

TITLE 12
FLOOD CONTROL

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CHAPTER 1

DEVELOPMENT IN SPECIAL FLOOD HAZARD AREAS

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12-1-1: **STATUTE AUTHORITY; PURPOSE:** This chapter is enacted pursuant to the police powers granted to the village by 65 Illinois Compiled Statutes 5/11-1-1, 5/11-12-12, 5/11-30-2, 5/11-30-8 and 5/11-31-2 in order to accomplish the following purposes: (Ord. 1989-5, 9-27-1988; amd. 2007 Code)

- A. To prevent unwise developments from increasing flood or drainage hazards to others;
- B. To prevent new buildings and major improvements to buildings from flood damage;
- C. To protect human life and health from the hazards of flooding;
- D. To 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. To maintain property values and a stable tax base by minimizing the potential for creating flood blighted areas; and

- F. To make federally subsidized flood insurance available for property in the village by fulfilling the requirements of the national flood insurance program. (Ord. 1989-5, 9-27-1988)

12-1-2: **DEFINITIONS:**

- BASE FLOOD:** The flood having a one percent (1%) probability of being equaled or exceeded in any given year. The "base flood" is also known as the 100-year flood. The base flood elevation at any location is as defined in section 12-1-5 of this chapter.
- BUILDING:** A structure that is principally aboveground and is enclosed by walls and a roof. The term includes a gas or liquid storage tank, a manufactured home, or a prefabricated building. The term also includes recreational vehicles and travel trailers to be installed on a site for more than one hundred eighty (180) days.
- DEVELOPMENT:** A. Any manmade change to real estate, including:
1. Construction, reconstruction, or placement of a building or any addition to a building valued at more than one thousand dollars (\$1,000.00);
 2. Installing a manufactured home on a site, preparing a site for a manufactured home or installing a travel trailer on a site for more than one hundred eighty (180) days;
 3. Installing utilities, construction of roads, or similar projects;
 4. Construction or erection of levees, walls, fences, bridges or culverts;
 5. Drilling, mining, filling, dredging, grading, excavating, or other nonagricultural alterations of the ground surface;
 6. Storage of materials; or

7. Any other activity that might change the direction, height, or velocity of flood or surface waters.

B. "Development" does not include maintenance of existing buildings and facilities such as reroofing, resurfacing roads, or gardening, plowing, and similar agricultural practices that do not involve filling, grading, or construction of levees.

**FPE OR FLOOD
PROTECTION
ELEVATION:**

The elevation of the base flood, plus one foot (1'), at any given location of the SFHA.

FLOOD:

A general and temporary condition of inundation of normally dry land areas from the overflow, the unusual and rapid accumulation, or the runoff of surface waters from any source.

FLOODWAY:

That portion of the SFHA required to store and convey the base flood. The "floodway" for each of the SFHAs of the village shall be according to the best data available to the Illinois state water survey floodplain information repository.

RIVERINE SFHA:

Any SFHA subject to flooding from a river, creek, intermittent stream, ditch, or any other identified channel. This term does not include areas subject to flooding from lakes (except public bodies of water), ponding areas, areas of sheet flow, or other areas not subject to overbank flooding.

**SFHA OR SPECIAL
FLOOD HAZARD AREA:**

Those lands within the jurisdiction of the village that are subject to inundation by the base flood. The SFHAs of the village are generally identified as such on the flood insurance rate map of the village prepared by the federal emergency management agency, which map is currently in existence but will bear the date "September 30, 1988". The SFHAs of those parts of unincorporated Iroquois County that are within the extraterritorial jurisdiction of the

village or that may be annexed into the village are generally identified as such on the flood insurance rate map prepared for Iroquois County by the federal emergency management agency, which map is in existence, but will bear the date "September 30, 1988". (Ord. 1989-5, 9-27-1988)

12-1-3: APPLICATION AND INTERPRETATION:

- A. Nothing in this chapter shall require changes in the plans, construction or designated use of a building or other development project or portion thereof which has been otherwise lawfully authorized, or the construction of which shall have been actually begun and which entire building or development project shall be completed within one year of the effective date hereof.
- B. This chapter repeals and replaces other ordinances and resolutions adopted by the village board to fulfill the requirements of the national flood insurance program. However, this chapter does not repeal the original resolution adopted to achieve eligibility in the program; nor does this chapter repeal, abrogate, or impair any existing easements, covenants or deed restrictions. Where this chapter and other ordinance easements, covenants or deed restrictions conflict or overlap, whichever imposes the more stringent restrictions shall prevail. (Ord. 1989-5, 9-27-1988)

