



# *CITY OF CHARLOTTESVILLE*

## *CITY CODE-ZONING ORDINANCE, ARTICLES 34-240 THRU 34-258*

### **Sec. 34-240. Findings of fact**

The Charlottesville City Council hereby finds and determines that the flood hazard areas of the city are subject to periodic inundation, which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare. These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities, and by the occupancy in flood hazard areas by uses vulnerable to floods or hazards to other lands which are inadequately elevated, flood-proofed, or otherwise unprotected from flood damages.

*(9-15-03(3))*

### **Sec. 34-241. Purpose**

There is hereby established a flood hazard protection overlay zoning district. The purpose of this overlay district is to promote the public health, safety and general welfare and also to minimize public losses due to flood conditions in specific areas. The provisions set forth within this division are designed to:

- (1) Restrict or prohibit uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- (2) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (3) Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodations of floodwaters;
- (4) Control filling, grading, dredging, and other development which may increase erosion or flood damage;
- (5) Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands;
- (6) To protect human life and health;

- (7) To minimize expenditure of public money for costly flood control projects;
- (8) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (9) To minimize prolonged business interruptions;
- (10) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, street and bridges located in floodplains;
- (11) To help maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize flood blight areas;
- (12) To insure that potential home buyers are notified that their property is in a flood area;
- (13) To insure that flood insurance will continue to be available to the residents of Charlottesville, and;
- (14) To minimize pollution of water resources and the general degradation of the natural environment.

*(9-15-03(3); 4-21-08(2))*

### **Sec. 34-242. Applicability**

**(a)** This chapter shall apply to all areas of special flood hazard, as identified pursuant to subsection (b) below, within the jurisdiction of the City of Charlottesville. Following enactment of this zoning ordinance, no building, structure or land shall be constructed, located, extended, converted, structurally altered or improved, and no land-disturbing activities shall be conducted, located, extended, converted, or structurally altered within any area of special flood hazard without full compliance with the terms of this chapter and other applicable regulations.

**(b)** The floodplain areas identified by the Federal Emergency Management Agency in its Flood Insurance Rate Map (FIRM) dated February 4, 2005, as amended, with accompanying maps and other supporting data, and any revisions thereto, are adopted by reference and declared to be part of this chapter.

**(c)** This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. Where this chapter conflicts or overlaps with any other law or ordinance, the more stringent restrictions shall prevail.

*(9-15-03(3); 1-18-05; 4-21-08(2))*

### **Sec. 34-243. Disclaimer of liability**

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This chapter cannot guarantee that areas of special flood hazard or land uses that are permitted within such areas will be free from flooding or flood damage. This chapter shall not create liability on the part of the City of Charlottesville or by an officer or employee thereof for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.

*(9-15-03(3))*

### **Sec. 34-244. Administration**

**(a)** The director of neighborhood development services is hereby designated as the official responsible for administration and implementation of the provisions of this chapter ("floodplain management administrator").

**(b)** The duties of the floodplain management administrator shall be to:

(1) Review all development permit applications to assure that the requirements of this chapter have been satisfied. Require that if additional federal or state permits are required, and if specific federal or state permit requirements are known, copies of such permits be provided and maintained on file with the development permit.

(2) Notify adjacent communities and the Virginia Department of Conservation and Recreation (DCR) and Department of Environmental Quality (DEQ) prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency. Verify that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-capacity is not diminished.

(3) Maintain records pertaining to the provisions of this chapter in the office of neighborhood development services.

(4) Interact with state and federal agencies.

(5) Ensure that all reports and applications required by law are completed.

*(9-15-03(3); 4-21-08(2))*

### **Sec. 34-245. Responsibilities of other city officials**

**(a)** The city engineer is charged with the following administrative responsibilities under this division:

(1) When base flood elevation data or floodway data has not been provided, the city engineer shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state, or other source in order to administer the provisions of this chapter.

(2) Where interpretation is needed as to the exact location of boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), the city engineer shall make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this article.

(3) The city engineer shall verify that maintenance is provided within any altered or relocated portion of a watercourse, so that the flood carrying capacity of the watercourse is not diminished.

(4) The city engineer shall assist the board of zoning appeals in evaluating proposed projects in relation to flood heights and velocities, threatened erosion, the adequacy of the plans for flood and erosion protection, the adequacy of drainage facilities, and other technical matters.

