

## Chapter 90

### FLOODS\*

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\***Editor's note**—Ord. No. 19-23, § 2, adopted June 13, 2019, repealed ch. 90 in its entirety and enacted new provisions to read as herein set out. Former ch. 90, §§ 90-26—90-35, 90-60, 90-61, 90-70—90-73, 90-80—90-86, pertained to similar subject matter, and derived from Ord. No. 09-65, § I, adopted Oct. 22, 2009.

Buildings and building regulations, ch. 18; environment, ch. 38; concurrency management system, ch. 86; natural resource protection, ch. 94; planning and development, ch. 98; stormwater management, ch. 106; subdivisions, ch. 110; zoning, ch. 118.

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## ARTICLE I. IN GENERAL

### DIVISION 1. GENERALLY

#### Sec. 90-1. Title.

These regulations shall be known as the Floodplain Management Ordinance of the City of Winter Garden, hereinafter referred to as "this chapter."

(Ord. No. 19-23, § 2, 6-13-19)

#### Sec. 90-2. Scope.

The provisions of this chapter shall apply to all development that is wholly within or partially within any flood hazard area, including but not limited to the subdivision of land; filling, grading, and other site improvements and utility installations; construction, alteration, remodeling, enlargement, improvement, replacement, repair, relocation or demolition of buildings, structures, and facilities that are exempt from the Florida Building Code; placement, installation, or replacement of manufactured homes and manufactured buildings; installation or replacement of tanks; placement of recreational vehicles; installation of swimming pools; and any other development.

(Ord. No. 19-23, § 2, 6-13-19)

#### Sec. 90-3. Intent.

The purposes of this chapter and the flood load and flood resistant construction requirements of the Florida Building Code are to establish minimum requirements to safeguard the public health, safety, and general welfare and to minimize public and private losses due to flooding through regulation of development in flood hazard areas to:

- (1) Minimize unnecessary disruption of commerce, access and public service during times of flooding;
- (2) Require the use of appropriate construction practices in order to prevent or minimize future flood damage;
- (3) Manage filling, grading, dredging, mining, paving, excavation, drilling operations,

storage of equipment or materials, and other development which may increase flood damage or erosion potential;

- (4) Manage the alteration of flood hazard areas, watercourses, and shorelines to minimize the impact of development on the natural and beneficial functions of the floodplain;
- (5) Minimize damage to public and private facilities and utilities;
- (6) Help maintain a stable tax base by providing for the sound use and development of flood hazard areas;
- (7) Minimize the need for future expenditure of public funds for flood control projects and response to and recovery from flood events; and
- (8) Meet the requirements of the National Flood Insurance Program for community participation as set forth in the Title 44 Code of Federal Regulations, Section 59.22.

(Ord. No. 19-23, § 2, 6-13-19)

#### Sec. 90-4. Coordination with the Florida Building Code.

This chapter is intended to be administered and enforced in conjunction with the Florida Building Code. Where cited, ASCE 24 refers to the edition of the standard that is referenced by the Florida Building Code.

(Ord. No. 19-23, § 2, 6-13-19)

#### Sec. 90-5. Warning.

The degree of flood protection required by this chapter and the Florida Building Code, as amended by the city, is considered the minimum reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur. Flood heights may be increased by manmade or natural causes. This chapter does not imply that land outside of mapped special flood hazard areas, or that uses permitted within such flood hazard areas, will be free from flooding or flood damage. The flood hazard areas and base flood elevations contained in the flood insurance study and shown on flood

insurance rate maps and the requirements of Title 44 Code of Federal Regulations, Sections 59 and 60 may be revised by the Federal Emergency Management Agency, requiring the city to revise these regulations to remain eligible for participation in the National Flood Insurance Program. No guaranty of vested use, existing use, or future use is implied or expressed by compliance with this chapter.

