

AN ORDINANCE OF THE CITY OF PORTAGE DES SIOUX, MISSOURI, CREATING WRITTEN ADMINISTRATIVE PROCEDURES FOR LOCAL FLOODPLAIN REGULATIONS.

BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF PORTAGE DES SIOUX, MISSOURI AS FOLLOWS:

SECTION I

WRITTEN ADMINISTRATIVE PROCEDURES FOR THE CITY OF PORTAGE DES SIOUX, MISSOURI'S FLOODPLAIN ORDINANCE

1. KNOW WHICH CITY OF PORTAGE DES SIOUX ORDINANCES AND REGULATIONS IMPLEMENT AND IMPACT THE FLOODPLAIN

The actual floodplain management authority has been established through Ordinance 232 of the City of Portage Des Sioux that specifically deals with floodplain management.

FLOODPLAIN ORDINANCE - The legislative authority for the Administrative Procedures is the floodplain ordinance adopted by Portage Des Sioux. The Comprehensive Floodplain Ordinance will regulate:

- Development under provisions of the NFIP, (Development means any man-made 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 or storage of equipment or materials.)

- The placement of structures, methods of construction, types of structures which are classified as substantial improvements;

- Additions, repairs or renovations to existing structures which are classified as substantial improvements;

- Installation of water and sewer utilities;

- Filling, grading, channelizing, and excavating within the floodplain;

and

- Any related activities which may affect the level of the 100-year flood event.

As the agent for implementing the Floodplain Ordinance, the Floodplain Manager is the Building Official responsible for:

- Understanding the regulations governing the floodplain;
- Reviewing the flood development permit applications for development;
- Conducting inspections;
- Taking enforcement actions when necessary;
- Interacting in variance and appeal process;
- Keeping records of all floodplain development;
- Collecting fees;
- Investigating complaints of violations;
- Maintaining and updating administrative forms;
- Coordinating map appeals and revisions;
- Maintaining floodplain maps and flood data;
- Disseminating floodplain management information;
- Complete Bi-Annual Report (FEMA)

## 2. ESTABLISH AND MAINTAIN A FLOODPLAIN DEVELOPMENT PERMITTING SYSTEM.

Whereas the building permit is concerned solely with structures, the floodplain development permit includes buildings and alterations to landscape (such as excavation or use of fill) that would affect drainage patterns or the flood carrying capacity of the watercourse. This system should be structured to make retrieval and review easy. Floodplain Development Permit Applications shall be submitted to Floodplain Manager c/o Building Official. No fees are involved. Documentation will be required for all permits. Such documentation will vary depending on the proposed improvement. Such documentation may range from survey and elevation data by licensed surveyor or engineer, applicable plans to floodproofing certificates, pressure design, construction materials and methods specified

In reviewing an application, the key to remember is that the proposed activity itself must be safe from flooding and it must not increase the flood hazard to other areas.

FLOODPLAIN DEVELOPMENT PERMIT PROCESS

1) Review the Floodplain Development Permit Application Package for completeness.

The Floodplain Manager will conduct the review and must be able to assess the accuracy and completeness of the floodplain permit application package and evaluate site plans, topographic data and building design plans. Special flood-related considerations during permit review are:

- Floodplain Development Permits
- Plans and blueprints
- Technical documentation
- Any additional permits
- Any additional reviews
- Cost analysis for substantial improvements/
- Floodproofing Certificates
- damages
- Elevation Certificates

An exclusive listing is continued on the Floodplain Development Application/Review Checklist of Items.

Plans and Blueprints

Examine the sit data. Site plans with base flood elevations and location of improvements, grading and excavation plans, and building design plans will be reviewed against the following factors:

- Completeness and clarity;
- Existing and proposed topographic information, including spot elevations;
- Boundaries of the floodway and the floodplain;
- Building elevations for all structures showing the level of the base flood elevation (BFE);
- Proposed obstructions in the floodway;
- Professional registered architect, engineer or land surveyor seal, if prepared by same;

- Illustration of all proposed development;
- Other considerations:
  - Anchoring requirements
  - Construction materials and methods
  - Utilities
  - Subdivisions
  - Encroachments
  - Elevation of the lowest floor
  - Floodways

