

**'ORDINANCE 64' CON'T  
FROM PAGE 6****4.3-1 Permit Review**

(1) Review all development permits to determine that the permit requirements of this ordinance have been satisfied.

(2) Approve or deny all applications for development permits required by adoption of this ordinance.

(3) Review all development permits to determine that all necessary permits have been obtained from those federal, state, or local governmental agencies from which prior approval is required.

(4) Review all development permits to determine if the proposed development is located in the floodway. If located in the floodway, assure that the encroachment provisions of Section 5.4 are met.

**4.3-2 Use of Other  
Base Flood Data**

When base flood elevation data has not been provided in accordance with Section 3.2, BASIS FOR ESTABLISHING THE SPECIAL FLOOD HAZARD AREAS, the Drayton City Auditor shall obtain, review, and reasonably utilize any base flood elevation data and floodway data available (known as best available information) from any other federal, state, or other source, as criteria for requiring that new construction, substantial improvements, or other development in the floodplain are administered in accordance with Section 5.2, SPECIFIC STANDARDS.

**4.3-3 Information to be  
Obtained and Maintained**

(1) Obtain and record the actual elevation (in the same datum (either NAVD88 or NGVD29) as the FIRM), of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement.

(2) For all new or substantially improved floodproofed structures:

(i) obtain and record the actual elevation (in the same datum (either NAVD88 or NGVD29) as the FIRM), to which the structure has been floodproofed;

(ii) maintain the floodproofing certifications required in Section 4.1(3).

(3) Maintain for public inspection all records pertaining to the provisions of this ordinance.

**4.3-4 Alteration of Watercourses  
The responsible person shall:**

(1) Notify nearby communities, water resource districts, and the North Dakota Department of Water Resources, as necessary, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.

(2) Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished; and,

(3) Notify the appropriate water resource district prior to removal or placement of fill within two hundred feet of the bank of a body of water during normal flow or stage.

**4.3-5 Interpretation of  
Flood Insurance Rate Map  
(FIRM) Boundaries**

Make interpretation where needed, as to the exact location of the boundaries of the special flood hazard areas (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Section 4.4.

**4.3-6 Encroachment Analysis**

When a regulatory floodway has not been designated, the Floodplain Administrator must require that no new construction, substantial improvements, or other development (including fill) shall

be permitted within Zones A1-30 and AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Program regulations, a community may approve certain development in Zones A1-30, AE, AH, on the community's FIRM which increases the water surface elevation of the base flood by more than one foot, provided that the community first applies for and receives a Conditional Letter of Map Revision (CLOMR) through FEMA.

**4.4 VARIANCE PROCEDURE****4.4-1 Appeal Board**

(1) The Drayton City Council as established By the City of Drayton, ND, shall hear and decide appeals and requests for variances from the requirements of this ordinance.

(2) The Drayton City Council shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Drayton City Auditor in the enforcement or administration of this ordinance.

(3) Those aggrieved by the decision of the Drayton City Council, or any taxpayer, may appeal such decision to the District Court, as provided in N.D.C.C. §§ 40-47-11, 11-33-12, or 58-03-14.

(4) In passing upon such applications, the Drayton City Council shall consider all technical evaluations, all relevant factors, standards specified in other sections of this ordinance; and:

(i) the danger that materials may be swept onto other lands to the injury of others;

(ii) the danger to life and property due to flooding or erosion damage;

(iii) the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

(iv) the importance of the services provided by the proposed facility to the community;

(v) the necessity to the facility of a waterfront location, where applicable;

(vi) the availability of alternative locations, for the proposed use which are not subject to flooding or erosion damage;

(vii) the compatibility of the proposed use with existing and anticipated development;

(viii) the relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

(ix) the safety of access to the property in times of flood for ordinary and emergency vehicles;

(x) the expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and

(xi) 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.

(5) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre to less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (i-xi) in Section 4.4-1(4) have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.

(6) Upon consideration of the factors of Section 4.4-1(4)

and the purposes of this ordinance, the Drayton City Council may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.

(7) The Drayton City Auditor shall maintain the records of all appeal actions the report any variances to the Federal Emergency Management Agency upon request.

**4.4-2 Conditions for Variances**

(1) Variances may be issued for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this section.

(2) Variances shall not be issued within the identified floodplain if any increase in flood levels during the base flood discharge would result.

(3) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(4) Variances shall only be issued upon:

(i) a showing of good and sufficient cause;

(ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant; and,

(iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, cause fraud on or victimization of the public as identified in Section 4.4-1(4), or conflict with existing local laws or ordinances.

(5) Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

**SECTION 5.0 PROVISIONS FOR  
FLOOD HAZARD REDUCTION****5.1 GENERAL STANDARDS**

In all special flood hazard areas the following standards are required:

**5.1-1 Anchoring**

(1) All new construction and substantial improvements, including additions, shall be anchored to prevent flotation, collapse, or lateral movement of the structure.

(2) All manufactured homes must be elevated and anchored to resist 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 requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.

**5.1-2 Construction  
Materials and Methods**

(1) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

(2) All new and substantial improvements shall be constructed using methods and practices that minimize flood damage.

(3) All new construction and substantial improvements shall be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment, and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

**5.1-3 Utilities**

(1) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

(2) New and replacement

sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters; and,

(3) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

**5.1-4 Subdivision Proposals**

(1) All subdivision proposals shall be consistent with the need to minimize flood damage;

(2) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;

(3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and,

(4) Base flood elevation data shall be provided for subdivision proposals and other proposed development which contain at least 50 lots or 5 acres (whichever is less).

**5.2 SPECIFIC STANDARDS**

In all special flood hazard areas where base flood elevation data have been provided as set forth in Section 3.2 BASIS FOR ESTABLISHING THE SPECIAL FLOOD HAZARD AREAS or Section 4.3-2, Use of Other Base Flood Data, the following provisions are required:

**5.2-1 Residential Construction**

(1) New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to at least one foot above the base flood elevation.

**5.2-2 Nonresidential  
Construction**

Construction and substantial improvement of any nonresidential structure shall either have the lowest floor, including basement, elevated to at least one foot above the base flood elevation or, together with attendant utility and sanitary facilities shall:

(1) Be floodproofed to at least two feet above the base flood elevation, so that below this elevation the structure is watertight with walls substantially impermeable to the passage of water.

(2) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

(3) Be certified by a registered professional engineer or architect that the standards of this subsection are satisfied. Such certification shall be provided to the official as set forth in Section 4.3-3(2).

**5.2-3 Manufactured Homes**

(1) Require all manufactured homes placed within Zone A shall be installed using methods and practices which minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist 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 requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.

(2) Require all manufactured homes placed or substantially improved within Zones A 1-30, AH, or AE on sites (i) outside of a manufactured home park or subdivision, (ii) in a new manufactured home park or subdivision, (iii) in an expansion to an existing manufactured home park or subdivision, or (iv) in an existing manufactured home park or subdivision which has incurred substantial damage, be elevated on a permanent foundation so the lowest floor of the manufactured home is elevated one foot above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

(3) Require that manufacture homes placed or substantially improved on sites in an existing manufacture home park or subdivision within Zones A 1-30, AH, or AE not subject to other requirements of this section be elevated so that either:

(i) the lowest floor of the manufacture home is one foot above the base flood elevation, or (ii) the manufacture home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36" in height above grade and be securely anchored to an adequately anchored foundation system to resist floatation, collapse, and lateral movement.

**5.2-4 Recreational Vehicles**

In A1-30, AH, and AE Zones, all recreational vehicles to be placed on a site must (i) be elevated and anchored to meet the requirements in 5.2-3; OR (ii) be on the site for less than 180 consecutive days; AND (iii) be fully licensed and highway ready

5.3 Shallow Flooding AO and AH Zones (Section 5.3 is only required if the community has Flood Zones AO and/or AH on the effective FIRM)

Located within the areas of special flood hazard established in Section 3.2, are areas designated as shallow flooding. These areas have special flood hazards associated with base flood depths of 1 to 3 feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow; therefore, the following provisions apply:

(1) All new construction and substantial improvements of residential structures have the lowest floor (including basement) elevated one foot above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified).

(2) All new construction and substantial improvements of non-residential structures;

(i) have the lowest floor (including basement) elevated one foot above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified), or;

(ii) together with attendant utility and sanitary facilities be completely floodproofed to that level to meet the floodproofing standard as specified in Section 5.2-2.

(3) Require within Zones AH or AO adequate drainage paths around structures on slopes, to guide flood waters around and away from proposed structures.

**5.4 FLOODWAYS**

Located within the special flood hazard areas established in Section 3.2 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

(1) Prohibit encroachments, including fill, new construction, substantial improvements, and other development unless certification by a registered professional engineer or architect is provided demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge. Any increase, as is used in this section, means any modeled impact greater than 0.00 feet.

(2) If Section 5.4 (1) is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction requirements of this ordinance.

(3) Under the provisions of 44 CFR Section 65.12 of the NFIP Regulations, a community may permit encroachments within the adopted regulatory floodway that would result in an increase in