

Ordinance No. 1036

AN ORDINANCE WHICH UPON ADOPTION SHALL AMEND, MODIFY, AND ADD TO WHAT HAS BEEN CODIFIED AS CHAPTER 15.28 OF THE DEVILS LAKE MUNICIPAL CODE, AND IN ITS PLACE INCLUDE THE FOLLOWING:

Chapter 15.28 FLOODPLAIN REGULATIONS*

Sections:

15.28.010 Statutory authorization, findings of fact, purpose and objectives.

The legislature of the State of North Dakota Century Code, Chapters 40-05, 11-11 and 58-06, delegated responsibility to local governmental units to adopt regulations designed to promote the public health, safety and general welfare of its citizenry. Therefore, the city commission of Devils Lake, North Dakota, does ordain as follows:

- A. Findings of Fact.
 - 1. The flood hazard areas of Devils Lake, North Dakota, are subject to closed basin lake inundation which can endanger life, result in loss of property, create health and safety hazards, disrupt commerce and governmental services, cause extraordinary public expenditures for flood protection and relief, and impair the tax base, all of which adversely affect the public health, safety and general welfare.
 - 2. Flood losses caused by the cumulative effect of rising closed basin lakes in the special flood hazard areas, cause increases in wave and flood heights. Inadequately floodproofed, elevated or otherwise unprotected structures can contribute to the flood loss.
- B. Statement of Purpose. It is the purpose of this chapter to promote the public health, safety and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed:
 - 1. To protect human life and health;
 - 2. To minimize expenditure of public money for costly flood control projects;
 - 3. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
 - 4. To minimize prolonged business interruptions;
 - 5. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of special flood hazard;
 - 6. To help maintain a stable tax base by providing for the alternative use and development of areas of special flood hazard so as to minimize future flood blight areas;
 - 7. To ensure that potential buyers are notified that property is in an area of special flood hazard; and
 - 8. To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.
- C. Methods of Reducing Flood Losses. In order to accomplish its purposes, this chapter includes methods and provisions for:
 - 1. Restricting or prohibiting 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 wave and flood heights or velocities;

2. Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
3. Controlling the alteration of natural flood- plains, stream channels, and natural protective barriers, which help accommodate flood waters;
4. Controlling filling, grading, dredging, and other development which may increase flood damage; and
5. Preventing or regulating the construction of flood barriers which could unnaturally divert flood waters or increase flood hazards in other areas.

(Ord. 838 (part), 2000)

15.28.020 Definitions.

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

"Appeal" means a request for review of the building official's interpretation of any provision of this chapter or a request for a variance.

"Area of special flood hazard" means the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year.

"Base flood or 100-year flood" means the flood having a one percent chance of being equaled or exceeded in any given year.

"Base Flood Elevation" (BFE) means the height of the base flood or 100-year flood usually in feet, measured in the same datum (either NAVD88 or NGVD29) as the FIRM.

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

"Best Available Information" BAI means water elevation information from any source used to estimate or determine a base flood elevation (i.e. high water mark).

"Community" means any political subdivisions that has the authority to zone, or any Indian tribe or authorized tribal organization, which has the authority to adopt and enforce flood plain management regulations for the areas within its jurisdiction.

"Conveyance or hydraulic conveyance" means a geometric characteristic of a river or watercourse at a given point that determines the flow-carrying capacity at that point.

"Development" means any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations located within the area of special flood hazard.

"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 manufacturing 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 Insurance Rate Map" (FIRM) means the official map issued by the Federal Emergency Management Agency where special flood hazard areas are designated as Zone A, AE, AO, AH, A1-A30 OR A-99.

"Flood Insurance Study" means the official report provided by the Federal Emergency Management Agency that includes flood profiles, the Flood Insurance Rate Map, and the water surface elevation of the base flood.

"Flood" or "flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters; and/or from the unusual and rapid accumulation or runoff of surface waters from any source.

"Floodproofing" (Dry) means protection provided a structure, together with attendance utilities and sanitary facilities, which is watertight two feet above the base flood elevation with walls that are substantially impermeable to the passage of water.

"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.

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

"Lowest floor" means the lowest floor of a structure including basement.

"Manufactured home" means a structure that is transportable in one or more sections, built on a permanent chassis, and designed to be used with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle" but does include "mobile home".

"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.

"New construction" means structures for which the "start of construction" commenced on or after the effective date of the ordinance codified in this chapter.

"New 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 on or after the effective date of floodplain management regulations adopted by a community.

"Person" means any person, firm, partnership, association, corporation, limited liability company, agency, or any other private or governmental organization, which includes any agency of the United States, a state agency, or any political subdivisions of the state.

