

ARTICLE 18 - FLOODPLAIN REGULATIONS**Chapter 1****GENERAL PROVISIONS**3-18-1-1 Statement of Purpose and Intent

The purpose of this article is to control development in the floodplain in order to reduce the potential for loss of life and property, reduce the potential for health and safety hazards, and to reduce the potential for extraordinary public expenditures for flood protection and relief. Under the authority granted to local units of government to control land use within their jurisdictions, which includes the effects of flooding, the community hereby adopts the following floodplain management regulations in order to meet the following intent:

- (a) Protect human life and health;
- (b) Minimize public and private property damage;
- (c) Protect individuals from buying lands and **structures**, which are unsuited for intended purposes because of flood hazards;
- (d) Minimize surface and ground water pollution and erosion of the floodplain soils, which will adversely affect human, animal or plant life.
- (e) Control development, which will, when acting alone or cumulatively with similar development:
 - (1) Create an unjustified demand for public investment in flood control works by requiring that **uses** vulnerable to floods, including public facilities which serve such **uses**, be protected against flood damage at the time of initial construction or substantial improvement;
 - (2) Cause additional flood losses if public **streets**, sewers, water, and other utilities must be extended below the flood level to serve the development;
 - (3) Create an additional burden to the public to pay the costs of rescue, relief, emergency preparedness measures, or storm sewer systems;
 - (4) Create an additional burden to the public for business interruptions, disruption of transportation routes, interference with utility services, or other factors that result in the loss of wages, sales

- production, and tax revenue; and
- (5) Create a significant impact on the natural environment.
- (f) Provide for public awareness of flooding potential.
- (g) Control **uses** allowed within the **flood hazard areas**, such as fill, dumping, storage of materials, **structures, buildings**, and other works which, acting alone or in combination with other existing or future **uses**, will cause damaging flood heights and velocities by obstructing flows and reducing natural valley storage in the **flood hazard areas**.
- (h) To make federally subsidized flood insurance available for property in the floodplain by fulfilling the requirements of the National Flood Insurance Program.

3-18-1-2 Cause of Flood Losses.

These flood losses are caused by: (1) the cumulative effect of practices and obstructions in the floodplain which causes increased flood heights and velocities; and (2) the occupancy of **flood hazard areas** by **uses** vulnerable to flood damages, or by **uses** which create hazards to surrounding lands as a result of flood discharges caused by more intensive use of upland drainage areas in the form of residential developments, **streets**, parking **lots**, commercial **buildings**, storm drain construction and other **uses** and practices which promote increased storm water runoff.

3-18-2

Chapter 2

DEFINITIONS

For the purpose of this article only, the following definitions are adopted:

Base Flood Elevation (BFE) -- The elevation of the **regulatory flood**.

Building -- see "Structure."

Cumulative Effect -- The impact on the environment, which results from the incremental impact of an action when, added to other past and present actions. A cumulative effect can result from individually minor, but collectively significant, actions taking place over a period of time.

Development -- Any change or improvement to land brought about by human activity including but not limited to:

- (1) Construction, reconstruction, or placement of a **building** or any addition to a **building**: (Amendment Number ____, 31 May 2001)

- (2) Installation of a **manufactured home** on a site, preparing a site for a **manufactured home**, or installing a **recreational vehicle** on a site for more than one-hundred-eighty (180) days, where permitted;
- (3) Installation of utilities, erection of walls and **fences**, construction of roads, or similar projects;
- (4) Construction of flood control **structures** such as levees, dikes, channel improvements, etc.;
- (5) Mining, dredging, filling, grading, excavation, or drilling operations;
- (6) Construction and/or reconstruction of bridges or culverts;
- (7) Storage of materials; or
- (8) Any other activity that might change the direction, height, velocity of flood, or surface waters.

"Development" does not include any authorized activity with respect to a regulated drain as defined in IC 36-9-27-2, as may be amended from time to time. Neither does this definition include activities such as maintenance of existing **structures** and facilities such as painting, re-roofing, resurfacing roads, or gardening, plowing, and similar agricultural practices that do not involve filling, grading, excavating, or constructing permanent **structures**.

