

Chapter 42 - FLOODS

ARTICLE I. - IN GENERAL

Secs. 42-1—42-30. - Reserved.

ARTICLE II. - FLOOD DAMAGE PREVENTION

DIVISION 1. - GENERALLY

Sec. 42-31. - Statutory authorization.

The general assembly of the state has in G.S. §§ 7-148 and 7-194 authorized municipalities to adopt regulations designed to promote the public health, safety and general welfare of its citizenry.

(Code 1967, § 4-15; Ord. No. 08-6, 9-15-2008)

Sec. 42-32. - Findings of fact.

- (a) The flood hazard areas of the town are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.
- (b) These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazards which increase flood heights and velocities and, when inadequately anchored, damage uses in other areas. Uses that are inadequately floodproofed, elevated or otherwise protected from flood damage also contribute to the flood loss.

(Code 1967, § 4-16; Ord. No. 08-6, 9-15-2008)

Sec. 42-33. - Purpose.

- (a) *Generally.* It is the purpose of this article to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:
 - (1) Protect human life and health;
 - (2) Minimize expenditure of public money for costly flood control projects;
 - (3) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

- (4) Minimize prolonged business interruptions;
 - (5) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of special flood hazard;
 - (6) Help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;
 - (7) Ensure that potential buyers are notified that property is in an area of special flood hazard; and
 - (8) Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.
- (b) *Methods of reducing flood losses.* In order to accomplish its purpose, this article includes methods and provisions for:
- (1) Restricting or prohibiting uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
 - (2) Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
 - (3) Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel floodwaters;
 - (4) Controlling filling, grading, dredging, and other development which increase flood damage; and
 - (5) Preventing or regulating the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards in other areas.

(Code 1967, § 4-17; Ord. No. 08-6, 9-15-2008)

Sec. 42-34. - Definitions.

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

Appeal means a request for a review of the town planning and zoning commission's interpretation of any provision of this article or a request for a variance.

Area of special flood hazard means the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year (100-year flood area).

Base flood means the flood having a one percent chance of being equaled or exceeded in any given year (100-year storm).

Base flood elevation (BFE) means the elevation of the crest of the base flood or 100-year 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 means any area of the building having its floor subgrade (below ground) on all sides.

Building means structure.

Cost means, as related to substantial improvements, the cost of any reconstruction, rehabilitation, addition, alteration, repair or other improvement of a structure shall be established by a detailed written contractor's estimate. The estimate shall include, but not be limited to: the cost of materials (interior finishing components, structural components, utility and service equipment); sales tax on materials; building equipment and fixtures, including heating and air conditioning and utility meters; labor; built-in appliances; demolition and site preparation; repairs made to damaged parts of the building worked on at the same time; contractor's overhead; contractor's profit; and grand total. Items to be excluded include: cost of plans and specifications; survey costs; permit fees; outside improvements such as septic systems, water supply wells, landscaping, sidewalks, fences, yard lights, irrigation systems, and detached structures such as garages, sheds, and gazebos.

Development means any manmade change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment and materials, located within the area of special flood hazard.

Federal Insurance Administration means the Federal Insurance Administration or its successor for the purposes of the National Flood Insurance Program, which is the Federal Emergency Management Agency.

Federal Emergency Management Agency (FEMA) means the federal agency that administers the National Flood Insurance Program (NFIP).

Flood and flooding mean a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland water; and/or
- (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 Emergency Management Agency (FEMA) has delineated both the areas of the special flood hazards and the risk premium zones applicable to the community, as well as base flood elevations at selected locations.

Flood insurance study (FIS) means the official report provided by the Federal Emergency Management Agency (FEMA) that includes flood profiles, flood insurance rate maps, the water surface elevation of the base flood, and other flood data.

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.

Functionally dependent use or facility means a use or facility that 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. The term does not include seafood processing facilities, long-term storage, manufacturing, sales or service facilities.

Highest adjacent grade (HAG) means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Historic structure means any structure that is:

- (1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of the 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 historic 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 with historic preservation programs which have been approved by the Secretary of the 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 if the State of Connecticut does not have such an approved state program.

Lowest floor means the lowest floor of the lowest enclosed area (including basement).

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" also includes park trailers, travel trailers, recreational vehicles and other similar vehicles placed on a site for greater than 180 consecutive days.

Market value means the value of the structure shall be determined by an independent appraisal by a professional appraiser prior to the start of the initial repair or improvement, or in the case of damage, the value of the structure prior to the damage occurring.

Mean sea level (MSL) means the North American Vertical Datum (NAVD) of 1988 or other datum, to which base flood elevations shown on a community's flood insurance rate map (FIRM) are referenced.