"Reasonably safe from flooding" means base flood waters will not inundate the land or damage structures to be removed from the special flood hazard area, 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 projection;
- (c) Designed to be self-propelled or permanently towable by a light duty truck;
- (d) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational camping, travel, or seasonal use; including, but not limited to;
- (e) Travel trailers, trailers on wheels, park-model trailers, and other similar vehicles.

"Special Flood Hazard Area" (SFHA) means an area of land that would be inundated by a flood having a one percent chance of being equaled or exceeded in any given year.

"Start of construction" includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement was within one hundred eighty days of the permit date. The actual start means the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or 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; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

"Structure" means a walled and roofed building, including manufactured homes and gas or liquid above-ground storage tanks

"Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the building to its pre-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

"Substantial improvement" means any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds fifty percent of the market value of the structure either:

1. Before the improvement or repair is started; or
2. If the structure has been damaged and is being restored, before the damage occurred. For the purpose of this definition "substantial improvement" is considered to occur 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 structure.

The term does not, however, include either:

1. Any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions; or
2. Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

"Watercourse" means only the channel and banks of an identifiable watercourse, and not the adjoining floodplain areas. The flood carrying capacity of a watercourse refers to the flood carrying capacity of the channel, except in the case of alluvial fans, where a channel is not typically defined. The definition of watercourse in N.D.C.C. 61-01-06 is not applicable in this ordinance.

"Variance" means a grant of relief from the requirements of this chapter which permits construction in a manner that would otherwise be prohibited by this chapter.

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

(Ord. 838 (part), 2000)

15.28.030 General provisions.

- A. Lands to Which this Chapter Applies. This chapter shall apply to all areas of special flood hazards within the jurisdiction of the city, including its extraterritorial zoning area.
- B. Basis for Establishing the Areas of Special Flood Hazard. The areas of special flood hazard identified by the Federal Emergency Management Agency in a scientific and engineering report entitled "The Flood Insurance Study for Ramsey County, North Dakota, and Incorporated Areas dated June 20, 2001," with an

accompanying Flood Insurance Rate Map are adopted by reference and declared to be a part of this chapter. The Flood Insurance Study is on file in the office of the building official for the city.

- C. Compliance. No structure or land shall hereafter be constructed, located, extended, converted or altered without full compliance with the terms of this chapter and other applicable regulations.
- D. Greater Restrictions. This chapter is not intended to repeal, remedy or impair any existing easements, covenants or deed restrictions. However, where this chapter and another ordinance, easement, covenant or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.
- E. 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.
- F. Warning and Disclaimer of Liability. The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This chapter 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 chapter shall not create liability on the part of the city, any officer or employee thereof, or the Federal Emergency Management Agency, for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.
- G. Severability. If any section, clause, provision, or portion of this chapter is adjudged unconstitutional or invalid by a court of law, the remainder of this ordinance shall not be affected and shall remain in full force.

(Ord. 838 (part), 2000)

15.28.040 Administration.

- A. Establishment of Development Permit. A development permit shall be obtained before construction or development begins within any area of special flood hazard established in Section 15.28-.030(B). Application for a development permit shall be made on forms furnished by the building official and may include, but not be limited to: plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill storage materials, drainage facilities; and the location of the foregoing. Specifically, the following information is required:
 - 1. Elevation in the same datum (either NAVD88 or NGVD29) as the FIRM, of the lowest floor of all structures;
 - 2. Elevation in the same datum (either NAVD88 or NGVD29) as the FIRM to which any structure has been floodproofed;
 - 3. Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in Section 15.28.050(B)(2); and
 - 4. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.
- B. Designation of the Building Official. The building official is appointed to administer and implement this chapter by granting or denying development permit applications in accordance with its provisions.
- C. Duties and Responsibilities of the Building Official. Duties of the building official shall include, but not be limited to:
 - 1. Permit Review.

