater chance of flooding in any given year. Designation on maps always includes the letters A or V.

**BASE FLOOD** means the flood having a one percent chance of being equaled or exceeded in any given year. Also referred to as the "100-year flood." Designation on maps always includes the letters A or V.

**BASEMENT** means any area of the building having its floor subgrade (below ground level) on all sides.

**CRITICAL FACILITY** means 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.

**DEVELOPMENT** means 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 located within the area of special flood hazard.

**ELEVATED BUILDING** means, for insurance purposes, a nonbasement building which has its lowest elevated floor, not above ground level, by foundation walls, shear walls, posts, piles, pilings, or columns.

**EXISTING MANUFACTURED HOME PARK OR SUBDIVISION** means a manufactured home park or subdivision for which the construction of facilities for servicing the lots for which the manufactured homes are to be sited (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 adopted floodplain management regulations.

**EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION** means 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** means a general and temporary condition of partial or complete inundation of normally dry land areas from:

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

**FLOOD INSURANCE RATE MAP (FIRM)** means the official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

**FLOOD INSURANCE STUDY** means the official report provided by the Federal Insurance Administration that includes flood profiles, the Flood Boundary-Floodway Map, and the water surface elevation of the base flood.

**FLOODWAY** means 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.

**LOWEST FLOOR** means the lowest floor of the lowest enclosed 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 enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance found at Section 52.11.02.

**MANUFACTURED HOME** means 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** means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

**NEW CONSTRUCTION** means structures for which the start of construction commenced on or after the effective date of this ordinance.

**NEW MANUFACTURED HOME PARK OR SUBDIVISION** means 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 adopted floodplain management regulations.

**RECREATIONAL VEHICLE** means a vehicle which is:

- (a) Built on a single chassis;
- (b) 400 square feet or less, when measured at the largest horizontal projection;
- (c) Designed to be self-propelled or permanently towable by a light-duty truck; and
- (d) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

**START OF CONSTRUCTION** means a substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other 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 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 or foundations, or the erection of temporary forms; nor does it include the installation of the primary structure of buildings, such as garages or sheds, not occupied as dwelling units or 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** means a walled and roofed building including a gas or liquid storage tank that is principally above ground.

**SUBSTANTIAL DAMAGE** means 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 IMPROVEMENT** means any repair, reconstruction, or improvement of a structure the cost of which equals or exceeds 50 percent of the market value of the structure either:

- (1) Before the improvement or repair is started; or
- (2) If the structure has been damaged and is being restored, before the damage occurred. For the purpose of this definition, substantial improvement is considered to occur whenever the alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not the alteration affects the external dimensions of the structure.

The term does not, however, include either:

- (a) Any work for improvement that is necessary to correct existing violations of state or local health, safety or other building codes that 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 structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

**VARIANCE** means a grant of relief from the requirements of this ordinance which permits construction in a manner that would otherwise be prohibited by this ordinance.

**WATER DEPENDENT** means a structure for commerce or industry which cannot exist in any other location and is dependent on the water by reason of the intrinsic nature of its operations.

### 3.11.40 REVIEW PROCEDURES.

- (1) **Floodplain Development.** Applications for development within the 100-year floodplain shall be reviewed by the Development Official under Type I procedure.
  - (a) All floodplain applications shall be subject to the Type I Development Review.
  - (b) Adjustments to floodplain regulations shall not be permitted.
  - (c) Variance applications shall be reviewed by the Commission under the Type III procedure. Property owners entitled to notice shall be notified in writing, prior to the public hearing, that such a variance may have the cumulative effect of:
    - i) Increasing premium rates for insurance.
    - ii) Increasing risks to life and property.
    - iii) If a variance is approved by the City, documentation of the reasons for the variance shall be reported to the Federal Insurance Administration of the Department of Housing and Urban Development.
- (2) **Floodway development prohibited.** Except for public utilities and transportation facilities, development within the floodway is prohibited. For public utilities and transportation facilities, the city will prohibit encroachments including all new construction, substantial improvements, and other development unless certification by a registered professional civil engineer as provided demonstrating through hydrological and hydraulic analyses performed in accordance with standard engineering practice that encroachments shall not result in any increase in flood levels during the occurrence of the base flood. If the no-rise requirement is satisfied, then public utilities and transportation facilities shall comply with all applicable flood hazard reduction provisions of this Chapter.