New construction means structures or substantial improvements for which the "start of construction" commenced on or after the effective date of this article, and includes any subsequent improvements to such structures or substantial improvements.

Person aggrieved means a person aggrieved by a decision of a board or commission and includes any officer, department, board or bureau of the town charged with enforcement of any order, requirement or decision of the board or commission. "Aggrieved person" includes any person owning land that abuts or is within a radius of 100 feet of any portion of the land involved in the decision of the board or commission.

Recreational vehicle means a vehicle which is:

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

Special flood hazard area (SFHA) means the Area of Special Flood Hazard. SFHAs are determined utilizing the base flood elevations (BFE) provided on the flood profiles in the flood insurance study (FIS) for a community. BFEs provided on the flood insurance rate map (FIRM) are only approximate (rounded up or down) and should be verified with the BFEs published in the FIS for a specific location. SFHAs include, but are not necessarily limited to, the land shown as Zones A and AE on a FIRM.

Start of construction means the first placement of permanent construction of a structure including a manufactured home, on a site, such as the pouring of slabs or footings, installation of piles, construction of columns, or any work beyond the stage of excavation or 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 excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation of streets and/or walkways; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not as part of the main structure. For a structure without a basement or poured footings, the "start of construction" includes the first permanent framing or assembly of the structure or any part thereof on its piling or foundation. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor or any 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 that is principally above ground, a manufactured (mobile) home, or a gas or liquid storage tank.

Substantial damage means 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 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, exclusive of land value, either (i) before the improvement or repair is started; or (ii) 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 comply with existing state or local health, sanitary, or safety code specifications which have been identified by a town code enforcement officer, which are solely 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 article which permits construction in a manner that would otherwise be prohibited by this article.

Violation means a failure of a structure or other development to be fully compliant with the community's floodplain management ordinance. A structure or other development without required permits, lowest floor elevation documentation, floodproofing certificates or required floodway encroachment calculations is resumed to be in violation until such time as that documentation is provided.

Water surface elevation means the height, in relation to the North American Vertical Datum (NAVD) of 1988 or other datum, where specified, of floods of various magnitudes and frequencies in the floodplains of riverine areas.

(Code 1967, § 4-18; Ord. No. 08-6, 9-15-2008)

Sec. 42-35. - Land to which this article applies.

This article shall apply to all areas of special flood hazards within the jurisdiction of the town.

(Code 1967, § 4-19; Ord. No. 08-6, 9-15-2008)

Sec. 42-36. - Basis for establishing the areas of special flood hazard.

The areas of special flood hazard identified by the Federal Emergency Management Agency (FEMA) in a scientific and engineering report entitled, "The Flood Insurance Study for Hartford County, Connecticut", dated September 26, 2008 with accompanying flood insurance rate maps dated September 26, 2008 and any other supporting data, and any subsequent revision thereto, is hereby adopted by reference and declared to be part of this article. Mapping, legally incorporated by reference herein, shall be deemed conclusive until and unless amended or revised by FEMA. The flood insurance study is on file at the office of the town clerk, Town of Enfield, Town Hall, 820 Enfield Street, Enfield, Connecticut.

(Code 1967, § 4-20; Ord. No. 03-3, 5-5-2003; Ord. No. 08-6, 9-15-2008)

Sec. 42-37. - Compliance.

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

(Code 1967, § 4-21; Ord. No. 08-6, 9-15-2008)

Sec. 42-38. - Abrogation and greater restrictions.

This article is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this article and another ordinance provision, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

(Code 1967, § 4-22; Ord. No. 08-6, 9-15-2008)

Sec. 42-39. - Interpretation and severability.

In the interpretation and application of this article, all provisions shall be:

- (1) Considered as minimum requirements;
- (2) Liberally construed in favor of the governing body;
- (3) Deemed neither to limit nor repeal any other powers granted under state statutes; and
- (4) If upon interpretation and/or application, any section, provision, or portion of this article is adjudged unconstitutional or invalid by a court, the remainder of the article shall not be affected.

(Code 1967, § 4-23; Ord. No. 08-6, 9-15-2008)

Sec. 42-40. - Warning and disclaimer of liability.

The degree of flood protection required by this article is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This article 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 article shall not create liability on the part of the town, any officer or employee thereof, or the Federal Insurance Administration, for any flood damages that result from reliance on this article or any administrative decision lawfully made thereunder.

(Code 1967, § 4-24; Ord. No. 08-6, 9-15-2008)

Sec. 42-41. - Establishment of development permit.