- a. Review all development permits to determine that the permit requirements of this chapter have been satisfied.
 - b. Approve or deny all applications for development permits required by adoption of this chapter.
 - c. Review all development permits to determine that all necessary permits have been obtained from those federal, state or local governmental agencies from which prior approval is required.
 - d. Review all development permits to determine if the proposed development is located in the floodway. If located in the floodway, assure that the encroachment provisions of Section 15.28.050(D) are met.
2. Use of Other Base Flood Data. When base flood elevation data has not been provided in accordance with Section 15.28.030(B), Basis for Establishing the Areas of Special Flood Hazard, the building official shall obtain, review, and reasonably utilize any base flood elevation data and floodway data available (known as best available information) from a federal, state or other source, as criteria for requiring that new construction, substantial improvements, or other development in the floodplain are administered in accordance with Section 15.28.050(B), Specific Standards.
3. Information to be Obtained and Maintained.
- a. Obtain and record the actual elevation (in the same datum (either NAVD88 or NGVD29) as the FIRM) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement.
 - b. For all new or substantially improved flood- proofed structures:
 - i. Obtain and record the actual elevation (in the same datum (either NAVD88 or NGVD29) as the FIRM) to which the structure has been floodproofed;
 - ii. Maintain the floodproofing certifications required in Section 15.28.040(A)(3).
 - c. Maintain for public inspection all records pertaining to the provisions of this chapter.
4. Alteration of Watercourses. The responsible person shall:
- a. Notify adjacent communities and the North Dakota State Engineer prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.
 - b. Require that maintenance is provided within the altered or relocated portion of such watercourse so that the flood-carrying capacity is not diminished; and,
 - c. Notify the appropriate water resource district prior to removal or placement of fill within two hundred feet of the bank of a body of water during normal flow or stage.
5. Interpretation of Flood Insurance Rate Map (FIRM) Boundaries. Make interpretation where needed, as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in subsection D of this section.
6. Encroachment Analysis. When a regulatory floodway has not been designated, the Floodplain Administrator must require that no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-A30 and AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

Under the provisions of 44 CFR Chapter 1, Section 65.12 of the National Flood Insurance Program regulations, a community may approve certain development in Zones A1-30, AE, AH, on the

community's FIRM which increases the water surface elevation of the base flood by more than one foot, provided the community first applies for and receives a Conditional Letter of Map Revision (CLOMR) through FEMA.

D. Variance Procedure.

1. Appeal Board.

- a. The city commission as established by the city shall hear and decide appeals and requests for variances from the requirements of this chapter.
- b. The city commission shall hear and decide appeals when it is alleged there is an error in any requirement, decision or determination made by the building official in the enforcement or administration of this chapter.
- c. Those aggrieved by the decision of the city commission, or any taxpayer, may appeal such decision to the District Court, as provided in NDCC 40-47-11, 11-33-12 or 58-03-14.
- d. In passing upon such applications, the city commission shall consider all technical evaluations, all relevant factors, standards specified in other sections of this chapter and:
 - i. The danger that materials may be swept onto other lands to the injury of others;
 - ii. The danger to life and property due to flooding or erosion damage;
 - iii. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - iv. The importance of the services provided by the proposed facility to the community;
 - v. The necessity to the facility of a waterfront location, where applicable;
 - vi. The availability of alternative locations, for the proposed use which are not subject to flooding or erosion damage;
 - vii. The compatibility of the proposed use with existing and anticipated development;
 - viii. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
 - ix. The safety of access to the property in times of flood for ordinary and emergency vehicles;
 - x. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and
 - xi. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.
- e. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing subdivisions i through xi of subsection (D)(1)(d) of this section have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
- f. Upon consideration of the factors of subsection (D)(1)(d) of this section and the purposes of this chapter, the city commission may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter.
- g. The building official shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request.

2. Conditions for Variances.

- a. Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this section.
- b. Variances shall not be issued within the identified floodplain if any increase in flood levels during the base flood discharge would result.
- c. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- d. Variances shall only be issued upon:
 - i. A showing of good and sufficient cause;
 - ii. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
 - iii. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, cause fraud or victimization of the public as identified in subsection (D)(1)(d) of this section, or conflict with existing local laws or ordinances.
- e. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

(Ord. 838 (part), 2000)

15.28.050 Provisions for flood hazard reduction.

- A. General Standards. In all areas of special flood hazards the following standards are required:
 - 1. Anchoring.
 - a. All new construction and substantial improvements, including additions, shall be anchored to prevent flotation, collapse or lateral movement of the structure.
 - b. All manufactured homes must be elevated and anchored to resist flotation, collapse or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.
 - 2. Construction Materials and Methods.
 - a. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
 - b. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.
 - c. All new construction and substantial improvements shall be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment, and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
 - 3. Utilities.
 - a. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