(5) The city engineer shall verify and record the actual elevation, in relation to mean sea level, of the lowest finished floor of all new or substantially improved buildings.

(6) The city engineer shall verify and record the actual elevation, in relation to mean sea level, to which the new or substantially improved buildings have been flood-proofed.

**(b)** The city's building code official is charged with the following responsibilities under this division:

(1) The building code official shall circulate building permit applications to the other city officials charged with responsibilities under this division. Following approval by all such officials, the building code official may issue building permits as required by law.

(2) The building code official shall note on all building permits issued the elevation, in relation to mean sea level, of the lowest finished floor of all new or substantially improved structures. If a structure is to be flood-proofed, then the building code official shall note on the building permit the elevation, in relation to mean sea level, to which the structure will be flood-proofed; and

(3) The building code official shall obtain the certification required by [section 34-256](#) from a registered professional engineer or architect.

**(c)** The city's zoning administrator is charged with the following responsibilities under this division:

(1) Enforcement and prosecution of violations

(2) Except as otherwise specifically provided, interpretation of the provisions of this division.

*(9-15-03(3))*

#### **Sec. 34-246. Permits required**

A permit shall be required prior to the commencement of any development activities within this district. Application shall be made to the director of neighborhood development services.

*(9-15-03(3))*

#### **Sec. 34-247. Permit application requirements**

**(a)** All applicants for the permit required by [section 34-246](#) shall provide the following information:

(1) The location on the lot of the existing structure, if an addition to the existing structure is being proposed for construction.

(2) The proposed elevation (in relation to mean sea level) of the lowest floor of all new and substantially improved structures.

(3) A description of the extent to which any watercourse will be altered or relocated as a result of the proposed development; an engineering report, prepared by a registered professional engineer utilizing hydrologic and hydraulic analyses, on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map showing the location of the proposed watercourse alteration or relocation. The engineer preparing the report shall certify whether the flood carrying capacity of the watercourse will be maintained.

(4) The nature, location, dimensions, and elevations of the area in question, proposed structures, and of all storage and other facilities.

(5) The location(s) of proposed fill areas; the amount, type, and source of fill material; a description of the purpose of the fill areas; evidence that the proposed fill areas are the minimum necessary to achieve the intended purpose; compaction specifications; and, if its purpose is to meet the elevation requirements of [section 34-251](#), a report on consideration of alternative elevation methods to minimize the amount of fill.

**(b)** Following receipt of an application, the director shall ask the city engineer to establish the following: (i) minimum allowable elevation in relation to mean sea level of the finished floor (including basement) of the building; and (ii) elevation in relation to mean sea level to which any non-residential building must be flood-proofed.

**(c)** If, upon review of an application, the director determines that all the requirements of this division are satisfied, then the director shall issue a permit authorizing the proposed development activities. Issuance of such permit shall not relieve any person of applicable building permit, site plan, subdivision or other required permits or permissions applicable to the same activities.

**(d)** A certification of the lowest floor elevation, or a flood-proofing certificate (FEMA Form 81-65) is required after the lowest floor is completed. Within twenty-one (21) days of establishment of the lowest floor elevation, or flood-proofing, whichever is applicable, it shall be the duty of the permit holder to submit to the director a certification of the as-built elevation of the lowest floor, or flood-proofed elevation, as applicable, in relation to mean sea level. Any work done within the twenty-one-day period and prior to submission of the certification shall be at the permit holder's risk.

(1) Said certification shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by same. When flood-proofing is utilized for a particular building, said certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same.

(2) The city engineer shall inspect the data submitted with the certification to ascertain compliance with these regulations. Deficiencies detected by such review must be corrected by the permit holder immediately and prior to further progressive work. Failure to submit the certification or failure to make said corrections required hereby shall be cause to issue a stop-work order for the project. Upon inspection, the city engineer shall sign the elevation certificate for the finished floor. A copy of the elevation certificate shall be kept on file in the neighborhood development services office.

**(e)** The city engineer shall advise an applicant or his representative that additional federal or state permits may be required. If the city engineer knows that specific federal or state permits will be required to allow completion of the subdivision, then the city engineer shall require that copies of such permits be provided by the applicant or his representative. Copies shall be kept on file in the neighborhood development services office.

*(9-15-03(3); 4-21-08(2))*

### **Sec. 34-248. Special exceptions—Procedures**

**(a)** The city's board of zoning appeals (BZA) is hereby authorized to hear and decide appeals from administrative decisions made under this division.

(1) Within ten (10) days following an administrative decision made under this division, an aggrieved applicant may appeal that decision to the BZA. The appeal shall be made in writing to the director, and it

shall set forth the matters which the appellant wishes to dispute. In the absence of an appeal, the order of the administrator shall be final. The BZA shall hear an appeal within a reasonable time and may affirm, modify and affirm, or revoke the order.

(2) If the owner of a building or property fails to comply with an order to take corrective action from which no appeal has been taken, or fails to comply with an order of the BZA following an appeal, he shall be guilty of a misdemeanor and shall be punished in the discretion of the court.

**(b)** A property owner may apply to the BZA for a special exception to allow a use set forth within [section 34-252\(c\)](#), below.

*(9-15-03(3); 4-21-08(2))*

### **Sec. 34-249. Special exceptions—Standards for review**

**(a)** In reviewing an application for a special exception, the board of zoning appeals shall review technical data and information and all other relevant information presented to it, and the board of zoning appeals shall consider the following factors:

- (1) The danger that materials may be swept onto other lands to the injury of others;
- (2) The danger to life and property due to flooding or erosion damage;
- (3) The susceptibility of the proposed facility and its contents to flood damage on the individual owner;
- (4) The importance of the services provided by the proposed facility to the community;
- (5) The necessity of the facility to a waterfront location, in the case of a functionally dependent facility;
- (6) The availability of alternative locations, not subject to flooding or erosion damage for the proposed use;
- (7) The compatibility of the proposed use with existing and anticipated development;
- (8) The safety of access to the property in times of flood for ordinary and emergency vehicles;
- (9) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
- (10) The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters expected at the site, and;
- (11) The cost 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.
- (12) With respect to the proposed repair or rehabilitation of historic structures located within a flood hazard protection district, whether a refusal of a permit for the proposed repair or rehabilitation of the structure would preclude its continued designation as a historic structure.

**(b)** Special exceptions shall only be issued upon a determination by the board of zoning appeals that:

(1) Granting a special exception will not result in increased flood heights, diminished flood carrying capacity, unreasonable threats to public safety, extraordinary public expense, public nuisance, or conflict with other state or local laws or ordinances, and

(2) The requested special exception is the minimum, considering the flood hazard, necessary to afford relief; and in the instance of a historical building, a determination that the requested is the minimum necessary so as not to destroy the historic character and design of the building.

(c) Under no circumstances shall the board of zoning appeals grant an exception from this division where the requested exception would result in any increase in flood levels during a base flood discharge. The board of zoning appeals may impose reasonable conditions to a special exception as it deems necessary to further the purposes of this chapter.

(d) Any applicant to whom a special exception is granted shall be given a written notice specifying the difference between the base flood elevation and the elevation to which the building is to be built and stating that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced finished floor elevation.

(e) The director of neighborhood development services shall maintain the records of the decisions of the board of zoning appeals under this division, and upon request shall report any special exceptions to the Federal Emergency Management Agency.

*(9-15-03(3); 4-21-08(2))*

### **Sec. 34-250. Flood hazard reduction—General standards**

In all areas of the floodplain, the following requirements apply:

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

(2) Manufactured homes shall be anchored to prevent 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 standard shall be in addition to and consistent with applicable state requirements for resisting wind forces.

(3) New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

(4) New construction or substantial improvements shall be constructed by methods and practices that minimize flood damage.

(5) Electrical, heating, ventilation, plumbing, air conditioning equipment and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding. Such facilities shall be located a minimum of three (3) feet above the base flood elevation (BFE).

(6) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharge from the systems into floodwaters.

(7) Any alteration, repair, reconstruction or improvements to a structure, which is in compliance with the provisions of this chapter, shall meet the requirements of "new construction" as contained in this chapter.

### **Sec. 34-251. Flood hazard reduction—Specific standards**

**(a) In general.** In all areas of special flood hazard where base flood elevation data has been provided, the following requirements apply:

*Placement of fill.* Fill shall be of a material that does not pollute surface water or groundwater. Fill shall be the minimum amount necessary to achieve the intended purpose. Fill shall be effectively protected against erosion by vegetative cover, riprap, gabions, bulkhead, or other method determined to be acceptable by the city engineer.

*Residential construction.* New construction or substantial improvement of any structure (including manufactured homes) shall have the lowest floor, including basement, elevated at least one (1) foot above the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwater shall be provided.

*Non-residential construction.* New construction or substantial improvement of any non-residential structure shall have the lowest floor, including basement, elevated at least one (1) foot above the level of the base flood elevation. Buildings located in all A-zones may be flood-proofed in lieu of being elevated, provided that all areas of the structure below the required elevation are water tight with walls substantially impermeable to the passage of water, using structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied.

*Elevated buildings.* New construction or substantial improvements of elevated buildings that include fully enclosed areas that are usable solely for the parking of vehicles, building access or storage in an area other than a basement, and which are subject to flooding shall be designed to preclude finished living space and be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for entry and exit of floodwaters. Designs for complying with this requirement must either be certified by a professional engineer or meet the following minimum criteria:

- (1) Provide a minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding;
- (2) The bottom of all openings shall be no higher than one (1) foot above grade, and;
- (3) Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.
- (4) Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the living area (stairway or elevator), and;
- (5) The interior portion of such enclosed area shall not be partitioned or finished into separate rooms. The walls of this interior portion shall not be covered with sheet rock, paneling or any other similar finishing material. The floor(s) of the interior portion shall not be covered with carpeting, hardwood, vinyl floor covering or any similar material. Toilets, showers, whirlpools, saunas, commodes, and fireplaces shall not be placed in this area, nor shall any facilities or equipment used for the preparation of meals. Also, cable television or telephone jacks and similar equipment shall not be installed in this area.



**(b) Accessory structure.** When accessory structures (sheds, detached garages, etc.) with a value of three thousand dollars (\$3,000.00) or less, are to be placed in the floodplain, the following criteria shall be met:

- (1) Accessory structures shall not be used for human habitation (including work, sleeping, living, cooking or restroom areas);
- (2) Accessory structures shall be designed to have low flood damage potential;
- (3) Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwater; and
- (4) Accessory structures shall be firmly anchored.

**(c) Manufactured homes and recreational vehicles.**

(1) All manufactured homes placed or substantially improved on individual lots or parcels, and expansions to existing manufactured home parks, must meet all the requirements for new construction, including elevation and anchoring.

(2) All manufactured homes placed or substantially improved in an existing manufactured home park must be elevated so that the finished floor of the manufactured home is elevated no less than three (3) feet above the level of the base flood, or the manufactured home chassis is supported by reinforced piers or other foundation elements of at least an equivalent strength, of no less than thirty-six (36) inches in height above grade.

(3) The manufactured home must be securely anchored to an adequate foundation system to resist flotation, collapse and lateral movement.

(4) All recreational vehicles placed on sites must either: be fully licensed and ready for highway use and be on the site for fewer than one hundred eighty (180) consecutive days, or meet all the requirements for new construction, including anchoring and elevation requirements. A recreational vehicle shall be considered ready for highway use if it is on wheels or a jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached structures.

*(9-15-03(3); 1-18-05; 6-6-05(2); 4-21-08(2))*

### **Sec. 34-252. Restrictions governing development in the floodway**

**(a)** Located within certain areas of special flood hazard are areas designated as floodway. Due to the velocity of floodwaters which carry debris and potential projectiles, the floodway is an extremely hazardous area that has erosion potential. The following restrictions shall apply within such areas:

(1) Encroachments into the floodway (including fill, new construction, substantial improvements and other developments) are prohibited.

(2) No manufactured homes shall be permitted, except in an existing manufactured home park. Nothing in this section or division shall be construed to prohibit replacement of an existing manufactured home with another, comparable manufactured housing unit that meets current HUD manufactured housing code. Such replacement unit shall retain the valid non-conforming status of the prior unit.

**(b)** In the floodway, no use shall be permitted which, acting alone or in combination with existing or reasonably foreseeable future uses, would result in an increase in the regulatory flood elevation. The following uses normally have low flood damage potential and are therefore allowed within the floodway if otherwise permitted within the underlying zoning district and if they do not require fill, dumping of materials or waste, or storage of materials or equipment:

(1) Agriculture uses, including general farming, grazing, outdoor plant nurseries, horticulture, truck gardening, forestry, sod farming, and wild crop harvesting.

(2) Non-structural industrial, commercial or recreational uses, including golf courses, tennis courts, driving range, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, hiking, biking, and horseback riding trails.

**(c)** Within the floodway, the following uses shall be allowed only with a special exception granted by the board of zoning appeals, pursuant to sections [34-248\(b\)](#) and [34-249](#), and only if the use is otherwise permitted within the underlying zoning district:

(1) Accessory uses;

(2) Temporary amusement enterprises, outdoor assemblies or outdoor sales;

(3) Lots for the sale of new and used cars, trucks, farm equipment, campers and mobile homes;

(4) Railroads, streets, bridges, utility transmission lines, and pipelines;

(5) Marinas, boat rentals, docks, piers, wharves;

(6) Storage yards for non-floatable and readily transportable equipment or machinery;

(7) Single-family dwellings or a manufactured home proposed to be constructed on a lot that was of record in the Office of the Clerk of the Charlottesville Circuit Court on December 15, 1975, if the finished floor of that dwelling is at least one (1) foot above the base flood elevation. The method used to raise the structure must not increase the regulatory flood elevation, or obstruct the carrying capacity of the floodway.

*(9-15-03(3); 1-18-05; 4-21-08(2))*

### **Sec. 34-253. Restrictions on development within the floodplain**

All subdivision proposals and other plats and site plans involving developments of more than fifty (50) lots or five (5) acres, whichever is the lesser requirement as applied to a particular development, located within the floodplain in whole or in part, shall include base flood elevation data.

*(9-15-03(3); 6-6-05(2); 4-21-08(2))*

### **Sec. 34-254. Standards for streams without established base flood elevation or floodways**

Within the areas of special flood hazard, wherein streams exist for which no base flood data has been provided, or where no floodways have been identified, the following restrictions shall apply:

(1) No encroachments, including fill, new construction, substantial improvements or new development, shall be permitted within a distance of twenty (20) feet on each side of the stream, from the top of its bank, unless certification by a registered professional engineer is provided demonstrating that such

encroachments, when combined with other previously placed or previously approved encroachments, will not increase the water surface elevation of the base flood more than one (1) foot at any point. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles.

(2) Where the requirements of paragraph (1), above, are satisfied and base flood elevation data is available from other sources, all new construction and substantial improvements within such areas shall be elevated or flood-proofed in accordance with [section 34-256](#). When base flood elevation data is not available from a federal, state or other source, the lowest floor, including basement, shall be elevated at least three (3) feet above the highest adjacent grade.

*(9-15-03(3); 1-18-05)*

### **Sec. 34-255. Standards for areas of non-stream-related flooding**

Certain areas of special flood hazard are isolated areas designated as unnumbered "A-zones" on the FIRM maps. These areas may have special flood hazards where a clearly defined channel does not exist and where localized ponding occurs. The following restrictions shall apply within such areas:

(1) All new construction and substantial improvements of residential buildings shall have the finished floor, including basement, elevated, at least one (1) foot above the base flood elevation.

(2) All new construction and substantial improvements of non-residential buildings shall have the finished floor, including basement, elevated at least one (1) foot above the base flood elevation. Attendant utility and sanitary facilities shall be completely flood-proofed to or above that same level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

*(9-15-03(3))*

### **Sec. 34-256. Minimum flood-proofing requirements**

**(a)** Wherever any of the provisions of this chapter require that a building be flood-proofed or specify that flood-proofing may be used as an alternative to elevating a structure above the base flood elevation, the following requirements shall apply:

(1) Electrical and gas utility systems shall be located, constructed and installed in such a manner as to ensure the continuing functioning of those systems in event of the one hundred-year flood;

(2) Water supply systems shall be located, constructed and installed in such a manner as to prevent contamination from floodwaters during the one hundred-year flood. Approved backflow preventers or devices shall be installed on main water service lines at water wells and at all building entry locations to protect the system from backflow or back siphonage of floodwaters or other contaminants.

(3) Sanitary sewer and storm drainage systems that have openings below the base flood elevation shall be equipped with automatic backwater valves or other automatic backflow devices that are installed in each discharge line passing through a building exterior wall.

(4) Sanitary sewer systems, including septic tank systems (where/if permitted), that are required to remain in operation during a flood shall be provided with a sealed holding tank and the necessary isolation

and diversion piping, pumps, ejectors, and appurtenances, required to prevent sewage discharge during a flood. The holding tank shall be sized for storage of at least two (2) days' demand.

(5) All sewer system vents shall extend to an elevation of at least three (3) feet above the regulatory flood elevation.

(6) A registered professional engineer or architect shall certify that any new construction or substantial improvement has been designed to withstand the flood depths, pressure, velocities, impact and uplift forces associated with the regulatory flood at the location of the building. The certificate shall state that specific elevation (in relation to mean sea level) to which the structure has been flood-proofed. The certificate shall be kept for public inspection in the office of neighborhood development services.

**(b)** Prior to construction, plans for any structure that is required to be flood-proofed must be submitted to the director of neighborhood development services. These plans will be forwarded to the city engineer for review and approval. The city engineer shall review the plans for compliance techniques specified in the U. S. Army Corps of Engineers publication entitled "Flood-proofing Regulations," June 1972, GPO: 19730-505-026, and as amended from time to time, and for compliance with other applicable building codes or regulations. The city engineer shall approve or reject the plans, or recommend modifications thereto, within fifteen (15) days after receipt of the plans. In the event the city engineer rejects a plan, he shall provide a written determination specifying the reasons for rejection.

*(9-15-03(3))*

#### **Sec. 34-257. Non-conforming floodway uses**

**(a)** All structures lawfully located within a floodway on the first date of the adoption of this chapter and whose construction would not be permitted by right within the floodway after such adoption, are hereby declared to be "non-conforming floodway uses." The following regulations shall apply to non-conforming floodway uses:

(1) No substantial improvement shall be made to any structure located within the floodway.

(2) A duplex, apartment building, commercial building, office building, or industrial building shall not be replaced, rebuilt or repaired if it has been substantially damaged or destroyed by fire, flood, explosion, tornado, hurricane or by other means.

(3) A single-family detached dwelling that is substantially damaged or destroyed by fire, flood, explosion, tornado, hurricane or other means may be rebuilt in accordance with the requirements of new construction.

(4) If a non-conforming use in the floodway is discontinued or abandoned for twenty-four (24) months, the use shall not be resumed, and no other use may occupy the structure.

(5) An existing non-conforming floodway use may be modified, altered or repaired to incorporate flood-proofing measures.

**(b)** A structure or use of a structure in a floodway fringe area which was lawful on the date of the adoption of this chapter, and which does not comply with the various provisions of this chapter, is hereby declared to be a "non-conforming floodway fringe use." The following regulations shall apply to non-conforming floodway fringe uses:

(1) Any substantial improvement to a floodway fringe area use shall comply with all of the requirements of this chapter for new construction in the floodway fringe area.

(2) A non-conforming floodway fringe use that is substantially damaged or destroyed by fire, flood, explosion, tornado, hurricane or other means may be repaired or restored, in accordance with the requirements for new construction in the floodway fringe.

*(9-15-03(3); 4-21-08(2))*

### **Sec. 34-258. Exception for environmental restoration and flood control**

**(a)** Upon application to the director of neighborhood development services, an exception to the requirements of this division may be granted and a permit issued for environmental restoration or flood control projects which are: (i) designed or directed by the City or by a public agency authorized to carry out environmental restoration or flood control measures; or (ii) reviewed and approved by the director of neighborhood development services and the director of public works or their designees in accordance with [Chapter 10](#) of the City Code, the water protection ordinance.

**(b)** The permit applicant seeking an exception under paragraph (a) must demonstrate the following:

(1) The purpose which will be served by the project, as determined by the city engineer, is environmental restoration and/or flood control; and

(2) Any necessary permits have been received from governmental agencies from which approval is required by federal or state law;

(3) The project will use only natural materials such as rock and vegetation; and

(4) No natural streams will be altered or relocated, unless the alteration or relocation is designed to restore stable dimension, pattern, and profile and the flood carrying capacity of the watercourse is maintained; and

(5) Projects undertaken within the regulatory floodway will not result in any increase in flood levels during the occurrence of the base flood discharge.