(Ord. No. 19-23, § 2, 6-13-19)

#### **Sec. 90-6. Disclaimer of liability.**

This chapter shall not create liability on the part of the city or by any officer or employee thereof for any flood damage that results from reliance on this chapter or any administrative decision lawfully made thereunder.

(Ord. No. 19-23, § 2, 6-13-19)

#### **Secs. 90-7—90-25. Reserved.**

### **DIVISION 2. APPLICABILITY**

#### **Sec. 90-26. General.**

Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall be applicable.

(Ord. No. 19-23, § 2, 6-13-19)

#### **Sec. 90-27. Areas to which this chapter applies.**

This chapter shall apply to all flood hazard areas within the city, as established in section 90-28 of this chapter.

(Ord. No. 19-23, § 2, 6-13-19)

#### **Sec. 90-28. Basis for establishing flood hazard areas.**

The Flood Insurance Study for Orange County, Florida and Incorporated Areas dated June 20, 2018, and all subsequent amendments and revisions, and the accompanying flood insurance rate maps (FIRM), and all subsequent amendments and revisions to such maps, are adopted by reference as a part of this chapter and shall serve as the minimum basis for establishing flood hazard areas. Studies and maps that

establish flood hazard areas are on file at City Hall, 300 W. Plant Street, Winter Garden, Florida 34787.

(Ord. No. 19-23, § 2, 6-13-19)

#### **Sec. 90-29. Submission of additional data to establish flood hazard areas.**

To establish flood hazard areas and base flood elevations, pursuant to article I, division 5 of this chapter the floodplain administrator may require submission of additional data. Where field surveyed topography prepared by a Florida licensed professional surveyor or digital topography accepted by the community indicates that ground elevations:

- (1) Are below the closest applicable base flood elevation, even in areas not delineated as a special flood hazard area on a FIRM, the area shall be considered as flood hazard area and subject to the requirements of this chapter and, as applicable, the requirements of the Florida Building Code.
- (2) Are above the closest applicable base flood elevation, the area shall be regulated as special flood hazard area unless the applicant obtains a letter of map change that removes the area from the special flood hazard area.

(Ord. No. 19-23, § 2, 6-13-19)

#### **Sec. 90-30. Abrogation and greater restrictions.**

This chapter supersedes any ordinance in effect for management of development in flood hazard areas. However, it is not intended to repeal or abrogate any existing ordinances including but not limited to land development regulations, zoning ordinances, stormwater management regulations, or the Florida Building Code. In the event of a conflict between this chapter and any other ordinance, the more restrictive shall govern. This chapter shall not impair any deed restriction, covenant or easement, but any land that is subject to such interests shall also be governed by this chapter.

(Ord. No. 19-23, § 2, 6-13-19)

**Sec. 90-31. Interpretation.**

In the interpretation and application of this chapter, all provisions shall be:

- (1) Considered as minimum requirements;
  - (2) Liberally construed in favor of the governing body; and
  - (3) Deemed neither to limit nor repeal any other powers granted under state statutes.
- (Ord. No. 19-23, § 2, 6-13-19)

**Sec. 90-32. Warning and disclaimer of liability.**

The degree of flood protection required by this article is considered reasonable for regulatory purposes and is based on scientific and engineering consideration. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This article does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. This article shall not create liability on the part of the city or by any officer or employee thereof for any flood damages that result from reliance on this article or any administrative decision lawfully made thereunder.

(Ord. No. 19-23, § 2, 6-13-19)

**Secs. 90-33—90-39. Reserved.****DIVISION 3. DUTIES AND POWERS OF THE FLOODPLAIN ADMINISTRATOR****Sec. 90-40. Designation.**

The city manager is designated as the floodplain administrator. The floodplain administrator may delegate performance of certain duties to other employees.

(Ord. No. 19-23, § 2, 6-13-19)

**Sec. 90-41. General.**

The floodplain administrator is authorized and directed to administer and enforce the provisions of this chapter. The floodplain administrator shall have the authority to render interpretations of this chapter consistent with

the intent and purpose of this chapter and may establish policies and procedures in order to clarify the application of its provisions. Such interpretations, policies, and procedures shall not have the effect of waiving requirements specifically provided in this chapter without the granting of a variance pursuant to article I, division 7 of this chapter.