12-1-4: DUTIES OF BUILDING CODE/ZONING OFFICER: The building code/zoning officer shall be responsible for the general administration and enforcement of this chapter, including, but not limited to, the following duties:

- A. Ensure that all development activities within the SFHAs of the jurisdiction of the village 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 Illinois department of transportation, division of water resources, for all development projects subject to section 12-1-7 of this chapter, and maintain a record of such authorization.

- D. Maintain a record of the as built elevation of the lowest floor (including basement) of all buildings subject to section 12-1-8 of this chapter.
- E. Maintain a record of the engineer's certificate and the as built floodproofed elevation of all buildings subject to subsection 12-1-8B4 of this chapter.
- F. Inspect all development projects to ensure they comply with the provisions of this chapter.
- G. 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.
- H. Maintain for public inspection and furnish upon request base flood data, SFHA maps, copies of federal or state permit documents and as built elevation and floodproofing data for all buildings constructed subject to this chapter. (Ord. 1989-5, 9-27-1988)

12-1-5: **BASE FLOOD ELEVATION:** This chapter's protection standard is the base flood. The best available base flood data are listed below. Whenever a party disagrees with the best available data, the party may finance the detailed engineering study needed to replace existing data with better data and submit it to the state water survey and the federal emergency management agency.

- A. The base flood elevation for each of the SFHAs delineated as an unnumbered "A zone" on the flood insurance rate map of the village shall be according to the best data available to the Illinois state water survey floodplain information repository. When no base flood elevation exists, the base flood elevation shall be the 100-year flood depth calculated according to the formulas presented in "Depth And Frequency Of Flood In Illinois", published by the U.S. geological survey, 1976.
- B. The base flood elevation for the SFHAs of those parts of unincorporated Iroquois County that are within the extraterritorial jurisdiction of the village or that may be annexed into the village shall be according to the best data available to the Illinois state water survey floodplain information repository. (Ord. 1989-5, 9-27-1988)

12-1-6: PERMITS:**A. Development Permit:**

1. Permit Required: No person, firm, corporation, or governmental body not exempted by state law shall commence any development in the SFHA without first obtaining a development permit from the building code/zoning officer. The building code/zoning officer shall not issue a development permit if the proposed development does not meet the requirements of this chapter.

2. Application For Permit: The application for a development permit shall be accompanied by drawings of the site, drawn to scale, showing property line dimensions, existing grade elevations and all changes in grade resulting from excavation or filling, the location and dimensions of all buildings and additions to buildings, and the elevation of the lowest floor (including basement) of all proposed buildings subject to the requirements of section 12-1-8 of this chapter.

3. Review Of Application: Upon receipt of an application for a development permit, the building code/zoning officer shall compare the elevation of the site to the base flood elevation. Any development located on land that can be shown to have been higher than the base flood elevation, as of the date of the site's first flood insurance rate map identification, is not located in the SFHA and, therefore, not subject to the requirements of this chapter. The building code/zoning officer shall maintain documentation of the existing ground elevation existing prior to the date of the site's first flood insurance rate map identification.

4. Necessity Of Other Permits: The building code/zoning officer shall inform the applicant of any and all other local, state, and federal permits that may be required for this type of development activity. The building code/zoning officer shall not issue the development permit unless all required federal and state permits have been obtained.

5. Conditions Of Permit:

a. All work performed under a development permit shall conform to the approved application and plans, and approved amendments thereto.

b. A copy of the development permit shall be posted in a conspicuous place on the premises, in plain view from a public road, during the execution of the work and until completion of the same.

c. A development permit under which no work is commenced within six (6) months after issuance shall expire by limitation, and a new development permit shall be secured before work is started.

B. Use Permit:

1. Permit Required: It shall be unlawful to use or occupy any buildings or any development site or any part thereof hereafter constructed in the SFHA without first making application for obtaining a use permit from the building code/zoning officer.

2. Request For Permit: Request for a use permit shall be submitted to the building code/zoning officer upon completion of the work authorized in the development permit issued for the project in question.

