

- Management Office, and submit copies of such notifications to the Federal Emergency Management Agency (FEMA);
- (3) Require applicants who submit hydrologic and hydraulic engineering analyses to support permit applications to submit to FEMA the data and information necessary to maintain the flood insurance rate maps if the analyses propose to change base flood elevations, flood hazard area boundaries, or floodway designations; such submissions shall be made within six months of such data becoming available;
- (4) Review required design certifications and documentation of elevations specified by this chapter and the Florida Building Code to determine that such certifications and documentations are complete; and
- (5) Notify the Federal Emergency Management Agency when the corporate boundaries of the city are modified.
- (Ord. No. 19-23, § 2, 6-13-19)

Sec. 90-48. Floodplain management records.

Regardless of any limitation on the period required for retention of public records, the floodplain administrator shall maintain and permanently keep and make available for public inspection all records that are necessary for the administration of this chapter and the flood resistant construction requirements of the Florida Building Code, including flood insurance rate maps; letters of map change; records of issuance of permits and denial of permits; determinations of whether proposed work constitutes substantial improvement or repair of substantial damage; required design certifications and documentation of elevations specified by the Florida Building Code and this chapter; notifications to adjacent communities, FEMA, and the state related to alterations of watercourses; assurances that the flood carrying capacity of altered watercourses will be maintained; documentation related to appeals and variances, including justification for issuance or denial; and records of enforcement actions taken pursuant to this chapter and the

flood resistant construction requirements of the Florida Building Code. These records shall be available for public inspection at City Hall, 300 W. Plant Street, Winter Garden, Florida 34787. (Ord. No. 19-23, § 2, 6-13-19)

Sec. 90-49. Reserved.

DIVISION 4. PERMITS

Sec. 90-50. Permits required.

Any owner or owner's authorized agent (hereinafter "applicant") who intends to undertake any development activity within the scope of this chapter, including buildings, structures and facilities exempt from the Florida Building Code, which is wholly within or partially within any flood hazard area shall first make application to the floodplain administrator, and the building official if applicable, and shall obtain the required permit(s) and approval(s). No such permit or approval shall be issued until compliance with the requirements of this chapter and all other applicable codes and regulations has been satisfied.

(Ord. No. 19-23, § 2, 6-13-19)

Sec. 90-51. Floodplain development permits or approvals.

Floodplain development permits or approvals shall be issued pursuant to this chapter for any development activities not subject to the requirements of the Florida Building Code, including buildings, structures and facilities exempt from the Florida Building Code. Depending on the nature and extent of proposed development that includes a building or structure, the floodplain administrator may determine that a floodplain development permit or approval is required in addition to a building permit.

(Ord. No. 19-23, § 2, 6-13-19)

Sec. 90-52. Buildings, structures and facilities exempt from the Florida Building Code.

Pursuant to the requirements of federal regulation for participation in the National Flood Insurance Program (44 C.F.R. Sections 59 and 60),

floodplain development permits or approvals shall be required for the following buildings, structures and facilities that are exempt from the Florida Building Code and any further exemptions provided by law, which are subject to the requirements of this chapter:

- (1) Railroads and ancillary facilities associated with the railroad.
 - (2) Nonresidential farm buildings on farms, as provided in F.S. § 604.50.
 - (3) Temporary buildings or sheds used exclusively for construction purposes.
 - (4) Mobile or modular structures used as temporary offices.
 - (5) Those structures or facilities of electric utilities, as defined in F.S. § 366.02, which are directly involved in the generation, transmission, or distribution of electricity.
 - (6) Chickees constructed by the Miccosukee Tribe of Indians of Florida or the Seminole Tribe of Florida. As used in this paragraph, the term "chickee" means an open-sided wooden hut that has a thatched roof of palm or palmetto or other traditional materials, and that does not incorporate any electrical, plumbing, or other non-wood features.
 - (7) Family mausoleums not exceeding 250 square feet in area which are prefabricated and assembled on site or preassembled and delivered on site and have walls, roofs, and a floor constructed of granite, marble, or reinforced concrete.
 - (8) Temporary housing provided by the department of corrections to any prisoner in the state correctional system.
 - (9) Structures identified in F.S. § 553.73(10)(k), are not exempt from the Florida Building Code if such structures are located in flood hazard areas established on flood insurance rate maps.
- (Ord. No. 19-23, § 2, 6-13-19)

Sec. 90-53. Application for a permit or approval.

