

CHAPTER 808

ZONING ORDINANCE: FLOOD DAMAGE PREVENTION

808-1. Purpose

The purpose of this chapter is to guide development in flood hazard areas in order to:

- (A) prevent unwise developments from increasing flood or drainage hazards to others;
- (B) protect new buildings and major improvements to buildings from flood damage;
- (C) protect human life and health from the hazards of flooding;
- (D) lessen the burden on the taxpayer for flood control projects, repairs to flood-damaged public facilities and utilities, and flood rescue and relief operations;
- (E) maintain property values and a stable tax base by minimizing the potential for creating flood blighted areas; and,
- (F) make federally subsidized flood insurance available for property in Monroe County, Indiana by fulfilling the requirements of the National Flood Insurance Program.

808-2. Duties of the Administrator

The Administrator for the Plan Commission is hereby appointed to review all development and subdivision proposals to ensure compliance with this chapter, including but not limited to the following duties:

- (A) ensure that all development activities within the SFHAs meet the requirements of this chapter;
- (B) provide information and assistance to citizens upon request about permit procedures and floodplain construction techniques;
- (C) ensure that construction authorization has been granted by the Indiana Natural Resources Commission for all development projects subject to Section 6 of this chapter, and maintain a record of such authorization (either copy of actual permit or letter of recommendation);
- (D) maintain a record of the "as-built" elevation of the lowest floor (including basement) of all new and/or substantially improved buildings constructed in the SFHA;
- (E) maintain a record of the engineer's certificate and the "as built" floodproofed elevation of all buildings subject to Section 808-4 (C);
- (F) cooperate with state and federal floodplain management agencies to improve base flood and floodway data and to improve the administration of this chapter. Submit reports as required for the National Flood Insurance Program; and
- (G) maintain for public inspection, and furnish upon request, regulatory flood data, SFHA maps, copies of DNR permits and letters of recommendation, federal permit documents, and "as built" elevation and floodproofing data for all buildings constructed subject to this chapter.

808-3.

Permit Requirement

No person, firm, corporation, or governmental body not exempted by state law shall commence any development in the SFHA without first obtaining an Improvement Location Permit from the Administrator. The Administrator shall not issue an Improvement Location Permit if the proposed "development" does not meet the requirements of this chapter.

(A) The application for an Improvement Location Permit shall be accompanied by the following:

- (1)** a description of the proposed development;
- (2)** location of the proposed development - sufficient to accurately locate property and structures in relation to existing roads and streams;
- (3)** a legal description of the property site;
- (4)** a site development plan showing existing and proposed structure locations and existing and proposed land grades; and
- (5)** elevation of lowest floor (including basement) of all proposed structures. Elevation should be in National Geodetic Vertical Datum of 1929 (NGVD) or North American Vertical Datum (NAVD). In either case, the conversion formula should be included.

(B) Upon receipt of an application for an Improvement Location Permit, the Administrator shall determine if the site is located within an identified floodway or within the floodplain where the limits of the floodway have not yet been determined.

- (1)** If the site is in an identified floodway, the Administrator shall require the applicant to forward the application, along with all pertinent plans and specification, 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 from the Indiana Natural Resources Commission 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 building. No action shall be taken by the Administrator until a permit has been issued by the Indiana Natural Resources Commission granting approval for construction in the floodway. Once a permit has been issued by the Indiana Natural Resources Commission, the Administrator may issue the Improvement Location Permit, provided the provisions contained in Sections 808-4 have been met. The Improvement Location Permit cannot be less restrictive than the permit issued by the Indiana Natural Resources Commission.
- (2)** If the site is located in an identified floodway fringe, then the Administrator may issue the Improvement Location Permit provided the provision contained in Sections 808-4 have been met. The key provision is that the lowest floor of any new or substantially improved structure shall be at or above the Flood Protection Grade.
- (3)** If the site is in an identified floodplain where the limits of the floodway and

floodway fringe have not yet been determined (shown as Zone A on the Flood Insurance Rate Map), and the drainage area upstream of the site is greater than one square mile, the 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. No action shall be taken by the Administrator until either a permit for construction in the floodway or a letter of recommendation citing the 100-year flood elevation and the recommended Flood Protection Grade has been received from the Indiana Department of Natural Resources. Once the Administrator has received the proper permit or letter of recommendation approving the proposed development, an Improvement Location Permit may be issued provided the conditions of the Improvement Location Permit are not less restrictive than the conditions received from the Indiana Natural Resources Commission and the provisions contained in Sections 808-4 have been met.