Technical Documentation:

- Elevation/Floodproofing Certificates as detailed below:
  - NFIP Elevation Certification: Provides a record of the as-built elevation of the lowest floor.
  - NFIP Floodproofing Certificate: Provides a record of the height of floodproofing.
- Ensure all necessary technical documents are included and properly certified
- Three conditions that necessitate the filing of certified documentation:
  - 1) Floodway Encroachment/"No-Rise" Certificate -  
If any part of the proposed project is to be located in a designated floodway, the applicant must submit engineering documentation demonstrating that the proposed encroachment would not result in any increase in base flood heights. There is no form or special format for a "No-Rise" certificate. It may be a written statement, supported by hydraulic computations, signed by a registered professional engineer, who certifies that the development will result in no increase in flood heights.
  - 2) Watertight Floodproofing -  
In the event a nonresidential structure is to be floodproofed according to the NFIP standards, the applicant must submit a statement or floodproofing certificate from a registered professional engineer or architect certifying that the design and methods of construction meet these standards. Note: To receive a flood insurance rate based on 100-year flood protection, the nonresidential structure must be dry floodproofed

to an elevation at least one (1) foot above the base flood elevation rate (i.e. one foot of free-board).

- 3) Enclosures Below the Lowest Floor -  
When an applicant designs an enclosure below the lowest floor using an alternative to the minimum standard for openings prescribed in the NFIP requirements, a registered professional architect or engineer must certify the design accounts for the effects of hydrodynamic loads and buoyancy.
- 4) Wet Floodproofing -  
Wet Floodproofing without a variance is limited to enclosed areas that are solely for parking, building access, or limited storage. These areas must: (1) be used for parking, building access, or limited storage; (2) be designed to allow for the automatic entry and exit of flood waters through the use of openings; and (3) construction must be of flood resistant materials.

#### Additional Review

Depending on the size and complexity of the community's organization, the Floodplain Manager may include additional review by other community departments that also have regulatory control over development. Additional review will be invoked when the sanitary sewer system is involved and stormwater detention regulations exist. Plans, Specs, and Engineer's Calculations will be required.

- If the project involves an alteration or relocation of a watercourse, the Floodplain Manager must notify adjacent communities and the State NFIP coordinating agency and the FEMA Regional Office.
  - A proposal to change a floodway delineation or a floodplain-boundary must be reviewed and approved by FEMA as well as by the community.
- 2) Review the Floodplain Development Application Package for compliance with the Technical Requirements of the Ordinance
    - Examine Site Information in detail

The site plan should show: (prepared by licensed surveyor):

- Location of property lines and proposed development;
  - Streets;
  - Watercourses;
  - Existing and proposed structures;
  - Topographic information;
  - Floodway and floodplain boundaries;
  - References to any special regulations due to location of property
- Assess the ELEVATION DATA provided in the application by a licensed surveyor
- Scrutinize the elevations using the elevation data contained in the Flood Insurance Study (FIS) and other available local data.
  - The flood-related delineations must be consistent with the FIS data.
  - No elevation data provided in unnumbered A zones: The developer, as a cost of doing business must provide elevations for development in unnumbered A zones (See Appendices for additional guidance).
  - All elevation information should be accurate as the application package will serve as the record substantiating the issuance of the permit.
  - NFIP requirements also stipulate that the lowest flood elevations be recorded.
- Review BUILDING DESIGN PLANS
- Building plans are required and provide the basis for determining which regulations apply to the placement and construction of the proposed building
  - Building plans should be prepared by an A/E and contain the following:
    - Type of structure and proposed use,
    - The placement and elevation of the lowest floor,
    - The type of foundation system,
    - The existence of an enclosure below the lowest floor, if any,
    - The elevation of the lowest floor in relation to the base flood elevation,
    - The kind and potential use of the structure,

- The height to which a nonresidential structure is to be floodproofed,
- Anchoring systems to stabilize the structure during flooding.
  
- Have ENGINEERING DOCUMENTS reviewed by the City Engineer
  - Four separate engineering documents linked to the applicable NFIP requirements are required.
    - 1) Hydrologic and hydraulic calculations concerning proposed floodway encroachments.
  