To obtain a floodplain development permit or approval the applicant shall first file an application in writing on a form furnished by the city. The information provided shall:

- (1) Identify and describe the development to be covered by the permit or approval.
 - (2) Describe the land on which the proposed development is to be conducted by legal description, street address or similar description that will readily identify and definitively locate the site.
 - (3) Indicate the use and occupancy for which the proposed development is intended.
 - (4) Be accompanied by a site plan or construction documents as specified in article I, division 5 of this chapter.
 - (5) State the valuation of the proposed work.
 - (6) Be signed by the applicant or the applicant's authorized agent.
 - (7) Give such other data and information as required by the floodplain administrator.
- (Ord. No. 19-23, § 2, 6-13-19)

Sec. 90-54. Validity of permit or approval.

The issuance of a floodplain development permit or approval pursuant to this chapter shall not be construed to be a permit for, or approval of, any violation of this chapter, the Florida Building Codes, or any other ordinance of this community. The issuance of permits based on submitted applications, construction documents, and information shall not prevent the floodplain administrator from requiring the correction of errors and omissions.

(Ord. No. 19-23, § 2, 6-13-19)

Sec. 90-55. Expiration.

A floodplain development permit or approval shall become invalid unless the work authorized by such permit is commenced within 180 days after its issuance, or if the work authorized is suspended or abandoned for a period of 180 days after the work commences. Extensions for periods

of not more than 180 days each shall be requested in writing and justifiable cause shall be demonstrated.

(Ord. No. 19-23, § 2, 6-13-19)

Sec. 90-56. Suspension or revocation.

The floodplain administrator is authorized to suspend or revoke a floodplain development permit or approval if the permit was issued in error, on the basis of incorrect, inaccurate or incomplete information, or in violation of this chapter or any other ordinance, regulation or requirement of the city.

(Ord. No. 19-23, § 2, 6-13-19)

Sec. 90-57. Other permits required.

Floodplain development permits and building permits shall include a condition that all other applicable state or federal permits be obtained before commencement of the permitted development, including but not limited to the following:

- (1) The St. Johns River Water Management District; F.S. § 373.036.
- (2) Florida Department of Health for onsite sewage treatment and disposal systems; F.S. § 381.0065, and Chapter 64E-6, F.A.C.
- (3) Florida Department of Environmental Protection for activities subject to the Joint Coastal Permit; F.S. § 161.055.
- (4) Florida Department of Environmental Protection for activities that affect wetlands and alter surface water flows, in conjunction with the U.S. Army Corps of Engineers; Section 404 of the Clean Water Act.
- (5) Federal permits and approvals.

Secs. 90-58—90-59. Reserved.

DIVISION 5. SITE PLANS AND CONSTRUCTION DOCUMENTS

Sec. 90-60. Information for development in flood hazard areas.

The site plan or construction documents for any development subject to the requirements of

this chapter shall be drawn to scale and shall include, as applicable to the proposed development:

- (1) Delineation of flood hazard areas, floodway boundaries and flood zone(s), base flood elevation(s), and ground elevations if necessary for review of the proposed development.
- (2) Where base flood elevations or floodway data are not included on the FIRM or in the flood insurance study, they shall be established in accordance with section 90-61(2) or (3) of this chapter.
- (3) Where the parcel on which the proposed development will take place will have more than 50 lots or is larger than five acres and the base flood elevations are not included on the FIRM or in the flood insurance study, such elevations shall be established in accordance with section 90-61(1) of this chapter.
- (4) Location of the proposed activity and proposed structures, and locations of existing buildings and structures.
- (5) Location, extent, amount, and proposed final grades of any filling, grading, or excavation.
- (6) Where the placement of fill is proposed, the amount, type, and source of fill material; compaction specifications; a description of the intended purpose of the fill areas; and evidence that the proposed fill areas are the minimum necessary to achieve the intended purpose.
- (7) Existing and proposed alignment of any proposed alteration of a watercourse.

The floodplain administrator is authorized to waive the submission of site plans, construction documents, and other data that are required by this chapter but that are not required to be prepared by a registered design professional if it is found that the nature of the proposed development is such that the review of such submissions is not necessary to ascertain compliance with this chapter.

(Ord. No. 19-23, § 2, 6-13-19)

Sec. 90-61. Information in flood hazard areas without base flood elevations (approximate zone A).