(Ord. No. 19-23, § 2, 6-13-19)

**Sec. 90-42. Applications and permits.**

The floodplain administrator, in coordination with other pertinent offices of the city, shall:

- (1) Review applications and plans to determine whether proposed new development will be located in flood hazard areas;
- (2) Review applications for modification of any existing development in flood hazard areas for compliance with the requirements of this chapter;
- (3) Interpret flood hazard area boundaries where such interpretation is necessary to determine the exact location of boundaries; a person contesting the determination shall have the opportunity to appeal the interpretation;
- (4) Provide available flood elevation and flood hazard information;
- (5) Determine whether additional flood hazard data shall be obtained from other sources or shall be developed by an applicant;
- (6) Review applications to determine whether proposed development will be reasonably safe from flooding;
- (7) Issue floodplain development permits or approvals for development other than buildings and structures that are subject to the Florida Building Code, including buildings, structures and facilities exempt from the Florida Building Code, when compliance with this chapter is demonstrated, or disapprove the same in the event of noncompliance; and



- (8) Coordinate with and provide comments to the building official to assure that applications, plan reviews, and inspections for buildings and structures in flood hazard areas comply with the applicable provisions of this chapter.

(Ord. No. 19-23, § 2, 6-13-19)

**Sec. 90-43. Substantial improvement and substantial damage determinations.**

For applications for building permits to improve buildings and structures, including alterations, movement, enlargement, replacement, repair, change of occupancy, additions, rehabilitations, renovations, substantial improvements, repairs of substantial damage, and any other improvement of or work on such buildings and structures, the floodplain administrator, in coordination with the building official, shall:

- (1) Estimate the market value, or require the applicant to obtain an appraisal of the market value prepared by a qualified independent appraiser, of the building or structure before the start of construction of the proposed work; in the case of repair, the market value of the building or structure shall be the market value before the damage occurred and before any repairs are made;
- (2) Compare the cost to perform the improvement, the cost to repair a damaged building to its pre-damaged condition, or the combined costs of improvements and repairs, if applicable, to the market value of the building or structure;
- (3) Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage; and
- (4) Notify the applicant if it is determined that the work constitutes substantial improvement or repair of substantial damage and that compliance with the flood resistant construction requirements of the Florida Building Code and this chapter is required.

(Ord. No. 19-23, § 2, 6-13-19)

**Sec. 90-44. Modifications of the strict application of the requirements of the Florida Building Code.**

The floodplain administrator shall review requests submitted to the building official that seek approval to modify the strict application of the flood load and flood resistant construction requirements of the Florida Building Code to determine whether such requests require the granting of a variance pursuant to article I, division 7 of this chapter.

(Ord. No. 19-23, § 2, 6-13-19)

**Sec. 90-45. Notices and orders.**

The floodplain administrator shall coordinate with appropriate local agencies for the issuance of all necessary notices or orders to ensure compliance with this chapter.

(Ord. No. 19-23, § 2, 6-13-19)

**Sec. 90-46. Inspections.**

The floodplain administrator shall make the required inspections as specified in article I, division 6 of this chapter for development that is not subject to the Florida Building Code, including buildings, structures and facilities exempt from the Florida Building Code. The floodplain administrator shall inspect flood hazard areas to determine if development is undertaken without issuance of a permit.

(Ord. No. 19-23, § 2, 6-13-19)

**Sec. 90-47. Other duties of the floodplain administrator.**

The floodplain administrator shall have other duties, including but not limited to:

- (1) Establish, in coordination with the building official, procedures for administering and documenting determinations of substantial improvement and substantial damage made pursuant to section 90-43 of this chapter;
- (2) Require that applicants proposing alteration of a watercourse notify adjacent communities and the Florida Division of Emergency Management, State Floodplain