

AVON ZONING ORDINANCE

CHAPTER 17. REVISION HISTORY

CHAPTER 17. FLOODPLAIN REGULATIONS

Ordinance #	Plan Commission Approval Date	Town Council Adoption Date	Description
2002-14	09-24-02	11-14-02	Adoption of Chapter 17.
2009-35	11-23-09	12-03-09	Chapter 17: Total Revision of the Entire Chapter

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CHAPTER 17. FLOODPLAIN REGULATIONS

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Section 17-1. Findings of Fact

1. The flood hazard areas of the Town of Avon 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.
2. These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities, and by the occupancy in flood hazard areas by uses vulnerable to floods or hazardous to other lands which are inadequately elevated, flood-proofed, or otherwise unprotected from flood damages.

Section 17-2. 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 to:

1. Restrict or prohibit uses which are dangerous to health, safety, and property due to water or erosion hazards, which result in damaging increases in erosion or in flood heights or velocities;
2. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
3. Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters;
4. Control filling, grading, dredging, and other development which may increase erosion or flood damage;
5. Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands; and,
6. Make federally subsidized flood insurance available for structures and their contents in the Town of Avon by fulfilling the requirements of the National Flood Insurance Program.

Section 17-3. Objectives

The objectives of this chapter are:

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;

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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 floodplains;
6. To help maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize flood blight areas, and;
7. To ensure that potential homebuyers are notified that property is in a flood area.

Section 17-4. General Provisions

1. Lands to Which This Chapter Applies

This chapter shall apply to all SFHAs within the jurisdiction of the Town of Avon.

2. Basis for Establishing Regulatory Flood Data

This chapter's protection standard is the regulatory flood. The best available regulatory flood data is listed below. Whenever a party disagrees with the best available data, the party submitting the detailed engineering study needs to replace existing data with better data and submit it to the Indiana Department of Natural Resources for review and approval.

- A. The regulatory flood elevation, floodway, and fringe limits for the studied SFHAs of the Town of Avon shall be as delineated on the 100 year flood profiles in the Flood Insurance Study of Hendricks County and Incorporated Areas and the corresponding FIRM prepared by the Federal Emergency Management Agency and dated September 25, 2009.
- B. The regulatory flood elevation, floodway, and fringe limits for each of the unstudied SFHAs of Town of Avon delineated as an "A Zone" on the FIRM of Hendricks County and Incorporated Areas shall be according to the best data available as provided by the Indiana Department of Natural Resources.

3. Establishment of Floodplain Development Permit

A Floodplain Development Permit shall be required in conformance with the provisions of this chapter prior to the commencement of any development activities in areas of special flood hazard.

4. Compliance

No structure shall hereafter be located, extended, converted or structurally altered within the SFHA without full compliance with the terms of this chapter and other applicable regulations. No land or stream within the SFHA shall hereafter be altered without full compliance with the terms of this chapter and other applicable regulations.

5. Discrepancy between Mapped Floodplain and Actual Ground Elevations

- A. In cases where there is a discrepancy between the mapped floodplain (SFHA) on the FIRM and the actual ground elevations, the elevation provided on the profiles shall govern.
- B. If the elevation of the site in question is below the base flood elevation, that site shall be included in the SFHA and regulated accordingly.
- C. If the elevation (natural grade) of the site in question is above the base flood elevation, that site shall be considered outside the SFHA and the floodplain regulations will not be applied. The property owner should be advised to apply for a LOMA.

6. 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.

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7. **Warning and Disclaimer of Liability**

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on available information derived from engineering and scientific methods of study. Larger floods can and will occur on rare occasions. Therefore, this ordinance does not create any liability on the part of the Town of Avon, the Indiana Department of Natural Resources, or the State of Indiana, for any flood damage that results from reliance on this ordinance or any administrative decision made lawfully thereunder.

8. **Penalties for Violation**

Failure to obtain a Floodplain Development Permit in the SFHA or failure to comply with the requirements of a Floodplain Development Permit or conditions of a variance shall be deemed to be a violation of this chapter. All violations of this chapter shall be treated in accordance with the provisions of Chapter 19: Enforcement, and subject to all remedies contained therein.