Where flood hazard areas are delineated on the FIRM and base flood elevation data have not been provided, the floodplain administrator shall:

- (1) Require the applicant to include base flood elevation data prepared in accordance with currently accepted engineering practices.
- (2) Obtain, review, and provide to applicants base flood elevation and floodway data available from a federal or state agency or other source or require the applicant to obtain and use base flood elevation and floodway data available from a federal or state agency or other source.
- (3) Where base flood elevation and floodway data are not available from another source, where the available data are deemed by the floodplain administrator to not reasonably reflect flooding conditions, or where the available data are known to be scientifically or technically incorrect or otherwise inadequate:
 - a. Require the applicant to include base flood elevation data prepared in accordance with currently accepted engineering practices; or
 - b. Specify that the base flood elevation is two feet above the highest adjacent grade at the location of the development, provided there is no evidence indicating flood depths have been or may be greater than two feet.
- (4) Where the base flood elevation data are to be used to support a letter of map change from FEMA, advise the applicant that the analyses shall be prepared by a Florida licensed engineer in a format required by FEMA, and that it shall be the responsibility of the applicant to satisfy the submittal requirements and pay the processing fees.

(Ord. No. 19-23, § 2, 6-13-19)

Sec. 90-62. Additional analyses and certifications.

As applicable to the location and nature of the proposed development activity, and in addition to the requirements of this section, the applicant shall have the following analyses signed and sealed by a Florida licensed engineer for submission with the site plan and construction documents:

- (1) For development activities proposed to be located in a regulatory floodway, a floodway encroachment analysis that demonstrates that the encroachment of the proposed development will not cause any increase in base flood elevations; where the applicant proposes to undertake development activities that do increase base flood elevations, the applicant shall submit such analysis to FEMA as specified in section 90-63 of this chapter and shall submit the conditional letter of map revision, if issued by FEMA, with the site plan and construction documents.
- (2) For development activities proposed to be located in a riverine flood hazard area for which base flood elevations are included in the flood insurance study or on the FIRM and floodways have not been designated, hydrologic and hydraulic analyses that demonstrate that the cumulative effect of the proposed development, when combined with all other existing and anticipated flood hazard area encroachments, will not increase the base flood elevation more than one foot at any point within the community. This requirement does not apply in isolated flood hazard areas not connected to a riverine flood hazard area or in flood hazard areas identified as zone AO or zone AH.
- (3) For alteration of a watercourse, an engineering analysis prepared in accordance with standard engineering practices which demonstrates that the flood-carrying capacity of the altered or relocated portion of the watercourse will not be decreased, and certification that

the altered watercourse shall be maintained in a manner which preserves the channel's flood-carrying capacity; the applicant shall submit the analysis to FEMA as specified in section 90-63 of this chapter.

(Ord. No. 19-23, § 2, 6-13-19)

Sec. 90-63. Submission of additional data.

When additional hydrologic, hydraulic or other engineering data, studies, and additional analyses are submitted to support an application, the applicant has the right to seek a letter of map change from FEMA to change the base flood elevations, change floodway boundaries, or change boundaries of flood hazard areas shown on FIRMs, and to submit such data to FEMA for such purposes. The analyses shall be prepared by a Florida licensed engineer in a format required by FEMA. Submittal requirements and processing fees shall be the responsibility of the applicant.

(Ord. No. 19-23, § 2, 6-13-19)

Secs. 90-64—90-69. Reserved.

DIVISION 6. INSPECTIONS

Sec. 90-70. General.

Development for which a floodplain development permit or approval is required shall be subject to inspection.

(Ord. No. 19-23, § 2, 6-13-19)

Sec. 90-71. Development other than buildings and structures.

The floodplain administrator shall inspect all development to determine compliance with the requirements of this chapter and the conditions of issued floodplain development permits or approvals.

(Ord. No. 19-23, § 2, 6-13-19)

Sec. 90-72. Buildings, structures and facilities exempt from the Florida Building Code.

The floodplain administrator shall inspect buildings, structures and facilities exempt from

the Florida Building Code to determine compliance with the requirements of this chapter and the conditions of issued floodplain development permits or approvals.

(Ord. No. 19-23, § 2, 6-13-19)

Sec. 90-73. Same—Lowest floor inspection.

Upon placement of the lowest floor, including basement, and prior to further vertical construction, the owner of a building, structure or facility exempt from the Florida Building Code, or the owner's authorized agent, shall submit to the floodplain administrator:

- (1) If a design flood elevation was used to determine the required elevation of the lowest floor, the certification of elevation of the lowest floor prepared and sealed by a Florida licensed professional surveyor; or
- (2) If the elevation used to determine the required elevation of the lowest floor was determined in accordance with section 90-61(3)(b) of this chapter, the documentation of height of the lowest floor above highest adjacent grade, prepared by the owner or the owner's authorized agent.

(Ord. No. 19-23, § 2, 6-13-19)

Sec. 90-74. Same—Final inspection.

As part of the final inspection, the owner or owner's authorized agent shall submit to the floodplain administrator a final certification of elevation of the lowest floor or final documentation of the height of the lowest floor above the highest adjacent grade; such certifications and documentations shall be prepared as specified in section 90-73 of this chapter.

(Ord. No. 19-23, § 2, 6-13-19)

Sec. 90-75. Manufactured homes.

The floodplain administrator shall inspect manufactured homes that are installed or replaced in flood hazard areas to determine compliance with the requirements of this chapter and the conditions of the issued permit. Upon placement

of a manufactured home, certification of the elevation of the lowest floor shall be submitted to the floodplain administrator.

(Ord. No. 19-23, § 2, 6-13-19)

Secs. 90-76—90-79. Reserved.

DIVISION 7. VARIANCES AND APPEALS

Sec. 90-80. General.

The planning and zoning board shall hear and decide on requests for appeals and requests for variances from the strict application of this chapter. Pursuant to F.S. § 553.73(5), the planning and zoning board shall hear and decide on requests for appeals and requests for variances from the strict application of the flood resistant construction requirements of the Florida Building Code.

(Ord. No. 19-23, § 2, 6-13-19)

Sec. 90-81. Appeals.

The planning and zoning board shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the floodplain administrator in the administration and enforcement of this chapter. Any person aggrieved by the decision may appeal such decision to the circuit court, as provided by Florida Statutes.

(Ord. No. 19-23, § 2, 6-13-19)

Sec. 90-82. Limitations on authority to grant variances.

The planning and zoning board shall base its decisions on variances on technical justifications submitted by applicants, the considerations for issuance in section 90-86 of this chapter, the conditions of issuance set forth in section 90-87 of this chapter, and the comments and recommendations of the floodplain administrator and the building official. The planning and zoning board has the right to attach such conditions as it deems necessary to further the purposes and objectives of this chapter.

(Ord. No. 19-23, § 2, 6-13-19)

Sec. 90-83. Restrictions in floodways.

A variance shall not be issued for any proposed development in a floodway if any increase in base flood elevations would result, as evidenced by the applicable analyses and certifications required in section 90-62 of this chapter.

(Ord. No. 19-23, § 2, 6-13-19)

Sec. 90-84. Historic buildings.

A variance is authorized to be issued for the repair, improvement, or rehabilitation of a historic building that is determined eligible for the exception to the flood resistant construction requirements of the Florida Building Code, Existing Building, Chapter 12 Historic Buildings, upon a determination that the proposed repair, improvement, or rehabilitation will not preclude the building's continued designation as a historic building and the variance is the minimum necessary to preserve the historic character and design of the building. If the proposed work precludes the building's continued designation as a historic building, a variance shall not be granted and the building and any repair, improvement, and rehabilitation shall be subject to the requirements of the Florida Building Code.

(Ord. No. 19-23, § 2, 6-13-19)

Sec. 90-85. Functionally dependent uses.

A variance is authorized to be issued for the construction or substantial improvement necessary for the conduct of a functionally dependent use, as defined in this chapter, provided the variance meets the requirements of section 90-83, is the minimum necessary considering the flood hazard, and all due consideration has been given to use of methods and materials that minimize flood damage during occurrence of the base flood.

(Ord. No. 19-23, § 2, 6-13-19)

Sec. 90-86. Considerations for issuance of variances.

In reviewing requests for variances, the planning and zoning board shall consider all technical evaluations, all relevant factors, all other applicable provisions of the Florida Building Code, this chapter, and the following:

- (1) The danger that materials and debris may be swept onto other lands resulting in further injury or damage;

- (2) The danger to life and property due to flooding or erosion damage;
 - (3) The susceptibility of the proposed development, including contents, to flood damage and the effect of such damage on current and future owners;
 - (4) The importance of the services provided by the proposed development to the community;
 - (5) The availability of alternate locations for the proposed development that are subject to lower risk of flooding or erosion;
 - (6) The compatibility of the proposed development with existing and anticipated development;
 - (7) The relationship of the proposed development to the comprehensive plan and floodplain management program for the area;
 - (8) The safety of access to the property in times of flooding for ordinary and emergency vehicles;
 - (9) The expected heights, velocity, duration, rate of rise and debris and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
 - (10) 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, streets and bridges.
- (Ord. No. 19-23, § 2, 6-13-19)
- (2) Determination by the planning and zoning board that:
 - a. Failure to grant the variance would result in exceptional hardship due to the physical characteristics of the land that render the lot undevelopable; increased costs to satisfy the requirements or inconvenience do not constitute hardship;
 - b. The granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, nor create nuisances, cause fraud on or victimization of the public or conflict with existing local laws and ordinances; and
 - c. The variance is the minimum necessary, considering the flood hazard, to afford relief;
 - (3) Receipt of a signed statement by the applicant that the variance, if granted, shall be recorded in the office of the clerk of the court in such a manner that it appears in the chain of title of the affected parcel of land; and
 - (4) If the request is for a variance to allow construction of the lowest floor of a new building, or substantial improvement of a building, below the required elevation, a copy in the record of a written notice from the floodplain administrator to the applicant for the variance, specifying the difference between the base flood elevation and the proposed elevation of the lowest floor, stating that the cost of federal flood insurance will be commensurate with the increased risk resulting from the reduced floor elevation (up to amounts as high as \$25.00 for \$100.00 of insurance coverage), and stating that construction below the base flood elevation increases risks to life and property.

(Ord. No. 19-23, § 2, 6-13-19)

Sec. 90-87. Conditions for issuance of variances.

Variances shall be issued only upon:

- (1) Submission by the applicant, of a showing of good and sufficient cause that the unique characteristics of the size, configuration, or topography of the site limit compliance with any provision of this chapter or the required elevation standards;

Secs. 90-88—90-89. Reserved.

DIVISION 8. VIOLATIONS

Sec. 90-90. Violations.

Any development that is not within the scope of the Florida Building Code but that is regulated by this chapter that is performed without an issued permit, that is in conflict with an issued permit, or that does not fully comply with this chapter, shall be deemed a violation of this chapter. A building or structure without the documentation of elevation of the lowest floor, other required design certifications, or other evidence of compliance required by this chapter or the Florida Building Code is presumed to be a violation until such time as that documentation is provided.

(Ord. No. 19-23, § 2, 6-13-19)

Sec. 90-91. Authority.

For development that is not within the scope of the Florida Building Code but that is regulated by this chapter and that is determined to be a violation, the floodplain administrator is authorized to serve notices of violation or stop work orders to owners of the property involved, to the owner's agent, or to the person or persons performing the work.

(Ord. No. 19-23, § 2, 6-13-19)

Sec. 90-92. Unlawful continuance.

Violation of the provisions of this article or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall be punishable for a noncriminal violation pursuant to section 1-15 of this Code. Any person who violates this article or fails to comply with any of its requirements shall, upon adjudication therefore, be fined not more than \$500.00, and in addition, shall pay all costs and expenses, including attorney's fees and costs, involved in the case. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the floodplain administrator from taking such other lawful actions as are necessary to prevent or remedy any violation.

(Ord. No. 19-23, § 2, 6-13-19)

Secs. 90-93—90-99. Reserved.

ARTICLE II. DEFINITIONS

DIVISION 1. GENERAL

Sec. 90-100. Scope.

Unless otherwise expressly stated, the following words and terms shall, for the purposes of this chapter, have the meanings shown in this section.

(Ord. No. 19-23, § 2, 6-13-19)

Sec. 90-101. Terms defined in the Florida Building Code.

Where terms are not defined in this chapter and are defined in the Florida Building Code, such terms shall have the meanings ascribed to them in that code.

(Ord. No. 19-23, § 2, 6-13-19)

Sec. 90-102. Terms not defined.

Where terms are not defined in this chapter or the Florida Building Code, such terms shall have ordinarily accepted meanings such as the context implies.

(Ord. No. 19-23, § 2, 6-13-19)

Secs. 90-103—90-108. Reserved.

DIVISION 2. DEFINITIONS

Sec. 90-109. Definitions.

Alteration of a watercourse means a dam, impoundment, channel relocation, change in channel alignment, channelization, or change in cross-sectional area of the channel or the channel capacity, or any other form of modification which may alter, impede, retard or change the direction and/or velocity of the riverine flow of water during conditions of the base flood.

Appeal means a request for a review of the floodplain administrator's interpretation of any provision of this chapter.