

# Powers & Duties

## B. Plan Commission Powers:

1. Hire, remove, and determine job descriptions for support staff with the Department of Development.
2. Establish advisory committees as necessary made up of Town officials and the general public.
3. Seek funding assistance through grant programs as necessary.
4. Distribute copies or summaries of the Comprehensive Plan or Unified Development Ordinance to the general public and development community.
5. Determine the compensation for support staff and members as provided within the budget submission to Town Council.
6. Other powers as permitted by Indiana State Code.

### 1.030 Summary of Duties; Board of Zoning Appeals

The duties of the Board of Zoning Appeals are described below. Duties should be interpreted as activities that are obligations.

#### A. Board of Zoning Appeals Duties:

1. Hear and determine appeals from, and review any order, requirement, decision, or determination made by an administrative official or commission (except the Plan Commission) charged with the enforcement of the Unified Development Ordinance.
2. Authorize exceptions to the zoning district and overlay district regulations only in the classes of uses or in particular situations as specified in this Unified Development Ordinance.
3. Authorize, on appeal in specific cases, variances from the terms of the zoning code.
4. Interpret the Official Zoning Map.
5. Other duties as permitted by Indiana State Code.

### 1.031 Summary of Duties; Floodplain Standards Variance and Appeals Board

The duties of the Floodplain Standards Variance and Appeals Board are described below. Duties should be interpreted as activities that are obligations.

#### A. Floodplain Standards Variance & Appeals Board Duties:

1. *Floodplain Standards Appeals:* The Board of Zoning Appeals shall hear and decide Floodplain Standards Appeals when it is alleged an error in any requirement, decision, or determination is made by the Floodplain Administrator in the enforcement or administration of *Article 05; §FP: Floodplain Standards*.
2. *Floodplain Standards Variances:* The Board of Zoning Appeals shall hear and decide Floodplain Standards Variance petitions of the requirements of *Article 05; §FP: Floodplain Standards*.

### 1.032 Summary of Duties; Department of Development

The duties delegated by the Plan Commission to the Department of Development are described below. Duties should be interpreted as activities that are obligations.

#### A. Department of Development Duties:

1. Maintain a Town Council approved Comprehensive Plan and Unified Development Ordinance as authorized under Indiana State Law.
2. Maintain rules and procedures for holding meetings, holding public hearings, and administering and enforcing the Comprehensive Plan, and Unified Development Ordinance.
3. Maintain complete records of all meetings, hearings, correspondences, and affairs of the Plan Commission.
4. Publish and make available to the public all plans, ordinances, and other related material that are the responsibility of the Plan Commission.
5. Maintain a permitting process and seal used to certify official or approved documents.
6. Maintain monetary and fiscal records of the Plan Commission.
7. Prepare and submit an annual budget to the Town Council.
8. Other duties that may be delegated from time to time.

## 1.033 Summary of Duties; Floodplain Administrator

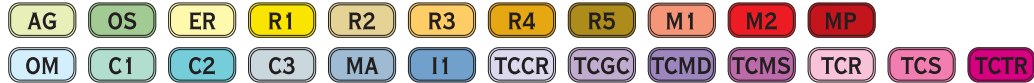
The duties delegated to the Floodplain Administrator are described below. Duties should be interpreted as activities that are obligations.

- A. **Enforcement:** The Floodplain Administrator and/or designated staff is hereby authorized and directed to enforce the provisions of *Article 05; §FP: Floodplain Standards*.
- B. **Interpretations:** The Floodplain Administrator is further authorized to render interpretations of *Article 05; §FP: Floodplain Standards* and *Article 07; §FL: Floodplain Standards* that are consistent with its spirit and purpose.
- C. **Duties of the Floodplain Administrator:** The duties of the Floodplain Administrator shall include, but not be limited to:
  1. Review all Floodplain Development Permits to assure that the permit requirements of the Unified Development Ordinance have been satisfied;
  2. Inspect and inventory damaged structures in Special Flood Hazard Areas (SFHA) and complete substantial damage determinations;
  3. Ensure that construction authorization has been granted by the Indiana Department of Natural Resources for all development projects subject to *Article 05; §FP-01(D)(3): Critical Facility* and *§D(5): Standards for Identified Fringe*, and maintain a record of such authorization (either copy of the actual Permit for Construction in a Floodway or floodplain analysis/regulatory assessment);
  4. Ensure that all necessary federal or State permits have been received prior to issuance of the local Floodplain Development Permit. Copies of such federal or State permits are to be maintained on file with the Floodplain Development Permit;
  5. Notify adjacent communities and the State Floodplain Coordinator prior to any alteration or relocation of a watercourse, and submit copies of such notifications to the Federal Emergency Management Agency (FEMA);
  6. Maintain for public inspection and furnish upon request local Floodplain Development Permit documents, damaged structure inventories, substantial damage determinations, regulatory flood data, SFHA maps, Letters of Map Amendment (LOMA), Letters of Map Revision (LOMR), copies of Indiana Department of Natural Resources (DNR) permits and floodplain analysis and regulatory assessments (letters of recommendation), federal permit documents, and “as-built” elevation and floodproofing data for all buildings constructed subject to *Article 05; §FP: Floodplain Standards*;
  7. Utilize and enforce all Letters of Map Revision (LOMR) or Physical Map Revisions (PMR) issued by FEMA for the currently effective SFHA maps of the community;
  8. Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished;
  9. Verify and record the actual elevation of the lowest floor (including basement) of all new or substantially improved structures, in accordance with *Article 05; §FP-01(C)(2): Floodplain Development Permit Procedures*;
  10. Verify and record the actual elevation to which any new or substantially improved structures have been floodproofed, in accordance with *§FP-01(C)(2): Floodplain Development Permit Procedures*;
  11. Review certified plans and specifications for compliance;
  12. **Stop Work Orders:**
    - a. Upon notice from the Floodplain Administrator, work on any building, structure or premises that is being done contrary to the provisions of *Article 05; §FP: Floodplain Standards* or *Article 07; §FL: Floodplain Standards* shall immediately cease;
    - b. Such notice shall be in writing and shall be given to the owner of the property, or to his agent, or to the person doing the work, and shall state the conditions under which work may be resumed.