A development permit shall be obtained before construction or development begins within any area of special flood hazard established in section 42-36. Application for a development permit shall be made on forms furnished by the town planning and zoning commission and may include, but not be limited to: plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities; and the location of the foregoing. 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 any structure has been floodproofed;
- (3) Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in subsection 42-82(2);
- (4) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

(Code 1967, § 4-25; Ord. No. 08-6, 9-15-2008)

Sec. 42-42. - Violations; penalties.

Violation of the provisions of this article or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall constitute a misdemeanor. Any person who violates this article or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$250.00 per day if proven done willfully and \$100.00 per day if not, or imprisoned for not more than ten days for each day of violation, or both, and in addition, shall pay all costs and reasonable legal fees involved in the case. Nothing herein contained shall prevent the town from taking such other lawful action as is necessary to prevent or remedy any violation.

(Code 1967, § 4-32; Ord. No. 08-6, 9-15-2008)

Secs. 42-43—42-60. - Reserved.

DIVISION 2. - ADMINISTRATION

Sec. 42-61. - Planning and zoning commission—Designated to implement article.

The planning and zoning commission shall administer and implement this article by granting or denying development permit applications in accordance with its provisions.

(Code 1967, § 4-26; Ord. No. 08-6, 9-15-2008)

Sec. 42-62. - Same—Duties and responsibilities.

Duties of the planning and zoning commission shall include, but not be limited to:

- (1) *Permit review.*
 - a. Review all development permits to determine that the permit requirements of this article have been satisfied.
 - b. Review all development permits to determine that all necessary permits have been obtained from those federal, state or local governmental agencies from which prior approval is required.
 - c. Review all development permits to determine if the proposed development adversely affects the flood-carrying capacity of the area of special flood hazard. For purposes of this article, "adversely affects" means that the cumulative effect of the proposed development when combined with all other existing and anticipated development will not increase the water surface elevation of the base flood more than one foot at any point.
- (2) *Use of other base flood data.* When base flood elevation data has not been provided in accordance with subsection 42-36, basis for establishing the areas of special flood hazard, the planning and zoning commission shall obtain, review, and reasonably utilize any base flood elevation data available from a federal, state or other source, in order to administer subsection 42-82(1), specific standards, residential construction, and subsection 42-82(2), specific standards, nonresidential construction.
- (3) *Information to be obtained and maintained.*
 - a. Obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures;

- b. For all new or substantially improved floodproofed structures:
 - 1. Verify and record the actual elevation (in relation to mean sea level); and
 - 2. Maintain the floodproofing certifications required in subsection 42-41(c).
- c. Maintain for public inspection all records pertaining to the provisions of this article.

(4) *Alteration of watercourses.*

- a. Notify adjacent communities and the department of environmental protection prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration;
- b. Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.

(5) *Interpretation of FIRM boundaries.* Make interpretations where needed, as to the exact location of the boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in section 42-63.

(Code 1967, § 4-27; Ord. No. 08-6, 9-15-2008)

Sec. 42-63. - Variance and appeal procedure.

- (a) Any person aggrieved by the decision of the planning and zoning commission, or any taxpayer, may appeal such decision to the superior court, as provided in Chapter 124, Section 8-8, of the General Statutes of Connecticut (G.S. § 8-8).
- (b) The planning and zoning commission shall maintain the records of all appeal actions and report any variances to the Federal Insurance Administration upon request.
- (c) Variances shall not be issued within any designated regulatory floodway if any increase in flood levels during the base flood discharge will result.
- (d) The issuance of a variance to construct a structure below the base flood elevation will result in increased premium rates for flood insurance up to amounts as high as \$25.00 for \$100.00 of insurance coverage. Such construction below the base flood elevation increases risks to life and property. Such notification shall be maintained with a record of all variance actions.

(Code 1967, § 4-28; Ord. No. 08-6, 9-15-2008)

Secs. 42-64—42-80. - Reserved.

DIVISION 3. - FLOOD HAZARD REDUCTION

Sec. 42-81. - General standards.

In all areas of special flood hazards the following standards are required:

- (1) *Anchoring.* All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.
- (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. All new construction and 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.
- (3) *Utilities.*
 - a. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system;
 - b. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharge from the systems into floodwaters; and
 - c. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
- (4) *Subdivision proposals.*
 - a. All subdivision proposals shall be consistent with the need to minimize flood damage;
 - b. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;
 - c. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and
 - d. Base flood elevation data shall be provided for subdivision proposals and other proposed development which contain at least 50 lots or five acres, whichever is less.
- (5) *Manufactured homes.* Manufactured (i.e., mobile) homes are prohibited for any use

both temporary and permanent within all areas of special flood hazard due to the public safety threats associated with placing such structures in these areas.