- A. A separate offense shall be deemed to occur for each day the violation continues to exist.
- B. The Zoning Administrator shall inform the owner that any such violation is considered a willful act to increase flood damages and therefore may cause coverage by a Standard Flood Insurance Policy to be suspended.
- C. Nothing herein shall prevent the Town of Avon from taking such other lawful action to prevent or remedy any violations. All costs connected therewith, including attorney's fees, shall accrue to the person or persons responsible.

9. **Increased Cost of Compliance (ICC)**

In order for buildings to qualify for a claim payment under ICC coverage as a "repetitive loss structure", the National Reform Act of 1994 requires that the building be covered by a contract for flood insurance and incur flood-related damages on two occasions during a 10-year period ending on the date of the event for which the second claim is made, in which the cost of repairing the flood damage, on the average, equaled or exceeded 25 percent of the market value of the building at the time of each such flood event.

Section 17-5. Administration

1. **Designation of Administrator**

The Town Council of the Town of Avon hereby appoints the Zoning Administrator to administer and implement the provisions of this chapter and is herein referred to as the Floodplain Administrator.

2. **Permit Procedures**

Application for a Floodplain Development Permit shall be made to the Floodplain Administrator on forms furnished by him or her prior to any development activities, and may include, but not be limited to, the following plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, earthen fill, storage of materials or equipment, drainage facilities, and the location of the foregoing. Specifically the following information is required:

- A. Application stage.
 - (a) A description of the proposed development;
 - (b) Location of the proposed development sufficient to accurately locate property and structure in relation to existing roads and streams;
 - (c) A legal description of the property site;

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- (d) A site development plan showing existing and proposed development locations and existing and proposed land grades;
- (e) Elevation of the top of the lowest floor (including basement) of all proposed buildings. Elevation should be in NAVD 88 or NGVD;
- (f) Elevation (in NAVD 88 or NGVD) to which any non-residential structure will be floodproofed;
- (g) Description of the extent to which any watercourse will be altered or related as a result of proposed development, and;

B. Construction stage.

Upon placement of the lowest floor; or floodproofing, it shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the NAVD 88 or NGVD elevation of the lowest floor or floodproofed elevation, as built. Said certification shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by the same. When floodproofing is utilized for a particular structure said certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. Any work undertaken prior to submission of the certification shall be at the permit holders' risk. (The Floodplain Administrator shall review the lowest floor and floodproofing elevation survey data submitted.) The permit holder shall correct deficiencies detected by such review before any further work is allowed to proceed. Failure to submit the survey or failure to make said corrections required hereby, shall be cause to issue a stop-work order for the project.

3. Duties and Responsibilities of the Floodplain Administrator

The Floodplain Administrator and/or designated staff is hereby authorized and directed to enforce the provisions of this chapter. The administrator is further authorized to render interpretations of this chapter, which are consistent with its spirit and purpose. Duties and Responsibilities of the Floodplain Administrator shall include, but not be limited to:

- A.** Review all floodplain development permits to assure that the permit requirements of this chapter have been satisfied;
- B.** Review all applications for floodplain development permits to determine is the submitted application is complete;
- C.** Approve or deny any application for a floodplain development permit within thirty (30) days of receipt of a completed application;
- D.** Inspect and inventory damaged structures in SFHA and complete substantial damage determinations;
- E.** Ensure that construction authorization has been granted by the Indiana Department of Natural Resources for all development projects subject to Section 17-6(5) and Section 17-6(7)(A) of this chapter, and maintain a record of such authorization (either copy of actual permit or floodplain analysis/regulatory assessment.)
- F.** Ensure that all necessary federal or state permits have been received prior to issuance of the local floodplain development permit. Copies of such permits are to be maintained on file with the floodplain development permit;
- G.** Notify adjacent communities and the State Floodplain Coordinator prior to any alteration or relocation of a watercourse, and submit copies of such notifications to FEMA;
- H.** Maintain for public inspection and furnish upon request local permit documents, damaged structure inventories, substantial damage determinations, regulatory flood data, SFHA maps, Letters of Map Amendment (LOMA), Letters of Map Revision (LOMR), copies of DNR permits and floodplain analysis and regulatory assessments (letters of recommendation),

