

## Chapter 15.36

## FLOODPLAIN REGULATIONS

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**15.36.010 Statutory authorization.**

The Legislature of the state of Wyoming has in Section 15-1-114 delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the city council does ordain as set out in this chapter. (Ord. 476 (part), 1989; Ord. 264 § 1.1, 1978)

**15.36.020 Findings of fact.**

A. The flood hazard areas of Douglas are subject to periodic inundation which results in loss of life and property, health, and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

B. These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazards which increase flood heights and velocities, and when inadequately anchored, damage uses in other areas. Uses that are inadequately floodproofed, elevated or otherwise protected from flood damage also contribute to the flood loss. (Ord. 476 (part), 1989; Ord. 264 § 1.2, 1978)

#### **15.36.030 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:

- A. To protect human life and health;
  - B. To minimize expenditure of public money for costly flood-control projects;
  - C. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
  - D. To minimize prolonged business interruptions;
  - E. 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;
  - F. To help maintain a stable tax base by providing for the second use and development of areas of special flood hazard so as to minimize future flood-blight areas;
  - G. To ensure that potential buyers are notified that property is in an area of special flood hazard;
- and
- H. To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions. (Ord. 476 (part), 1989; Ord. 264 § 1.3, 1978)

#### **15.36.040 Methods of reducing flood losses.**

In order to accomplish its purpose, this chapter includes methods and provisions for:

- A. 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 flood heights and velocities;
- B. Requiring that uses vulnerable to flood, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- C. Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel floodwaters;
- D. Controlling filling, grading, dredging, and other development which may increase flood damage; and
- E. Preventing or regulating the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards in other areas. (Ord. 476 (part), 1989; Ord. 264 § 1.4, 1978)

#### **15.36.050 Definitions.**

Unless specifically defined in this section, words and 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.

A. "Appeal" means a request for a review of the administrative authority's interpretation of any provision of this chapter or a request for a variance.

B. "Area of special flood hazard" means the land in the floodplain within a community subject to a one (1) percent or greater chance of flooding in any given year, as designated on flood boundary and floodway map, normally marked in dark blue.

C. "Base flood" means the flood having a one (1) percent chance of being equalled or exceeded in any given year.

D. "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.

E. "Existing manufactured home park or subdivision" means a manufactured home park for which the construction of facilities for servicing the lot on which the manufactured homes are to be affixed (including, at a minimum, installation of utilities, either final site grading or the pouring of concrete pads and the construction of streets) are completed before the effective date of the ordinance codified in this chapter.

F. "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 or tidal waters; and/or
2. The unusual and rapid accumulation or runoff of surface waters from any source.

G. "Flood Insurance Rate Map (FIRM)" means the official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

H. "Flood Insurance Study" means the official report provided in which the Federal Insurance Administration has provided flood profiles, as well as flood boundary, floodway maps and the water surface elevation of the base flood.

I. "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 (1) foot.

J. "Lowest floor" means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable 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 nonelevation design requirements of this chapter.

K. "Manufactured home" means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. This term also includes park trailers, travel trailers and other similar vehicles placed on a site for greater than one hundred eighty (180) consecutive days.

L. "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.

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

N. "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 (180) 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 slabs 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 as part of the main structure.

O. "Structure" means a walled or roofed building, a mobile home or a gas or liquid storage tank that is principally above ground.

P. "Substantial improvement" means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the current 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 purposes 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:

a. 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

b. Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

Q. "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. (Ord. 476 (part), 1989: Ord. 264 § 2.0, 1978)

#### **15.36.060 Lands to which this chapter applies.**

This chapter shall apply to all areas of special flood hazards within the jurisdiction of the city. (Ord. 476 (part), 1989: Ord. 264 § 3.1, 1978)

#### **15.36.070 Basis for establishing areas of special flood hazard.**

The areas of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled, "The Flood Insurance Study for the Town of Douglas, Wyoming," dated March 15, 1983, with an accompanying flood insurance rate map and flood boundary-floodway map, are adopted by reference, except Zones "B" and "C," which are for information only, and are declared to be part of this chapter. The flood insurance study shall be on file with the city clerk. (Ord. 476 (part), 1989: Ord. 264 § 3.2, 1978)

#### **15.36.080 Penalties for noncompliance.**

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. Violation of the provisions of this chapter, by failure to comply with any of its requirements, including violations of conditions and safeguards established in connection with conditions, shall constitute a misdemeanor. Any person who violates this chapter or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than seven hundred fifty dollars (\$750.00) for each violation. After notification has been received, each day that the structure or land remains in noncompliance shall constitute a separate offense. Nothing contained in this section shall prevent the city from taking such other lawful action as is necessary to prevent or remedy any violation. (Ord. 476 (part), 1989: Ord. 264 § 3.3, 1978)