- (6) *Recreational vehicles.* Recreational vehicles placed on sites within Zones A1-30, AH and AE shall either:
 - a. Be on the site for fewer than 180 consecutive days;
 - b. Be fully licensed and ready for highway use. (A recreational vehicle is ready for highway use if it is 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 all the general standards of this section and the requirements of section 42-82.
- (7) *Aboveground storage tanks.* Above-ground storage tanks (oil, propane, etc.) which are located outside or inside of the structure must either be elevated above the base flood elevation (BFE) on a concrete pad, or be securely anchored with tie-down straps to prevent flotation or lateral movement, have the top of the fill pipe extended above the BFE, and have a screw fill cap that does not allow for the infiltration of floodwater.
- (8) *Portion of structure in flood zone.* If any portion of a structure lies within the Special Flood Hazard Area (SFHA), the entire structure is considered to be in the SFHA. The entire structure must meet the construction requirements of the flood zone. The structure includes any attached additions, garages, decks, sunrooms, or any other structure attached to the main structure. Decks or porches that extend into a more restrictive flood zone will require the entire structure to meet the standards of the more restrictive zone.
- (9) *Structures in two flood zones.* If a structure lies within two or more flood zones, the construction standards of the most restrictive zone apply to the entire structure (i.e., A zone is more restrictive than X zone; structure must be built to the highest BFE). The structure includes any attached additions, garages, decks, sunrooms, or any other structure attached to the main structure. (Decks or porches that extend into a more restrictive zone will require the entire structure to meet the requirements of the more restrictive zone.)
- (10) *No structures entirely or partially over water.* New construction cannot be constructed or located entirely or partially over water unless it is a functionally dependent use or facility.

(Code 1967, § 4-29; Ord. No. 08-6, 9-15-2008)

Sec. 42-82. - Specific standards.

In all areas of special flood hazards where base flood elevation data has been provided as set forth in section 42-36, basis for establishing the areas of special flood hazard or subsection 42-62(2), use of other base flood data, the following provisions are required:

- (1) *Residential construction.* New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to at least one foot above the base flood elevation.
- (2) *Nonresidential construction.* New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated to at least one foot above the base flood elevation; or, together with attendant utility and sanitary facilities, shall:
 - a. Be floodproofed so that below one foot above the base flood level, the structure is watertight with walls substantially impermeable to the passage of water;
 - b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
 - c. Be certified by a registered professional engineer or architect that the standards of this subsection are satisfied. Such certifications shall be provided to the official as set forth in subsection 42-62(3)b.
- (3) *Water-holding capacity.* The water-holding capacity of the floodplain shall not be reduced. Any reduction caused by structures, improvements, filling, regarding, and any other form of development of land shall be compensated by deepening and/or widening of the floodplain. Storage shall be provided on site unless easements have been gained from adjacent property owners; it shall be a volume not previously used for flood storage and shall be hydraulically comparable and incrementally equal to the theoretical volume of floodwater at each elevation, up to and including the 100-year flood elevation, which would be displaced by the proposed project. Such compensatory volume shall have an unrestricted hydraulic connection to the same waterway or water body.
- (4) *Encroachments.* Within the floodplain as designated on the maps, all encroachments, including fill, new construction, substantial improvements to existing structures, and any other development are prohibited unless certification by a registered professional engineer is provided by the applicant demonstrating that such encroachment shall not result in any (0.00) increase in flood levels (base flood elevation). Work within the bordering land subject to flooding, including work to provide the above specified compensatory storage shall not restrict flows so as to cause an increase in flood stage or velocity.

Sec. 42-83. - Floodways.

Located within areas of special flood hazard established in section 42-36 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles and erosion potential, the following provisions apply:

- (1) Prohibit encroachments, including fill, new construction, substantial improvements, and any other development unless it has been demonstrated through hydrologic and hydraulic analysis performed in accordance with standard engineering practices that encroachments shall not result in any (0.00) increase in flood levels during the occurrence of the base flood discharge.
- (2) In areas where a regulatory floodway has not been designated, the planning and zoning commission shall select and adopt a regulatory floodway based on the principle that the area chosen for the regulatory floodway must be designed to carry the waters of the base flood, without increasing the water surface elevation of that flood by more than one foot at any point.
- (3) In A1-30, AE, or AH zones where base flood elevations have been determined, but before a floodway is designated, no new construction, substantial improvement, or other development (including fill) shall be permitted which will increase base flood elevations more than one foot at any point along the watercourse when all anticipated development is considered cumulatively with the proposed development.
- (4) If subsection (1) of this section is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of this division.

(Code 1967, § 4-31; Ord. No. 08-6, 9-15-2008)