# Floodplain Standards (FP)

## 5.034 FP-01: Floodplain Standards

This Floodplain Standards section applies to the following zoning districts:



### A. Statutory Authorization, Findings of Fact, Purpose, and Objectives:

1. *Statutory Authorization:* The Indiana Legislature has in IC 36-7-4 granted the power to local government units to control land use within their jurisdictions. Therefore, the Town does hereby adopt the following floodplain management regulations.
2. *Findings of Fact:*
  - a. The flood hazard areas of the planning and zoning jurisdiction 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 floodplains causing increases in flood heights and velocities, and by the occupancy in flood hazard areas by uses vulnerable to floods or hazardous to other lands which are inadequately elevated, flood-proofed, or otherwise unprotected from flood damages.
3. *Statement of Purpose:* It is the purpose of §FP: *Floodplain Standards* to promote the public health, safety, and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:
  - a. Restrict or prohibit uses which are dangerous to health, safety, and property due to water or erosion hazards, which result in damaging increases in erosion or in flood heights or velocities;
  - b. Require that uses vulnerable to floods, including facilities that 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 that are involved in the accommodation of floodwaters;
  - d. Control filling, grading, dredging, and other development that may increase erosion or flood damage;
  - e. Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands; and
  - f. Make federally subsidized flood insurance available for structures and their contents in the planning and zoning jurisdiction of the Town by fulfilling the requirements of the National Flood Insurance Program.
4. *Objectives:* The objectives of §FP: *Floodplain Standards* are to:
  - a. Protect human life and health;
  - b. Minimize expenditure of public money for costly flood control projects;
  - 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 flood blight areas; and
  - g. Ensure that potential homebuyers are notified that property is in a flood area.
5. *Cross Reference:* See also Ordinance No. 081505: Stormwater Management Ordinance, as amended, for storm water and additional floodplain regulations.

### B. General Provisions:

1. *Lands to Which this Ordinance Applies:* Section FP: *Floodplain Standards* shall apply to all Special Flood Hazard Areas (SFHA) within the planning and zoning jurisdiction of the Town.
2. *Basis for Establishing Regulatory Flood Data:* The protection standard of §FP: *Floodplain Standards* is the regulatory flood. The best available regulatory flood data is listed below. Whenever a party disagrees

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with the best available data, the party submitting the detailed engineering study needs to replace existing data with better data and submit it to the Indiana Department of Natural Resources (DNR) for review and approval.

- a. The regulatory flood elevation, floodway, and fringe limits for the studied SFHAs of the planning and zoning jurisdiction of the Town shall be as delineated on the 100-year flood profiles in the Flood Insurance Study of Hamilton County and Incorporated Areas, dated February 19, 2003, and the corresponding Flood Insurance Rate Map (FIRM) dated February 19, 2003, as well as any future updates, amendments, or revisions, prepared by the Federal Emergency Management Agency (FEMA) with the most recent date.
  - b. The regulatory flood elevation, floodway, and fringe limits for each of the unstudied SFHAs of the planning and zoning jurisdiction of the Town delineated as an “A Zone” on the FIRM of Hamilton County and Incorporated Areas shall be according to the best data available as provided by the Indiana Department of Natural Resources.
3. *Establishment of Floodplain Development Permit:* A Floodplain Development Permit shall be required in conformance with the provisions of §FP: *Floodplain Standards* prior to the commencement of any development activities in Special Flood Hazard Areas.
  4. *Compliance:* No structure shall hereafter be located, extended, converted or structurally altered within the SFHA without full compliance with the terms of §FP: *Floodplain Standards* and other applicable regulations. No land or stream within the SFHA shall hereafter be altered without full compliance with the terms of §FP: *Floodplain Standards* and other applicable regulations.
  5. *Abrogation and Greater Restrictions:* Section FP: *Floodplain Standards* is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where §FP: *Floodplain Standards* and another ordinance conflict or overlap, whichever imposes the more stringent restrictions shall prevail.
  6. *Discrepancy between Mapped Floodplain and Actual Ground Elevations:*
    - a. In cases where there is a discrepancy between the mapped floodplain (SFHA) on the FIRM and the actual ground elevations, the elevation provided on the profiles shall govern.
    - b. If the elevation of the site in question is below the base flood elevation, that site shall be included in the SFHA and regulated accordingly.
    - c. If the elevation (natural grade) of the site in question is above the base flood elevation, that site shall be considered outside the SFHA and the floodplain regulations shall not be applied. The property owner should be advised to apply for a LOMA.
  7. *Interpretation:* In the interpretation and application of §FP: *Floodplain Standards* all provisions shall be:
    - a. Considered as minimum requirements;
    - b. Liberally construed in favor of the Town; and
    - c. Deemed neither to limit nor repeal any other powers granted under State statutes.
  8. *Warning and Disclaimer of Liability:* The degree of flood protection required by the Unified Development Ordinance is considered reasonable for regulatory purposes and is based on available information derived from engineering and scientific methods of study. Larger floods can and will occur on rare occasions. Therefore, the Unified Development Ordinance does not create any liability on the part of the Town, the Indiana Department of Natural Resources (DNR), or the State of Indiana, for any flood damage that results from reliance on the Unified Development Ordinance or any administrative decision made lawfully thereunder.
  9. *Penalties for Floodplain Standards Violation:* Failure to obtain a Floodplain Development Permit in the SFHA or failure to comply with the requirements of a Floodplain Development Permit or conditions of a Floodplain Standards Variance shall be deemed to be a violation of the Unified Development Ordinance. All violations shall be considered a common nuisance and be treated as such in accordance with the provisions of Article 10: *Enforcement & Penalties* of the Unified Development Ordinance. All violations shall be punishable by a fine not exceeding \$500.00.
    - a. A separate offense shall be deemed to occur for each day the violation continues to exist.

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- b. The Town shall inform the owner that any such violation is considered a willful act to increase flood damages and therefore may cause coverage by a Standard Flood Insurance Policy to be suspended.
  - c. Nothing herein shall prevent the Town from taking such other lawful action to prevent or remedy any violations. All costs connected therewith shall accrue to the person responsible.
- C. Administration:
1. *Designation of Administrator:* The Town Council hereby appoints the Director of Development to administer and implement the provisions of §FP: *Floodplain Standards* and is herein referred to as the “Floodplain Administrator.”
  2. *Floodplain Development Permit Procedures:* Application for a Floodplain Development Permit shall be made to the Floodplain Administrator on forms furnished by him or her prior to any development activities, and may include, but not be limited to, the following plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, earthen fill, storage of materials or equipment, drainage facilities, and the location of the foregoing. Specifically the following information is required:
    - a. Application Stage:
      - i. A description of the proposed development;
      - ii. Location of the proposed development sufficient to accurately locate property and structure in relation to existing roads and streams;
      - iii. A legal description of the property site;
      - iv. A site development plan showing existing and proposed development locations and existing and proposed land grades;
      - v. Elevation of the top of the lowest floor (including basement) of all proposed buildings. Elevation should be in National Geodetic Vertical Datum of 1929 (NGVD);
      - vi. Elevation (in NGVD) to which any nonresidential structure will be floodproofed; and
      - vii. Description of the extent to which any watercourse will be altered or related as a result of proposed development.
    - b. Construction Stage: Upon placement of the lowest floor; or floodproofing, it shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the NGVD elevation of the lowest floor or floodproofed elevation, as built. Said certification shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by the same. When floodproofing is utilized for a particular structure said certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. Any work undertaken prior to submission of the certification shall be at the permit holders’ risk. (The Floodplain Administrator shall review the lowest floor and floodproofing elevation survey data submitted.) The permit holder shall correct deficiencies detected by such review before any further work is allowed to proceed. Failure to submit the survey or failure to make said corrections required hereby, shall be cause to issue a Stop Work Order for the project.
- D. Provisions for Flood Hazard Reduction:
1. *General Standards:* In all SFHAs the following provisions are required:
    - a. New construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure;
    - b. Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable State requirements for resisting wind forces;
    - c. New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage below the flood protection grade (FPG);
    - d. New construction and substantial improvements shall be constructed by methods and practices that minimize flood damage;