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

Flood Insurance Rate Map (FIRM) -- The latest official map of a community on which special hazard areas (floodplain) and risk premium zones applicable to the community are delineated.

Flood Proof -- Any combination of measures taken on a new or existing **structure** for reducing or eliminating flood damage.

Flood Protection Grade (FPG) -- The elevation of the **regulatory flood** plus two feet at any given location in the Special Flood Hazard Area.

Floodplain -- The channel proper and areas adjoining any wetlands, lake, or watercourse, which have been, or hereafter may be covered by the **regulatory flood**. The floodplain includes both the floodway and the **floodway fringe**. For the purposes of this article, the floodplain is only that area covered by a "**Regulatory flood**."

Floodway -- The channel of a watercourse and those portions of the floodplain

adjoining the channel that are required to carry and discharge flood water or flood flows of any river or stream including, but not limited to, flood flows associated with the **regulatory flood**.

Floodway Fringe -- That area outside of the floodway within the area of the **regulatory flood** that is inundated from flood flows of varying depths.

Historic Structure -- Any **structure** that is:

- (1) Listed individually on the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the United States Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily designated as a registered historic district;
- (3) Individually listed on the Register of Indiana Historic Sites and Historic **Structures**; or
- (4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - (A) By an approved state program as determined by the Secretary of Interior; or
 - (B) Directly by the Secretary of the Interior in states without approved programs.

Irreversible -- The adverse effect of actions which cannot be restored or mitigated within sixty (60) days for herbaceous plants or one-hundred-eighty (180) days for woody vegetation.

Letter of Map Amendment (LOMA) -- An amendment to the currently affective FEMA map that establishes that a property is not located in a Special Flood Hazard Area. A Letter of Map Amendment is only issued by the Federal Emergency Management Agency.

Letter of Map Revision (LOMR) -- An official revision to the currently effective Federal Emergency Management Agency map. The Federal Emergency Management Agency and changes flood zones, delineation, and elevations issue it.

Lowest Floor -- The lowest of the following:

- (1) The top of the basement floor;

- (2) The top of the garage floor, if the garage is the lowest level of the **structure**;
- (3) The top of the first floor of a **building** elevated on pilings or constructed on a crawl space with permanent openings; or
- (4) The top of the floor level of an enclosure below an elevated **building** where the walls of the enclosure provide any resistance to the flow of flood waters, unless:
 - (A) The walls are designed to automatically equalize the hydrostatic flood forces on the walls by allowing for the entry and exit of flood waters, by providing a minimum of two openings (in addition to doorways and windows) having a total area of one (1) square foot for every two (2) square feet of enclosed area subject to flooding. The bottom of all such openings shall be no higher than one (1) foot above grade; (Amendment Number ____, 31 May 2001)
 - (B) Such enclosed space shall be usable for the parking of vehicles and **building** access. (Amendment Number ____, 31 May 2001)

Manufactured Home -- A **structure**, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a **permanent foundation** when attached to the required utilities. The term "manufactured home" does not include a "**recreational vehicle**."

Manufactured Home Park or Subdivision, Existing -- A manufactured home park or subdivision for which the construction of facilities for servicing the **lots** on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of **streets**, and either final site grading or the pouring of concrete pads) is completed before the effective date of this Ordinance.

Manufactured Home Park or Subdivision, Expansion -- The preparation of additional sites by construction of facilities for servicing **lots** on which manufactured homes are to be affixed (including installation of utilities, construction of **streets**, and either final site grading or pouring of concrete pads).

Manufactured Home Park or Subdivision, New -- A manufactured home park or subdivision for which construction of facilities for servicing lots on which manufactured homes are to be affixed (including at a minimum, installation of utilities, construction of **streets**, and either final site grading or pouring of concrete pads) is completed on or after the effective date of these floodplain management regulations.

Market Value -- The most probable price for which the appraised property (in

this case just the **structure** in question) will sell in a competitive market under

all conditions necessary to a fair sale, with the buyer and seller each acting prudently, knowledgeably, and for self-interest and assuming that neither is under duress.