### 3.11.50 INFORMATION REQUIRED FOR FLOODPLAIN OR RIPARIAN DEVELOPMENT PROPOSALS.

**Floodplain Development.** In addition to meeting the informational requirements specified in Chapter 3.2, Development Review, the required site plan shall indicate the location of the designated floodplain and floodway. Specifically, the following information is required:

- (1) Elevation in relation to mean sea level of the lowest floor, including basement, of all structures;
- (2) Elevation in relation to mean sea level to which a structure has been flood-proofed;
- (3) Certification by a registered professional engineer, surveyor, or architect that the flood-proofing methods for a nonresidential structure meet the flood-proofing criteria in Section 3.11.60(7); and
- (4) Description of the extent to which a watercourse will be altered or relocated as a result of proposed development.

### **3.11.60 FLOODPLAIN REVIEW CRITERIA.**

Vegetation removal, grading, construction, reconstruction, alteration, or placement of a manufactured dwelling on any lot or parcel of land within the 100-year floodplain shall be avoided. If considered to be approved, such development shall:

- (1) Be designed and anchored to ~~resist prevent~~ flotation, collapse or lateral movement due to flooding and constructed of materials and utility equipment that are resistant to flood damage.
- (2) Be constructed utilizing methods and practices that will minimize flood damage and be provided adequate drainage in order to reduce exposure to flood hazards.
- (3) Be located to completely avoid the floodway.
- (4) Be located so that public utilities and facilities on the site are constructed to minimize or eliminate flood damage including sewer, gas, electrical and water systems.
- (5) Result in no net loss in flood storage capacity. Proposed development will not, if inundated, create flood hazards to the health, safety, or welfare of area inhabitants or associated property.
- (6) Not alter the flow or depth of surface water so as to endanger the health, safety or welfare of neighboring residents.
- (7) Not endanger existing or proposed water supply and sewage disposal systems during periods of inundation.
- (8) Be designed such that the lowest floor of any permanent structure shall be at least one foot above the 100-year flood for that area.
- (9) Avoid alteration of stream courses.

### **3.11.70 FLOODPLAIN DEVELOPMENT STANDARDS.**

- (1) **Anchoring.**
  - (a) All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.
  - (b) All manufactured homes must be anchored to prevent flotation, collapse, or lateral movement, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors (Reference FEMA's "Manufactured Home Installation in Flood Hazard Areas" guidebook for additional techniques).
- (2) **Construction Materials and Methods.**
  - (a) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
  - (b) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.
  - (c) Electrical, heating, ventilation, plumbing, and air-conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located to prevent water from entering or accumulating within the components during conditions of flooding.
- (3) **Utilities.**
  - (a) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
  - (b) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters.
  - (c) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
- (4) **Land Division Proposals.**

- (a) All land division proposals shall be consistent with the need to minimize flood damage.
  - (b) All land division proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
  - (c) All land division proposals shall have adequate drainage provided to reduce exposure to flood damage.
  - (d) If base flood elevation data has not been provided or is not available from another authoritative source, it shall be generated for land division proposals and other proposed developments that contain at least 50 lots or five acres, whichever is less.
- (5) **Review of Building Permits.**
- (a) If elevation data is not available either through the Flood Insurance Study or from another authoritative source, applications for building permits shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgment and includes use of historical data, high water marks, photographs of past flooding, etc., where available. ~~Failure to elevate at least two feet above grade in these zones may result in higher insurance rates.~~
- (6) **Residential Standards.** New construction and substantial improvement of a residential structure shall:
- (a) Have the lowest floor, including basement, elevated one foot above the base flood elevation.
  - (b) Prohibit fully enclosed areas below the lowest floor that are subject to flooding, unless designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:
    - i) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
    - ii) The bottom of all openings shall be no higher than one foot above grade.
    - iii) Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
    - iv) ~~Below-grade crawlspaces are allowed subject to the standards in FEMA Technical Bulletin 1-02.~~
- (7) **Nonresidential Construction.** New construction and substantial improvement of a commercial, industrial, or other nonresidential structure shall either:
- (a) Have the lowest floor, including basement, elevated one foot above the base flood elevation, ~~Below-grade crawlspaces are allowed subject to the standards in FEMA Technical Bulletin 1-02;~~ or,
  - (b) Together with attendant utility and sanitary facilities, shall:
    - i) Be flood-proofed so that the structure is watertight below the base flood level, with walls substantially impermeable to the passage of water.
    - ii) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; or
    - iii) Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection based on their development and/or review of the structural design, specifications, and plans.
  - (c) The certifications shall be provided to the official as set forth in Section 3.11.40(3).
  - (d) Nonresidential structures that are elevated, not flood-proofed, must meet the same standards for space below the lowest floor as described in Section 3.11.60(6)(b).