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- e. Electrical, heating, ventilation, plumbing, air conditioning equipment and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;
  - f. New and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system;
  - g. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the system;
  - h. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding;
  - i. Any alteration, repair, reconstruction or improvements to a structure that is in compliance with the provisions of *§FP: Floodplain Standards* shall meet the requirements of “new construction” as contained in *§FP: Floodplain Standards*; and
  - j. Any alteration, repair, reconstruction or improvement to a structure that is not in compliance with the provisions of *§FP: Floodplain Standards* shall be undertaken only if said nonconformity is not further extended or replaced.
  - k. Whenever any portion of the SFHA is authorized for use, the volume of space that will be occupied by the authorized fill or structure below the base flood elevation (BFE) shall be compensated for and balanced by an equivalent volume of excavation taken below the BFE. The excavation volume shall be at least equal to the volume of storage lost (replacement ratio of one to one (1:1)) due to the fill or structure.
    - i. The excavation shall take place in the floodplain and in the same immediate watershed in which the authorized fill or structure is located;
    - ii. Under certain circumstances, the excavation may be allowed to take place outside, but adjacent to, the floodplain provided that the excavated volume:
      - [a] Shall be below the regulatory flood elevation;
      - [b] Shall be in the same immediate watershed in which the authorized fill or structure is located;
      - [c] Shall be accessible to the regulatory floodwater;
      - [d] Shall not be subject to ponding when not inundated by flood water; and
      - [e] Shall not be refilled;
    - iii. The fill or structure shall not obstruct a drainage way leading to the floodplain;
    - iv. The fill or structure shall be of a material deemed stable enough to remain firm and in place during periods of flooding and shall include provisions to protect adjacent property owners against any increased runoff or drainage resulting from its placement; and
    - v. Plans depicting the areas to be excavated and filled shall be submitted prior to the actual start of construction or any site work; once site work is complete, but before the actual start of construction, the applicant shall provide to the Floodplain Administrator a certified survey of the excavation and fill sites demonstrating the fill and excavation comply with *§D: Provisions for Flood Hazard Reduction*.
2. *Specific Standards*: In all SFHAs, the following provisions are required:
- a. All Construction: In addition to the requirements of *§D(1): General Standards*, all structures to be located in the SFHA shall be protected from flood damage below the FPG. This building protection requirement applies to the following situations:
    - i. Construction or placement of any new structure having a floor area greater than four hundred (400) square feet;
    - ii. Structural alterations made to:
      - [a] An existing (previously unaltered structure), the cost of which equals or exceeds fifty percent (50%) of the value of the pre-altered structure (excluding the value of the land);
      - [b] Any previously altered structure.

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- iii. Reconstruction or repairs made to a damaged structure that are valued at more than fifty percent (50%) of the market value of the structure (excluding the value of the land) before damaged occurred;
  - iv. Installing a travel trailer or recreational vehicle on a site for more than one hundred eighty (180) days; and
  - v. Installing a manufactured home on a new site or a new manufactured home on an existing site.  
*Section FP: Floodplain Standards* does not apply to returning the existing manufactured home to the same site it lawfully occupied before it was removed to avoid flood damage.
- b. Residential Construction: New construction or substantial improvement of any residential structure (or manufactured home) shall have the lowest floor; including basement, at or above the FPG (two (2) feet above the base flood elevation). Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with the standards of §D(2)(d): *Elevated Structures*.
- c. Nonresidential Construction: New construction or substantial improvement of any commercial, industrial, or nonresidential structure (or manufactured home) shall have the lowest floor, including basement, elevated to or above the FPG (two (2) feet above the base flood elevation). Structures located in all “A Zones” may be floodproofed in lieu of being elevated if done in accordance with the following:
- i. A Registered Professional Engineer or Architect shall certify that the structure has been designed so that below the FPG, the structure and attendant utility facilities are watertight and capable of resisting the effects of the regulatory flood. The structure design shall take into account flood velocities, duration, rate of rise, hydrostatic pressures, and impacts from debris or ice. Such certification shall be provided to the Floodplain Administrator as set forth in *Article 01; §1.034: Summary of Duties; Floodplain Administrator; §C(9)*.
  - ii. Floodproofing measures shall be operable without human intervention and without an outside source of electricity.
- d. Elevated Structures: New construction or substantial improvements of elevated structures that include fully enclosed areas formed by foundation and other exterior walls below the base flood elevations shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls.
- i. Designs for complying with this requirement must either be certified by a professional engineer or architect or meet the follow minimum criteria:
    - [a] Provide a minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding;
    - [b] The bottom of all openings shall be no higher than one (1) foot above foundation interior grade (which must be equal to in elevation or higher than the exterior foundation grade); and
    - [c] Openings may be equipped with screens, louvers, valves or other coverings or devices provided they allow the automatic flow of floodwaters in both directions.
    - [d] Access to the enclosed area shall be the minimum necessary to allow for parking for vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the living area (stairway or elevator); and
    - [e] The interior portion of such enclosed area shall not be partitioned or finished into separate rooms.
    - [f] Where elevation requirements exceed six (6) feet above the highest adjacent grade, a copy of the legally recorded deed restriction prohibiting the conversion of the area below the lowest floor to a use or dimension contrary to the structure’s originally approved design, shall be presented as a condition of issuance of the final Certificate of Occupancy.
- e. Structures Constructed on Fill: A residential or nonresidential structure may be constructed on a permanent land fill in accordance with the following:
- i. The fill shall be placed in layers no greater than one (1) foot deep before compacting to ninety-five percent (95%) of the maximum density obtainable with the Standard Proctor Test method.