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- federal permit documents, and “as-built” elevation and floodproofing data for all buildings constructed subject to this chapter.
- I.** Utilize and enforce all Letters of Map Revision (LOMR) or Physical Map Revisions (PMR) issued by FEMA for the currently effective SFHA maps of the community.
 - J.** Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished;
 - K.** Verify and record the actual elevation of the lowest floor (including basement) of all new or substantially improved structures, in accordance with Section 17-5(2);
 - L.** Verify and record the actual elevation to which any new or substantially improved structures have been floodproofed, in accordance with Section 17-5(2);
 - M.** Review certified plans and specifications for compliance.
 - N.** Stop Work Orders
 - (a)** Upon notice from the floodplain administrator, work on any building, structure or premises that is being done contrary to the provisions of this chapter shall immediately cease.
 - (b)** Such notice shall be in writing and shall be given to the owner of the property, or to his agent, or to the person doing the work, and shall state the conditions under which work may be resumed.
 - O.** Revocation of Permits
 - (a)** The floodplain administrator may revoke a permit or approval, issued under the provisions of the chapter, in cases where there has been any false statement or misrepresentation as to the material fact in the application or plans on which the permit or approval was based.
 - (b)** The floodplain administrator may revoke a permit upon determination by the floodplain administrator that the construction, erection, alteration, repair, moving, demolition, installation, or replacement of the structure for which the permit was issued is in violation of, or not in conformity with, the provisions of this chapter.

Section 17-6. Provisions for Flood Hazard Reduction

1. General Standards.

In all SFHAs the following provisions are required:

- A.** New construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure;
- B.** Manufactured homes shall be anchored to prevent 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 standard shall be in addition to and consistent with applicable state requirements for resisting wind forces;
- C.** New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage below the FPG;
- D.** New construction and substantial improvements shall be constructed by methods and practices that minimize flood damage;
- E.** Electrical, heating, ventilation, plumbing, air conditioning equipment and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;

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- F. New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- G. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- H. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding;
- I. Any alteration, repair, reconstruction or improvements to a structure that is in compliance with the provisions of this chapter shall meet the requirements of “new construction” as contained in this chapter; and,
- J. Any alteration, repair, reconstruction or improvement to a structure that is not in compliance with the provisions of this chapter, shall be undertaken only if said non-conformity is not further, extended, or replaced.

2. Specific Standards

In all SFHAs, the following provisions are required:

- A. In addition to the requirements of Section 17-6(1), all structures to be located in the SFHA shall be protected from flood damage below the FPG. This building protection requirement applies to the following situations:
 - (a) Construction or placement of any new structure having a floor area greater than 400 square feet;
 - (b) Addition or improvement made to any existing structure:
 - (1) where the cost of the addition or improvement equals or exceeds 50% of the value of the existing structure (excluding the value of the land);
 - (2) with a previous addition or improvement constructed since the community’s first floodplain ordinance.
 - (c) Reconstruction or repairs made to a damaged structure where the costs of restoring the structure to its before damaged condition equals or exceeds 50% of the market value of the structure (excluding the value of the land) before damage occurred;
 - (d) Installing a travel trailer or recreational vehicle on a site for more than 180 days;
 - (e) Installing a manufactured home on a new site or a new manufactured home on an existing site. This chapter does not apply to returning the existing manufactured home to the same site it lawfully occupied before it was removed to avoid flood damage; and
 - (f) Reconstruction or repairs made to a repetitive loss structure.

B. Residential Construction

New construction or substantial improvement of any residential structure (or manufactured home) shall have the lowest floor; including basement, at or above the FPG (two feet above the base flood elevation). Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with the standards of Section 17-6(2)(D).

