
Sec. 58-28. General provisions.

58-28.1. *Lands to which this article applies.* The article shall apply to all areas of special flood hazard with the jurisdiction of the city.

58-28.2. *Basis for establishing the areas of special flood hazard.* The areas of special flood hazard identified by the Federal Emergency Management Agency in the current scientific and engineering report entitled "The Flood Insurance Study (FIS) for Comal County, Texas and Incorporated Areas," dated Effective May 8, 2024, with accompanying flood insurance rate maps and/or flood boundary-floodway maps (FIRM and/or FBFM) dated Effective May 8, 2024, and any revisions thereto are hereby adopted by reference and declared to be a part of this article; and

The areas of special flood hazard identified by the Federal Emergency Management Agency in the current scientific and engineering report entitled, "The Flood Insurance Study (FIS) for Guadalupe County, Texas and Incorporated Areas," dated Effective March 27, 2024, with accompanying flood insurance rate maps and/or flood boundary-floodway maps (FIRM and/or FBFM) dated Effective March 27, 2024, and any revisions thereto are hereby adopted by reference and declared to be a part of this article.

58-28.3. *Establishment of development permit.* A floodplain development permit shall be required to ensure conformance with the provisions of this article.

58-28.4. *Compliance.* No structure or land shall hereafter be located, altered, or have its use changed without full compliance with the terms of this article and other applicable regulations.

58-28.5. *Abrogation and greater restrictions.* This article is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this article and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

58-28.6. *Interpretation.* In the interpretation and application of this article, 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.

58-28.7. *Warning and disclaimer or liability.* The degree of flood protection required by this article is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. On rare occasions greater floods can and will occur and flood heights may be increased by man-made or natural causes. This article 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 article shall not create liability on the part of the community or any official or employee thereof for any flood damages that result from reliance on this article or any administrative decision lawfully made hereunder.

(Ord. No. 2011-53, § 1, 6-27-11)

Sec. 58-29. Administration.

58-29.1. *Designation of the floodplain administrator.* The city engineer or city engineer's designee is hereby appointed the floodplain administrator to administer and implement the provisions of this article and other appropriate sections of 44 CFR (Emergency Management and Assistance - National Flood Insurance Program Regulations) pertaining to floodplain management.

58-29.2. *Duties and responsibilities of the floodplain administrator.* Duties and responsibilities of the floodplain administrator shall include, but not be limited to, the following:

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- (1) Maintain and hold open for public inspection all records pertaining to the provisions of this article.
 - (2) Review permit applications to determine whether to ensure that the proposed building site project, including the placement of manufactured homes, will be reasonably safe from flooding.
 - (3) Review, approve or deny all applications for development permits required by adoption of this article.
 - (4) Review permits for proposed development to assure that all necessary permits have been obtained from those federal, state or local governmental agencies (including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334) from which prior approval is required.
 - (5) Where interpretation is 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 floodplain administrator shall make the necessary interpretation.
 - (6) Notify, in riverine situations, adjacent communities and the state coordinating agency which is the Texas Water Development Board (TWDB) and also the Texas Commission on Environmental Quality (TCEQ), prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.
 - (7) Assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.
 - (8) When base flood elevation data has not been provided in accordance with subsection 58-28.2, the floodplain administrator shall obtain, review and reasonably utilize any base flood elevation data and floodway data available from a federal, state or other source, in order to administer the provisions of section 58-30.
 - (9) 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 A1-30 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.
 - (10) 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 that the community first completes all of the provisions required by Section 65.12.
 - (11) Any requirements necessary for the strength, stability or proper operation of an existing or proposed building, structure, electrical, gas, mechanical or plumbing system, or for the public safety, health and general welfare, not specifically covered by this chapter or the other technical codes, shall be determined by the floodplain administrator. In addition, other requirements to implement, clarify or set procedures to accomplish the intent of this chapter may be set in writing by the floodplain administrator official and may be posted electronically for public access.

58-29.3. Permit procedures.

- (1) Application for a floodplain development permit shall be presented to the floodplain administrator on forms furnished by him/her and may include, but not be limited to, plans in duplicate drawn to scale showing the location, dimensions, and elevation of proposed landscape alterations, existing and proposed structures, including the placement of manufactured homes, and the location of the foregoing in relation to areas of special flood hazard. Additionally, the following information is required:

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- a. Elevation (in relation to mean sea level), of the lowest floor (including basement) of all new and substantially improved structures;
 - b. Elevation in relation to mean sea level to which any nonresidential structure shall be floodproofed;
 - c. A certificate from a registered professional engineer or architect that the nonresidential floodproofed structure shall meet the floodproofing criteria of subsection 58-30.2(2);
 - d. Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development;
 - e. Maintain a record of all such information in accordance with subsection 58-29.2(1);
 - f. Detailed drawings for the proposed development. Drawings must clearly indicate that all provisions of these regulations will be met. On developments other than residential accessory buildings less than 150 square feet or other insignificant developments (carports, well houses, gazebos, etc.) drawings must be sealed by a licensed professional engineer or registered architect certifying that all provisions of these regulations will be met if the development is completed in accordance with the sealed drawings.
 - g. A topographic survey of the property to be developed. This requirement may be waived for fences or other insignificant types of development.
 - h. In cases where a determination must be made as to whether the construction is substantial improvement, additional information may need to be submitted as outlined in these regulations.
 - i. The top of the slab of the lowest habitable floor must be elevated to two feet or more above the base flood elevation.
 - j. A form board survey with elevations signed by a registered public land surveyor (R.P.L.S.) will be required before framing begins. Approval must be given by the floodplain administrator to begin framing if the survey meets all requirements.
 - k. A completed elevation certificate with the necessary base flood elevations, hydrological and hydraulic data as needed must be submitted when the structure is completed (completed and ready for habitation for residential structures).
 - l. All structures will be constructed and anchored to prevent flotation, collapse or lateral movement of the structure resulting from the hydrodynamic and hydrostatic loads, including the effect of buoyancy.
 - m. Construction shall use methods that will minimize flood damage and construction materials and utility equipment that are resistant to flood damage. FEMA technical bulletins will serve as the guideline for this requirement.
 - n. Unless dry-proofed, enclosed areas below the base flood elevation must be equipped with flood openings or vents capable of equalizing water levels and hydrostatic loads. Covers for these openings must not interfere with the equalization of water levels in the event of a flood and should minimize potential blockage by debris. FEMA Bulletin 1 or subsequent revisions shall serve as the guideline for this requirement. A licensed architect or licensed professional engineer shall certify the flood openings. (This can only be done within the floodplain not the floodway.
 - o. Thermal insulation used below the base flood elevation shall be of a type that does not absorb water.
 - p. Water heaters, furnaces, air conditioning systems, electrical distribution panels and any other mechanical or electrical equipment must be elevated at least two feet above the base flood

elevation. Separate electrical circuits shall serve any level below the base flood elevation and shall be dropped from above.

- q. All air ducts, loose pipes, propane tanks and storage tanks located at or below the base flood level shall be firmly anchored to prevent floatation. Tanks and ducts shall be vented to at least two feet above the base flood elevation.
- (2) The floodplain development permit application may be filed with the application for building permit or separately prior to application for building permit. The floodplain development permit application shall include the following information:
 - a. Completed floodplain development permit application form.
 - b. Applicable permit fees:
 - 1. One- and two-family dwelling floodplain permit + (\$.05/sf for residential)\$100.00
 - 2. Other than one- and two-family dwelling floodplain permit + (\$.10/sf for commercial)250.00

If filed separately prior to application for building permit. Three complete sets of plans, sealed by a Texas registered engineer, architect or land surveyor are needed.

- (3) Approval or denial of a floodplain development permit by the floodplain administrator shall be based on all of the provisions of this article and the following relevant factors:
 - a. The danger to life and property due to flooding or erosion damage;
 - b. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - c. The danger that materials may be swept onto other lands to the injury of others;
 - d. The compatibility of the proposed use with existing and anticipated development;
 - e. The safety of access to the property in times of flood for ordinary and emergency vehicles;
 - f. The costs of providing governmental services during and after flood conditions including maintenance and repair of streets and bridges, and public utilities and facilities such as sewer, gas, electrical and water systems;
 - g. The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site;
 - h. The necessity to the facility of a waterfront location, where applicable;
 - i. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use.

58-29.4. *Variance procedures.*

- (1) The construction board of appeals, as established by the community, shall hear and render judgment on requests for variances from the requirements of this article.
- (2) The construction board of appeals shall hear and render judgment on an appeal only when it is alleged there is an error in any requirement, decision, or determination made by the floodplain administrator in the enforcement or administration of this article.
- (3) Any person or persons aggrieved by the decision of the construction board of appeals may appeal such decision in the courts of competent jurisdiction.

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- (4) The floodplain administrator shall maintain a record of all actions involving an appeal and shall report variances to the Federal Emergency Management Agency upon request.
 - (5) 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 article.
 - (6) 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 the relevant factors in subsection 58-29.3(2) have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
 - (7) Upon consideration of the factors noted above and the intent of this article, the construction board of appeals may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this article (subsection 58-26.3).
 - (8) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
 - (9) Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
 - (10) Prerequisites for granting variances:
 - a. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
 - b. Variances shall only be issued upon:
 1. Showing a good and sufficient cause;
 2. A determination that failure to grant the variance would result in exceptional hardship to the applicant, and
 3. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
 - c. Any application to which a variance is granted shall be given written notice that the structure will be permitted to be built with the 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.
 - (11) Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:
 - a. The criteria outlined in subsections 58-29.4(1)—(9) are met, and
 - b. The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

(Ord. No. 2011-53, § 1, 6-27-11)