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- ii. The fill should extend at least ten (10) feet beyond the foundation of the structure before sloping below the FPG.
  - iii. The fill shall be protected against erosion and scour during flooding by vegetative cover, riprap, or bulkheading. If vegetative cover is used, the slopes shall be no steeper than three (3) horizontal to one (1) vertical.
  - iv. The fill shall not adversely affect the flow of surface drainage from or onto neighboring properties.
  - v. The top of the lowest floor, including basements, shall be at or above the FPG.
- f. Standards for Structures Constructed with a Crawlspace: A residential or nonresidential structure may be constructed with a crawlspace located below the flood protection grade provided that the following conditions are met:
- i. The building must be designed and adequately anchored to resist flotation, collapse, and lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy; and
  - ii. Any enclosed area below the flood protection grade shall have openings that equalize hydrostatic pressures by allowing for the automatic entry and exit of floodwaters. A minimum of one (1) opening on each wall having a total net area of not less than one (1) square inch for every one (1) square foot of enclosed area. The bottom of the openings shall be no more than one (1) foot above grade; and
  - iii. The interior grade of the crawlspace must be at or above the base flood elevation; and
  - iv. The interior height of the crawlspace measured from the interior grade of the crawlspace to the top of the foundation wall must not exceed four (4) feet at any point; and
  - v. An adequate drainage system must be installed to remove floodwaters from the interior area of the crawlspace within a reasonable period of time after a flood event; and
  - vi. Portions of the building below the flood protection grade must be constructed with materials resistant to flood damage; and
  - vii. Utility systems within the crawlspace must be elevated above the flood protection grade.
- g. Standards for Manufactured Homes and Recreational Vehicles: Manufactured homes and recreational vehicles to be installed or substantially improved on a site for more than one hundred eighty (180) days must meet one (1) of the following requirements:
- i. The manufactured home shall be elevated on a permanent foundation such that the lowest floor shall be at or above the FPG and securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement. This requirement applies to all manufactured homes to be placed on a site:
    - [a] Outside a manufactured home park or subdivision;
    - [b] In a new manufactured home park or subdivision;
    - [c] In an expansion to an existing manufactured home park or subdivision; or
    - [d] In an existing manufactured home park or subdivision on which a manufactured home has incurred “substantial damage” as a result of a flood.
  - ii. The manufactured home shall be elevated so that the lowest floor of the manufactured home chassis is supported by reinforced piers or other foundation elevations that are no less than thirty-six (36) inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement. This requirement applies to all manufactured homes to be placed on a site in an existing manufactured home park or subdivision that has not been substantially damaged by a flood.
  - iii. Recreational vehicles placed on a site shall either:
    - [a] Be on site for less than one hundred eighty (180) days; and
    - [b] Be fully licensed and ready for highway use (defined as being 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



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[c] Meet the requirements for “manufactured homes” as stated earlier in §g: *Standards for Manufactured Homes and Recreational Vehicles*.

3. *Critical Facility*: Construction of new critical facilities shall be, to the extent possible, located outside the limits of the SFHA. Construction of new critical facilities shall be permissible within the SFHA if no feasible alternative site is available. Critical facilities constructed within the SFHA shall have the lowest floor elevated to or above the FPG at the site. Floodproofing and sealing measures must be taken to ensure that toxic substances shall not be displaced by or released into floodwaters. Access routes elevated to or above the FPG shall be provided to all critical facilities to the extent possible.
4. *Standards for Identified Floodways*: Located within SFHAs, established in §B(2): *Basis for Establishing Regulatory Flood Data*, are areas designated as floodways. The floodway is an extremely hazardous area due to the velocity of floodwaters, which carry debris, potential projectiles, and has erosion potential.
  - a. If the site is in an identified floodway, the Floodplain Administrator shall require the applicant to forward the application, along with all pertinent plans and specifications, to the Indiana Department of Natural Resources and apply for a Permit for Construction in a Floodway. Under the provisions of IC 14-28-1 a Permit for Construction in a Floodway from the Indiana Department of Natural Resources is required prior to the issuance of a local Building Permit for any excavation, deposit, construction or obstruction activity located in the floodway. This includes land preparation activities such as filling, grading, clearing and paving, *etc.* undertaken before the actual start of construction of the structure. However, it does exclude non-substantial additions/improvements to existing (lawful) residences in a non-boundary river floodway. (IC 14-28-1-26 allows construction of non-substantial additions/improvements to residences in a non-boundary river floodway without obtaining a Permit for Construction in a Floodway from the Indiana Department of Natural Resources. Please note that if fill is needed to elevate an addition above the existing grade, prior approval for the fill is required from the Indiana Department of Natural Resources.)
  - b. The Floodplain Administrator shall take no action until a Permit for Construction in a Floodway (when applicable) has been issued by the Indiana Department of Natural Resources granting approval for construction in the floodway. Once a Permit for Construction in a Floodway has been issued by the Indiana Department of Natural Resources, the Floodplain Administrator may issue the local Floodplain Development Permit, provided the provisions contained in §D: *Provisions for Flood Hazard Reduction* have been met. The Floodplain Development Permit cannot be less restrictive than the Permit for Construction in a Floodway issued by the Indiana Department of Natural Resources. However, the Town’s more restrictive regulations (if any) shall take precedence.
  - c. No development shall be allowed which, acting alone or in combination with existing or future development, will increase the regulatory flood more than fourteen-hundredths (0.14) of one (1) foot; and
  - d. For all projects involving channel modifications or fill (including levees) the Town shall submit the data and request that the Federal Emergency Management Agency revise the regulatory flood data.
5. *Standards for Identified Fringe*: If the site is located in an identified fringe, then the Floodplain Administrator may issue the local Floodplain Development Permit provided the provisions contained in §D: *Provisions for Flood Hazard Reduction* have been met. The key provision is that the top of the lowest floor of any new or substantially improved structure shall be at or above the FPG.
6. *Standards for SFHAs Without Established Base Flood Elevation and/or Floodways/Fringes*:
  - a. Drainage area upstream of the site is greater than one (1) square mile:
    - i. If the site is in an identified floodplain where the limits of the floodway and fringe have not yet been determined, and the drainage area upstream of the site is greater than one (1) square mile, the Floodplain Administrator shall require the applicant to forward the application, along with all pertinent plans and specifications, to the Indiana Department of Natural Resources for review and comment.
    - ii. The Floodplain Administrator shall take no action until either a Permit for Construction in a Floodway or a floodplain analysis/regulatory assessment citing the 100-year flood elevation and the

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recommended Flood Protection Grade has been received from the Indiana Department of Natural Resources.

