

RECEIVED AND FILED

EXECUTIVE ORDER
98-03

JAN 28 1998

Rebecca McDowell Cook
SECRETARY OF STATE

WHEREAS, expanded uses of the State's floodplains are occurring in some areas; and

WHEREAS, studies of areas and property subject to flooding indicate a further increase in flood damage potential and flood losses, even with continuing investment in flood protection structures and implementation of the National Flood Insurance Program; and

WHEREAS, the State of Missouri has continuing programs for the construction of structures, roads, and other facilities, and annually acquires and disposes of land, all of which significantly influence patterns of commercial, residential, and industrial development; and

WHEREAS, the availability of programs for federal loans and mortgage insurance, state and federal financial assistance are determining factors in the utilization of land; and

WHEREAS, the availability of flood insurance under the National Flood Insurance Act of 1968, as amended, is dependent upon state coordination of federal, state and local aspects of floodplain, mudslide areas, and flood-related erosion area management activities in the State; and

WHEREAS, the Federal Insurance Administration has promulgated and adopted rules and regulations governing eligibility of state and local communities to participate in the National Flood Insurance Program, which participation depends on state coordination and the designation of an agency in the state of Missouri to be responsible for coordinating floodplain, mudslide areas, and flood-related erosion area management activities in the State of Missouri; and

WHEREAS, the Federal Emergency Management Agency provides an alternative method for state agency construction and development to be managed and regulated by the state, rather than by local communities, at Title 44 CFR, Section 60.12(a)(2); and

WHEREAS, the State of Missouri is required to designate a State Coordinating Agency to be responsible for state coordination; and

WHEREAS, Governor Mel Carnahan issued Executive Order 97-08 on July 8, 1997; and

WHEREAS, Lieutenant Governor Roger B. Wilson issued Executive Order 97-09 on July 11, 1997; and

WHEREAS, Governor Mel Carnahan issued Executive Order 98-01 on January 21, 1998; and

WHEREAS, it is necessary to clarify provisions in Executive 97-09 and Executive Order 98-01.

NOW, THEREFORE, I, Mel Carnahan, Governor of the State of Missouri, by virtue of the authority vested in me by the Constitution and laws of Missouri, replace and amend Executive Order 97-09 and Executive Order 98-01 and hereby order as follows:

Section 1. The State of Missouri will encourage a broad and unified effort to ensure that future uses and development of the State's floodplains are analyzed and used in a manner to lessen the risk of flood losses, particularly in connection with State lands and installations and State financed or supported improvements. Specifically:

(1) The Director of the State Emergency Management Agency (SEMA) or his designee is the State Coordinator of the National Flood Insurance Program in Missouri, as described in Title 44, Section 60.25 of the Code of Federal Regulations.

(2) In accordance with Title 44, Section 60.3 of the Code of Federal Regulations, the directors of the Office of Administration, Division of Design and Construction, Departments of Public Safety (including the National Guard), Revenue, Mental Health, Social Services, Health, Higher Education, Elementary and Secondary Education, Transportation, Conservation, Natural Resources, Agriculture, Corrections, Economic Development, Insurance, Labor and Industrial Relations and any other board, commission or agency under the Executive Branch, directly responsible for the development shall make every effort to preclude the hazardous, unnecessary or unwise use of floodplains in connection with such development. All Executive Branch agencies shall obtain a floodplain development permit from SEMA for all proposed, state-owned development to be located in a special flood hazard area. Such permits shall be obtained prior to the start of construction. Floodplain Development permit, issued by the State Emergency Management Agency (SEMA), will be based on the minimum criteria established in the Code of Federal Regulations at Title 44, Section 60.3; and under the alternative procedures authorized at Title 44 CFR, Sections 60.11 to 60.13, it is intended that the SEMA permit will be the only local floodplain permit required for state agency development. For purposes of this section, state development includes leased facilities.

(3) All state agencies responsible for the administration of grant or loan programs involving a development in a special flood hazard area, shall: require the grantee or loan recipient to evaluate flood hazards in connection with such developments; minimize the exposure of developments to potential flood damage and the need for state expenditures for flood protection and flood disaster relief; make every effort to preclude the hazardous, unnecessary or unwise use of special flood hazard areas in connection with such development; and obtain any required floodplain development permits if necessary.