- (e) Applicants flood-proofing nonresidential buildings shall be notified that flood insurance premiums will be based on rates that are one foot below the flood-proofed level, e.g., a building constructed to the base flood level will be rated as one foot below that level.
- (8) **Manufactured Homes.** All manufactured homes to be placed or substantially improved within Zones A1-30, AH, and AE shall be elevated on a permanent foundation so that the lowest floor of the manufactured home is one foot above the base flood elevation and be securely anchored to an adequately anchored foundation system in accordance with the provisions of Section 3.11.60(1).
- (9) **Recreational vehicles.** Recreational vehicles placed within the floodplain are required to either: (a) Be on the site for fewer than 180 consecutive days; (b) Be fully licensed and ready for highway use, on its block or jacking system, is attached to the site only by quick disconnect type utility and security devices, and has no permanently attached additions; or (c) meet the elevation and anchoring requirements for manufactured homes.
- (10) **Encroachments.** A proposed development shall be analyzed to determine effects on the flood carrying capacity of the areas of special flood hazard as set forth in Section 3.11.50.

### 3.11.80 VARIANCES WITHIN A FLOODPLAIN.

Any variance from the floodplain standards of this Code shall be discouraged. On rare occasions, unusual hardship may exist which leads the Commission to consider a variance application.

- (1) **Floodway Variances.** Variances shall not be issued within a designated floodway if an increase in flood levels during the base flood discharge would result.
- (2) **Variance Process.** Variances shall be processed under Type III procedure and must also meet the criteria stated in Chapter 3.5 of this Code.
- (3) **Specific Floodplain Criteria.** The following additional variance approval criteria must be satisfied:
  - (a) **No Increase in Flood Elevation.** The applicant's engineer shall certify that the variance will not result in increased flood elevations, increased flood hazard to the public or decreased water quality in affected streams.
  - (b) **Mitigation.** The applicant shall agree in writing to perform such mitigation measures as may be required by the City.
  - (c) **Other Factors.** In determining whether to approve a variance, the Commission shall consider all technical evaluations, relevant factors, standards specified in other sections, and may also consider:
    - (a) The danger that materials may be swept onto other lands to the injury of others;
    - (b) The danger to life and property due to flooding or erosion damage;
    - (c) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
    - (d) The importance of the services provided by the proposed facility to the community;
    - (e) The necessity to the facility of a waterfront location and the availability of alternative locations for the proposed use that are not subject to flooding or erosion damage;
    - (f) The compatibility of the proposed use with existing and anticipated development;
    - (g) The relation of the proposed use to the comprehensive plan and flood plain management program for that area;
    - (h) The safety of access to the property in times of flood for ordinary and emergency vehicles.
- (5) **Conditions.** The Commission may attach conditions to any approved variance where necessary to ensure compliance with variance approval criteria.



### **3.11.90 DATA.**

- (1) **Use of Other Base Flood Data.** When base flood elevation data has not been provided in accordance with Section 3.11.20, the Development Official shall obtain, review, and reasonably use any base flood elevation and floodway data available from a Federal, State, or other source in order to administer this chapter.
- (2) **Information to be Obtained and Maintained.**
  - (a) The applicant shall be responsible for obtaining and providing the actual elevation, in relation to mean sea level, of the lowest floor, including basement, of all new or substantially improved structures, whether or not the structure contains a basement.
  - (b) For all new or substantially improved flood-proofed structures, the Development Official shall:
    - i) Verify and record the actual elevation, in relation to mean sea level.
    - ii) Maintain the flood-proofing certifications; and
    - iii) Maintain for public inspection all records pertaining to the provisions of this Code.
- (3) **Appeal Records.** The Development Official shall maintain the records of appeals and report variances to the Federal Insurance Administration upon request. An applicant to whom a variance is granted shall be given written notice that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

### **3.11.100 ALTERATION OF WATER COURSES.**

Alteration of water courses (streams) shall be prohibited, except in emergency situations. Should such an alteration occur, the Development Official shall:

- (1) Notify the ~~Department of Land Conservation and Development~~, Polk County, and adjacent communities prior to any alteration or relocation of a watercourse and submit evidence of the notification to the Federal Insurance Administration.
- (2) Require that maintenance is provided within the altered or relocated portion of the watercourse so that the flood carrying capacity is not diminished.