**15.36.090 Abrogation and greater restrictions.**

This chapter is not intended to repeal, abrogate or impair any existing easements, covenants, or deed restrictions. However, where this chapter and other ordinances, easements, covenants, or deed restrictions conflict or overlap, whichever imposes the more stringent restrictions shall prevail. (Ord. 476 (part), 1989; Ord. 264 § 3.4, 1978)

**15.36.100 Interpretation.**

In the interpretation and application of this chapter, all provisions shall be:

- A. Considered as minimum requirements;
- B. Liberally construed in favor of the governing body; and
- C. Deemed neither to limit nor repeal any other powers granted under state statutes. (Ord. 476 (part), 1989; Ord. 264 § 3.5, 1978)

**15.36.110 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 Insurance Administration, for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder. (Ord. 476 (part), 1989; Ord. 264 § 3.6, 1978)

**15.36.120 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 15.36.070. Application for a development permit shall be made on forms furnished by the administrator, 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 of materials, drainage, facilities; and the location of the foregoing.

- A. Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures;
- B. Elevation in relation to mean sea level to which any structure has been floodproofed;
- C. Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in Section 15.36.240; and
- D. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development. (Ord. 476 (part), 1989; Ord. 264 § 4.1, 1978)

**15.36.130 Designation of administrator.**

The city administrator or his designated representative is appointed to administer and implement this chapter by granting or denying development permit applications in accordance with its provisions. (Ord. 476 (part), 1989; Ord. 264 § 4.2, 1978)

**15.36.140 Duties and responsibilities of administrator.**

Duties of the administrator shall include, but not be limited to:

**A. Permit Review.**

1. Review all development permits to determine that the permit requirements of this chapter have been satisfied;

2. 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;

3. 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 subsection A of Section 15.36.260 are met.

**B. Use of Other Base Flood Data.** When base flood elevation data has not been provided in accordance with Section 15.36.070, the administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state, or other source, in order to administer Sections 15.36.230, 15.36.240, 15.36.250 and 15.36.260.

**C. Information to be Obtained and Maintained.**

1. Obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement;

2. For all new or substantially improved floodproofed structures:

a. Verify and record the actual elevation (in relation to mean sea level), and

b. Maintain floodproofing certifications required in subsection B of Section 15.36.120;

3. Maintain for public inspection all records pertaining to the provisions of this chapter.

**D. Alteration of Watercourses.**

1. Notify adjacent communities and the State Coordinating Agency and/or the Soil Conservation Service prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency;

2. Require that maintenance is provided within the altered or relocated portion of the watercourse so that the flood-carrying capacity is not diminished.

**E. Interpretation of FIRM Boundaries.** Make interpretations 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 Sections 15.36.150 and 15.36.160. (Ord. 476 (part), 1989; Ord. 264 § 4.3, 1978)

**15.36.150 Variance procedure.**

**A.** The board of appeals, as established by the city, shall hear and decide appeals and requests for variances from the requirements of this chapter.

**B.** The board of appeals shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the administrative authority in the enforcement or administration of this chapter.

**C.** Those aggrieved by the decision of the board of appeals, or any taxpayer, may appeal such decision to the District Court, state of Wyoming, as provided in state statutes.

**D.** In passing upon such applications, the appeal board shall consider all technical evaluations, all relevant factors, standards specified in other sections of this chapter, and:

1. The danger that materials may be swept onto other lands to the injury of others;

2. The danger to life and property due to flooding or erosion damage;
3. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
4. The importance of the services provided by the proposed facility to the community;
5. The necessity to the facility of a waterfront location, where applicable;
6. The availability of alternative locations, for the proposed use which are not subject to flooding or erosion damage;
7. The compatibility of the proposed use with existing and anticipated development;
8. The relationship of the proposed uses to the comprehensive plan and floodplain management program for that area;
9. The safety of access to the property in times of flood for ordinary and emergency vehicles;
10. 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; and
11. 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. Upon consideration of the factors of subsection D of this section and the purposes of this chapter, the board of appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter.

F. The administrative authority shall maintain the records of all appeal actions, including technical information, and report any variances to the Federal Insurance Administration upon request. (Ord. 476 (part), 1989; Ord. 264 § 4.4-1, 1978)

#### **15.36.160 Conditions for variances.**

A. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half (1/2) acre or less in size, contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items 1 through 11 in subsection D of Section 15.36.150 have been fully considered. As the lot size increases beyond the one-half (1/2) acre, the technical justification required for issuing the variance increases.