3. Issuance Of Permit: If, upon final inspection of a building or development site, the building code/zoning officer finds that the work has been performed in accordance with the approved application and plans of the development permit, a use permit may be issued. If final inspection reveals otherwise, a use permit may not be issued until all deficiencies are corrected.

C. Permit Review; Issuance Or Denial: The building code/zoning officer shall examine each application for a permit within three (3) days' time after filing. If, after examination, it appears that the proposed development or use of the site will be in compliance with this chapter and such other ordinances and resolutions passed by the board of trustees applicable thereto, the building code/zoning officer shall approve such application and issue the appropriate permit as soon as practicable. If the examination reveals otherwise, the application shall be rejected, and the building code/zoning officer's findings shall be noted in a written report to be attached to the application. A copy of the report shall be provided to the applicant upon request.

D. Permit Fees¹: Fees for permits shall be as follows:

1. Use permit: No fee.

1. See also section 9-1-4 and subsection 9-3-3C of this code.

2. Development permit for clearing debris, demolishing buildings, or removing buildings out of the SFHA: No fee. (Ord. 1989-5, 9-27-1988)

3. Garage, utility building or an addition to either; yard barn over one hundred fifty (150) square feet or an addition thereto: Fifty dollars (\$50.00).

4. Swimming pools, fences, sidewalks and yard barns under one hundred fifty (150) square feet: Thirty five dollars (\$35.00).

5. Single-family dwelling:

2 bedrooms	\$240.00
3 bedrooms	270.00
4 or more bedrooms	300.00

6. Duplex or multi-family dwelling: Two hundred dollars (\$200.00) per occupancy.

7. Any commercial building over fifty thousand dollars (\$50,000.00): Fifty dollars (\$50.00) for the first thousand dollars and one dollar (\$1.00) for each additional thousand dollars of estimated cost.

8. Any other external structural, electrical or dimensional changes not covered in this subsection: Thirty five dollars (\$35.00). (Ord. 1989-5, 9-27-1988; amd. 2007 Code)

E. Inspections; Entry Powers: All work for which a permit is required shall be subject to inspection by the building code/zoning officer or duly authorized representative to enter such premises or structures at any reasonable time to make an inspection. It shall be unlawful to interfere with or hinder the building code/zoning officer or the representative when in the performance of his duties.

F. Revocation Of Permit: The building code/zoning officer may revoke a permit in case there has been any false statement or misrepresentation as to a material fact in the application or plans on which the permit was based. The building code/zoning officer may revoke a permit when work is performed contrary to the provisions of the application or plans on which the permit is based. When a permit is revoked, the building code/zoning officer shall inform the permittee in writing of the specific steps the permittee must take in order to have the permit reissued. It shall be unlawful to continue any work authorized by a permit after revocation of that permit and until the

permit is reissued or until a new permit is issued. (Ord. 1989-5, 9-27-1988)

12-1-7: PREVENTING INCREASED DAMAGES:

A. 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.

B. Within all riverine SFHAs, the following standards shall apply: (Ord. 1989-5, 9-27-1988)

1. In addition to the other requirements of this chapter, a development permit for a site located in a floodway (or in a riverine SFHA where no floodway has been identified) shall not be issued unless the applicant first obtains a permit or written documentation that a permit is not required from the Illinois department of transportation, division of water resources, issued pursuant to 615 Illinois Compiled Statutes 5/4.9 et seq. (Ord. 1989-5, 9-27-1988; amd. 2007 Code)

2. The following activities may be constructed without the individual permit required in subsection B1 of this section in accordance with statewide permits issued by the Illinois department of transportation, division of water resources, provided the activities do not involve placement of fill, change of grade, or construction in the normal channel. Such activities must still meet the other requirements of this chapter.

a. The construction of wells, septic tanks, and underground utility lines not crossing a lake or stream;

b. The construction of light poles, signposts and similar structures;

c. The construction of sidewalks, driveways, athletic fields (excluding fences), patios and similar surfaces which are built at grade;

d. The construction of properly anchored, unwallled, open structures such as playground equipment, pavilions, and carports;

e. The placement of properly anchored buildings not exceeding seventy (70) square feet in size, nor ten feet (10') in any dimension (e.g., animal shelters and tool sheds); and

f. The construction of additions to existing buildings which do not increase the first floor area by more than twenty percent (20%), which are located on the upstream or downstream side of the existing building, and which do not extend beyond the sides of the existing building that are parallel to the flow of floodwaters.