- b. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the system into flood waters; and
 - c. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
4. Subdivision Proposals.
- a. All subdivision proposals shall be consistent with the need to minimize flood damage;
 - b. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;
 - c. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and
 - d. Base flood elevation data shall be provided for subdivision proposals and other proposed development which contain at least fifty lots or five acres (whichever is less).
- B. Specific Standards. In all areas of special flood hazards where base flood elevation data have been provided as set forth in Section 15.28.030(B), Basis for Establishing the Areas of Special Flood Hazard, or Section 15.28.040(C)(2), Use of Other Base Flood Data, the following provisions are required:
1. Residential Construction. New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated one foot above the base flood elevation.
 2. Nonresidential Construction. Construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated to the level of one foot above the base flood elevation; or together with attendant utility and sanitary facilities shall:
 - a. Be floodproofed to at least two feet above the base flood elevation so that below this elevation the structure is watertight with walls substantially impermeable to the passage of water;
 - b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy;
 - c. Be certified by a registered, professional engineer or architect that the standards of this subsection (B)(2) are satisfied. Such certifications shall be provided to the official as set forth in Section 15.28.040(C)(3) (b).
 3. Manufactured Homes.
 - a. Require all manufactured homes placed within Zone A shall be installed using methods and practices which minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist floatation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.
 - b. Require all manufactured homes placed or substantially improved within Zones A1-30, AH, or AE on sites (i) outside of manufactured home park or subdivision, (ii) in a new manufactured home park or subdivision, (iii) in an expansion to an existing manufactured home park or subdivision, or (iv) in an existing manufactured home park or subdivision which has incurred substantial damage, be elevated on a permanent foundation so the lowest floor of the manufactured home is elevated one foot above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist floatation, collapse, and lateral movement.
 - c. Require that manufacture home placed or substantially improved on sites in an existing manufacture home park or subdivision within Zones A1-30, AH, or AE not subject to other requirements of this section be elevated so that either:

- i. the lowest floor of the manufacture home is one foot above the base flood elevation, or
 - ii. the manufacture home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36" in height above grade and be securely anchored to an adequately anchored foundation system to resist floatation, collapse, and lateral movement.
- 4. Recreational Vehicles. In A1-30, AH, and AE Zones, all recreational vehicles to be placed on a site must
 - i. be elevated and anchored to meet the requirements in 15.25.050(B)(3); OR
 - ii. be on the site for less than 180 consecutive days; AND
 - iii. be fully licensed and highway ready
- C. Shallow Flooding AO and AH Zones (Section 15.25.050(B) is only required if the community has Flood Zones AO and/or AH on the effective FIRM). Located within the areas of special flood hazard established in Section 15.25.030(B), are areas designated as shallow flooding. These areas have special flood hazards associated with base flood depths of 1 to 3 feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow; therefore, the following provisions apply:
 - (1) All new construction and substantial improvements of **residential** structures have the lowest floor (including basement) elevated one foot above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified)
 - (2) All new construction and substantial improvements of **non-residential** structures;
 - (i) have the lowest floor (including basement) elevated one foot above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified), or;
 - (ii) together with attendant utility and sanitary facilities be completely floodproofed to that level to meet the floodproofing standard as specified in Section 15.25.050(B)
 - (3) Require within Zones AH or AO adequate drainage paths around structures on slopes, to guide flood waters around and away from proposed structures.
- D. Floodways. Located within the special flood hazard areas established in Section 15.25.030(B) are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential, the following provisions apply:
 - (1) Prohibit encroachments, including fill, new construction, substantial improvements, and other development unless certification by a registered professional engineer or architect is provided demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge. Any increase, as is used in this section, means any modeled impact greater than 0.00 feet.
 - (2) If Section 15.25.050(D)(1) is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction requirements of this chapter.
 - (3) Under the provisions of 44 CFR Section 65.12 of the NFIP Regulations, a community may permit encroachments within the adopted regulatory floodway that would result in an increase in BFEs, provided that the community first applies for and receives a Conditional Letter of Map Revision (CLOMR) through FEMA.
- E. Enclosures. New construction and substantial improvements, with fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this

requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:

- (1) A minimum of two openings having a total net area of not less than one square inch for everyone square foot of enclosed area subject to flooding shall be provided.
- (2) The bottom of all openings shall be no higher than one foot above grade.
- (3) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided they allow the automatic entry and exit of floodwaters.

(Ord. 838 (part), 2000)

15.28.060 Penalties for violations.

- A. Violation of the provisions of this chapter or failure to comply with any of its requirements, including violations on conditions and safeguards established in connection with grants or variances or conditional uses, shall constitute a misdemeanor. Any person who violates this chapter or fails to comply with any of its requirements shall upon conviction thereof be punished by a fine not exceeding five hundred dollars or by imprisonment not to exceed thirty days or by both such fine and imprisonment for each such offense, and in addition shall pay costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense.
- B. Nothing herein contained shall prevent the Devils Lake City Commission from taking such other lawful action as is necessary to prevent or remedy any violation.

(Ord. 838 (part), 2000)

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CITY OF DEVILS LAKE

By: _____
Jim Moe, President
Devils Lake City Commission

ATTEST:

Spencer Halvorson
City Administrator/Auditor