C. Non-Residential Construction

New construction or substantial improvement of any commercial, industrial, or non-residential structure (or manufactured home) shall have the lowest floor, including basement, elevated to or above the FPG (two feet above the base flood elevation). Structures located in all “A Zones” may be floodproofed in lieu of being elevated if done in accordance with the following:

- (a) A Registered Professional Engineer or Architect shall certify that the structure has been designed so that below the FPG, the structure and attendant utility facilities are

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watertight and capable of resisting the effects of the regulatory flood. The structure design shall take into account flood velocities, duration, rate of rise, hydrostatic pressures, and impacts from debris or ice. Such certification shall be provided to the official as set forth in Section 17-5(3)(J).

- (b) Floodproofing measures shall be operable without human intervention and without an outside source of electricity.

D. Elevated Structures

New construction or substantial improvements of elevated structures that include fully enclosed areas formed by foundation and other exterior walls below the flood protection grade shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls.

- (a) Designs for complying with this requirement must either be certified by a professional engineer or architect or meet the following minimum criteria:
 - (1) provide a minimum of two openings having a total net area of not less than one square inch for every one square foot of enclosed area; and
 - (2) the bottom of all openings shall be no higher than one foot above foundation interior grade (which must be equal to in elevation or higher than the exterior foundation grade); and
 - (3) openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions; and
 - (4) access to the enclosed area shall be the minimum necessary to allow for parking for vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the living area (stairway or elevator); and
 - (5) the interior portion of such enclosed area shall not be partitioned or finished into separate rooms; and
 - (6) portions of the building below the flood protection grade must be constructed with materials resistant to flood damage.

E. Structures Constructed on Fill

A residential or nonresidential structure may be constructed on a permanent land fill in accordance with the following:

- (a) The fill shall be placed in layers no greater than 1 foot deep before compacting to 95% of the maximum density obtainable with the Standard Proctor Test method.
- (b) The fill should extend at least ten feet beyond the foundation of the structure before sloping below the FPG.
- (c) The fill shall be protected against erosion and scour during flooding by vegetative cover, riprap, or bulkheading. If vegetative cover is used, the slopes shall be no steeper than 3 horizontal to 1 vertical.
- (d) The fill shall not adversely affect the flow of surface drainage from or onto neighboring properties.
- (e) The top of the lowest floor including basements shall be at or above the FPG.

F. Standards for Structures Constructed with a Crawlspace

A residential or nonresidential structure may be constructed with a crawlspace located below the flood protection grade provided that the following conditions are met:

- (a) The building must be designed and adequately anchored to resist flotation, collapse, and lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy; and

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- (b) Any enclosed area below the flood protection grade shall have openings that equalize hydrostatic pressures by allowing for the automatic entry and exit of floodwaters. Provide a minimum of two openings having a total net area of not less than one square inch for every one square foot of enclosed area. The bottom of the openings shall be no more than one foot above grade; and
- (c) The interior height of the crawlspace measured from the interior grade of the crawlspace to the top of the foundation wall must not exceed four feet at any point; and
- (d) Utility systems within the crawlspace must be elevated above the flood protection grade.
- (e) An adequate drainage system must be installed to remove floodwaters from the interior area of the crawlspace within a reasonable period of time after a flood event; and
- (f) Portions of the building below the flood protection grade must be constructed with materials resistant to flood damage.
- (g) The interior grade of the crawlspace must be at or above the base flood elevation.

G. Standards for Manufactured Homes and Recreational Vehicles

Manufactured homes and recreational vehicles to be installed or substantially improved on a site for more than 180 days must meet one of the following requirements:

- (a) The manufactured home shall be elevated on a permanent foundation such that the lowest floor shall be at or above the FPG and securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement. This requirement applies to all manufactured homes to be placed on a site;
 - (1) outside a manufactured home park or subdivision;
 - (2) in a new manufactured home park or subdivision;
 - (3) in an expansion to an existing manufactured home park or subdivision; or
 - (4) in an existing manufactured home park or subdivision on which a manufactured home has incurred “substantial damage” as a result of a flood.
- (b) The manufactured home shall be elevated so that the lowest floor of the manufactured home chassis is supported by reinforced piers or other foundation elevations that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement. This requirement applies to all manufactured homes to be placed on a site in an existing manufactured home park or subdivision that has not been substantially damaged by a flood.
- (c) Recreational vehicles placed on a site shall either:
 - (1) be on site for less than 180 days; and,
 - (2) be fully licensed and ready for highway use (defined as being on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions); or
 - (3) meet the requirements for “manufactured homes” as stated earlier in this section.