3. The total cumulative effect of the development, when combined with all other existing and anticipated development, will not increase the base flood elevation more than one foot (1') for the affected hydraulic reach of the stream and will not increase flood damages or potential flood damages.

C. Public health standards in all SFHAs are as follows:

1. 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 FPE unless such materials are stored in a storage tank or floodproofed building constructed according to the requirements in subsection 12-1-8B4 of this chapter.

2. New and replacement sanitary sewer lines and on site waste disposal systems may be permitted, provided all manholes or other aboveground openings located below FPE are watertight. (Ord. 1989-5, 9-27-1988)

12-1-8: **PROTECTING BUILDINGS:**

A. In addition to the damage prevention requirements of section 12-1-7 of this chapter, all buildings to be located in the SFHA shall be protected from flood damage below the FPE. This building protection requirement applies to the following situations:

1. Construction or placement of a new building valued at more than one thousand dollars (\$1,000.00);

2. Structural alterations made to an existing building that increase the floor area by more than twenty percent (20%) or the market value of the building by more than fifty percent (50%);

3. Reconstruction or repairs made to a damaged building that are valued at more than fifty percent (50%) of the market value of the building before the damage occurred;

4. Installing a manufactured home on a new site or a new manufactured home on an existing site. This chapter does not apply to returning a manufactured home to the same site it lawfully occupied before it was removed to avoid flood damage; and

5. Install a travel trailer on a site for more than one hundred eighty (180) days.

B. This building protection requirement may be met by one of the following methods. The building code/zoning officer shall maintain a record of compliance with these building protection standards as required in section 12-1-4 of this chapter.

1. A residential or nonresidential building may be constructed on permanent landfill in accordance with the following:

a. The fill shall be placed in layers no greater than one foot (1') deep before compaction.

b. The lowest floor (including basement) shall be above the FPE. The fill should extend at least ten feet (10') beyond the foundation of the building before sloping below the FPE.

c. 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 vertical.

d. The fill shall not adversely affect the flow of surface drainage from or onto neighboring properties.

2. A residential or nonresidential building may be elevated in accordance with the following:

a. The building or improvements shall be elevated on crawl space, walls, stilts, piles, or other foundation, provided:

(1) The walls have permanent openings no more than one foot (1') above grade; and

(2) The walls and floor are not subject to damage by hydrostatic pressures associated with the base flood.

b. The foundation and supporting members shall be anchored and aligned in relation to flood flows and adjoining structures so as to minimize exposure to known hydrodynamic forces such as current, waves, ice, and floating debris.

c. All areas below the FFE shall be constructed of materials resistant to flood damage. The lowest floor (including basement) and all electrical, heating, ventilating, plumbing, and conditioning equipment and meters shall be located at or above the FFE. Water and sewer pipes, electrical and telephone lines, submersible pumps, and other waterproofed service facilities may be located below the FFE.

3. Manufactured homes and travel trailers to be installed on a site for more than one hundred eighty (180) days shall be:

a. Elevated at or above the FFE in accordance with subsection B1 or B2 of this section; and (Ord. 1989-5, 9-27-1988)

b. Anchored to resist flotation, collapse, or lateral movement by being tied down in accordance with rules and regulations for Illinois mobile home tie-down act issued pursuant to 210 Illinois Compiled Statutes 120/1 through 120/6. (Ord. 1989-5, 9-27-1988; amd. 2007 Code)

4. Only a nonresidential building may be floodproofed in accordance with the following:

a. A registered professional engineer shall certify that the building has been designed so that below the FFE, the structure and attendant utility facilities are watertight and capable of resisting the effects of the base flood. The building design shall take into account flood velocities, duration, rate of rise, hydrostatic and hydrodynamic forces, the effects of buoyancy and impacts from debris or ice.

b. Floodproofing measures shall be operable without human intervention and without an outside source of electricity. (Ord. 1989-5, 9-27-1988)

12-1-9: OTHER DEVELOPMENT REQUIREMENTS:

- A. The board of trustees shall take into account flood hazards to the extent that they are known, in all official actions related to land management, use and development.
- B. New subdivisions, manufactured home parks, travel trailer parks, annexation agreements, planned unit developments (PUDs), and additions to manufactured home parks and subdivisions shall meet the requirements of sections 12-1-7 and 12-1-8 of this chapter. Plats or plans for new subdivisions, manufactured home parks, and planned unit developments (PUDs) shall include a signed statement by a registered professional engineer that the plat or plan accounts for changes in the drainage of surface waters in accordance with the plat act¹.
- C. Proposals for new subdivisions, manufactured home parks, travel trailer parks, planned unit developments (PUDs) and additions to manufactured home parks and subdivisions shall include base flood elevation data and floodway delineations. When this information is not available from an existing study filed with the Illinois state water survey, the applicant shall be responsible for calculating the base flood elevation and the floodway delineation and submitting it to the state water survey for review and approval as best available regulatory data. (Ord. 1989-5, 9-27-1988)

12-1-10: VARIANCES:

- A. Whenever the standards of this chapter place undue hardship on a specific development proposal, the applicant may apply to the building code/zoning officer for a variance. The building code/zoning officer shall review the applicant's request for a variance and shall submit his recommendation to the board of trustees. The board of trustees may attach such conditions to granting of a variance as it deems necessary to further the intent of this chapter.
- B. No variance shall be granted unless the applicant demonstrates that:
 - 1. The development activity cannot be located outside the SFHA;

1. 765 ILCS 205/0.01 et seq.

2. An exceptional hardship would result if the variance were not granted;
 3. The relief requested is the minimum necessary;
 4. There will be no additional threat to public health or safety or creation of a nuisance;
 5. There will be no additional public expense for flood protection, rescue or relief operations, policing, or repairs to roads, utilities, or other public facilities; and
 6. The provisions of subsection 12-1-6A4 of this chapter are met.
 7. The provisions of subsection 12-1-7B of this chapter are met.
- C. The building code/zoning officer shall notify an applicant in writing that a variance from the requirements of section 12-1-8 of this chapter that would lessen the degree of protection to a building will:
1. Result in increased premium rates for flood insurance up to amounts that may be as high as twenty five dollars (\$25.00) for one hundred dollars (\$100.00) of insurance coverage;
 2. Increase the risks to life and property; and
 3. Require that the applicant proceed with knowledge of these risks and that the applicant acknowledge in writing the assumption of the risk and liability.
- D. Variances to the building protection requirements of section 12-1-8 of this chapter requested in connection with the reconstruction, repair or alteration of a site or building included on the National Register of Historic Places or the Illinois Register of Historic Places may be granted using criteria more permissive than the requirements of subsections B1 through B5 of this section. (Ord. 1989-5, 9-27-1988)

12-1-11: **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 may occur or flood heights may be increased by manmade or natural causes. This chapter does not imply that development either inside or outside of the

SFHA will be free from flooding or damage. This chapter does not create liability on the part of the village or any officer or employee thereof for any flood damage that results from reliance on this chapter or any administrative decision made lawfully hereunder. (Ord. 1989-5, 9-27-1988)

12-1-12: VIOLATIONS; PENALTY:

- A. Failure to obtain a permit for development in the SFHA or failure to comply with the requirements of a permit or conditions of a variance resolution shall be deemed to be a violation of this chapter. Upon due investigation, the building code/zoning officer may determine that a violation of the minimum standards of this chapter exists. The building code/zoning officer shall notify the owner in writing of such violation.
- B. If such owner fails after ten (10) days' notice to correct the violation:
 - 1. The village may make application to the circuit court for an injunction requiring conformance with this chapter or make such other order as the court deems necessary to secure compliance herewith. (Ord. 1989-5, 9-27-1988)
 - 2. Any person who violates this chapter shall, upon conviction thereof, be fined not less than twenty five dollars (\$25.00) nor more than the amount provided in section 1-4-1 of this code. (Ord. 1989-5, 9-27-1988; amd. 2007 Code)
 - 3. A separate offense shall be deemed committed upon each day during or on which a violation occurs or continues.
- C. The building code/zoning officer shall inform the owner that any such violation is considered a wilful act to increase flood damages and, therefore, may cause coverage by a standard flood insurance policy to be suspended.
- D. Nothing herein shall prevent the village from taking such other lawful action to prevent or remedy any violations. All costs connected therewith shall accrue to the person or persons responsible. (Ord. 1989-5, 9-27-1988)

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