(4) All state agencies shall take flood hazards into account when evaluating programs, plans and projects and shall provide for measures to prevent or guard against such flood hazards, appropriate to the degree of hazard involved.

(5) This Executive Order shall replace and amend all previous Executive Orders pertaining to regulation of State Floodplain Management Regulations for State-Owned Development and replace and amend all previous Executive Orders on this subject.

(6) The State Floodplain Management Regulations for State-Owned Development, dated January 20, 1998, are attached hereto and are hereby made a part of this Executive Order. These regulations shall replace and amend all previous Executive Orders on this subject.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Missouri, in the City of Jefferson, on this 28th day of January, 1998.




GOVERNOR

ATTEST:


SECRETARY OF STATE



FLOODPLAIN MANAGEMENT
REGULATION/ORDINANCE
FOR
STATE OWNED DEVELOPMENT
STATE OF MISSOURI

These Floodplain Management Regulations are an integral part of Executive Order 98-03, signed on the 28th day of January, 1998.

June 16, 2022

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ARTICLE 1. FINDINGS OF FACT AND PURPOSE

SECTION A. Findings of Fact

1. *Flood Losses Resulting from Periodic Inundation*

The special flood hazard areas of the State of Missouri are subject to 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.

2. *General Causes of the Flood Losses*

These flood losses are caused by (1) the cumulative effect of development in any delineated floodplain causing increases in flood heights and velocities; and (2) the occupancy of flood hazard areas by uses vulnerable to floods, hazardous to others, inadequately elevated, or otherwise unprotected from flood damages.

SECTION B. Statement of Purpose

It is the purpose of this regulation/ordinance involving state-owned land and buildings, to direct state agencies to lead by example to minimize flood damage, promote responsible land use activities such as open space, recreation and wetland management and to promote the public health, safety, and general welfare at all times so that when flooding occurs, state buildings will be useable.

ARTICLE 2. DEFINITIONS

Words or phrases defined in APPENDIX A shall apply.

ARTICLE 3. GENERAL PROVISIONS

SECTION A. State-Owned Lands to Which This Regulation/Ordinance Applies

This regulation/ordinance applies to all state-owned lands with special emphasis on special flood hazard areas owned, leased, or managed by the State of Missouri.

This regulation/ordinance shall apply to all areas of the state subject to flooding and identified as numbered and unnumbered A Zones, AE, AO, and AH Zones, on the Flood Hazard Boundary Map (FHBM), the Flood Insurance Rate Map (FIRM), Flood Boundary and Floodway Map (FBFM) currently in use, and any future revisions thereto.

SECTION B. Basis for Establishing the Base Flood Elevation (BFE) Also Referred to as the 1-Percent-Annual-Chance (100-year) Floodplain or Base Flood Area

The state is deemed a community under the provisions of the National Flood Insurance Act of 1968, as amended. The state, as a community, will comply with minimum criteria established in the Code of Federal Regulations, Chapter 44, 60.3.

In the application of these regulations, the most current Federal Insurance Administrations flood map issued where the property is located will be used. This map may be a Flood Hazard Boundary Map (FHBM), Flood Boundary and Floodway Map (FBFM), or Flood Insurance Rate Map (FIRM). If no map has been issued by the Federal Insurance Administration, the best available data from federal, state, local, private sources or new study products will be used in

determining the BFE and the area inundated and subsequent applicability of these regulations. The determination shall be certified as directed in Article 4, Section A (2) (a).

SECTION C. Compliance

No state-owned development shall hereafter be located, extended, converted, or structurally altered nor State land converted to another use without full compliance with the terms of this regulation/ordinance and other applicable regulations.

SECTION D. Abrogation and Greater Restrictions

This regulation/ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this regulation/ordinance and another conflict or overlap, the more stringent restrictions shall prevail.

SECTION E. Warning and Disclaimer of Liability

The degree of flood protection required by this regulation/ordinance is considered reasonable for regulatory purposes and is based on engineering and scientific methods of study. Larger floods may occur on rare occasions. Flood heights may be increased or decreased by man-made or natural causes. This regulation/ordinance does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This regulation/ordinance shall not create a liability on the part of the State of Missouri or by any agency, officer or employee thereof, for any flood damages that result from reliance on this regulation/ordinance or any administrative decision lawfully made thereunder.

SECTION F. Severability

If any section, clause, provision, or portion of this regulation/ordinance is adjudged unconstitutional or invalid by a court of appropriate jurisdiction, the remainder of the regulation/ordinance shall not be affected thereby.

ARTICLE 4. ADMINISTRATION

SECTION A. Duties and Responsibilities

1. The State NFIP Coordinator shall include, but not be limited to:

- a. review all State plans to assure that sites are reasonably safe from flooding and that the floodplain development permit requirements of this regulation/ordinance have been satisfied;
- b. obtain, review, and reasonably utilize any base flood elevation data available from federal, state, local or other sources;
- c. make the necessary interpretation to determine the boundaries of the areas of special flood hazards where there appears to be a conflict between a mapped boundary and actual field conditions;
- d. maintain records pertaining to the provisions of this regulation/ordinance. All records shall be open for public inspection;

- e. notify communities adjacent to the development, alteration, or relocation of a watercourse about the intended action and consider their comments prior to reaching a decision of approval or rejection; then submit evidence of such notification to the Federal Emergency Management Agency (FEMA);
- f. implement the above duties to assist local governments and State agencies to promote floodplain mitigation;
- g. issue floodplain development permits for all approved state-owned development;
- h. notify communities when floodplain permits have been issued for state-owned development in these jurisdictions.

2. All State agencies shall:

- a. reference all proposals for state-owned development to the base flood elevation and locations on the most current flood map issued to a community where the property is located. This map may be a Flood Hazard Boundary Map (FHBM), Flood Boundary and Floodway Map (FBFM), or Flood Insurance Rate Map (FIRM). If no map has been issued by the Federal Insurance Administration, then the best available data shall be used. The elevations and areas subject to flooding by the base flood or a flood of a one percent chance of reoccurrence shall be certified by a registered professional engineer, registered in the State of Missouri. The engineer shall affix his/her signature on or through his/her seal and place the original date under the seal;
- b. obtain a floodplain development permit from the State NFIP Coordinator for all proposed state-owned development that is to be leased to the state and is located in a special flood hazard area, approval must be gained from the appropriate floodplain management authority;
- c. verify and maintain a record of the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, submitting a copy to the State NFIP Coordinator;
- d. verify and maintain a record of the actual elevation (in relation to mean sea level) that the new or substantially improved non-residential structures have been floodproofed, submitting a copy to the State NFIP Coordinator;
- e. withhold approval for construction and implementation of proposed activity until the State NFIP Coordinator permits the proposal;
- f. certify the adequacy of floodproofing utilized for the particular non-residential structure, submitting a copy to the State NFIP Coordinator;
- g. shall be responsible for implementing this regulation/ordinance as it pertains to state owned development.

SECTION B. Appeal and Variance Procedures

Appeals and requests for variances from the requirements of this regulation/ordinance shall be made in writing by the Department Director to the Governor, with a copy to the State NFIP Coordinator. Records of variance requests and actions taken shall be maintained by the State NFIP Coordinator in accordance with Chapter 44, Section 60.6 of the Code of Federal Regulations.

ARTICLE 5. PROVISIONS FOR FLOOD HAZARD REDUCTION

SECTION A. General Standards

1. No permit for state-owned floodplain development shall be granted for new construction, substantial-improvements, and other improvements, including the placement of manufactured homes, within any numbered or unnumbered A Zones, AE, AO and AH Zones, unless the conditions of this regulation/ordinance are satisfied.
2. All areas identified as unnumbered A Zones on the FIRM are subject to inundation of the 1-percent-annual-chance (100-year) flood; however, the base flood elevation is not provided. State-owned development within unnumbered A zones is subject to all provisions of this regulation/ordinance. If Flood Insurance Study data is not available, the agency shall obtain, review, and reasonably utilize any base flood elevation or floodway data currently available from federal, state, or other sources.
3. Until a floodway is designated, no new construction, substantial improvements, or other development, including fill, shall be permitted within any numbered A Zone or AE Zone on the 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.
4. All state-owned construction, subdivision proposals, substantial-improvements, prefabricated structures, placement of manufactured homes, and other developments shall require:
 - a. design or adequate anchorage to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
 - b. construction with materials resistant to flood damage;
 - c. utilization of methods and practices that minimize flood damages;
 - d. all electrical, heating, ventilation, plumbing, air-conditioning equipment, and other service facilities be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;
 - e. new or replacement water supply systems and/or sanitary sewage systems be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, and on-site waste disposal systems be located so as to avoid impairment or contamination.