3. Standards for 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 hazards, and;

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D. Base flood elevation data shall be provided for subdivision proposals and other proposed development (including manufactured home parks and subdivisions), which is greater than the lesser of fifty lots or five acres.

4. Critical Facility

Construction of new critical facilities shall be, to the extent possible, located outside the limits of the SFHA. Construction of new critical facilities shall be permissible within the SFHA if no feasible alternative site is available. Critical facilities constructed within the SFHA shall have the lowest floor elevated to or above the FPG at the site. Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes elevated to or above the FPG shall be provided to all critical facilities to the extent possible.

5. Standards for Identified Floodways

Located within SFHAs, established in Section 17-4(2), are areas designated as floodways. The floodway is an extremely hazardous area due to the velocity of floodwaters, which carry debris, potential projectiles, and has erosion potential. If the site is in an identified floodway, the Floodplain Administrator shall require the applicant to forward the application, along with all pertinent plans and specifications, to the Indiana Department of Natural Resources and apply for a permit for construction in a floodway. Under the provisions of IC 14-28-1 a permit for construction in a floodway from the Indiana Department of Natural Resources is required prior to the issuance of a local building permit for any excavation, deposit, construction, or obstruction activity located in the floodway. This includes land preparation activities such as filling, grading, clearing and paving etc. undertaken before the actual start of construction of the structure. However, it does exclude non-substantial additions/improvements to existing (lawful) residences in a non-boundary river floodway. (IC 14-28-1-26 allows construction of non-substantial additions/ improvements to residences in a non-boundary river floodway without obtaining a permit for construction in a floodway from the Indiana Department of Natural Resources. Please note that if fill is needed to elevate an addition above the existing grade, prior approval (construction in a floodway permit) for the fill is required from the Indiana Department of Natural Resources.)

No action shall be taken by the Floodplain Administrator until a permit (when applicable) has been issued by the Indiana Department of Natural Resources granting approval for construction in a floodway. Once a permit for construction in a floodway has been issued by the Indiana Department of Natural Resources, the Floodplain Administrator may issue the local Floodplain Development Permit, provided the provisions contained in Section 17-6 of this chapter have been met. The Floodplain Development Permit cannot be less restrictive than the permit for construction in a floodway issued by the Indiana Department of Natural Resources. However, a community's more restrictive regulations (if any) shall take precedence.

No development shall be allowed which acting alone or in combination with existing or future development, will increase the regulatory flood more than 0.14 of one foot; and

For all projects involving channel modifications or fill (including levees) the Town of Avon shall submit the data and request that the Federal Emergency Management Agency revise the regulatory flood data.

6. Standards for Identified Fringe

If the site is located in an identified fringe, then the Floodplain Administrator may issue the local Floodplain Development Permit provided the provisions contained in Section 17-6 of this chapter have been met. The key provision is that the top of the lowest floor of any new or substantially improved structure shall be at or above the FPG.

7. Standards for SFHAs Without Established Base Flood Elevation and/or Floodways/Fringes

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A. Drainage area upstream of the site is greater than one square mile:

If the site is in an identified floodplain where the limits of the floodway and fringe have not yet been determined, and the drainage area upstream of the site is greater than one square mile, the Floodplain Administrator shall require the applicant to forward the application, along with all pertinent plans and specifications, to the Indiana Department of Natural Resources for review and comment.

No action shall be taken by the Floodplain Administrator until either a permit for construction in a floodway or a floodplain analysis/regulatory assessment citing the 100 year flood elevation and the recommended Flood Protection Grade has been received from the Indiana Department of Natural Resources.

Once the Floodplain Administrator has received the proper permit for construction in a floodway or floodplain analysis/regulatory assessment approving the proposed development, a Floodplain Development Permit may be issued provided the conditions of the Floodplain Development Permit are not less restrictive than the conditions received from the Indiana Department of Natural Resources and the provisions contained in Section 17-6 of this chapter have been met.