- iii. Once the Floodplain Administrator has received the Permit for Construction in a Floodway or floodplain analysis/regulatory assessment from the Indiana Department of Natural Resources approving the proposed development, a Floodplain Development Permit may be issued provided the conditions of the Floodplain Development Permit are not less restrictive than the conditions received from the Indiana Department of Natural Resources and the provisions contained in §D: *Provisions for Flood Hazard Reduction* have been met.
- b. Drainage area upstream of the site is less than one (1) square mile:
  - i. If the site is in an identified floodplain where the limits of the floodway and fringe have not yet been determined and the drainage area upstream of the site is less than one (1) square mile, the Floodplain Administrator shall require the applicant to provide an engineering analysis showing the limits of the floodway, fringe and 100-year flood elevation for the site.
  - ii. Upon receipt, the Floodplain Administrator may issue the local Floodplain Development Permit, provided the provisions contained in §D: *Provisions for Flood Hazard Reduction* have been met.
- c. The total cumulative effect of the proposed development, when combined with all other existing and anticipated development, shall not increase the regulatory flood more than fourteen-hundredths (0.14) of one (1) foot and shall not increase flood damages or potential flood damages.

## 7.017 FL-01 Floodplain Standards; Provisions for Flood Hazard Reduction

This Lot Standards section applies to the following types of development:



A. Standards for All Development Proposals:

1. All development proposals shall be consistent with the need to minimize flood damage;
2. All development proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;
3. All development proposals shall have adequate drainage provided to reduce exposure to flood hazards; and
4. Base flood elevation data shall be provided for development proposals and other proposed development (including manufactured home parks and subdivisions), which are greater than the lesser of fifty (50) lots or five (5) acres.

B. Platting: The petitioner shall delineate the 100-year flood elevation on all Secondary Plats containing lands identified to be within a Special Flood Hazard Area (SFHA) prior to submitting the Secondary Plat for approval.

C. Evacuation Plan: All owners of manufactured home parks or subdivisions located within the Special Flood Hazard Area (SFHA) identified as Zone “A” on the FIRM maps shall develop an evacuation plan for those lots located in the SFHA and have the evacuation plan filed with and approved by the appropriate community emergency management authorities.

## 9.012 Floodplain Standards Variance

- A. Purpose & Intent: The purpose of this section is to outline the process by which the Board of Zoning Appeals considers petitions for variances from the floodplain standards of the Unified Development Ordinance, and approve those that will not be contrary to the public interest, where, owing to special conditions, literal enforcement of the Unified Development Ordinance will result in unnecessary hardship, and so that the spirit of the Unified Development Ordinance shall be observed and substantial justice done. Further, it is the purpose of this Section to make federally subsidized flood insurance available for structures and their contents in the planning and zoning jurisdiction of the Town by fulfilling the requirements of the National Flood Insurance Program.
- B. Prerequisites:
1. *Ownership*: The petitioner must:
    - a. Own a controlling interest in the parcel that is the subject of the Floodplain Standards Variance; or
    - b. Provide documentation authorizing the petitioner to act as the agent of the owner of the parcel that is the subject of the Floodplain Standards Variance.
  2. *Pre-submittal Meeting*: Prior to submitting a Floodplain Standards Variance application, the petitioner shall meet with the Floodplain Administrator to review the zoning classification of the site, review the regulatory ordinances and materials, review the procedures and examine the proposed use and development of the property. The Department of Development shall aid and advise the petitioner in preparing the application and supportive documents as necessary.
- C. Applicability:
1. *Residential Use*: No Floodplain Standards Variance for a residential use within a floodway subject to *Article 05; §FP-01(D): Provisions for Flood Hazard Reduction; §3: Critical Facility or §FP-01(D); §5: Standards for Identified Fringe* shall be granted.
  2. *Permit Requirement*: In addition to the local Floodplain Development Permit, any Floodplain Standards Variance granted in a floodway subject to *Article 05; §FP-01(D): Provisions for Flood Hazard Reduction; §3: Critical Facility or §FP-01(D); §5: Standards for Identified Fringe* shall require a Permit for Construction in a Floodway from the Indiana Department of Natural Resources.
  3. Floodplain Standards Variances to *Article 05; §FP-01(D): Provisions for Flood Hazard Reduction; §2: Specific Standards*, may be granted only when a new structure is to be located on a lot of one-half acre (½ Ac.) or less in size, contiguous to and surrounded by lots with existing structures constructed below the flood protection grade.
  4. *Historic Structures*: A Floodplain Standards Variance may be granted for the reconstruction or restoration of any structure individually listed on the Register of Historic Places or the Indiana State Survey of Historic Architectural, Archaeological & Cultural Sites, Structures, Districts, & Objects.
- D. Exceptions: Not applicable.

# Floodplain Standards Variance

## E. Application:

1. *Filing Deadline:* The petitioner shall refer to the Schedule of Meeting Dates to determine the filing deadline for any given meeting of the Board of Zoning Appeals.
2. *Application Packet:* The petitioner shall submit the completed application to the Department of Development.
3. *Supportive Information:* The application shall include, but not be limited to, the following documents:
  - a. *Pre-submittal Meeting:* The application shall include all documentation specified by the Department of Development during the pre-submittal meeting.
  - b. *Application Packet:* The application shall include all documentation specified in the application packet unless certain documentation is deemed superfluous by the Floodplain Administrator due to the specific circumstances of the particular project.
  - c. *Additional Information:* Such other additional information as may be required by the Department of Development or other members of the Technical Advisory Committee to evaluate the application.
  - d. *Time Limitation:* The Department of Development shall refuse to accept a petition for a Floodplain Standards Variance within six (6) months of the date of denial when said petition involves the same subject matter. However, the Floodplain Administrator shall have the authority and discretion to determine that a petition containing major changes may justify re-filing within said six-month period.

## F. Fees:

1. *Fee:* The Department of Development shall calculate the total of the application fee and any other applicable fees, and shall then apprise the petitioner of the total fee.
2. *Due Date:* The petitioner shall submit the filing fee when the Department of Development issues the docket number.