SECTION B. Specific Standards

In all areas of special flood hazards where base flood elevation data has been provided as set forth in Article 3, Section B or Article 4, Section A (1) (b) and Section A (2) (a, c, and d), the following provisions are required:

1. *State-Owned Residential Construction* – Requires that all state-owned new construction or substantial-improvement of any residential structures, including manufactured homes, shall have the lowest floor, including basement, elevated to one (1) foot above the base flood elevation.

2. *State-Owned Non-residential Construction* – Requires that all state-owned new construction or substantial-improvement of any commercial, industrial, or other non-residential structures, including manufactured homes, shall have the lowest floor, including the basement, elevated to one (1) foot above the base flood elevation or, together with attendant utility and sanitary facilities, be floodproofed so that below the base flood elevation the structure 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. A registered professional engineer shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the State NFIP Coordinator.

3. *State-Owned Manufactured Homes* - Requires that manufactured homes to be placed or substantially improved **on state-owned sites** within all unnumbered and numbered A, AE, and AH Zones, and be elevated so that either:

- a. the lowest floor of the manufactured home is one (1) foot above the base flood level; or
- b. the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than thirty-six (36) inches in height above grade and securely attached to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

4. *Enclosures Below Lowest Floor* - Require, for all new construction and substantial improvements that fully enclosed areas below lowest floor used solely for parking of vehicles, building access, or storage in an area other than a basement and that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood waters. Designs for meeting this requirement must either be certified by a Missouri registered professional engineer or architect or meet or exceed the following minimum criteria:

- a. 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 shall be provided; and
- b. the bottom of all openings shall be no higher than one (1) foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of flood waters.

5. *Areas of Shallow Flooding* (AO and AH Zones) – Located within the areas of special flood hazard as described in Article 3, Section A are areas designated as AO zones. These areas have special flood hazards associated with base flood depths of one (1) to three (3) feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate. The following provisions apply:

a. AO Zones

- i. All **state-owned** new construction and substantial-improvements of residential structures, including manufactured homes, shall have the lowest floor, including basement, elevated above the highest adjacent grade at least one (1) foot above the depth number specified in feet on the community's FIRM (at least two (2) feet plus one (1) foot if no depth number is specified).
- ii. All **state-owned** new construction and substantial-improvements of any commercial, industrial, or other non-residential structures, including manufactured homes, shall have the lowest floor, including basement, elevated above the highest

adjacent grade at least one (1) foot above the depth number specified in feet on the community's FIRM (at least two (2) feet plus one (1) foot of freeboard if no depth number is specified) or together with attendant utilities and sanitary facilities be completely floodproofed so that the structure 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.

iii. Adequate drainage paths shall be required around structures on slopes, in order to guide flood waters around and away from proposed structures.

b. AH Zones

i. The specific standards for all areas of special flood hazard where base flood elevation has been provided shall be required as set forth in Article 5, Section B.

ii. Adequate drainage paths shall be required around structures on slopes, in order to guide flood waters around and away from proposed structures.

6. *Floodways* - Located within areas of special flood hazard established in Article 3, Section A are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters that carry debris and potential projectiles, the following provisions shall apply:

a. The state shall select and adopt a regulatory floodway based on the principle that the area chosen for the regulatory floodway must be designed to carry the waters of the base flood without increasing the water surface elevation of that flood more than one foot at any point.

b. The state shall prohibit any encroachments, including fill, new construction, substantial improvements, and other development within the adopted regulatory floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in **any** increase in flood levels within the community during the occurrence of the base flood discharge.

7. *Recreational Vehicles*

a. Requires that recreational vehicles placed on sites within all unnumbered and numbered A Zones and AE Zones on the community's FIRM either:

i. be on the site for fewer than 180 consecutive days;

ii. be fully licensed and ready for highway use*; **or**

iii. meet the permitting, elevation, and anchoring requirements for manufactured homes of this regulation/ ordinance.

*A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect type utilities and security devices, and has no permanently attached additions.

ARTICLE 6. ADDITIONAL STANDARDS

SECTION A. Non-Conforming Use

1. A **state-owned** structure, or the use of a state-owned structure on premises which existed before August 11, 1977, but which is not in conformity with the provisions of this regulation/ordinance, may be continued subject to the following conditions:

- a. If such state-owned structure, use, or utility service is discontinued for twelve (12) consecutive months, any future use of the building shall conform to this regulation/ordinance.
- b. If any nonconforming use or structure is destroyed by any means, including flood, it shall not be reconstructed if the cost is more than 50 percent of the pre-damaged market value of the structure. This limitation does not include the cost of any alteration to comply with existing state or local health, sanitary, building, safety codes, regulations or the cost of any alteration of a structure listed on the National Register of Historic Places, the State Inventory of Historic Places, or local inventory of historic places upon determination.

SECTION B. Storage, Material and Equipment

1. The storage or processing of materials within the special flood hazard area that are in time of flooding buoyant, flammable, explosive, or could be injurious to human, animal, or plant life is prohibited.
2. Storage of other material or equipment may be allowed if not subject to major damage by floods, if firmly anchored to prevent flotation or if readily removable from the area within the time available after a flood warning.

ARTICLE 7. AMENDMENTS

This regulation/ordinance may from time to time be amended, supplemented, changed, or appealed, by the State NFIP Coordinator, to reflect any and all changes in the National Flood Insurance Act of 1968, as amended or make other amendments so long as such amendments remain within the scope and purpose of Executive Order 98-03. The provisions of this regulation/ordinance are in compliance with the National Flood Insurance Program regulations.

APPENDIX A DEFINITIONS

Unless specifically defined below, words or phrases used in this regulation/ordinance shall be interpreted so as to give them the same meaning they have in common usage and to give this ordinance its most reasonable application.

"100-year Flood" *see "base flood."*

"Accessory Structure" means the same as *"appurtenant structure."*

"Actuarial Rates" *see "risk premium rates."*

"Administrator" means the Federal Insurance Administrator.

"Agency" means the Federal Emergency Management Agency (FEMA).

"Agricultural Commodities" means agricultural products and livestock.

"Agricultural Structure" means any structure used exclusively in connection with the production, harvesting, storage, drying, or raising of agricultural commodities.

"Appeal" means a request for review of the floodplain administrator's interpretation of any provision of this ordinance or a request for a variance.

"Appurtenant Structure" means a structure that is on the same parcel of property as the principle structure to be insured and the use of which is incidental to the use of the principal structure.

"Area of Special Flood Hazard" is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year.

"Base Flood" means the flood having a one percent chance of being equaled or exceeded in any given year.

"Base Flood Elevation" means the elevation of the surface of the water during a one percent annual chance flood event.

"Basement" means any area of the structure having its floor subgrade (below ground level) on all sides.

"Building" *see "structure."*

"Chief Executive Officer" or "Chief Elected Official" means the official of the community who is charged with the authority to implement and administer laws, ordinances, and regulations for that community.

"Community" means any State or area or political subdivision thereof, which has authority to adopt and enforce floodplain management regulations for the areas within its jurisdiction.

"Development" means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, levees, levee systems, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

"Elevated Building" means for insurance purposes, a non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

"Eligible Community" or "Participating Community" means a community for which the Administrator has authorized the sale of flood insurance under the National Flood Insurance Program (NFIP).

"Existing Construction" means for the purposes of determining rates, structures for which the *"start of construction"* commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date. *"Existing construction"* may also be referred to as *"existing structures."*

"Existing Manufactured Home Park or Subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

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

"Flood" or "Flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from: (1) the overflow of inland waters; (2) the unusual and rapid accumulation or runoff of surface waters from any source; and (3) the collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood, or by some similarly unusual and unforeseeable event which results in flooding as defined above in item (1).

"Flood Boundary and Floodway Map (FBFM)" means an official map of a community on which the Administrator has delineated both special flood hazard areas and the designated regulatory floodway.

"Flood Hazard Map" means the document adopted by the governing body showing the limits of: (1) the floodplain; (2) the floodway; (3) streets; (4) stream channel; and (5) other geographic features.

"Flood Elevation Determination" means a determination by the Administrator of the water surface elevations of the base flood, that is, the flood level that has a one percent or greater chance of occurrence in any given year.

"Flood Elevation Study" means an examination, evaluation and determination of flood hazards.

"Flood Fringe" means the area outside the floodway encroachment lines, but still subject to inundation by the regulatory flood.

"Flood Hazard Boundary Map (FHBM)" means an official map of a community, issued by the Administrator, where the boundaries of the flood areas having special flood hazards have been designated as (unnumbered or numbered) A zones.

"Flood Insurance Rate Map (FIRM)" means an official map of a community, on which the Administrator has delineated both the special flood hazard areas and the risk premium zones applicable to the community.

"Flood Insurance Study (FIS)" means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations.

"Floodplain" or "Flood-prone Area" means any land area susceptible to being inundated by water from any source (*see "flooding"*).

"Floodplain Management" means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works, and floodplain management regulations.

"Floodplain Management Regulations" means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as floodplain and grading ordinances) and other applications of police power. The term describes such state or local regulations, in any combination thereof that provide standards for the purpose of flood damage prevention and reduction.

"Floodproofing" means any combination of structural and nonstructural additions, changes, or adjustments to structures that reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, or structures and their contents.

"Floodway" or "Regulatory Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

"Floodway Encroachment Lines" means the lines marking the limits of floodways on Federal, State and local floodplain maps.

"Freeboard" means a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. *"Freeboard"* tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as bridge openings and the hydrological effect of urbanization of the watershed.

"Functionally Dependent Use" means a use that cannot perform its intended purpose unless it is located or carried out in close proximity to water. This term includes only docking facilities and facilities that are necessary for the loading and unloading of cargo or passengers, but does not include long-term storage or related manufacturing facilities.

"Highest Adjacent Grade" means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

"Historic Structure" means any structure that is (a) listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; (b) certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; (c) individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or (d) individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either (1) by an approved state program as determined by the Secretary of the Interior or (2) directly by the Secretary of the Interior in states without approved programs.

"Lowest Floor" means the lowest floor of the lowest enclosed area, including basement. An unfinished or flood-resistant enclosure, used solely for parking of vehicles, building access, or storage, in an area other than a basement area, is not considered a building's lowest floor, **provided** that such enclosure is not built so as to render the structure in violation of the applicable floodproofing design requirements of this ordinance.

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

"Manufactured Home Park or Subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

"Map" means the Flood Hazard Boundary Map (FHBM), Flood Insurance Rate Map (FIRM), or the Flood Boundary and Floodway Map (FBFM) for a community issued by the Federal Emergency Management Agency (FEMA).

"Market Value" or "Fair Market Value" means an estimate of what is fair, economic, just and equitable value under normal local market conditions.

"Mean Sea Level" means, for purposes of the National Flood Insurance Program (NFIP), the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map (FIRM) are referenced.

"New Construction" means, for the purposes of determining insurance rates, structures for which the *"start of construction"* commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, *"new construction"* means structures for which the *"start of construction"* commenced on or after the effective date of the floodplain management regulations adopted by a community and includes any subsequent improvements to such structures.

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

"(NFIP)" means the National Flood Insurance Program (NFIP).

"Numbered A Zone" means a special flood hazard area where the Flood Insurance Rate Map shows the Base Flood Elevation.

"One percent annual chance flood" *see "base flood."*

"Participating Community" also known as an *"eligible community,"* means a community in which the Administrator has authorized the sale of flood insurance.

"Person" includes any individual or group of individuals, corporation, partnership, association, or any other entity, including Federal, State, and local governments and agencies.

"Permit" means a signed document from a designated community official authorizing development in a floodplain, including all necessary supporting documentation such as: (1) the site plan; (2) an elevation certificate; and (3) any other necessary or applicable approvals or authorizations from local, state or federal authorities.