    - 2) Loading calculations and methods of construction relative to floodproofing.
  
    - 3) Alternative designs for meeting the minimum opening requirements for enclosures below the lowest floor.
  
    - 4) Design and methods of Construction for breakaway walls that exceed SOP loading resistance of twenty pounds per square foot.
  
- 3) Determine Compliance/Noncompliance, Acting on the Floodplain Development Permit Application: Approve/Deny the Application.

When review of a floodplain development permit application is complete, there are three options for action:

- 1) Approve the permit application;
- 2) Conditionally approve the permit application;
- 3) Deny the permit.

The Floodplain Development Permit Application will be marked as to the outcome, a copy provided to the owner and then filed in the Floodplain File in the Floodplain Cabinet.

APPROVAL OF THE PROPOSAL/PERMIT

- If the proposal is found to be compliant, then the Floodplain Manager must issue the permit.

The floodplain development permit becomes the official authorization from the community allowing the applicant to proceed based on the information submitted in the application package

CONDITIONALLY APPROVE THE PERMIT

- The Floodplain Manager may elect to approve a floodplain development permit only when certain development conditions are met. These conditions should be clearly indicated on all records of the floodplain development permit approval.

DENIAL OF THE PROPOSAL

- If the proposal fails to comply with the regulations, then a floodplain development permit must be denied.
  - It is helpful to the applicant to have the major area(s) of noncompliance pointed out so the appropriate correction(s) can be made.
  - Clarification of deficiencies can help reduce the number of unnecessary appeals to administrative and regulatory decisions.

4) ESTABLISH AN ON-SITE INSPECTION PROCESS

The Floodplain Manager shall perform periodic and timely on-site inspections to confirm that the line between design and actual construction/development is made in compliance with the approved plans. Site inspections serve to minimize and prevent violations.

Inspection of the Site Work

Inspection One:

With plans in hand:

- Determine that the site identified on the plan is consistent with actual ground conditions
- Verify the location of floodplain and floodway boundaries, if applicable

This inspection will be performed immediately after completion of surveyor's location of base flood elevation and precise construction location in the field. (The inspection results will be entered on the "Floodplain Development Inspection Form". The permit holder will be provided with the Inspection results and a copy of the inspection form at the time of inspection or at a subsequent in person meeting.)

Inspection Two:

- Where an elevated floodproofed structure is involved, this inspection should be scheduled just prior to the placement of the lowest floor of the building to:
  - Determine whether the lowest floor will be situated to the height stipulated in the permit application
  - Ensure that the type of foundation used is the type specified in the plans
  - Check floodway encroachments, if applicable

This inspection will be performed immediately after foundation is formed and prior to placement of concrete.

Inspection Three:

- At or near the completion of the development, inspect to:
- Determine whether the placement of fill, if used, meets the necessary slope and protection standards contained in local regulation
  - Inspect enclosures below the lowest floors to ensure adequately sized openings exist
  - Check breakaway walls
  - Check for floodway encroachments, if applicable
  - Check anchoring system used in securing manufactured homes

This inspection will be performed after the improvements are fully completed.

Future/Additional Inspections

- The property must remain in compliance with floodplain management regulations and the Floodplain Manager should periodically check to ensure that the property remains so.

- Subsequent inspections are particularly important when a structure contains enclosures below the lowest floor as these areas can be easily modified and made into habitable spaces in violation of regulations.
- Inspecting new construction serves to field verify "as built" conditions.
- Routine inspections of special flood hazard areas can serve to check for unpermitted development.
- Inspections are useful in identifying unpermitted substantial improvements.

#### 5) INSTITUTIONALIZE ENFORCEMENT ACTIONS

The National Flood Insurance Program (NFIP) stipulates that participating communities must have legally enforceable regulations. To do this, the regulations must contain enforcement procedures and penalties that are derived from State enabling statutes.