New Construction -- For the purposes of determining insurance rates, **structures** for which the "start of construction" commenced on or after the effective date of the initial Flood Insurance Rate Map including any subsequent improvements to such **structures**. For floodplain management purposes, "new construction" means **structures** for which the "start of construction" commenced on or after the effective date of these floodplain management regulations, including any subsequent improvements to such **structures**.

Recreational Vehicle -- A vehicle which is built on a single chassis, four-hundred (400) square feet or less when measured at the largest horizontal projections, designed to be self propelled or permanently towable by a light duty truck, and designed primarily not for use as a permanent **dwelling**, but as temporary living quarters for recreational camping, travel, or seasonal use.

Regulatory Flood -- A flood having a one percent probability of being equaled or exceeded in any given year, as calculated by a method and procedure approved by the Indiana Natural Resources Commission and the Federal Emergency Management Agency. A regulatory flood is also known as a base flood and one-hundred (100) year flood.

Special Flood Hazard Area (SFHA) -- Those lands within the jurisdiction of Allen County that are subject to inundation by the **regulatory flood**. The **Special Flood hazard areas** of Allen County are generally identified as such on the Flood Insurance Rate Maps of Allen County prepared by the Federal Emergency Management Agency and dated 5 November 2003 (Amendment Number 10-15-0, 15 October 2003)

Significant -- Any action which would increase the height of a **regulatory flood** by 0.1 feet.

Start of Construction -- The date a **building** permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within sixty (60) days of the permit date. The actual start means either the first placement of permanent construction of a **structure** on a site, such as the pouring of slab or footings, the installation of pilings, the construction of columns, or any work beyond excavation or filling; or placement of a **manufactured home** on a foundation. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other actual part of a **building**, whether or not that alteration effects the external dimensions of the **building**.

Structure -- Anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground. For the purposes of this article, 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 where allowable by this Ordinance.

Substantial Damage -- Damage of any origin sustained by a **structure** whereby the cost of restoring the **structure** to its before-damaged condition would equal or exceed 50% of the market value of the **structure** before the damage occurred.

Substantial Improvement -- Any reconstruction, rehabilitation, addition, or other improvement of a **structure**, the cost of which equals or exceeds 50% of the market value of the **structure** before the start of construction of the improvement. This term includes **structures**, which have incurred substantial damage, regardless of the actual repair work performed. A **structure** may attain substantial improvement cumulatively over time. The term does not, however, include:

- (1) Any project for improvement of a **structure** to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
- (2) Any alteration of a historic **structure** provided that the alteration will not preclude the **structure's** continued designation as a historic **structure**.

Watershed -- An area that drains to a single point, in a natural basin, this is the area contributing flow to a given place or stream.

Zone A -- Shaded areas on the Flood Insurance Rate Map where no base flood elevations has been determined.

Zone AE -- Shaded areas on the Flood Insurance Rate Map where base flood elevations have been determined.

Zone AH -- Shaded areas on the Flood Insurance Rate Map depicting flood depths of one (1) to three (3) feet (usually areas of pond formation) and where base flood elevations have been determined.

Zone AO -- Shaded areas on the Flood Insurance Rate Map depicting flood depths of one (1) to three (3) feet (usually sheet flow on sloping terrain) where average depths have been determined. For areas of alluvial fan flooding, velocities have also been determined.

Zoning Administrator -- The **person** appointed by the Allen County Plan Commission to enforce and administer the provisions of this Zoning Ordinance.

Zoning District -- Portions of the territory within the jurisdiction of the Allen County Plan Commission shown on the zoning maps for Allen County to which a uniform set of regulations apply. These regulations prohibit and permit certain land **uses** per district, while also prescribing certain yard, height, and other di-

mensional requirements.

3-18-3

Chapter 3

PERMITTED USES IN THE FLOODPLAIN

3-18-3-1 Floodway

The purpose of this section is to guide development away from areas identified as floodway. The floodway, as identified, is not to be considered a zoning district. The floodway is identified as such by the Federal Emergency Management Agency on the most current edition of the Allen County and Incorporated Areas Flood Insurance Study and Flood Insurance Rate Maps. These maps and any subsequent revisions thereto are adopted by reference and declared to be part of this section.

- (a) Permitted Uses. The following **uses** shall be permitted by right (exclusive of enclosed **structures**) if permitted by the zoning district in which the property is located:
 - (1) Agricultural **uses**;
 - (2) Wildlife areas, nature preserve, forests, and wetlands;
 - (3) Parks and recreational **uses**, such as golf courses, driving ranges, and play areas, provided no **structures** or fill will be located within the floodway;
 - (4) Public utilities;
 - (5) Public transportation facilities such as roads, **streets** and bridges, which are located on public rights of way;
 - (6) Public works projects for flood control improvements such as levees, floodwalls, and dams.
- (b) Prohibited Uses
 - (1) All encroachments, including **structures** and fill, except the fill needed for public transportation facilities and public works projects for flood control improvements.

3-18-3-2 Floodway Fringe

The purpose of this section is to control and minimize development in areas subject to potential flooding, but outside an identified floodway. The **floodway fringe**, as identified, is not to be considered a zoning district. The **floodway fringe** is that area identified by the Federal Emergency Management Agency on the most current edition of the

Allen County and Incorporated Areas Flood Insurance Study and Flood Insurance Rate Maps as outside the floodway, but subject to inundation by the **regulatory flood**.

These maps and any subsequent revisions thereto are adopted by reference and declared to be part of this section.

- (a) Permitted Uses
 - (1) All **uses** permitted in the floodway;
 - (2) All **structures** permitted within the applicable zoning district, meeting all damage protection and **building** protection standards of this article;
 - (3) **Accessory occupied space** permitted within the applicable zoning district, meeting all damage prevention and **building** protection standards of this article.
- (b) Prohibited Uses
 - (1) Fill placed for any reason other than for public and transportation facilities, utilities, flood control improvements, or approved **structures** as permitted in Section 3-18-3-2.

3-18-3-3 Nonconforming Uses

Any **building, structure**, or use that does not conform to this chapter is a **non-conforming use**. This use or **structure** may undergo substantial improvement on a one-time-only basis, whether cumulatively, or as a single act, provided it is not in the floodway, and that the new construction conforms to the flood proofing provisions and lowest floor elevations required by this article.

3-18-4

Chapter 4

ADMINISTRATION

3-18-4-1 Duties of the Zoning Administrator

The Zoning Administrator shall ensure compliance with all provisions of this article. In doing so, the Zoning Administrator shall perform the following duties:

- (a) Obtain the "as built" elevation (in relation to mean sea level) of the lowest floor of all new or substantially improved **structures** in the floodplain, including allowed fill and required excavation;
- (b) Obtain, for all **structures** that have been flood proofed (whether or not such **structures** include a basement), the elevation (in relation to mean sea level) to which the **structure** was flood

- proofed;
- (c) Maintain a record of all such information;
- (d) Ensure that **persons** with the necessary technical expertise to correctly apply the requirements of this chapter review all new development proposals requiring review under the terms of this article;
- (e) Require any reports or technical data that are necessary to ensure compliance;
- (f) Place conditions on any **Improvement Location Permit** to ensure compliance with the intent, purpose, and regulations of this article, or any similar regulation set forth by a state or federal agency;
- (g) Provide information and assistance to citizens upon request about permit procedures and floodplain construction techniques; (Amendment Number ____, 31 May 2001)
- (h) Ensure that construction authorization has been granted by the Indiana Natural Resources Commission for all development projects subject to Chapter 6 of the Ordinance, and maintain a record of such authorization (either copy of actual permit or letter of recommendation); (Amendment Number ____, 31 May 2001)
- (i) Maintain for public inspection and furnish upon request **regulatory flood** data, SFHA maps, Letters of Map Amendment (LOMA), Letters of Map Revision (LOMR), copies of DNR permits and letters of recommendation, federal permit documents, and “as-built” elevation and flood-proofing data for all **buildings** constructed subject to this ordinance; (Amendment Number ____, 31 May 2001)
- (j) Notify adjacent communities and the state coordinating office prior to any alteration or relocation of a watercourse, and submit copies of such notifications to FEMA. (Amendment Number ____, 31 May 2001)

3-18-4-2 Improvement Location Permit

No construction or development which requires an **Improvement Location Permit** according to the terms of this ordinance shall commence within a floodplain without first obtaining an **Improvement Location Permit**. The Zoning Administrator shall not issue an **Improvement Location Permit** if the proposed use, **structure**, or development does not meet the requirements of this article.

- (a) Upon receipt of an **Improvement Location Permit** application, the Zoning Administrator shall determine if the site is located within an

identified floodway, or floodplain, where the limits of the floodway have not yet been determined.

- (1) If the site is within an identified floodway, the Zoning Administrator shall inform the applicant that the permit cannot be issued pursuant to section 3-18-3-1. Any use in the floodway allowed by this article, but not requiring an **Improvement Location Permit** must comply with the provisions of IC14-28-1. (Amendment Number ____, 31 May 2001)
 - (2) If the site is located in an identified **floodway fringe**, the Zoning Administrator may issue an **Improvement Location Permit** provided there is compliance with Chapter 6 of this article.
 - (3) If the site is in an identified floodplain where the limits of the floodway and **floodway fringe** have not 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 Zoning Administrator shall require the applicant to forward plans and specifications to the Indiana Department of Natural Resources, requesting a letter of recommendation. If this review indicates the site is in the floodway, the Zoning Administrator shall not issue an **Improvement Location Permit**. If it is in the **floodway fringe**, the **Improvement Location Permit** may be issued in accordance with Chapter 6 of this article.
 - (4) If the site falls within an area designated as Zone A on the Flood Insurance Rate Map and the upstream drainage area is less than one square mile, an engineering study of the site shall be completed by the applicant and submitted to the Zoning Administrator. A determination shall then be made by the Zoning Administrator, with advice from the Allen County Surveyor's Office, as to whether the site is in the floodway or **floodway fringe**. The Zoning Administrator may issue no permit if the site is determined to be within the floodway. If the site is within the **floodway fringe**, the **Improvement Location Permit** may be issued in accordance with Chapter 6 of this article.
- (b) In addition to complying with the requirements of this ordinance, an application for an **Improvement Location Permit** proposing construction or improvements within a **floodway fringe** shall further include all the following:
- (1) A plan showing the location of existing and proposed **structures**, and existing and proposed land grades, on the site;
 - (2) The proposed elevation of the top of the lowest floor (including basement) of all proposed development. 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;

- (3) A plan showing the location of existing and proposed **structures** in relation to any stream, drain, ditch or waterway; and
- (4) Any additional information which may be necessary to determine the disposition of a proposed development or **structure** with respect to the requirements of this chapter.

3-18-4-3 Certificate of Occupancy

The Zoning Administrator shall issue no **Certificate of Occupancy** unless it has been confirmed the **structure** has been built in compliance with the terms of this article. The Zoning Administrator may require the applicant to submit any information, which may be needed to ensure compliance.

3-18-5

Chapter 5

STANDARD OF PROTECTION

3-18-5-1 Regulatory Flood Elevation

This article'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 a detailed engineering study needs to replace existing data with better data and submit it to the Indiana Department of Natural Resources for review and approval.

- (a) The **regulatory flood** elevation for the floodplain of all watercourses shall be as delineated on the flood profiles in the Flood Insurance Study of Allen County and Incorporated Areas prepared by the Federal Emergency Management Agency and dated 5 November 2003. (Amendment Number 10-15-0, 15 October 2003)
- (b) The **regulatory flood** elevation for each floodplain delineated as an "AH Zone" or "AO Zone" shall be that elevation (or depth) delineated on the Flood Insurance Rate Map for Allen County and Incorporated Areas.
- (c) The **regulatory flood** elevation for each floodplain delineated as an "A Zone" on the Flood Insurance Rate Map for Allen County and Incorporated Areas shall be determined according to the best data available as provided by the Department of Natural Resources.
- (d) If the floodplain is delineated as "AH Zone" or "AO Zone," the elevation

(or depth) will be delineated as "Zone A" on the Allen County and Incorporated Areas Flood Insurance Rate Map. If the floodplain is delineated as "Zone A" on the Flood Insurance Rate Map, the **regulatory flood** elevation shall be according to the best data available as provided by the Indiana Department of Natural Resources.

3-18-6

Chapter 6

DAMAGE PREVENTION AND FLOOD PROTECTION

3-18-6-1 Preventing Increased Damages

No development shall be allowed in the floodplain, which has a significant and irreversible effect, nor shall it create a damaging or potentially damaging increase in flood heights or velocity, or threat to public health and safety.

- (a) Within the floodway identified on the Flood Insurance Rate Map, the following standards shall apply:
 - (1) 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
 - (2) For all projects involving channel modifications or fill (including levees) the community shall submit a request to the Federal Emergency Management Agency to revise the **regulatory flood** data.
- (b) Within the **floodway fringe** identified on the Flood Insurance Rate Map, the following standards shall apply:
 - (1) Structures shall be constructed as far from the floodway as possible, assuring all applicable **building** setback and separation requirements are maintained, unless it is demonstrated that an alternative location would have less of an impact on the floodplain due to a decreased need for fill and/or excavation;
 - (2) The total cumulative effect of the proposed development, when combined with all other existing development shall not increase the **regulatory flood** elevation nor increase real or potential flood damages;
 - (3) Fill material taken from within the floodplain shall offset the fill needed for an approved **building** project so the water storage capacity of the floodplain is not diminished; excavation of the fill shall take place in the same immediate watershed in which

the **building** site is located. An excavated area within the floodplain shall provide for true storage of flood water but shall not be subject to pond formation when not inundated by flood water; the fill shall not obstruct a drainage way leading to the floodplain;

- (4) Fill material taken from outside of but adjacent to the floodplain shall be excavated so the finished elevation of the excavation site is below the elevation of the **regulatory flood**; the capacity of an area excavated in such a manner shall offset the fill needed for an approved **building** project so the water storage capacity of the floodplain is not diminished; excavation of the fill shall take place in the same immediate watershed in which the **building** site is located; the fill shall not obstruct a drainage way leading to the floodplain; the excavated area shall not be refilled;
 - (5) Fill shall be of a material deemed stable enough to remain firm and in place during periods of flooding; runoff and drainage protection shall be provided to adjacent property owners; and
 - (6) Plans depicting the areas to be excavated and filled according to (3) and/or (4) above shall be submitted by the applicant prior to the actual start of construction; once site work is complete, but prior to the actual start of construction, the applicant shall provide to the Zoning Administrator a certified survey of the excavation and fill sites demonstrating the fill and excavation comply with this article.
- (c) Within the floodplain as identified on the Flood Insurance Rate Maps, the following public health standards shall apply to protect the community from nuisances and hazards:
- (1) No development in the floodplain 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 storage tank or flood-proofed **building** constructed according to the requirements of Section 3-18-6-3; and
 - (2) New and replacement sanitary sewer lines and onsite waste disposal systems may be permitted providing all manholes or other above ground openings located below the **flood protection grade** are watertight.

3-18-6-2 Structures Affected by Building Protection Standards

In addition to damage prevention requirements of Chapter 6, all **buildings** to be located in the floodplain shall be protected from flood damage below the **flood protection grade**. These **building** protection standards apply to the following situations:

- (a) Construction or placement of any new **structure**, which is valued at more than one-thousand (\$1,000) dollars or (Amendment Number _____, 31 May 2001) which is larger than one-hundred-forty-four (144) square feet;
- (b) Structural alterations made to an existing **building** that constitutes substantial improvement;
- (c) Reconstruction or repairs made to a **building** that experienced substantial damage. Any **structure** receiving substantial damage immediately becomes subject to substantial improvement and must comply with all applicable requirements of this article, regardless of the level of repairs actually made to the **structure**;
- (d) Installing a **manufactured home** on a new site or a new **manufactured home** on an existing site. This does not apply to returning the existing **manufactured home** to the same site it lawfully occupied before it was removed to avoid flood damage; and,
- (e) Installing a travel trailer or **recreational vehicle** on a site for more than one-hundred-eighty (180) days, where allowed by this Ordinance.

3-18-6-3

Building Protection Methods

Building protection may be accomplished by one of the following methods. The Zoning Administrator shall maintain a record of compliance with these **building** protection standards as required in Section 3-18-4-1.

- (a) A **structure** may be constructed on a site within the **floodway fringe**, which is specifically and permanently filled for the **structure** only, provided the fill was not placed in a floodway, in accordance with the following:
 - (1) The fill shall be placed in layers no greater than one foot deep before compacting to 95% of the maximum density obtainable with the Standard Proctor Test method;
 - (2) The fill shall extend at least ten (10) feet beyond the foundation of the **building** before sloping below the **flood protection grade**;
 - (3) The fill shall be protected against erosion and scours during flooding by vegetative cover, rip rap, bulk heading, or other acceptable method. If vegetative cover is used, the slopes shall be no steeper than three (3) to one (1) (horizontal to vertical);
 - (4) The fill shall not adversely affect the flow of surface drainage from or onto neighboring properties or receiving waterways; and
 - (5) The lowest floor shall be at or above the **flood protection**

- (3) The fill shall be protected against erosion and scours during flooding by vegetative cover, rip rap, bulk heading, or other acceptable method. If vegetative cover is used, the slopes shall be no steeper than three (3) to one (1) horizontal to vertical);
 - (4) The fill shall not adversely affect the flow of surface drainage from or onto neighboring properties or receiving waterways; and
 - (5) The lowest floor shall be at or above the flood protection grade.
- (b) A structure may be elevated in accordance with the following:
- (1) The building or improvements shall be elevated on posts, piers, columns, extended walls, or other types of similar foundation provided:
 - (A) Walls of any enclosure below the elevated door shall be designed to automatically equalize hydrostatic flood forces on the walls by allowing for the entry and exit of flood waters by providing a minimum of two (2) openings (in addition to doorways and windows) having a total area of one (1) square foot for every two (2) square feet of enclosed floor area subject to flooding. The bottom of all such openings shall be no higher than one (1) foot above the enclosed area's floor; and
 - (B) Any enclosure below the elevated floor is not used for additional occupied floor space by the permitted use, excluding building access.
 - (2) 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 natural forces such as current, waves, ice, and floating debris.
 - (3) All areas below the flood protection grade shall be constructed of materials resistant to flood damage. The lowest floor and all electrical, heating, ventilating, plumbing, and air conditioning equipment and utility meters shall be located at or above the flood protection grade. Water and sewer pipes, electrical and telephone lines, submersible pumps, and other waterproofed service facilities may be located below the flood protection grade.
- (c) 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 of the following anchoring requirements.
- (1) The manufactured home shall be elevated on a permanent foundation such that the lowest floor shall be at or above the flood protection grade and securely attached 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 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.
- (2) The manufactured home shall be elevated so that the lowest floor of the home chassis is supported by reinforced piers or other foundation elements that are no less than thirty-six (36) inches in height above grade and be securely attached 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.
- (d) Recreational vehicles placed on a site shall either:
- (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 Section 3-18-6-3 (c).
- (e) A non-residential building may be flood-proofed to the flood protection grade (in lieu of elevating) if done in accordance with the following:
- (1) A registered professional engineer shall certify that the portions of the structure and attendant utility facilities located below the flood protection grade have been designed to be 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;
 - (2) Flood proofing measures shall be operable without human intervention and without an outside source of electricity.

3-18-7

Chapter 7

SUBDIVISION AND DEVELOPMENT PLAN REQUIREMENTS

3-18-7-1 Development in Floodplain Areas

The Plan Commission shall review all proposed subdivisions and development plans to determine whether any or all of the proposed development lies in a floodplain. If the

Plan Commission finds the subdivision or development plan, or portion thereof, to be located in an "A Zone" without regulatory flood elevations determined, the developer shall forward plans and materials to the Indiana Department of Natural Resources for review and comment. If the site is shown to contain areas within the floodway, those portions within the floodway will be subject to the permitted use requirements of this article. The Plan Commission shall require appropriate changes and modifications to be made to the plat, development plan, and subsequent development, in order to assure that:

- (a) No structures or fill are to be located in the floodway;
- (b) Development activities are consistent with the need to reduce flood damages;
- (c) All public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage; and
- (d) Adequate drainage is provided so as to reduce exposure to flood hazards.

3-18-7-2 Flood Elevations

Developers shall show the regulatory flood elevation on all development plans and subdivision plats containing lands identified as within a floodplain of a regulatory flood prior to submitting the drawings for approval by the Plan Commission.

3-18-7-3 Manufactured Housing Developments

All owners of manufactured home parks or subdivisions located within a floodplain identified as "Zone A" on the Flood Insurance Rate Map must develop an evacuation plan for those lots which are located in "Zone A." The plan must be approved by, and filed with, the Allen County Office of Emergency Preparedness. A copy of the plan shall also be filed with the Plan Commission.

3-18-8

Chapter 8

VARIANCES

3-18-8-1 Board of Zoning Appeals

The Board of Zoning Appeals may issue a variance from the technical provisions of this article (as opposed to the permitted use provisions) provided the applicant demonstrates that:

- (a) There exists a good and sufficient cause for the requested variance;
- (b) The strict application of the terms of this article will constitute an exceptional hardship to the applicant; and

- (c) The granting of the requested variance will not 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.

3-18-8-2 Grant of Variance

The Board of Zoning Appeals may issue a variance from the technical provisions of this article subject to the following standards and conditions:

- (a) All variance requests are subject to a public hearing upon complying with the notification requirements of IC 5-3-1.
- (b) No variance shall be granted for a use or structure in the floodway which is not otherwise permitted.
- (c) Variances from the Building Protection Standards of this article may be granted only when a new structure is to be located on a lot of 0.5 acres or less in size, contiguous to and surrounded by lots with existing structures constructed below the flood protection grade. Lots larger than 0.5 acres in size may be granted a variance providing the intent of Section 3-18-1-1 and Section 3-18-8-1 is met.
- (d) A variance may be granted for the reconstruction or restoration of any structure listed individually on the National Register of Historic Places or the Indiana State Survey of Historic Architectural, Archaeological and Cultural Sites, Structures, Districts, and Objects.
- (e) All variances shall give the minimum relief necessary and be such that the maximum practical flood protection will be given to the proposed construction.
- (f) Other than as provided in this section, variances will only be granted in accordance with Section 3-14-1-2 of this Ordinance. In the event of a conflict, the provisions of this section will control.

3-18-9

Chapter 9

DISCLAIMER OF LIABILITY

3-18-9-1 Disclaimer of Liability

The degree of flood protection required by this article 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 article does not create any liability on the part of the community, the Indiana Department of Natural Resources, the State of Indiana, the Allen County Surveyor's Office, the Allen County Plan Commission and Board of Zoning Appeals, the Allen County Zoning Hearing Officer, the

Allen County Zoning Administrator, the Allen Count Department of Planning Services, or the Allen County Board of Commissioners for any flood damage that results from reliance on this article or any administrative decision made lawfully thereunder.

3-18-10

Chapter 10

VALIDITY AND EFFECTIVE DATE

3-18-10-1 Validity

If any chapter, section, clause or portion of this article is judged to be invalid or unconstitutional, such judgement shall not effect the validity or constitutionality of the article or ordinance as a whole, or any other part thereof.

3-18-10-2 Effective Date

This article shall be in full force and effect from and after 28 September 1990. (Amendment Number 42, 4 Sep 1990)

3-18-11

Chapter 11

ABROGATION AND GREATER RESTRICTIONS

3-18-11-1 This Ordinance repeals and replaces other ordinances adopted by the County Commissioners to fulfill the requirements of the National Flood Insurance Program. However, this ordinance does not repeal the original resolution or ordinance adopted to achieve eligibility in the Program. Nor does this Ordinance repeal, abrogate, or impair any existing **easements**, covenants, or deed restrictions. Where this Ordinance and other Ordinance **easements**, covenants, or deed restrictions, conflict or overlap, whichever imposes the more stringent restrictions shall take precedence. In addition, the County Commissioners shall assure that all-National Flood Insurance Program regulations and laws (310 IAC 6-1-1, IC 1428-1 and 14-28-3) are met. (Amendment Number _____, 31 May 2001)