B. 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.

C. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

D. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

E. Variances shall only be issued upon:

1. A showing of 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 as identified in subsection D of Section 15.36.150 or conflict with existing local laws or ordinances.

F. 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. 476 (part), 1989; Ord. 264 § 4.4-2, 1978)

**15.36.170 Provisions for flood hazard reduction—Generally.**

In all areas of special flood hazards, the standards set out in Sections 15.36.180 through 15.36.210 are required. (Ord. 476 (part), 1989; Ord. 264 § 5.1, 1978)

**15.36.180 Anchoring of construction.**

A. All new construction and substantial improvement shall be anchored to prevent flotation, collapse or lateral movement of the structure.

B. All mobile homes shall be anchored to resist flotation, collapse, or lateral movement by providing over-the-top and spring ties to ground anchors. Specific requirements shall be to:

1. Require that all manufactured homes to be placed within Zone A on a community's FHBM or FIRM 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 flotation, collapse or lateral movement. Methods of anchoring may include, but are not to be 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. (Ord. 476 (part), 1989; Ord. 274, 1978; Ord. 264 § 5.1-1, 1978)

**15.36.190 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. (Ord. 476 (part), 1989; Ord. 264 § 5.1-2, 1978)

**15.36.200 Utilities.**

A. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.

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

C. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding. (Ord. 476 (part), 1989; Ord. 264 § 5.1-3, 1978)

**15.36.210 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.



D. Base flood elevation data shall be provided for subdivision proposals and other proposed development which contain at least fifty (50) lots or five (5) acres (whichever is less). (Ord. 476 (part), 1989; Ord. 264 § 5.1-4, 1978)

#### **15.36.220 Specific standards.**

In all areas of special flood hazards where base flood elevation data have been provided as set forth in Section 15.36.070, or in Section 15.36.140B, the standards set out in Sections 15.36.230 through 15.36.250 are required. (Ord. 476 (part), 1989; Ord. 264 § 5.2, 1978)

#### **15.36.230 Residential construction.**

A. New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to or above base flood elevation.

B. New construction and substantial improvement of any below-grade crawlspace shall meet the following criteria:

1. Interior grade elevation below base flood elevation shall be no lower than two (2) feet below the lowest adjacent grade;
2. Height of the below-grade crawlspace, measured from the interior grade of the crawlspace to the top of the foundation wall, shall not exceed four (4) feet at any point;
3. Have an adequate drainage system to permit flood waters to drain from the interior area of the crawlspace following the flood;
4. Be anchored to prevent flotation, collapse, or lateral movement of the structure, and be capable of resisting hydrostatic and hydrodynamic loads;
5. Be constructed with materials and utility equipment resistant to flood damage using methods and practices that minimize flood damage;
6. Be constructed with electrical heating, ventilation, plumbing, and air conditioning equipment and other service facilities designed and/or located to prevent water from entering or accumulating within the components during conditions of flooding;
7. Be designed to automatically equalized 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 must 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;
  - (b) The bottom of all openings shall be no higher than one (1) foot above grade;
  - (c) Openings may be equipped with screens, louvers, or other coverings or devices, provided they permit the automatic entry and exit of floodwaters;
  - (d) Any other applicable criteria listed in Technical Bulletin 11-01 as published by the Federal Emergency Management Agency — Federal Insurance and Mitigation Administration. (Ord. 663, 2002; Ord. 476 (part), 1989; Ord. 264 § 5.2-1, 1978)

#### **15.36.240 Nonresidential construction.**

New 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 the base flood elevation; or, together with attendant utility and sanitary facilities, shall:

A. Be floodproofed so that below the base flood level 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 effects of buoyancy; and

C. Be certified by a registered professional engineer or architect that the standards of this section are satisfied. Such certifications shall be provided to the official as set forth in subsection C2 of Section 15.36.140. (Ord. 476 (part), 1989; Ord. 264 § 5.2-2, 1978)

**15.36.250 Manufactured homes.**

Manufactured homes shall be anchored in accordance with subsection B of Section 15.36.180. All manufactured homes or those to be substantially improved shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above the base flood elevation and is securely anchored to an adequately anchored foundation system. (Ord. 476 (part), 1989; Ord. 264 § 5.2-3, 1978)

**15.36.260 Floodways.**

Located within areas of special flood hazard established in Section 15.36.070 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

A. Prohibit encroachments, including fill, new construction, substantial improvements, and other development unless a technical evaluation demonstrates that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge;

B. If subsection A of this section is satisfied, all new construction and substantial improvements shall comply with all applicable flood-hazard reduction provisions of Sections 15.36.170 through 15.36.250. (Ord. 476 (part), 1989; Ord. 264 § 5.3, 1978)