- Usually these enforcement tools are:
  - Administrative Methods - Fines
  - Injunctions - Imprisonment
- Administrative Methods
  - If the infraction is found during an inspection of ongoing construction, the Floodplain Manager can take initial steps to correct the problem by pointing out the deficiency to the developer and following up with another timely visit to ensure compliance.
  - If the violation is serious or if the problem continues after follow-up inspection, the city will issue a stop work order. The stop work order will be hand delivered in the field and followed with a letter via certified mail. The letter will state the violation, reference the ordinance and allow 30 days to initiate corrective actions. Failure to initiate corrective actions or continuously pursue such actions result in matters being referred to legal consult for formal legal action. Such actions may be:
    - Injunction
 

Most often in the form of a temporary restraining order, injunctive relief is the court directed order to the defendant to cease

any further noncompliant conduct. The activity is usually shown to be of danger to the public and that immediate irreparable harm can occur. Once the illegal activity is stopped, the community can proceed to request a mandatory injunction to abate the violations as a public nuisance.

- Fines

Fines are commonly cited penalties through adopted community ordinance(s). A maximum fine of \$1,000.00 is established per offense, and each day a violation is a separate offense. (See Ordinance 232 Article 6)

- Imprisonment

The court may invoke imprisonment of the applicant's failure to pay the required fines in addition thereto for not more than 30 days.

6) CREATE, SUPPORT, AND INTERACT IN VARIANCE AND APPEALS PROCESS

The Floodplain Manager should be well versed in the community's floodplain regulations including established variance and appeals procedures and requirements.

- Variances

A variance is a waiver of one or more of the specific standards required in ordinances. It represents a community's approval to set aside floodplain regulations that were adopted to reduce loss of life and property damages due to flood. When the impact of a single variance on a flood hazard may not be significant, the cumulative impact of several variances may be severe.

Therefore, variances should be discouraged when possible. Variance applications are heard in front of the Board of Adjustment for the City of Portage Des Sioux, Missouri.

The applicant must submit a completed Floodplain Management Variance Request Form or a letter containing the identical information. Variance request fees are \$50.00. Request forms should be submitted to the City's Building Official.

When a variance is granted by the community, the Floodplain Manager should properly document the justification for the variance which will include detailed minutes of meetings where specific justifications are delineated. This will be required by FEMA when the community is audited.

The primary criteria for granting a variance is predicated on the clear establishment of an unnecessary hardship created for the property owner. The following is a list of demonstrated unnecessary hardships.

- Unnecessary Hardships
- Defined as:
  - Loss of all beneficial or productive use
  - Deprivation of reasonable return on property
  - Deprivation of all or any reasonable use
  - Rendering property valueless
  - Inability to develop property in compliance with the regulations
  - Reasonable use cannot be made consistent with regulations
- Insufficient Reasons:
  - Less than a drastic depreciation of property
  - Convenience of property owner
  - Additional costs to build in conformance with codes
  - Circumstances of owner not the land
  - To obtain better financial return
  - Property similar to others in neighborhood
  - Hardship created by owner's own actions

If a variance is approved, the community must send a letter to the applicant, in accordance with the floodplain management ordinance, stating that the cost of the flood insurance will be commensurate with the increased risk resulting from the reduced lowest

floor elevation which may be as high as \$25.00 for one hundred dollar (\$100.00) of insurance coverage.

- Appeals

Once the request for a variance is heard, it must be either granted or denied. If the variance is denied, the property owner has the legal right to appeal that administrative decision directly to the Circuit Court of St. Charles County, Missouri. Before the case can be presented to the court, all administrative and legislative remedies must be exhausted.

7) KEEP RECORDS OF ALL FLOODPLAIN DEVELOPMENT PERMITS

The Floodplain Manager has established a standard numbered procedure for floodplain development permits for filling, construction, and other development located in the floodplain.

- The type of flood-related information that should be retained includes:

- Floodplain Development Permits/Applications (Includes all elevations and floodproofing certificates.)
- Recorded "As-built" elevations
- Findings of facts relative to variance and appeals
- NFIP Biennial Report forms
- Other NFIP correspondence
- Floodplain Management data
- "No-rise" Certifications in cases of floodway development
- Copies of "Submit for Rate" on all structures built below 100 year flood levels

8) COLLECT FEES

The only fee involved is the variance request fee of \$50.00. This fee is payable at the time of the request and collected by the Floodplain Manager.

9) INVESTIGATE COMPLAINTS

Most communities rely on public complaints to augment their routine inspection and enforcement process. The Floodplain Manager may be called on to investigate these ad hoc

inquiries. The Floodplain Manager should use these opportunities to monitor any encroachments that may have occurred in the floodway (including fill, construction, placement of mobile homes, etc.). Additionally, by developing professional relationships with other community staff and instructing them periodically on what types of violations may occur, the Floodplain Manager can increase this floodplain monitoring capacity at no additional cost the community.

Complaints may be filed to the Floodplain Manager through Mayor's office. The Floodplain Manager will investigate and take any appropriate action merited and make a written record thereof.

#### 10) MAINTAIN AND UPDATE ADMINISTRATIVE FORMS

Once published, administrative forms should be periodically revised to reflect legislative changes within the community

- Form management should include these considerations:
  - Forms should include a listing of the application information outlined in the administrative provisions of the ordinance.
  - Forms should reflect the technical provisions of the ordinance by requiring information relative to those provisions.
  - The forms should be revised periodically to remain current with the changes in the floodplain management ordinance and to include pertinent informational need.
  - Floodplain development permit applications, variances requests, and other administrative forms should be kept current and in sufficient supply
  - A good administrative form can serve as a checklist for identifying the other kinds of information that should accompany the application submission.
  - Specific forms include: Floodplain Development Permit Application Form, Floodplain Development Permit Application/Review Checklist, Floodplain Development Inspection Form, Floodplain Management Variance Request Form, Elevation Certificate, No-Rise Certificate, and Floodproofing Certificate.

## 11) COORDINATE MAP APPEALS AND REVISIONS

While the Federal Insurance Administration (FIA) is continually updating and revising the flood maps, the local Floodplain Manager is directly aware of development changes within the community. The Floodplain Manager coordinates map appeals and revisions between the community and FEMA.

- Any official revision of the flood accomplished through either a Letter of Map Amendment (LOMA) or Letter of Map Revision (LOMR) will be appended to the official community floodplain map for permanent record. Maps are maintained in the Floodplain Manager's Office.

## 12) MAINTAIN FLOODPLAIN MAPS AND FLOOD DATA

The Floodplain Manager is the singular contact for the community to determine the extent of the floodplain. As such, the Floodplain Manager will:

- Maintain an adequate supply of FEMA maps for administrative purposes
- Record all map corrections and notices of map revision and attach same to the official map(s)
- Maintain other sources of known flood data for approximate floodplain areas in the Floodplain Manager's Office
- Ensure that accurate floodplain maps are displayed in an appropriate public place

## 13) UNNUMBERED A ZONES

When a community has entered the Regular Phase of the NFIP through a special conversion of their Flood Hazard Boundary Map (FHBM) over to a Flood Insurance Risk Map (FIRM), the flood areas designated as "Zone A" may be the only flood zone designations. These zones do not have base flood elevations provided. The lack of elevations on the map does not remove the requirement for elevating structures. In this case, the community is required to obtain, review any reasonable use and any base flood elevations data or floodway data available from a Federal, State, or other source. The City requires that Zone A flood elevation be determined by a licensed surveyor or engineer.

14) BIENNIAL REPORTS

Every two years, FEMA sends a pre-printed form to the community floodplain administrators that should be completed and returned within thirty days. It requests information concerning any changes to the community's flood hazard area, development activities that have taken place in the floodplain, and verification of the number of floodplain residents and structures.

- The report must be completed and signed by the Floodplain Manager and returned to FEMA at the address provided. A copy of the completed report will be retained in the community's files for future reference.
- The Biennial Report indicates to FEMA the degree of development pressure on the floodplain. Variances issued in the floodplain are of particular interest to FEMA.

SECTION II

THIS ORDINANCE SHALL TAKE EFFECT AND BE IN FULL FORCE FROM AND AFTER ITS PASSAGE AND APPROVAL BY THE MAYOR AND THE BOARD OF ALDERMEN.

PASSED AND APPROVED THIS \_\_\_\_ DAY OF \_\_\_\_\_, 1998.

\_\_\_\_\_  
Mayor Mark D. Warner

Attest: \_\_\_\_\_  
City Clerk - Suzie A. Cissell

City Seal