## G. Department of Development:

1. *Review:* The Department of Development shall review a Floodplain Standards Variance petition upon receipt of a complete application and supportive documents.
2. *Technical Advisory Committee:*
  - a. *Determination:* The Floodplain Administrator shall determine whether the petition merits Technical Advisory Committee review.
  - b. *Agenda:* Once the Department of Development has determined that it has received a submittal that is sufficiently complete for Technical Advisory Committee review, the Department of Development shall place the item on an agenda of the Technical Advisory Committee and inform the petitioner of the time, date, and place of the meeting.
3. *Complete Submittal:* Once the Department of Development has determined that the petitioner has made a complete submittal, the Department of Development shall:
  - a. *Docket Number:* Assign the item a docket number;
  - b. *Agenda:* Place the item on an agenda of the Board of Zoning Appeals;
  - c. *Notification:* Inform the petitioner of the time, date, and place of the meeting.
4. *Inspection:* The Department of Development may inspect at any reasonable time any structure, other improvement, or site that is the subject of a Floodplain Standards Variance petition.
5. *Department Report:* The Department of Development shall prepare a written report outlining its findings with respect to the Floodplain Standards Variance. The Department of Development report may incorporate, or incorporate by reference, any items that remain outstanding with the other members of the Technical Advisory Committee.
6. *Record:* The Floodplain Administrator shall maintain records of all applications, plans, and permits filed for a Floodplain Standards Variance. The Floodplain Administrator shall maintain the records of Floodplain Standards Variance actions and report any Floodplain Standards Variances to the Federal Emergency Management Agency or the Indiana Department of Natural Resources upon request. The Floodplain Administrator shall maintain a record of all Floodplain Standards Variance actions, including justification for their issuance, and report such Floodplain Standards Variances issued in the Town's biennial report submission to the Federal Emergency Management Agency.

## H. Technical Advisory Committee (TAC):

1. *Determination:* The Technical Advisory Committee shall review Floodplain Standards Variance petitions that have been forwarded by the Department of Development.
2. *Copies:* The petitioner shall refer to the application packet to determine the format and number of copies of the plans to be delivered to the Department of Development for distribution to the members of the Technical Advisory Committee.
3. *Meeting Date:* The petitioner shall refer to the Schedule of Meeting Dates to determine the filing deadline for any given meeting of the Technical Advisory Committee. Incomplete submittals may result in the petition's being held off the Technical Advisory Committee agenda to allow the petitioner time to complete the submittal.
4. *Attendance:* The petitioner should be present at the Technical Advisory Committee meeting to address and discuss comments and concerns posed by the committee members. Failure to appear may result in the petition's being continued to the Technical Advisory Committee agenda for the following month.
5. *Revisions:* Following Technical Advisory Committee review, the petitioner shall submit revised copies of the plans that address the comments and concerns of the Technical Advisory Committee. The petitioner shall refer to the application packet to determine the format and number of copies of the revised plans to be delivered to the Department of Development.

## I. Board of Zoning Appeals:

1. *Designation of Floodplain Standards Variance & Appeals Board:* The Board of Zoning Appeals shall hear and decide requests for Floodplain Standards Variances from the requirements of *Article 05; §FP: Floodplain Standards* and *Article 07; §FL: Floodplain Standards*.
2. *Public Notice:*
  - a. *Responsibility:* The petitioner shall be responsible for publishing and mailing public notice pursuant to the Board of Zoning Appeals Rules of Procedure. The Department of Development shall be responsible for posting public notice pursuant to the Board of Zoning Appeals Rules of Procedure.
  - b. *Proof:* The petitioner shall be responsible for returning the affidavit of public notice and proof of published and mailed notice to the Department of Development. The petitioner shall refer to the application packet to determine the deadline for submittal of the affidavit of public notice and proof of published and mailed notice. Failure to submit the affidavit of public notice and proof of published and mailed notice by the deadline may result in the petition's being continued to the Board of Zoning Appeals agenda for the following month.
3. *Submittal:* The petitioner shall refer to the application packet to determine the format and number of copies of the informational packet to be delivered to the Department of Development for distribution to the members of the Board of Zoning Appeals. Incomplete submittals shall result in the petition's being held off the Board of Zoning Appeals agenda to allow the petitioner time to complete the submittal. Materials submitted by the petitioner after the informational packets have been distributed shall be subject to action pursuant to the Board of Zoning Appeals Rules of Procedure.
4. *Attendance:* The petitioner is required to be present at the Board of Zoning Appeals meeting to address and discuss comments and concerns posed by the Board of Zoning Appeals members. Failure to appear shall result in the petition's being dealt with as outlined in the Board of Zoning Appeals Rules of Procedure.
5. *Public Hearing:* A public hearing shall be held in accordance with the Board of Zoning Appeals Rules of Procedure.

# Floodplain Standards Variance

6. *Review:* The Board of Zoning Appeals shall review:
  - a. The application;
  - b. The required supportive information;
  - c. The testimony of the petitioner;
  - d. Relevant evidence presented by other persons;
  - e. The Floodplain Administrator's report;
  - f. All technical evaluations;
  - g. All relevant factors;
  - h. All standards specified in other sections of the Unified Development Ordinance;
  - i. The danger of life and property due to flooding or erosion damage;
  - j. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
  - k. The importance of the services provided by the proposed facility to the community;
  - l. The necessity to the facility of a waterfront location, where applicable;
  - m. The availability of alternative locations for the proposed use that are not subject to flooding or erosion damage;
  - n. The compatibility of the proposed use with existing and anticipated development;
  - o. The relationship of the proposed use to the Comprehensive Plan and floodplain management program for that area;
  - p. The safety of access to the property in times of flood for ordinary and emergency vehicles;
  - q. The expected height, velocity, duration, rate of rise, and sediment of transport of the floodwaters at the site;
  - r. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges;
  - s. The Department of Development report; and
  - t. Any additional information provided at or prior to the public hearing.
7. *Decision:* The Board of Zoning Appeals shall:
  - a. Approve the petition;
  - b. Approve the petition with conditions and/or commitments;
  - c. Deny the petition; or
  - d. Continue the petition to a definite future meeting date.
8. *Findings of Fact:*
  - a. Approval: The Board of Zoning Appeals may grant a variance from the floodplain standards of the Unified Development Ordinance if, after a public hearing, it makes written findings of fact that:
    - i. The approval will not be injurious to the public health, safety, morals, and general welfare of the community; and
    - ii. The use and value of the area adjacent to the property included in the Floodplain Standards Variance will not be affected in a substantially adverse manner; and
    - iii. The strict application of the terms of the Unified Development Ordinance will result in a practical difficulty. This situation shall not be self-imposed, nor be based on a perceived reduction of or restriction of economic gain; and
    - iv. The Floodplain Standards Variance is the minimum necessary, considering the flood hazard, to afford relief; and
    - v. The petitioner has shown good and sufficient cause; and
    - vi. A determination that failure to grant the Floodplain Standards Variance would result in exceptional hardship; and
    - vii. A determination that the granting of a Floodplain Standards Variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud or victimization of the public, or conflict with existing laws or ordinances.

- b. Denial: The Board of Zoning Appeals shall deny a variance from the floodplain standards of the Unified Development Ordinance if, after a public hearing, the Board of Zoning Appeals makes written findings of fact that:
  - i. The approval will be injurious to the public health, safety, morals, and/or general welfare of the community; or
  - ii. The use and/or value of the area adjacent to the property included in the Floodplain Standards Variance will be affected in a substantially adverse manner; or
  - iii. The strict application of the terms of the Unified Development Ordinance will not result in a practical difficulty; or
  - iv. The Floodplain Standards Variance is greater than the minimum necessary, considering the flood hazard, to afford relief; or
  - v. The petitioner has failed to show good and sufficient cause; or
  - vi. Failure to grant the Floodplain Standards Variance would not result in exceptional hardship; or
  - vii. The granting of a Floodplain Standards Variance will result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud or victimization of the public, or conflict with existing laws or ordinances.
- c. Findings of Fact for a Historic Structure: The Board of Zoning Appeals may grant a variance from the floodplain standards of the Unified Development Ordinance for the repair or rehabilitation of “historic structures” if, after a public hearing, the Board of Zoning Appeals makes written findings of fact that:
  - i. The proposed repair or rehabilitation shall not preclude the structure’s continued designation as an “historic structure”; and
  - ii. The Floodplain Standards Variance is the minimum to preserve the historic character and design of the structure.
- d. Certification: The findings shall be signed by the Chair of the Board of Zoning Appeals.
- e. Notification:
  - i. Approval: The Board of Zoning Appeals shall give the petitioner written notice specifying the difference between the base flood elevation and the elevation to which the lowest floor is to be built and stating that the cost of the flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation. The Board of Zoning Appeals shall give the petitioner written notice over the signature of the Chair of the Board of Zoning Appeals that:
    - [a] The issuance of a Floodplain Standards 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 twenty-five dollars (\$25.00) for one hundred dollars (\$100.00) of insurance coverage; and
    - [b] Such construction below the base flood level increases risks to life and property. A copy of the notice shall be recorded by the Floodplain Administrator in the County Recorder’s office and shall be recorded in a manner so that it appears in the chain of title of the affected parcel of land.
  - ii. Denial: In the case of a denied petition, the Board of Zoning Appeals shall furnish the petitioner with a copy of its decision.
9. *Surety Requirement*: In conjunction with the approval of a Floodplain Standards Variance, the petitioner shall provide financial surety for all public improvements pursuant to *Article 09; §Surety Standards*.



10. *Commitments:*

- a. **Acceptance:** In conjunction with the approval of a Floodplain Standards Variance, the Board of Zoning Appeals may permit or require the petitioner to make written commitments concerning the use or development of the parcel.
- b. **Form:** The petitioner shall prepare the commitment instrument in a form approved by the Town Attorney. The petitioner and the Chair of the Board of Zoning Appeals shall sign the commitment instrument.
- c. **Recording:** The petitioner shall record the commitment instrument in the County Recorder's office within thirty (30) days of the approval of the Floodplain Standards Variance. The petitioner shall deliver a copy of the recorded commitment instrument to the Department of Development before applying for a Floodplain Development Permit.
- d. **Modification or Termination:** A commitment made under this section may be modified or terminated only by a decision of the Board of Zoning Appeals made at a public hearing. Public notice of the public hearing shall be provided per the Board of Zoning Appeals Rules of Procedure. The petitioner shall prepare and record a commitment modification instrument or commitment termination instrument in the same manner required for a commitment instrument. A modified commitment shall be enforced in the same manner as any other commitment.
- e. **Enforcement:** The Town may enforce any commitment the Board of Zoning Appeals has accepted as if the commitment were a standard of the Unified Development Ordinance.

11. *Conditions of Approval:*

- a. **Requirement:** Upon the consideration of the factors listed in §F: *Review*, and the purposes of *Article 05; §FP: Floodplain Standards* or *Article 07; §FL: Floodplain Standards*, the Board of Zoning Appeals may attach such conditions to the granting of Floodplain Standards Variances as it deems necessary to further the purposes of *Article 05; §FP: Floodplain Standards* or *Article 07; §FL: Floodplain Standards*.
- b. **Form:** The Department of Development shall prepare the conditions of approval instrument in a form approved by the Town Attorney. The Chair of the Board of Zoning Appeals shall sign the conditions of approval instrument.
- c. **Recording:** The Department of Development shall record the conditions of approval instrument in the County Recorder's office within thirty (30) days of the approval of the Floodplain Standards Variance. The Department of Development shall deliver a copy of the recorded conditions of approval instrument to the petitioner within thirty (30) days of recording.
- d. **Modification or Termination:** A condition of approval imposed under this section may be modified or terminated only by a decision of the Board of Zoning Appeals made at a public hearing. Public notice of the public hearing shall be provided per the Board of Zoning Appeals Rules of Procedure. The Department of Development shall prepare and record a condition of approval modification instrument or conditions of approval termination instrument in the same manner required for a condition of approval instrument. A modified condition of approval shall be enforced in the same manner as any other condition of approval.
- e. **Enforcement:** The Town may enforce any condition of approval the Board of Zoning Appeals has imposed as if the condition were a standard of the Unified Development Ordinance.

12. *Revisions:* Within thirty (30) calendar days of approval, the petitioner shall submit revised copies of the plans that address the comments and concerns of the Board of Zoning Appeals to the Department of Development. The petitioner shall refer to the application packet to determine the format and number of copies of the revised plans to deliver to the Department of Development.

J. **Duration:** Unless a more stringent standard is applied pursuant to a commitment or condition of approval, a Floodplain Standards Variance granted by the Board of Zoning Appeals shall run with the parcel until such time as the property conforms to the Unified Development Ordinance as written.

K. **Changes or Amendments:**

1. Any change to an approved Floodplain Standards Variance shall be the subject of a new Floodplain Standards Variance petition.
2. ***Current Standards:*** Changes, amendments or resubmittals shall be subject to the *Standard Construction Specifications & Details for the Town of Fishers* in effect at the time the application for such changes, amendment or resubmittal is made.

## 9.013 Floodplain Standards Appeal

- A. Purpose & Intent: The purpose of this section is to outline the procedure employed by the Town in order to afford the public an avenue of appeal when there is some doubt that the Floodplain Administrator has rendered a correct interpretation of the applicable ordinances and regulations while administering or enforcing the requirements of *Article 05*; *§FP: Floodplain Standards* or *Article 07*; *§FL: Floodplain Standards*.
- B. Prerequisites:
1. *Pre-submittal Meeting*: Prior to submitting a Floodplain Standards Appeal application, the appellant shall meet with the Department of Development to review the zoning classification of the site, review the regulatory ordinances and materials, and review the procedures. The Department of Development shall aid and advise the appellant in preparing the application and supportive documents as necessary.
- C. Applicability:
1. The Board of Zoning Appeals shall hear and decide Floodplain Standards Appeals when it is alleged an error in any requirement, decision, or determination is made by the Floodplain Administrator in the enforcement or administration of *Article 05*; *§FP: Floodplain Standards* or *Article 07*; *§FL: Floodplain Standards*.
  2. *Stay of Work*:
    - a. *Authority*: When an appeal from the decision of the Floodplain Administrator has been filed, the Board of Zoning Appeals may stay the proceedings and work on the premises affected.
    - b. *Restraining Order*: If the Floodplain Administrator certifies to the Board of Zoning Appeals that, by reason of the facts stated in the certificate, a stay would cause imminent peril to life or property, a Stay of Work shall not be issued. In that case, proceedings or work may not be stayed except by a Restraining Order. After application, after notice to the Floodplain Administrator and to the owner of the premises affected, and after due cause is shown, the Board of Zoning Appeals or the circuit or superior court of Hamilton County may grant the Restraining Order.
- D. Exceptions: Not applicable.
- E. Application:
1. *Filing Deadline*: The appellant shall refer to the Schedule of Meeting Dates to determine the filing deadline for any given meeting of the .
  2. *Application Packet*: The appellant shall submit the completed application to the Department of Development.
  3. *Supportive Information*: The application shall include, but not be limited to, the following documents:
    - a. *Pre-submittal Meeting*: The application shall include all documentation specified by the Department of Development during the pre-submittal meeting.
    - b. *Application Packet*: The application shall include all documentation specified in the application packet unless certain documentation is deemed superfluous by the Floodplain Administrator due to the specific circumstances of the particular project.
    - c. *Additional Information*: Such other additional information as may be required by the Department of Development or other members of the Technical Advisory Committee to evaluate the petition.
- F. Fees: Not applicable.

# Floodplain Standards Appeal

## G. Department of Development:

1. *Review:* The Department of Development shall review a Floodplain Standards Appeal petition upon receipt of a complete application and supportive documents.
2. *Complete Submittal:* Once the Department of Development has determined that the petitioner has made a complete submittal, the Department of Development shall:
  - a. *Docket Number:* Assign the item a docket number;
  - b. *Agenda:* Place the item on an agenda of the Board of Zoning Appeals;
  - c. *Notification:* Inform the appellant of the time, date, and place of the meeting.
3. *Inspection:* The Department of Development may inspect at any reasonable time any structure, other improvement, or site that is the subject of a Floodplain Standards Appeal petition.
4. *Department Report:* The Department of Development shall prepare a written report outlining its findings with respect to the Floodplain Standards Appeal. The Department of Development report may incorporate, or incorporate by reference, any items that remain outstanding with the other members of the Technical Advisory Committee.
5. *Record:* The Floodplain Administrator shall maintain records of all applications, plans, and permits filed for a Floodplain Standards Appeal.

## H. Technical Advisory Committee (TAC): Not applicable.

## I. Board of Zoning Appeals:

1. *Designation of Floodplain Standards Variance & Appeals Board:* The Board of Zoning Appeals shall hear and decide Floodplain Standards Appeals.
2. *Public Notice:*
  - a. *Responsibility:* The appellant shall be responsible for publishing and mailing public notice pursuant to the Board of Zoning Appeals Rules of Procedure. The Department of Development shall be responsible for posting public notice pursuant to the Board of Zoning Appeals Rules of Procedure.
  - b. *Proof:* The appellant shall be responsible for returning the affidavit of public notice and proof of published and mailed notice to the Department of Development. The appellant shall refer to the application packet to determine the deadline for submittal of the affidavit of public notice and proof of published and mailed notice. Failure to submit the affidavit of public notice and proof of published and mailed notice by the deadline may result in the petition's being continued to the Board of Zoning Appeals agenda for the following month.
3. *Submittal:* The appellant shall refer to the application packet to determine the format and number of copies of the informational packet to be delivered to the Department of Development for distribution to the members of the Board of Zoning Appeals. Incomplete submittals may result in the petition's being held off the Board of Zoning Appeals agenda to allow the appellant time to complete the submittal. Materials submitted by the petitioner after the informational packets have been distributed shall be subject to action pursuant to the Board of Zoning Appeals Rules of Procedure.
4. *Attendance:* The appellant is required to be present at the Board of Zoning Appeals meeting to address and discuss comments and concerns posed by the Board of Zoning Appeals members. Failure to appear shall result in the petition's being dealt with as outlined in the Board of Zoning Appeals Rules of Procedure.
5. *Public Hearing:* A public hearing shall be held in accordance with the Board of Zoning Appeals Rules of Procedure.

6. *Review:* The Board of Zoning Appeals shall review:
    - a. The written statement and supportive material submitted by the appellant;
    - b. The record of action supplied by the Floodplain Administrator;
    - c. The testimony of the appellant;
    - d. The testimony of the Floodplain Administrator;
    - e. Relevant evidence presented by other persons;
    - f. All technical evaluations;
    - g. All relevant factors;
    - h. All standards specified in other sections of the Unified Development Ordinance;
    - i. The danger of life and property due to flooding or erosion damage;
    - j. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
    - k. The importance of the services provided by the proposed facility to the community;
    - l. The necessity to the facility of a waterfront location, where applicable;
    - m. The availability of alternative locations for the proposed use that are not subject to flooding or erosion damage;
    - n. The compatibility of the proposed use with existing and anticipated development;
    - o. The relationship of the proposed use to the Comprehensive Plan and floodplain management program for that area;
    - p. The safety of access to the property in times of flood for ordinary and emergency vehicles;
    - q. The expected height, velocity, duration, rate of rise, and sediment of transport of the floodwaters at the site;
    - r. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges;
    - s. The Department of Development report; and
    - t. Any additional information provided at or prior to the public hearing.
  7. *Decision:* The Board of Zoning Appeals may reverse, affirm or modify the order, requirements, decision or determination of the Floodplain Administrator.
  8. *Appeal:* Any person aggrieved by the decision of the Board of Zoning Appeals may appeal such decision to the circuit or superior court of Hamilton County, as provided in IC 36-7-4-1000 *et seq.*
- J. Duration: Not applicable.
- K. Changes or Amendments: Not applicable.