"Principally Above Ground" means that at least 51 percent of the actual cash value of the structure, less land value, is above ground.

"Reasonably Safe From Flooding" means base flood waters will not inundate the land or damage structures to be removed from the SFHA and that any subsurface waters related to the base flood will not damage existing or proposed buildings.

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

"Remedy A Violation" means to bring the structure or other development into compliance with Federal, State, or local floodplain management regulations; or, if this is not possible, to reduce the impacts of its noncompliance.

"Repetitive Loss" means flood-related damages sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, equals or exceeds twenty-five percent of the market value of the structure before the damage occurred.

"Risk Premium Rates" means those rates established by the Administrator pursuant to individual community studies and investigations which are undertaken to provide flood insurance in accordance with Section 1307 of the National Flood Disaster Protection Act of 1973 and the accepted actuarial principles. *"Risk premium rates"* include provisions for operating costs and allowances.

"Special Flood Hazard Area" *see "area of special flood hazard."*

"Special Hazard Area" means an area having special flood hazards and shown on an FHBM, FIRM or FBFM as zones (unnumbered or numbered) A and AE.

"Start of Construction" includes substantial-improvements, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvements were within 180 days of the permit date. The *actual start* means either the first placement of permanent construction of a structure on a site, such as the pouring of slabs or footings, the installation of piles, the construction of columns, any work beyond the stage of excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling, the installation of streets and/or walkways, excavation for a basement, footings, piers, foundations, the erection of temporary forms, nor installation on the property of accessory structures, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the *actual start of construction* means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

"State Coordinating Agency" means that agency of the state government, or other office designated by the governor of the state or by state statute at the request of the Administrator to assist in the implementation of the National Flood Insurance Program (NFIP) in that state.

"Structure" means, for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home. *"Structure"* for insurance purposes, means a walled and roofed building, other than a gas or liquid storage tank that is principally above ground and affixed to a permanent site, as well as a manufactured home on a permanent foundation. For the latter purpose, the term includes a building while in the course of construction, alteration or repair, but does not include building materials or supplies intended for use in such construction, alteration or repair, unless such materials or supplies are within an enclosed building on the premises.

"Substantial-Damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. The term includes Repetitive Loss buildings (see definition).

For the purposes of this definition, "repair" is considered to occur when the first repair or reconstruction of any wall, ceiling, floor, or other structural part of the building commences.

The term does not apply to:

- a.) Any project for improvement of a building required to comply with existing health, sanitary, or safety code specifications which have been identified by the Code Enforcement Official and which are solely necessary to assure safe living conditions, or
- b.) Any alteration of a "historic structure" provided that the alteration will not preclude the structure's continued designation as a "historic structure."

"Substantial Improvement" means any combination of reconstruction, alteration, or improvement to a building, taking place for a 10-year period, in which the cumulative percentage of improvement equals or exceeds fifty percent of the current market value of the building. For the purposes of this definition, an improvement occurs when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the building. This term includes structures, which have incurred "repetitive loss" or "substantial damage", regardless of the actual repair work done.

The term does not apply to:

- a.) Any project for improvement of a building required to comply with existing health, sanitary, or safety code specifications which have been identified by the Code Enforcement Official and which are solely necessary to assure safe living conditions, or
- b.) Any alteration of a "historic structure" provided that the alteration will not preclude the structure's continued designation as a "historic structure."

"Substantially improved existing manufactured home parks or subdivisions" is where the repair, reconstruction, rehabilitation or improvement of the streets, utilities and pads equals or exceeds 50 percent of the value of the streets, utilities and pads before the repair, reconstruction or improvement commenced.

"Unnumbered A Zone" means a special flood hazard area shown on either a flood hazard boundary map or flood insurance rate map where the base flood elevation is not determined.

"Variance" means a grant of relief by the community from the terms of a floodplain management regulation. Flood insurance requirements remain in place for any varied use or structure and cannot be varied by the community.

"Violation" means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required by this ordinance is presumed to be in violation until such time as that documentation is provided.

"Water Surface Elevation" means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929 (or other datum where specified) of floods of various magnitudes and frequencies in the floodplain.