- (4) If the site is in an identified floodplain where the limits of the floodway and floodway fringe have not yet been determined and the drainage area upstream of the site is less than one square mile, the Administrator shall require the applicant to provide an engineering analysis of the limits of the floodway, floodway fringe and 100 year elevation for the site. Upon receipt, the Administrator may issue the local Improvement Location Permit provided the provisions contained in Sections 808-4 have been met.

808-4.

Development Standards

- (A) Regulatory Flood Elevation. This chapter's protection standard is the regulatory flood. The best available regulatory flood data is listed below. Whenever a party disagrees with the best available data, the party submitting the detailed engineering study must replace existing data with better data and submit it to the Indiana Department of Natural Resources for review and approval.
 - (1) The regulatory flood elevation and floodway limits for the SFHAs of all rivers and creeks shall be as delineated on the Flood Insurance Study of Monroe County, Indiana, and the corresponding Flood Insurance Rate Map of Monroe County, Indiana, prepared by the Federal Emergency Management Agency and dated August 2, 1995.
 - (2) If the SFHA is delineated as "Zone A" on the County Flood Insurance Rate Map, the regulatory flood elevation and floodway limits shall be according to the best data available as provided by the Indiana Department of Natural Resources.
 - (3) The regulatory flood elevation and floodway limits for the SFHAs of all rivers and creeks within the jurisdiction of Monroe County that were previously within the extraterritorial jurisdiction of the City of Bloomington shall be as delineated on the Flood Insurance Rate Map and the corresponding Flood Insurance Study of the City of Bloomington prepared by the Federal Emergency Management Agency and dated June 17, 1991.
- (B) Preventing Increased Damages. No development in the SFHA shall create a damaging or potentially damaging increase in flood heights or velocity or threat to public health and safety.

- (1)** Within the floodway identified on the Flood Boundary and Floodway Map or on the Flood Insurance Rate Map, the following standards shall apply:

 - (a)** no development shall be allowed which acting alone or in combination with existing or future similar works, will cause any increase in the elevation of the regulatory flood; and
 - (b)** for all projects involving channel modifications or fill (including levees) Monroe County, Indiana shall submit a request to the Federal Emergency Management Agency to revise the regulatory flood data.
 - (2)** Within all SFHAs identified as A Zones (no 100-year flood elevation and/or floodway/floodway fringe delineation has been provided) the following standard shall apply: the total cumulative effect of the proposed developments, when combined with all other existing and anticipated development, will not increase the regulatory flood elevation more than one-tenth (0.1) of one foot and will not increase flood damages or potential flood damages.
 - (3)** Within all SFHAs, the following Public Health Standards apply:

 - (a)** No development in the SFHA shall include locating or storing chemicals, explosives, buoyant materials, flammable liquids, pollutants, or other hazardous or toxic materials below the Flood Protection Grade, unless such materials are stored in a floodproofed storage tank or floodproofed building constructed according to the requirements of Subsection (C) of this chapter.
 - (b)** New and replacement sanitary sewer lines and on-site waste disposal systems may be permitted providing all manholes or other above ground openings located below the FPG are watertight.
- (C)** Protecting Buildings
- (1)** In addition to the damage prevention requirements of subsection (B) above, all buildings to be located in the SFHA shall be protected from flood damage below the FPG.
 - (2)** This building protection requirement applies to the following situations:

 - (a)** construction or placement of any new building valued at more than One Thousand Dollars (\$1,000.00);
 - (b)** structural alterations made to an existing building that increase the market value of the building by more than fifty percent (50%) (excluding the value of the land) or any structural alteration made previously (one time only alteration);
 - (c)** reconstruction or repairs made to a damaged building that are valued at or more than fifty percent (50%) of the market value of the building (excluding the value of the land) before damage occurred;

- (1) be on the site for less than one hundred eighty (180) consecutive days;
 - (2) 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
 - (3) meet the requirements for "manufactured homes" in Subsection C above.
- (e) A non-residential building may be floodproofed to the FPG (in lieu of elevating) if done in accordance with the following:
- (1) a Registered Professional Engineer shall certify that the building 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 building design shall take into account flood velocities, duration, rate of rise, hydrostatic pressures, and impacts from debris or ice; and
 - (2) floodproofing measures shall be operable without human intervention and without an outside source of electricity.

The Administrator shall maintain a record of compliance with the foregoing building protection methods as required by Section 808-2.

(D) Other Development Requirements

- (1) The Administrator shall review all proposed subdivisions to determine whether the subdivision lies in a flood hazard area. If the Administrator finds the subdivision to be so located, the Administrator shall forward plans and materials to the Indiana Department of Natural Resources for review and comment. The Administrator shall require appropriate changes and modifications in order to ensure that:
 - (a) it is consistent with the need to minimize flood damages;
 - (b) all public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage;
 - (c) adequate drainage is provided so as to reduce exposure to flood hazards; and
 - (d) on-site waste disposal systems, if provided, will be so located and designed to avoid impairment of them or contamination from them during the occurrence of the regulatory flood.
- (2) Developers shall record the 100-year flood elevation on all subdivision plats containing lands within a flood hazard area prior to submitting the plats for approval by the Plan Commission.

- (3) All owners of manufactured home parks or subdivisions located within the SFHA identified as Zone A on the Monroe County FHMB or FIRM develop an evacuation plan for those lots located in Zone A and file it with the Plan Commission and have it filed and approved by the appropriate community emergency management authorities.

808-5. Variances

- (A) The Board of Zoning Appeals may consider issuing a variance to the terms and provisions of this chapter provided the applicant demonstrates that:
 - (1) there exists a good and sufficient cause for the requested variance;
 - (2) the strict application of the terms of this chapter will constitute an exceptional hardship to the applicant; and
 - (3) the granting of the requested variance will not increase flood heights, create additional threats to public safety, cause additional public expense, create nuisances, cause fraud or victimization of the public, or conflict with existing laws or ordinances.
- (B) The Board of Zoning Appeals may issue a variance to the terms and provisions of this chapter subject to the following standards and conditions:
 - (1) no variance or exception for a residential use within a floodway subject to Section 808-4 (B) may be granted;
 - (2) any variance or exception granted in a floodway subject to Section 808-4 (B) will require a permit from the Indiana Department of Natural Resources;
 - (3) variances or exceptions to the Building Protection Methods of Section 808-4 (C) may be granted only when a new structure is to be located on a lot of one-half (1/2) acre or less in size, continuous to, and surrounded by, lots with existing structures constructed below the flood protection grade;
 - (4) variance or exception 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 and Cultural Sites, Structures, Districts, and Objects;
 - (5) all variances shall give the minimum relief necessary and be such that the maximum practical flood protection will be given to the proposed construction; and
 - (6) the Board of Zoning Appeals shall issue a written notice to the recipient of a variance or exception that the proposed construction will be subject to increased risks to life and property and could require payment of excessive flood insurance premiums.

808-6. Disclaimer of Liability

The degree of flood protection required by this chapter 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, this chapter does not create any liability on the part of Monroe County, Indiana, the Monroe County Plan Commission, the Monroe County Board of Zoning Appeals, the Indiana Department of Natural Resources, or the State of Indiana, or any agents or employees of the foregoing entities for any flood damage that results from reliance on this chapter or any administrative decision made lawfully thereunder.

808-7.

Violations

Failure to obtain an Improvement Location Permit in the SFHA or failure to comply with the requirements of a permit or conditions of a variance shall be deemed to be a violation of this chapter and, thus, of the Monroe County Zoning Ordinance. All violations shall be considered a common nuisance and be treated as such in accordance with the general enforcement provisions of the Monroe County Zoning Ordinance.

- (A) A separate offense shall be deemed to occur for each day the violation continues to exist.
- (B) The Plan Commission 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 Monroe County, Indiana from taking other lawful actions to prevent or remedy any violations. All costs connected therewith shall accrue to the person or persons against whom the prevention or remedial violations were taken.

[end of chapter]