B. Drainage area upstream of the site is less than one square mile:

If the site is in an identified floodplain where the limits of the floodway and fringe have not yet been determined and the drainage area upstream of the site is less than one square mile, the Floodplain Administrator shall require the applicant to provide an engineering analysis showing the limits of the floodway, fringe and 100 year flood elevation for the site.

Upon receipt, the Floodplain Administrator may issue the local Floodplain Development Permit, provided the provisions contained in Section 17-6 of this chapter have been met.

C. The total cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the regulatory flood more than 0.14 of one foot and will not increase flood damages or potential flood damages.

Section 17-7. Variance Procedures

1. Designation of Variance and Appeals Board

The Board of Zoning Appeals as established by Town Council of the Town of Avon shall hear and decide appeals and requests for variances from requirements of this chapter.

2. Duties of Variance and Appeals Board

The Board of Zoning Appeals shall hear and decide appeals when it is alleged an error in any requirement, decision, or determination is made by the Floodplain Administrator in the enforcement or administration of this chapter.

A. Any determination of the Floodplain Administrator shall be rendered in writing, shall constitute an Administrative Determination, and may be appealed within thirty (30) days of the date of issuance.

B. Any Administrative Determination may be appealed to the Board of Zoning Appeals as established by Chapter 4 of the Town of Avon Zoning Ordinance.

C. Any person aggrieved by the decision of the Board may appeal such decision to the Hendricks County Circuit Court, as provided by Statute.

3. Variance Procedures

In passing upon such applications, the Board of Zoning Appeals shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this chapter, and;

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- A. The danger of 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 importance of the services provided by the proposed facility to the community;
- D. The necessity to the facility of a waterfront location, where applicable;
- E. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
- F. The compatibility of the proposed use with existing and anticipated development;
- G. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
- H. The safety of access to the property in times of flood for ordinary and emergency vehicles;
- I. The expected height, velocity, duration, rate of rise, and sediment of transport of the floodwaters at the site; and,
- J. 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.

4. Conditions for Variances

- A. Variances shall only be issued when there is:
 - (a) A showing of good and sufficient cause;
 - (b) A determination that failure to grant the variance would result in exceptional hardship; and,
 - (c) 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 or victimization of the public, or conflict with existing laws or ordinances.
- B. No variance for a residential use within a floodway subject to Section 17-6(5) or Section 17-6(7)(A) of this chapter may be granted.
- C. Any variance granted in a floodway subject to Section 17-6(5) or Section 17-6(7)(A) of this chapter will require a permit from the Indiana Department of Natural Resources.
- D. Variances to the Provisions for Flood Hazard Reduction of Section 17-6(2), may be granted only when a new structure is to be located on a lot of one-half acre or less in size, contiguous to and surrounded by lots with existing structures constructed below the flood protection grade.
- E. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- F. Variances may be granted for the reconstruction or restoration of any structure individually listed on the National Register of Historic Places or the Indiana State Register of Historic Sites and Structures.
- G. Any application to whom a variance is granted shall be given written notice specifying the difference between the base flood elevation and the elevation to which the lowest floor is to be built and stating that the cost of the flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation (See Section 17-7(5)).

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H. The Floodplain Administrator shall maintain the records of appeal actions and report any variances to the Federal Emergency Management Agency or the Indiana Department of Natural Resources upon request (See Section 17-7(5)).

5. Variance Notification

Any applicant to whom a variance is granted shall be given written notice over the signature of a community official that:

- A.** The issuance of a variance to construct a structure below the base flood elevation will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage; and;
- B.** Such construction below the base flood level increases risks to life and property. A copy of the notice shall be recorded by the Floodplain Administrator in the Office of the County Recorder and shall be recorded in a manner so that it appears in the chain of title of the affected parcel of land.

The Floodplain Administrator will maintain a record of all variance actions, including justification for their issuance, and report such variances issued in the community's biennial report submission to the Federal Emergency Management Agency.

6. Historic Structure

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 an "historic structure" and the variance is the minimum to preserve the historic character and design of the structure.

7. Special Conditions

Upon the consideration of the factors listed in Section 17-7, and the purposes of this chapter, the Board of Zoning Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter.