

**85-O-08**

**AN ORDINANCE**

**Amending the City Code by Enacting a  
New Title 4, Chapter 16 of the Evanston City Code,  
"Floodplain Regulations"**

**WHEREAS**, In order to participate in the National Flood Insurance Program (NFIP), the City needs to amend its floodplain regulations in conformance with Flood Insurance Study(FIS) and Flood Insurance Rate Map (FIRM)

**NOW THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF EVANSTON, COOK COUNTY, ILLINOIS**

Section 1: Title 4 of the Evanston City Code is amended to read as follows:

**Chapters**

- 4-16-1 General Provisions
- 4-16-2 Definitions
- 4-16-3 How to Use This Ordinance
- 4-16-4 Duties of the Enforcement Official
- 4-16-5 Base Flood Elevation
- 4-16-6 Occupation and Use of Flood Fringe Areas
- 4-16-7 Occupation and Use of Designated Floodways
- 4-16-8 Occupation and Use of Special Flood Hazard Areas Where Floodways Are Not Identified
- 4-16-9 Permitting Requirements Applicable to All Floodplain Areas
- 4-16-10 Other Development Requirements
- 4-16-11 Variances
- 4-16-12 Disclaimer of Liability
- 4-16-13 Penalty
- 4-16-14 Abrogation and Greater Restrictions
- 4-16-15 Severability
- 4-16-16 Effective Date

## 4-16-1 GENERAL PROVISIONS

### 4-16-1-1 Purpose

This Ordinance is enacted pursuant to the police powers granted to the City of Evanston by 65 ILCS 5/1-2-1, 5/11-12-12, 5/11-30-2, 5/11-30-8, and 5/11-31-2. The purpose of this Ordinance is to maintain this City's eligibility in the National Flood Insurance Program; to minimize potential losses due to periodic flooding including loss of life, loss of 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; and to preserve and enhance the quality of surface waters, conserve economic and natural values and provide for the wise utilization of water and related land resources. This Ordinance is adopted in order to meet the requirements of 615 ILCS 5/18 (g) Rivers, Lakes and Streams Act and accomplish the following specific purposes:

- 4-16-1-1-1 To assure that new development does not increase the flood or drainage hazards to others, or create unstable conditions susceptible to erosion;
- 4-16-1-1-2 To protect new buildings and major improvements to buildings from flood damage;
- 4-16-1-1-3 To protect human life and health from the hazards of flooding;
- 4-16-1-1-4 To lessen the burden on the taxpayer for flood control projects, repairs to flood-damaged public facilities and utilities, and flood rescue and relief operations; and
- 4-16-1-1-5 To make federally subsidized flood insurance available for property in the City of Evanston by fulfilling the requirements of the National Flood Insurance Program;
- 4-16-1-1-6 To comply with the rules and regulations of the National Flood Insurance Program codified as 44 CFR 59-79, as amended.
- 4-16-1-1-7 To protect, conserve, and promote the orderly development of land and water resources; and
- 4-16-1-1-8 To preserve the natural characteristics and functions of watercourses and floodplains in order to moderate flood and storm water impacts, improve water quality, reduce soil erosion, protect aquatic and riparian habitat, provide recreational opportunities, provide aesthetic benefits and enhance community and economic development.

### 4-16-1-2 Scope

This Chapter of the City Code is intended to supplement the City of Evanston Zoning Ordinance, Development Ordinance, Building Code and Storm water Management Ordinance

and further regulate and restrict the development, layout and improvement of land, including drainage, underground utilities and service facilities; excavating, filling and grading lots and other parcels and Special Flood Hazard Areas (SFHA), and storing of certain materials thereon, stream and other floodwater runoff channels, and detention ponds and basins; and the location, construction and elevation of buildings and other structures and parts and appurtenances thereof, and the drainage of parking and other paved lots and areas. In the event there is any conflict between the provisions of this Chapter and any other City ordinance, the more restrictive provision or provisions shall be applicable.

#### **4-16-1-3 Compliance with other applicable regulations required**

Before starting any of the works or uses regulated by this Chapter, an applicant shall comply with requirements set forth in all other applicable ordinances and regulations with respect to submission and approval of preliminary and final subdivision plats, improvement plans, building and zoning permits, inspections, appeals and similar matters, along with those set forth in this Chapter as required by Federal and State statutes and regulations of any departments of the State.

#### **4-16-2 DEFINITIONS**

For the purposes of this Ordinance, the following definitions are adopted:

- 4-16-2-1 Accessory Structure** A non-habitable structure which is on the same parcel of property as the principal structure to be insured and the use of which is incidental to the use of the principal structure.
- 4-16-2-2 Act** An act in relation to the regulation of the rivers, lakes and streams of the State of Illinois", 615 ILCS 5/5 et seq.
- 4-16-2-3 Applicant** Any person, firm, corporation or agency which submits an application.
- 4-16-2-4 Appropriate Use** Only uses of the designated floodway that are permissible and will be considered for permit issuance. The only uses that will be allowed are as specified in Section 4-16-7-3.
- 4-16-2-5 Base Flood** The flood having a one-percent chance of being equaled or exceeded in any given year. The base flood is also known as the one hundred (100) year frequency flood event. Application of the base flood elevation at any location is as defined in Section 4-16-5 of this Ordinance.
- 4-16-2-6 Base Flood Elevation (BFE)** The elevation in relation to mean sea level of the crest of the base flood.
- 4-16-2-7 Basement** That portion of the building having its floor subgrade (below ground level) on all sides.
- 4-16-2-8 Building** A walled and roofed structure, including gas or liquid storage tank, that is principally above ground, including manufactured homes, prefabricated buildings,

and gas or liquid storage tanks. The term also includes recreational vehicles and travel trailers installed on a site for more than 180 days per year.

- 4-16-2-9 Channel** Any river, stream, creek, brook, branch, natural or artificial depression, ponded area, flowage, slough, ditch, conduit, culvert, gully, ravine, wash, or natural or man-made drainage way, which has a definite bed and banks or shoreline, in or into which surface or groundwater flows, either perennially or intermittently.
- 4-16-2-10 Channel Modification** Alteration of a channel by changing the physical dimensions or materials of its bed or banks. Channel modification includes damming, rip-rapping (or other armoring), widening, deepening, straightening, relocating, lining and significant removal of native vegetation from the bottom or banks. Channel modification does not include the clearing of dead or dying vegetation, debris, or trash from the channel. Channelization is a severe form of channel modification involving a significant change in the channel cross-section and typically involving relocation of the existing channel (e.g. straightening).
- 4-16-2-11 Compensatory Storage** An artificially excavated, hydraulically equivalent volume of storage within the SFHA used to balance the loss of natural flood storage capacity when artificial fill or structures are placed within the floodplain. The uncompensated loss of natural floodplain storage can increase off-site floodwater elevations and flows.
- 4-16-2-12 Conditional Approval of a Designated Floodway Map Change** Preconstruction approval by IDNR/OWR and FEMA of a proposed change to the floodway map. This preconstruction approval, pursuant to this Part, gives assurances to the property owner that once an Appropriate Use is constructed according to permitted plans, the floodway map can be changed, as previously agreed, upon review and acceptance of as-built plans.
- 4-16-2-13 Conditional Letter of Map Revision (CLOMR)** A letter which indicates that FEMA will revise base flood elevations, flood insurance rate zones, flood boundaries or floodway as shown on an effective Flood Hazard Boundary Map or Flood Insurance Rate Map, once the as-built plans are submitted and approved.
- 4-16-2-14 Control Structure** A structure designed to control the rate of flow that passes through the structure, given a specific upstream and downstream water surface elevation.
- 4-16-2-15 Critical Facility** Any facility which is critical to the health and welfare of the population and, if flooded, would create an added dimension to the disaster. Damage to these critical facilities can impact the delivery of vital services, can cause greater damage to other sectors of the community, or can put special populations at risk. Examples of critical facilities where flood protection should be required include: emergency services facilities (such as fire and police stations), schools, hospitals, retirement homes and senior care facilities, major roads and bridges, critical utility sites (telephone switching stations or electrical transformers), and hazardous material storage facilities (chemicals, petrochemicals, hazardous or toxic substances). Examples of critical facilities where flood protection is

recommended include: sewage treatment plants, water treatment plants, and pumping stations.

- 4-16-2-16 Dam** All obstructions, wall embankments or barriers, together with their abutments and appurtenant works, if any, constructed for the purpose of storing or diverting water or creating a pool. Dams may also include weirs, restrictive culverts or impoundment structures. Underground water storage tanks are not included.
- 4-16-2-17 Designated Floodway** The channel, including on-stream lakes, and that portion of the floodplain adjacent to a stream or watercourse, generally depicted on the FEMA FIRM map, which is needed to store and convey the existing one hundred (100) year frequency flood discharge with no more than a 0.1 foot increase in stage due to the loss of flood conveyance or storage, and no more than a 10 percent increase in velocities.
- 4-16-2-17-1** The floodways are designated for the City of Evanston on the countywide Flood Insurance Rate Map of Cook County prepared by FEMA and dated August 19, 2008. When two floodway maps exist for a waterway, the more restrictive floodway limit shall prevail.
- 4-16-2-17-2** The floodways for those parts of unincorporated Cook County that are within the extraterritorial jurisdiction of the City of Evanston that may be annexed into the City of Evanston are designated for North Shore Channel and Lake Michigan on the countywide Flood Insurance Rate Map prepared by FEMA and dated August 19, 2008.
- 4-16-2-17-3** To locate the designated floodway boundary on any site, the designated floodway boundary should be scaled off the designated floodway map and located on a site plan, using reference marks common to both maps. Where interpretation is needed to determine the exact location of the designated floodway boundary, IDNR/OWR should be contacted for the interpretation.
- 4-16-2-18 Development** Any man-made change to real estate, including:
- 4-16-2-18-1** Construction, reconstruction, repair, or placement of a building or any addition to a building.
- 4-16-2-18-2** Installing a manufactured home on a site, preparing a site for a manufactured home, or installing a travel trailer or recreational vehicle on a site for more than 180 days. If the travel trailer or recreational vehicle is on site for less than 180 days, it must be fully licensed and ready for highway use.
- 4-16-2-18-3** Drilling, mining, installing utilities, construction of roads, bridges, or similar projects.
- 4-16-2-18-4** Demolition of a structure or redevelopment of a site.
- 4-16-2-18-5** Clearing of land as an adjunct of construction.

- 4-16-2-18-6** Construction or erection of levees, walls, fences, dams, or culverts; channel modification; filling, dredging, grading, excavating, paving, or other non-agricultural alterations of the ground surface; storage of materials; deposit of solid or liquid waste;
- 4-16-2-18-7** Any other activity of man that might change the direction, height, or velocity of flood or surface water, including extensive vegetation removal;
- 4-16-2-18-8** Substantial improvement of an existing building.
- Development does not include routine maintenance of existing buildings and facilities such as re-roofing or re-surfacing of roads when there is no increase in elevation, or gardening, plowing, and similar agricultural practices that do not involve filling, grading, or construction of levees.
- 4-16-2-19 Elevation Certificates** A form published by FEMA that is used to certify the elevation to which a building has been elevated.
- 4-16-2-20 Erosion** The general process whereby soils are moved by flowing water or wave action.
- 4-16-2-21 Exempt Organizations.** Organizations which are exempt from this Ordinance per Illinois Compiled Statutes (ILCS) including state, federal or local units of government.
- 4-16-2-22 Existing Manufactured Home Park or Subdivision** A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) has been completed before April 1, 1990.
- 4-16-2-23 Expansion to an Existing Manufactured Home Park or Subdivision** The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).
- 4-16-2-24 FEMA** Federal Emergency Management Agency and its regulations at 44 CFR 59-79, as amended.
- 4-16-2-25 Flood** A general and temporary condition of partial or complete inundation of normally dry land areas from overflow of inland or tidal waves, or the unusual and rapid accumulation or runoff of surface waters from any source.
- 4-16-2-26 Flood Frequency** A period of years, based on a statistical analysis, during which a flood of a stated magnitude may be expected to be equaled or exceeded.

- 4-16-2-27 Flood Fringe** That portion of the floodplain outside of the designated floodway. *See commentary on "designated floodway".*
- 4-16-2-28 Flood Insurance Rate Maps (FIRM)** A map prepared by FEMA that depicts the Special Flood Hazard Area (SFHA) within a community. This map includes insurance rate zones and floodplains and may or may not depict floodways.
- 4-16-2-29 Flood Insurance Study** An examination, evaluation and determination of flood hazards and if appropriate, corresponding water surface elevations.
- 4-16-2-30 Floodplain** That land typically adjacent to a body of water with ground surface elevations at or below the base flood or the one hundred (100) year frequency flood elevation. Floodplains may also include detached Special Flood Hazard Areas, ponding areas, etc. The floodplain is also known as the Special Flood Hazard Area (SFHA).
- 4-16-2-30-1** The floodplains are those lands within the jurisdiction of the City of Evanston that are subject to inundation by the base flood or one hundred (100) year frequency flood. The SFHAs of the City of Evanston are generally identified as such on panel number(s) 0253, 0255, 0260, 0265 and 0270 of the countywide Flood Insurance Rate Map of the City of Evanston prepared by the Federal Emergency Management Agency and dated August 19, 2008.
- 4-16-2-30-2** The SFHAs of those parts of unincorporated Cook County that are within the extraterritorial jurisdiction of the City of Evanston or that may be annexed into the City of Evanston are generally identified as such on panel numbers(s) 0253, 0255, 0260, 0265 and 0270 of the countywide Flood Insurance Rate Map prepared for Cook County by the Federal Emergency Management Agency and dated August 19, 2008.
- 4-16-2-31 Flood Proofing** Any combination of structural and non-structural additions, changes or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.
- 4-16-2-32 Flood Proofing Certificate** A form published by FEMA that is used to certify that a building has been designed and constructed to be structurally dry floodproofed to the flood protection elevation.
- 4-16-2-33 Flood Protection Elevation (FPE)** The elevation of the base flood or one hundred (100) year frequency floods *plus one foot of freeboard* at any given location in the SFHA.
- 4-16-2-34 Floodway** See 4-16-2-17 "Designated Floodway".
- 4-16-2-35 Historic Structure** Any structure that is:

- 4-16-2-35-1** Listed individually in the National Register of Historic Places or preliminary determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- 4-16-2-35-2** Certified or preliminary determined by the Secretary of the Interior as contributing to the historic district or a district preliminary determined by the Secretary to qualify as a registered historic district;
- 4-16-2-35-3** Individually listed on the State inventory of historic places by the Illinois Historic Preservation Agency;
- 4-16-2-35-4** Individually listed on a local inventory of historic places that has been certified by the Illinois Historic Preservation Agency.
- 4-16-2-36 Hydrologic and Hydraulic Calculations** Engineering analysis which determine expected flood flows and flood elevations based on land characteristics and rainfall events.
- 4-16-2-37 IDNR/OWR** Illinois Department of Natural Resources, Office of Water Resources.
- 4-16-2-38 Letter of Map Amendment (LOMA)** Official determination by FEMA that a specific structure is not in a one hundred (100) year floodplain; amends the FIRM.
- 4-16-2-39 Letter of Map Revision (LOMR)** Letter that revises base flood or one hundred (100) year frequency flood elevations, floodplains or floodways as shown on an effective FIRM.
- 4-16-2-40 Lowest Floor** 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 buildings lowest floor; provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.
- 4-16-2-41 Manufactured Home** A structure, transportable in one or more sections, which is built on a permanent chassis and is designated for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" also includes park trailers, travel trailers and other similar vehicles placed on site for more than 180 consecutive days. The term "manufactured home" does not include a "recreational vehicle".
- 4-16-2-42 Manufactured Home Park or Subdivision** A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.
- 4-16-2-43 Mitigation** includes those measures necessary to minimize the negative effects which floodplain development activities might have on the public health, safety and welfare. Examples of mitigation include: excavation of compensatory storage, soil erosion and sedimentation control, and channel restoration. Mitigation may also include those activities taken to reduce a structure's susceptibility to flooding.



- 4-16-2-44 New Construction** New construction means structures for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.
- 4-16-2-45 New Manufactured Home Park or Subdivision** Manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) has been completed on or after April 1, 1990.
- 4-16-2-46 NAVD 88 National American Vertical Data** of 1988. NAVD 88 supersedes the National Geodetic Vertical Datum of 1929 (NGVD).
- 4-16-2-47 Natural** When used in reference to channels means those channels formed by the existing surface topography of the earth prior to changes made by man. A natural stream tends to follow a meandering path; its floodplain is not constrained by levees; the area near the bank has not been cleared, mowed or cultivated; the stream flows over soil and geologic materials typical of the area with no substantial alteration of the course or cross-section of the stream caused by filling or excavating. A modified channel may regain some natural characteristics over time as the channel meanders and vegetation is re-established. Similarly, a modified channel may be restored to more natural conditions by man through regarding and revegetation.
- 4-16-2-48 Ordinary High Water Mark (OHWM)** The point on the bank or shore up to which the presence and action of surface water is so continuous so as to leave a distinctive mark such as by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation or other easily recognized characteristics.
- 4-16-2-49 Public Flood Control Project** A flood control project which will be operated and maintained by a public agency to reduce flood damages to existing buildings and structures, including a hydrologic and hydraulic study of the existing and proposed conditions of the watershed. Nothing in this definition shall preclude the design, engineering, construction or financing, in whole or in part, of a flood control project by persons or parties who are not public agencies.
- 4-16-2-50 Public Bodies of Waters** All open public streams and lakes capable of being navigated by watercraft, in whole or in part, for commercial uses and purposes, and all lakes, rivers, and streams which in their natural condition were capable of being improved and made navigable, or that are connected with or discharge their waters into navigable lakes or rivers within, or upon the borders of the State of Illinois, together with all bayous, sloughs, backwaters, and submerged lands that are open to the main channel or body of water directly accessible thereto.
- 4-16-2-51 Recreational Vehicle or Travel Trailer** A vehicle which is:

- 4-16-2-51-1** Built on a single chassis;
- 4-16-2-51-2** 400 square feet or less when measured at the largest horizontal projection;
- 4-16-2-51-3** Designed to be self-propelled or permanently towable by a light duty truck; and
- 4-16-2-51-4** Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.
- 4-16-2-52 Regional Permits** Regional permits are offered for pre-approved projects which are considered minor projects that are permissible per IDNR/OWR Part 3708 rules for Northeastern Illinois regulatory floodways. A complete listing of the terms and conditions for specific project types can be obtained from the IDNR/OWR website.
- 4-16-2-53 Registered Land Surveyor** A land surveyor registered in the State of Illinois, under The Illinois Land Surveyors Act. (225 ILCS 330/1, et seq.)
- 4-16-2-54 Registered or Licensed Professional Engineer** An engineer registered in the State of Illinois, under The Illinois Professional Engineering Practice Act. (225 ILCS 325/1 et seq.)
- 4-16-2-55 Repair, Remodeling or Maintenance** Development activities which do not result in any increases in the outside dimensions of a building or any changes to the dimensions of a structure.
- 4-16-2-56 Repetitive Loss** Flood-related damages sustained by a structure on two separate occasions during a ten (10) year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damaged occurred.
- 4-16-2-57 Retention/Detention Facility** A retention facility stores storm water runoff without a gravity release. A detention facility provides for storage of storm water runoff and controlled release of this runoff during and after a flood or storm.
- 4-16-2-58 Riverine SFHA** Any SFHA subject to flooding from a river, creek, intermittent stream, ditch, on-stream lake system or any other identified channel. This term does not include areas subject to flooding from lakes, ponding areas, areas of sheet flow, or other areas not subject to overbank flooding.
- 4-16-2-59 Runoff** The water derived from melting snow or rain falling on the land surface, flowing over the surface of the ground or collected in channels or conduits.
- 4-16-2-60 Sedimentation** The processes that deposit soils, debris, and other materials either on other ground surfaces or in bodies of water or watercourses.
- 4-16-2-61 Special Flood Hazard Area (SFHA)** See 4-16-2-30 "Floodplain".
- 4-16-2-62 Start of Construction** Includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair,

reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or placement of a manufactured home on a foundation.

**4-16-2-63 Statewide Permits** Statewide permits are offered for pre-approved projects that are considered minor projects which are permissible per the IDNR/OWR Part 3700 rules. A complete listing of the statewide permits and permit requirements can be obtained from the IDNR/OWR website.

**4-16-2-64 Structure** See 4-16-2-8 "Building".

**4-16-2-65 Substantial Damage.** Damage of any origin sustained by a structure whereby the cumulative percentage of damage subsequent to the adoption of this ordinance equals or exceeds 50 percent of the market value of the structure before the damage occurred **regardless of actual repair work performed.** Volunteer labor and materials must be included in this determination. The term includes Repetitive Loss Buildings See 4-16-2-56 "Repetitive Loss".

**4-16-2-66 Substantial Improvement** Any reconstruction, rehabilitation, addition, or improvement of a structure taking place subsequent to the adoption of this ordinance in which the cumulative percentage of improvements equals or exceeds 50 percent of the market value of the structure before the improvement or repair is started.

**4-16-2-66-1** "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 building. This term includes structures which have incurred repetitive loss or substantial damage, regardless of the actual work done.

**4-16-2-66-2** The term does not, however, include either:

**4-16-2-66-2-1** any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, or

**4-16-2-66-2-2** any alteration of a "historic structure" listed on the National Register of Historic Places or the Illinois Register of Historic Places, provided that the alteration will not preclude the structure's continued designation as a historic structure.

**4-16-2-67 Transition Section** Reaches of the stream or floodway where water flows from a narrow cross-section to a wide cross-section or vice versa.

**4-16-2-68 Violation** The failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other

development without the elevation certificate, other certifications, or other evidence of compliance is presumed to be in violation until such time as that documentation is provided.

#### **4-16-3 HOW TO USE THIS CHAPTER**

- 4-16-3-1** The City Engineer and the Community Development Director shall be responsible for fulfilling all of the duties listed in 4-16-4.
- 4-16-3-2** To fulfill those duties, the City Engineer should first use the criteria listed in 4-16-5, Base Flood Elevations, to determine whether the development site is located within a floodplain. Once it has been determined that a site is located within a floodplain, the City Engineer must determine whether the development site is within a flood fringe, a regulatory floodway, or within a SFHA or floodplain for which no floodway has been identified.
- 4-16-3-3-1** If the site is within a flood fringe, the City Engineer shall require that the minimum requirements of 4-16-6 be met.
- 4-16-3-3-2** If the site is within a floodway, the City Engineer shall require that the minimum requirements of 4-16-7 be met.
- 4-16-3-3-3** If the site is located within a SFHA or floodplain for which no detailed study has been completed and approved, the City Engineer shall require that the minimum requirements of 4-16-8 be met.
- 4-16-3-3** In addition, the general requirements of 4-16-9 shall be met for all developments meeting the requirements of 4-16-6, 4-16-7 or 4-16-8.
- 4-16-3-4** The City Engineer and the Community Development Director shall assure that all subdivision proposals shall meet the requirements of 4-16-10.
- 4-16-3-5** If a variance is to be granted for a proposal, the Community Development Director and the City Engineer shall review the requirements of 4-16-11 to make sure they are met. In addition, the Community Development Director shall complete all notification requirements.
- 4-16-3-6** In order to assure that property owners obtain permits as required in this Ordinance, the Community Development Director may take any and all actions as outlined in 4-16-13.

#### **4-16-4 DUTIES OF THE ENFORCEMENT OFFICIAL**

##### **4-16-4-1 Duties of the City Engineer**

- 4-16-4-1-1 Determining the Floodplain Designation.** Check all new development sites to determine whether they are in a Special Flood Hazard Area (SFHA). If they are in a SFHA, determine whether they are in a floodway, flood fringe or in a floodplain for which a detailed study has not been conducted and

which drains more than one (1) square mile. Check whether the development is potentially within an extended SFHA (with a drainage area less than one square mile), indicating that the development would have adverse impacts regarding storage, conveyance, or inundation which would be the basis for the applicant being required to delineate the floodplain and floodway and be subject to the remaining Sections of this Chapter.

- 4-16-4-1-2 Professional Engineer Review.** If the development site is within a floodway or in a floodplain for which a detailed study has not been conducted and which drains more than one square mile, the permit and any required engineering reports shall be referred to the City Engineer for review to ensure that the development meets the requirements of 4-16-7 or 4-16-8. In the case of an Appropriate Use, a licensed engineer in the State of Illinois shall state in writing to the satisfaction of the City Engineer that the development meets the requirements of 4-16-7.
- 4-16-4-1-3 Dam Safety Requirements.** Dams are classified as to their size and their hazard/damage potential in the event of failure. The construction or major modification of all Class I (high hazard) and Class II (moderate hazard) dams require an IDNR/OWR dam safety permit. Some Class III (low hazard) dams require an IDNR/OWR dam safety permit, depending on the drainage area to the dam, the height of the dam and the impounding capacity behind the dam. Most off-channel detention basins that have an embankment are non-jurisdictional Class III dam. It is not required that IDNR/OWR "sign off" on all non-jurisdictional Class III dams. A consulting engineer with dam safety knowledge can estimate a hazard classification and determine if an IDNR/OWR dam safety permit is required. A permit application submittal must be made to IDNR/OWR for the construction or major modification of jurisdictional dams. Regulated dams may include weirs, restrictive culverts or impoundment structures.
- 4-16-4-1-4 Other permit requirements.** Ensure any and all required federal, state and local permits are received prior to the issuance of a floodplain development permit.
- 4-16-4-1-5 Plan Review and Permit Issuance.** Ensure that all development activities within the SFHAs of the jurisdiction of the City of Evanston meet the requirements of this Ordinance, and issue a floodplain development permit in accordance with the provisions of this Ordinance and other regulations of this community when the development meets the conditions of this Ordinance.
- 4-16-4-1-6 Inspection Review.** Provide engineering assistance to the Community Development Director in their inspection of all development projects before, during and after construction to assure proper elevation of the structure and to ensure compliance with the provisions of this Ordinance.
- 4-16-4-1-7 Records for Public Inspection.** Maintain for public inspection and furnish upon request base flood data, SFHA and designated floodway maps, copies

of federal or state permit documents, variance documentation, Conditional Letter of Map Revision, Letter of Map Revision and Letter of Map Amendments.

**4-16-4-1-8 State Permits.** Ensure that construction authorization has been granted by IDNR/OWR, for all development projects subject to 4-16-7 and 4-16-8 of this Ordinance, unless enforcement responsibility has been delegated to the City of Evanston. However, the following review approvals are not delegated to the City of Evanston and shall require review or permits from IDNR/OWR:

- A. Organizations which are exempt from this Ordinance, as per the Illinois Compiled Statutes;
- B. IDNR/OWR projects, dams or impoundment structures as defined in 4-16-2-16 and all other state, federal or local unit of government projects, including projects of the City of Evanston and County, except for those projects meeting the requirements of 4-16-7-3;
- C. An engineer's determination that an existing bridge or culvert crossing is not a source of flood damage and the analysis indicating the proposed flood profile, per 4-16-7-5;
- D. An engineer's analysis of the flood profile due to 4-16-7-5;
- E. Alternative transition sections and hydraulically equivalent compensatory storage as indicated in 4-16-7-5;
- F. Permit issuance of structures within, under, or over publicly navigable rivers, lakes and streams;
- G. Any changes in the mapped floodway or published flood profiles.

**4-16-4-1-9 Cooperation with Other Agencies.** Cooperate with state and federal floodplain management agencies to improve base flood or one hundred (100) year frequency flood and floodway data and to improve the administration of this Ordinance. Submit data to IDNR/OWR and FEMA for proposed revisions of a regulatory map within 6 months whenever a modification of the floodplain may change the base flood elevation or result in a change to the floodplain map. Submit reports as required for the National Flood Insurance Program and notify FEMA of any proposed amendments to this Ordinance.

**4-16-4-1-10 Promulgate Regulations.** Promulgate rules and regulations as necessary to administer and enforce the provisions of this Ordinance, subject however to the review and approval of IDNR/OWR and FEMA for any Ordinance changes.

**4-16-4-2 Duties of the Community Development Director**

**4-16-4-2-1 Elevation and Floodproofing Certificates.** Maintain permit files including: An Elevation Certificate certifying the elevation of the lowest floor (including basement) of a residential or non-residential building subject to 4-16-9 of this Ordinance, and/or the elevation to which a non-residential building has been floodproofed, using a Floodproofing Certificate, for all buildings subject to 4-16-9 of this Ordinance.

**4-16-4-2-2 Records for Public Inspection.** Maintain for public inspection and furnish upon request "as-built" elevation and floodproofing or elevation and floodproofing certificates for all buildings constructed subject to this Ordinance.

**4-16-4-2-3 Inspection Review.** Inspect all development projects before, during and after construction to assure proper elevation of the structure and to ensure compliance with the provisions of this Ordinance; and, schedule on an annual basis an inspection of the floodplain and document the results of the inspection.

**4-16-4-2-4 Damage Determinations.** Make damage determinations of all damaged buildings in the SFHA after a flood to determine substantially damaged structures which must comply with 4-16-9-4 of this Ordinance.

**4-16-4-2-5 Issue Violations and Penalties.** Working with the City Attorney's and City Engineer's Office, issue violations and penalties as required under the provisions of 4-16-13 of this Ordinance.

**4-16-4-2-6 Promulgate Regulations.** Promulgate rules and regulations as necessary to administer and enforce the provisions of this Ordinance, subject however to the review and approval of IDNR/OWR and FEMA for any Ordinance changes.

**4-16-4-2-7 Variances.** Administer requests for variances per requirements of Section 4-16-11.

#### **4-16-5 BASE FLOOD ELEVATION**

**4-16-5-1 General.** This Ordinance's protection standard is based on the Flood Insurance Study for the City of Evanston. If a base flood elevation or one hundred (100) year frequency flood elevation is not available for a particular site, then the protection standard shall be according to the best existing data available from federal, state or other sources. When a party disagrees with the best available data, they shall submit a detailed engineering study needed to replace existing data with better data and submit it to IDNR/OWR and FEMA for review and consideration prior to any development of the site.

**4-16-5-2 Base Flood.** The base flood or one hundred (100) year frequency flood elevation for the SFHAs of the North Shore Channel and Lake Michigan shall be as delineated on the one hundred (100) year flood profiles in the Flood Insurance Study of the Cook County prepared by FEMA, and dated

August 19, 2008, and such amendments to such study and maps as may be prepared from time to time.

**4-16-5-3 Delineation (AH/AO).** The base flood or one hundred (100) year frequency flood elevation for each SFHA delineated as an "AH Zone" or "AO Zone" shall be that elevation (or depth) delineated on the countywide Flood Insurance Rate Map of Cook County.

**4-16-5-4 Delineation (other).** The base flood or one hundred (100) year frequency flood elevation for each of the remaining SFHAs delineated as an "A Zone" on the countywide Flood Insurance Rate Map of Cook County shall be according to the best existing data available from federal, state or other sources. Should no other data exist, an engineering study must be financed by the applicant to determine base flood elevations. When no base flood or one hundred (100) year frequency flood elevation exists, the base flood or one hundred (100) year frequency flood elevation for a riverine SFHA shall be determined from a backwater model, such as HEC-II, HEC-RAS, or a dynamic model such as HIP. The flood flows used in the hydraulic models shall be obtained from a hydrologic model, such as HEC-HMS, HEC-1, TR-20, or HIP, or by techniques presented in various publications prepared by the United States Geological Survey for estimating peak flood discharges. For a non-riverine SFHA, the Base Flood Elevation shall be the historic Flood of Record plus three feet, unless calculated by a detailed engineering study. For an unmapped extended SFHA (with a drainage area less than one square mile) which has been identified by the City Engineer pursuant to 4-16-4-1, the base flood elevation shall be determined by the applicant utilizing a method as approved in this section.

#### **4-16-6 OCCUPATION AND USE OF FLOOD FRINGE AREAS**

Development in and/or filling of the flood fringe will be permitted if protection is provided against the base flood or one hundred (100) year frequency flood by proper elevation, and compensatory storage, and other applicable provisions of this Ordinance. No use will be permitted which adversely affects the capacity of drainage facilities or systems. Developments located within the flood fringe shall meet the requirements of this Section, along with the requirements of 4-16-9.

**4-16-6-1 Development Permit.** No person, firm, corporation, or governmental body not exempted by law shall commence any development in the SFHA without first obtaining a development permit from the City Engineer.

**4-16-6-1-1 Application.** Application for a development permit shall be made on a form provided by the City Engineer. The application shall be accompanied by drawings of the site, drawn to scale, showing property line dimensions and legal description for the property and sealed by a licensed engineer, architect or land surveyor; existing grade elevations, using the North American Vertical Datum of 1988, and all changes in grade resulting from excavation or filling; the location and dimensions of all buildings and additions to buildings. For all proposed buildings, the elevation of the lowest



floor (including basement) and lowest adjacent grade shall be shown on the submitted plans and the development will be subject to the requirements of 4-16-9 of this Ordinance.

- 4-16-6-2 SFHA Determination.** Upon receipt of a development permit application, the City Engineer shall compare the elevation of the site to the base flood or one hundred (100) year frequency flood elevation. Any development located on land that can be shown to be higher than the base flood elevation of the current Flood Insurance Rate Map and which has not been filled after the date of the site's first Flood Insurance Rate Map without a permit as required by this ordinance is not in the SFHA and, therefore, not subject to the requirements of this Ordinance. Conversely, any development located on land shown to be below the base flood elevation and hydraulically connected, but shown on the current Flood Insurance Rate Map is subject to the provisions of this ordinance. The City Engineer shall maintain documentation of the existing ground elevation at the development site and certification that this ground elevation existed prior to the date of the site's first Flood Insurance Rate Map identification.
- 4-16-6-3 Soil Erosion and Sediment Control.** A soil erosion and sediment control plan for disturbed areas shall be submitted. This plan shall include a description of the sequence of grading activities and the temporary sediment and erosion control measures to be implemented to mitigate their effects. This plan shall also include a description of final stabilization and revegetation measures, and the identification of a responsible party to ensure post-construction maintenance.
- 4-16-6-4 Other Agency Permits.** The City Engineer shall be responsible for obtaining from the applicant copies of all other federal, state, and local permits, approvals or waivers that may be required for this type of activity. The City Engineer shall not issue a permit unless all other federal, state, and local permits have been obtained.
- 4-16-6-5 Preventing Increased Damages.** No development in the flood fringe shall create a threat to public health and safety.
- 4-16-6-6 LOMR.** If fill is being used to elevate the site above the base flood or one hundred (100) year frequency flood elevation, the applicant shall submit sufficient data and obtain a letter of map revision (LOMR) from FEMA for the purpose of removing the site from the floodplain.
- 4-16-6-7 Compensatory Storage.** Whenever any portion of a floodplain is authorized for use, the volume of space which will be occupied by the authorized fill or structure below the base flood or one hundred (100) year frequency flood elevation shall be compensated for and balanced by a hydraulically equivalent volume of excavation taken from below the base flood or one hundred (100) year frequency flood elevation. The excavation volume shall be at least equal to 1.5 times the volume of storage lost due to the fill or structure. In the case of streams and watercourses, such excavation shall be made opposite or adjacent to the areas so filled or occupied. All floodplain storage lost below the existing ten (10) year flood elevation shall be replaced below the proposed ten (10) year flood elevation. All floodplain storage lost above the existing ten (10) year flood elevation shall be replaced above

the proposed ten (10) year flood elevation. All such excavations shall be constructed to drain freely and openly to the watercourse.

**4-16-6-8 Construction of the Lowest Floor Below The Base Flood Elevation (BFE).** A person who has obtained a Letter of Map Revision (LOMR) Based on Fill that removes a site in the flood fringe from the floodplain due to the use of fill to elevate the site above the BFE, may apply for a permit from the City to construct the lowest floor of a residential building below the BFE in the flood fringe. Such a permit shall not be issued unless the applicant has complied with all the criteria set forth in the following subsection.

**4-16-6-8-1** Compensatory storage shall be provided per 4-16-6-7.

**4-16-6-8-2** The elevation of the lowest opening in the basement wall (i.e., window wells, access ways) shall be at or above the Flood Protection Elevation (FPE).

**4-16-6-8-3** The lowest adjacent grade to the foundation shall be at or above the FPE, for a minimum distance of ten (10) feet beyond the outside face of the structure. However, if site conditions are such that this requirement cannot be met, the City Engineer may waive the ten (10) foot minimum setback if an Illinois Licensed Professional Engineer certifies that an alternative method to protect the building from damage due to hydrostatic pressures has been met. The certifications shall be in the form of a detailed soils and structural design analysis, which shall be submitted to the City Engineer for review. The City Engineer may require such additional documentation as necessary to prove that the proposed shorter setback distance will keep the structure reasonably safe. In no case shall the setback distance be less than four (4) feet.

**4-16-6-8-4** The grade around the perimeter of the structure, measured at a distance of twenty (20) feet from the structure, shall be above the BFE. However, if site conditions are such that this requirement cannot be obtained, the City Engineer may waive the twenty (20) foot minimum setback distance if an Illinois Licensed Professional Engineer certifies that an alternative method to protect the building from damages due to hydrostatic pressures have been met. A detailed soils analysis and structural design proving that a shorter setback distance will keep the structure reasonably safe from flooding, shall be submitted to the City of Evanston for review. In no case shall the setback distance be less than four (4) feet.

**4-16-6-8-5** The ground around the building shall be compacted fill that meets all requirements of this subsection and is at least five (5) feet thick under the basement floor slab. Nothing in this subsection shall be interpreted to require the removal or replacement of fill that was placed as part of a LOMR-F, if such fill consists of material, including soils of similar classification and degree permeability, such as those classified as CH, CL, SC or ML according to ASTM standard D-2487, Classification of Soils for Engineering Purposes.

- 4-16-6-8-6** The fill material must be homogeneous and isotropic; that is, the soil must be all of one material, and the engineering priorities must be in the same direction.
- 4-16-6-8-7** All fill material and compaction shall be designed, certified and inspected by an Illinois Licensed Professional Engineer, as warranted by the site conditions.
- 4-16-6-8-8** The basement floor shall be at an elevation that is no more than five (5) feet below the BFE.
- 4-16-6-8-9** There shall be a granular drainage layer beneath the floor slab, and minimum of one quarter ( $\frac{1}{4}$ ) horsepower sump pump with a backup power supply shall be provided to remove seepage flow. The pump shall be rated at four (4) times the estimated seepage rate and shall discharge above the BFE and away from the building in order to prevent flooding of the basement or uplift of the floor under the effect of the seepage pressure.
- 4-16-6-8-10** The drainage system shall be equipped with a positive means of preventing backflow.
- 4-16-6-8-11** All foundation elements shall be designed to withstand hydrostatic pressure in accordance with accepted engineering practices.
- 4-16-6-8-12** If the applicant is unable to meet all of the requirements set forth in the preceding paragraphs of this subsection, the City Engineer may allow the construction of a basement below the BFE only if the applicant demonstrates that the proposed fill and structure meet the guidelines and requirements set forth in FEMA Technical Bulletin 10-01 and are reasonably safe from flooding. In order to demonstrate that the proposed structure is reasonably safe from flooding, the applicant shall submit a detailed engineering analysis of the proposed fill and foundation wall. The engineered basement study shall be completed in accordance with the latest edition of FEMA Technical Bulletin 10-01, with the analysis of the fill being prepared by an Illinois Licensed Professional Engineer.
- 4-16-6-8-13** In order to provide the required compensatory storage on site, in no case shall the depth of excavation in the front and side yards of the lot exceed eighteen (18) inches, as measured from the previously existing natural grade. The rear yard shall be permitted to have a greater depth of excavation, if necessary. All such excavation shall be constructed to drain freely and openly to the watercourse or storm sewer system. The use of mechanical means to drain the compensatory storage area will not be permitted.

**4-16-7****OCCUPATION AND USE OF DESIGNATED FLOODWAYS**

This section applies to proposed development, redevelopment, site modification or building modification within a designated floodway. The designated floodway for North Shore Channel and Lake Michigan shall be as delineated on the countywide Flood Insurance Rate Map of Cook County and referenced in 4-16-2-28. Only those uses and structures will be permitted which meet the criteria in this section. All floodway modifications shall be the minimum necessary to accomplish the purpose of the project. The development shall also meet the requirements of 4-16-9.

#### **4-16-7-1 Development Permit.**

No person, firm, corporation or governmental body not exempted by state law shall commence any development in a floodway without first obtaining a development permit from the City Engineer and IDNR/OWR.

**4-16-7-1-1 Application.** Application for a development permit shall be made on a form provided by the City Engineer. The application shall include the following information:

- A. Name and address of applicant
- B. Site location (including legal description) of the property, drawn to scale, on the designated floodway map, indicating whether it is proposed to be in an incorporated or unincorporated area;
- C. Name of stream or body of water affected;
- D. Description of proposed activity;
- E. Statement of purpose of proposed activity;
- F. Anticipated dates of initiation and completion of activity;
- G. Name and mailing address of the owner of the subject property if different from the applicant;
- H. Signature of the applicant or the applicant's agent;
- I. If the applicant is a corporation, the president or other authorized officer shall sign the application form;
- J. If the applicant is a partnership, each partner shall sign the application form; and
- K. If the applicant is a land trust, the trust officer shall sign the name of the trustee by him (her) as trust officer. A disclosure affidavit shall be filed with the application, identifying each beneficiary of the trust by name and address and defining the respective interests therein.

- L. Plans of the proposed activity shall be provided which include as a minimum:
1. A vicinity map showing the site of the activity, name of the waterway, boundary lines, names of roads in the vicinity of the site, graphic or numerical scale, and north arrow;
  2. A plan view of the project and engineering study reach showing existing and proposed conditions including principal dimensions of the structure or work, elevations, using the North American Vertical Datum of 1988, adjacent property lines and ownership, drainage and flood control easements, location of any channels and any existing or future access roads, distance between proposed activity and navigation channel (when the proposed construction is near a commercially navigable body of water), designated floodway limit, floodplain limit, specifications and dimensions of any proposed channel modifications, location and orientation of cross-sections, north arrow, and a graphic or numerical scale;
  3. Cross-section views of the project and engineering study reach showing existing and proposed conditions including principal dimensions of the work as shown in plan view, existing and proposed elevations, normal water elevation, ten (10) year frequency flood elevation, one hundred (100) year frequency flood elevation, and graphic or numerical scales (horizontal and vertical);
  4. A soil erosion and sediment control plan for disturbed areas. This plan shall include a description of the sequence of grading activities and the temporary sediment and erosion control measures to be implemented to mitigate their effects. This plan shall also include a description of final stabilization and revegetation measures, and the identification of a responsible party to ensure post-construction maintenance.
  5. A copy of the designated floodway map, marked to reflect any proposed change in the designated floodway location.
- M. Any and all other federal, state, and local permits or approval letters that may be required for this type of development.
- N. Engineering calculations and supporting data shall be submitted showing that the proposed work will meet the permit criteria of 4-16-7-3.
- O. If the designated floodway delineation, base flood or one hundred (100) year frequency flood elevation will change due to the proposed project, the application will not be considered complete until IDNR/OWR has indicated conditional approval of the designated floodway map change.

No structures may be built until a Letter of Map Revision has been approved by FEMA.

- P. The application for a structure shall be accompanied by drawings of the site, drawn to scale showing property line dimensions and existing ground elevations and all changes in grade resulting from any proposed excavation or filling, and floodplain and floodway limits; sealed by a licensed professional engineer, licensed architect or licensed land surveyor; the location and dimensions of all buildings and additions to buildings; and the elevation of the lowest floor (including basement) of all proposed buildings subject to the requirements of 4-16-9 of this Ordinance.
- Q. If the proposed project involves a channel modification, the applicant shall submit the following information:
1. A discussion of the purpose of and need for the proposed work;
  2. A discussion of the feasibility of using alternative locations or methods (see 4-16-7-5-9) to accomplish the purpose of the proposed work;
  3. An analysis of the extent and permanence of the impacts each feasible alternative identified in 4-16-7-5-9 of this Section would have on the physical and biological conditions of the body of water affected; and
  4. An analysis of the impacts of the proposed project, considering cumulative effects on the physical and biological conditions of the body of water affected.

**4-16-7-2 Other Agency Permits.** The City Engineer shall be responsible for obtaining from the applicant copies of all other federal, state, and local permits and approvals that may be required for this type of activity. The City Engineer shall not issue the development permit unless all required federal and state permits have been obtained. The City Engineer or a Licensed Professional Engineer, under the employ or contract of the City of Evanston shall review and approve applications reviewed under this Section.

**4-16-7-3 Preventing Increased Damages and a List of Appropriate Uses.** The only development in a floodway which will be allowed are Appropriate Uses, which will not cause a rise in the base flood elevation, and which will not create a damaging or potentially damaging increase in flood heights or velocity or be a threat to public health and safety and welfare or impair the natural hydrologic and hydraulic functions of the floodway or channel, or permanently impair existing water quality or aquatic habitat. Construction impacts shall be minimized by appropriate mitigation methods as called for in this Ordinance. Only those Appropriate Uses listed in 17 Ill. Adm. Code Part 3708 will be allowed. The approved Appropriate Uses are as follows:

- 4-16-7-3-1** Flood control structures, dikes, dams and other public works or private improvements relating to the control of drainage, flooding, erosion, or water quality or habitat for fish and wildlife;
- 4-16-7-3-2** Structures or facilities relating to the use of, or requiring access to, the water or shoreline, such as pumping and treatment facilities, and facilities and improvements related to recreational boating, commercial shipping and other functionally water dependent uses;
- 4-16-7-3-3** Storm and sanitary sewer relief outfalls;
- 4-16-7-3-4** Underground and overhead utilities;
- 4-16-7-3-5** Recreational facilities such as playing fields and trail systems, including any related fencing (at least 50 percent open when viewed from any one direction) built parallel to the direction of flood flows, and including open air pavilions and toilet facilities (4 stall maximum) that will not block flood flows nor reduce floodway storage.
- 4-16-7-3-6** Detached garages, storage sheds, or other non-habitable accessory structures that will not block flood flows nor reduce floodway storage;
- 4-16-7-3-7** Bridges, culverts, roadways, sidewalks, railways, runways and taxiways and any modification thereto;
- 4-16-7-3-8** Parking lots built at or below existing grade where either the depth of flooding at the one hundred (100) year frequency flood event will not exceed 1.0 foot; or the applicant of a short-term recreational use facility parking lot formally agrees to restrict access during overbank flooding events and accepts liability for all damage caused by vehicular access during all overbank flooding events;
- 4-16-7-3-9** Designated floodway regarding, without fill, to create a positive non-erosive slop toward a watercourse;
- 4-16-7-3-10** Floodproofing activities to protect previously existing lawful structures including the construction of water tight window wells, elevating structures, or construction of floodwalls around residential, commercial or industrial principal structures where the outside toe of the floodwall shall be no more than ten (10) feet away from the exterior wall of the existing structure, and, which are not considered substantial improvements to the structure;
- 4-16-7-3-11** The replacement, reconstruction, or repair of a damaged building, provided that the outside dimensions are not increased, and if the building was damaged to fifty (50%) percent or more of the market value before the damage occurred, the building will be protected from flooding to the flood protection elevation; and

**4-16-7-3-12** Modifications to an existing building that would not increase the enclosed floor area of the building below the one hundred (100) year frequency flood elevation, and which will not block flood flows including but not limited to, fireplaces, bay windows, decks, patios, and second story additions. If the building is improved to fifty (50%) percent or more of the market value before the modification occurred (i.e., a substantial improvement), the building will be protected from flooding to the flood protection elevation.

**4-16-7-4 Non-Appropriate Uses in the Floodway.** Appropriate uses do not include the construction or placement of any new structures, fill, building additions, buildings on stilts, excavation or channel modifications done to accommodate otherwise non-appropriate uses in the floodway, fencing (including landscaping or planting designed to act as a fence) and storage of materials except as specifically defined above as an Appropriate Use.

**4-16-7-5 Floodway Characteristics.** Within the designated floodway, the construction of an Appropriate Use, will be considered permissible provided that the proposed project meets the following engineering and mitigation criteria and is so stated in writing with supporting plans, calculations and data by a licensed professional engineer and provided that any structure meets the protection requirements of 4-16-9 of this Ordinance.

**4-16-7-5-1** Preservation of Flood Conveyance; so as Not to Increase Flood Stages Upstream. For appropriate uses other than bridge or culvert crossings, on-stream structures or dams, all effective designated floodway conveyance lost due to the project will be replaced for all flood events up to and including the one hundred (100) year frequency flood. In calculating effective designated floodway conveyance, the following factors shall be taken into consideration:

- A. Designated floodway conveyance, "K" =  $(1.486/n) (AR^{2/3})$  where "n" is Manning's roughness factor, "A" is the effective flow area of the cross-section, and "R" is the ratio of the area to the wetted perimeter. (See Ven Te Chow, *Open Channel Hydraulics*, (McGraw-Hill, New York 1959).
- B. The same Manning's "n" value shall be used for both existing and proposed conditions unless a recorded maintenance agreement with a federal, state, or local unit of government can assure the proposed conditions will be maintained or the land cover is changing from a vegetative to a non-vegetative land cover.
- C. Transition sections shall be provided and used in calculations of effective designated floodway conveyance. The following expansion and contraction ratios shall be used unless an applicant's engineer can prove to IDNR/OWR through engineering calculations or model tests that more abrupt transitions may be used with the same efficiency:



1. When water is flowing from a narrow section to a wider section, the water should be assumed to expand no faster than at a rate of one foot horizontal for every four feet of the flooded stream's length.
2. When water is flowing from a wide section to a narrow section, the water should be assumed to contract no faster than at a rate of one foot horizontal for every one foot of the flooded stream's length.
3. When expanding or contracting flows in a vertical direction, a minimum of one foot vertical transition for every ten feet of stream length shall be used.
4. Transition sections shall be provided between cross-sections with rapid expansions and contractions and when meeting the designated floodway delineation on adjacent properties.
5. All cross-sections used in the calculations shall be located perpendicular to flood flows.

**4-16-7-5-2** Preservation of Floodway Storage so as Not to Increase Downstream Flooding. Compensatory storage shall be provided for any designated floodway storage lost due to the proposed work from the volume of fill or structures placed and the impact of any related flood control projects. Compensatory storage for fill or structures shall be equal to at least 1.5 times the volume of floodplain storage lost. Artificially created storage lost due to a reduction in head loss behind a bridge shall not be required to be replaced. The compensatory designated floodway storage shall be placed between the proposed normal water elevation and the proposed one hundred (100) year flood elevation. All designated floodway storage lost below the existing ten (10) year flood elevation shall be replaced below the proposed ten (10) year flood elevation. All designated floodway storage lost above the existing ten (10) year flood elevation shall be replaced above the proposed ten (10) year flood elevation. All such excavations shall be constructed to drain freely and openly to the watercourse. If the compensatory storage will not be placed at the location of the proposed construction, the applicant's engineer shall demonstrate through a determination of flood discharges and water surface elevations that the compensatory storage is hydraulically equivalent. There shall be no reduction in floodway surface area as a result of a floodway modification, unless such modification is necessary to reduce flooding at existing structure.

**4-16-7-5-3** Preservation of Floodway Velocities so as Not to Increase Stream Erosion or Flood Heights. For all Appropriate Uses, except bridges or culverts or on-stream structures, the proposed work will not result in an increase in the average channel or designated floodway velocities or stage for all flood events up to and including the one hundred (100) year frequency event.

In the case of bridges or culverts or on-stream structures built for the purpose of backing up water in the stream during normal or flood flows, velocities may be increased at the structure site if scour, erosion and sedimentation will be avoided by the use of rip-rap or other design measures.

**4-16-7-5-4** Construction of New Bridges or Culvert Crossings and Roadway Approaches. The proposed structure shall not result in an increase of upstream flood stages greater than 0.1 foot when compared to the existing conditions for all flood events up to and including the one hundred (100) year frequency event; or the upstream flood stage increases will be contained within the channel banks (or within existing vertical extensions of the channel banks) such as within the design protection grade of existing levees or flood walls or within recorded flood easements. If the proposed construction will increase upstream flood stages greater than 0.1 feet, the developer must contact IDNR/OWR to obtain a permit for a dam or waiver.

- A. The engineering analysis of upstream flood stages must be calculated using the flood study flows, and corresponding flood elevations for tail water conditions for the flood study specified in 4-16-5 of this Ordinance. Bridges and Culverts must be analyzed using any commonly accepted FEMA approved hydraulic models.
- B. Lost floodway storage must be compensated for per Section 4-16-7-5-2.
- C. Velocity increases must be mitigated per Section 4-16-7-5-3.
- D. If the crossing is proposed over public water that is used for recreational or commercial navigation, an IDNR/OWR permit must be received.
- E. The hydraulic analysis for the backwater caused by the bridge showing the existing condition and proposed regulatory profile must be submitted to IDNR/OWR for concurrence that a CLOMR is not required by 4-16-7-3.
- F. All excavations for the construction of the crossing shall be designed per the requirements of this section.

**4-16-7-5-5** Reconstruction or Modification of Existing Bridges, Culverts, and Approach Roads.

- A. The bridge or culvert and roadway approach reconstruction or modification shall be constructed with no more than 0.1 foot increase in backwater over the existing flood profile for all flood frequencies up to and including the one hundred (100) year event, if the existing structure is not a source of flood damage.
- B. If the existing bridge or culvert and roadway approach is a source of flood damage to buildings or structures in the upstream floodplain, the

applicant's engineer shall evaluate the feasibility of redesigning the structure to reduce the existing backwater, taking into consideration the effects on flood stages on upstream and downstream properties.

- C. The determination as to whether or not the existing crossing is a source of flood damage and should be redesigned must be prepared in accordance with 17 Ill. Adm. Code Part 3708 (Floodway Construction in Northeastern Illinois) and submitted to IDNR/OWR for review and concurrence before a permit is issued.

**4-16-7-5-6** On-Stream Structures Built for the Purpose of Backing Up Water. Any increase in upstream flood stages greater than 0.0 foot when compared to the existing conditions, for all flood events up to and including the one hundred (100) year frequency event shall be contained within the channel banks (or within existing vertical extensions of the channel banks) such as within the design protection grade of existing levees or flood walls or within recorded flood easements. A permit or letter indicating a permit is not required must be obtained from IDNR/OWR for any structure built for the purpose of backing up water in the stream during normal or flood flow. All dams and impoundment structures as previously defined shall meet the permitting requirements of 17 Ill. Adm. Code Part 3702 (Construction and Maintenance of Dams). If the proposed activity involves a modification of the channel or floodway to accommodate an impoundment, it shall be demonstrated that:

- A. The impoundment is determined to be in the public interest by providing flood control, public recreation, or regional storm water detention;
- B. The impoundment will not prevent the migration of indigenous fish species, which require access to upstream areas as part of their life cycle, such as for spawning;
- C. The impoundment will not cause or contribute to degraded water quality or habitat conditions. Impoundment design should include gradual bank slopes, appropriate bank stabilization measures and a pre-sedimentation basin;
- D. A non-point source control plan has been implemented in the upstream watershed to control the effects of sediment runoff as well as minimize the input of nutrients, oil and grease, metals, and other pollutants. If there is more than one municipality in the upstream watershed, the municipality in which the impoundment is constructed should coordinate with upstream municipalities to ensure comprehensive watershed control;
- E. The project otherwise complies with the requirements of 4-16-7.

**4-16-7-5-7** Flood Proofing of Existing Habitable, Residential and Commercial Structures. If construction is required beyond the outside dimensions of the

existing building, the outside perimeter of the floodproofing construction shall be placed no further than 10 feet from the outside of the building. Compensation of lost storage and conveyance will not be required for floodproofing activities.

**4-16-7-5-8**

**Excavation in the Floodway.** When excavation is proposed in the design of bridges and culvert openings, including the modifications to and replacement of existing bridge and culvert structures, or to compensate for lost conveyance or other Appropriate Uses, transition sections shall be provided for the excavation. The following expansion and contraction ratios shall be used unless an applicant's engineer can prove to IDNR/OWR through engineering calculations or model tests that more abrupt transitions may be used with the same efficiency:

- A. When water is flowing from a narrow section to a wider section, the water should be assumed to expand no faster than at a rate of one foot horizontal for every four feet of the flooded stream's length; and
- B. When water is flowing from a wide section to a narrow section, the water should be assumed to contract no faster than at a rate of one foot horizontal for every one foot of the flooded stream's length; and
- C. When expanding or contracting flows in a vertical direction, a minimum of one foot vertical transition for every ten feet of stream length shall be used; and
- D. Erosion/scour protection shall be provided inland upstream and downstream of the transition sections.

**4-16-7-5-9**

**Channel Modifications.** If the proposed activity involves a channel modification, it shall be demonstrated that there are no practicable alternatives to the activity which would accomplish its purpose with less impact to the natural conditions of the body of water affected. Possible alternatives include levees, bank stabilization, flood proofing of existing structures, removal of structures from the floodplain, clearing the channel, high flow channel, or the establishment of a stream side buffer strip or green belt. Channel modification is acceptable if the purpose is to restore natural conditions and improve water quality and fish and wildlife habitat. Water quality, habitat, and other natural functions would be significantly improved by the modification and no significant habitat area may be destroyed, or the impacts are offset by the replacement of an equivalent degree of natural resource values. The activity has been planned and designed and will be constructed in a way which will minimize its adverse impacts on the natural conditions of the body of water affected, consistent with the following criteria:

- A. The physical characteristics of the modified channel shall match as closely as possible those of the existing channel in length, cross-section, slope and sinuosity. If the existing channel has been previously

modified, restoration of more natural physical conditions should be incorporated into channel modification design, where practical.

- B. Hydraulically effective transitions shall be provided at both the upstream and downstream ends of the project, designed such that they will prevent erosion.
- C. One-sided construction of a channel shall be used when feasible. Removal of streamside (riparian) vegetation should be limited to one side of the channel, where possible, to preserve the shading and stabilization effects of the vegetation.
- D. Clearing of stabilizing vegetation shall be limited to that which is essential for construction of the channel.
- E. Channel banks shall be constructed with a side slope no steeper than 3:1 horizontal to vertical, wherever practicable. Native vegetation and gradual side slopes are the preferred methods for bank stabilization. Where high velocities or sharp bends necessitate the use of alternative stabilization measures, soil bioengineering techniques, natural rock or rip-rap are preferred approaches. Artificial materials such as concrete, gabions, or construction rubble should be avoided unless there are no practicable alternatives.
- F. All disturbed areas associated with the modification shall be seeded or otherwise stabilized as soon as possible upon completion of construction. Erosion blanket or an equivalent material shall be required to stabilize disturbed channel banks prior to establishment of the vegetative cover.
- G. If the existing channel contains considerable bottom diversity such as deep pools, riffles, and other similar features, such features shall be provided in the new channel. Spawning and nesting areas and flow characteristics compatible with fish habitat shall also be established, where appropriate.
- H. A sediment basin shall be installed at the downstream end of the modification to reduce sedimentation and degradation of downstream water quality.
- I. New or relocated channels should be built in the dry and all items of construction, including vegetation, should be completed prior to diversion of water into the new channel.
- J. There shall be no increases in stage or velocity as the channel enters or leaves the project site for any frequency flood unless necessitated by a public flood control project or unless such an increase is justified as part of a habitat improvement or erosion control project.

- K. Unless the modification is for a public flood control project, there shall be no reduction in the volume of floodwater storage outside the floodway as a result of the modification; and
- L. The project otherwise complies with the requirements of 4-16-7.

- 4-16-7-5-10** Seeding and Stabilization Plan. For all activities located in a floodway, a seeding and stabilization plan shall be submitted by the applicant.
- 4-16-7-5-11** Soil Erosion and Sedimentation Measures. For all activities in the floodway, including grading, filling, and excavation, in which there is potential for erosion of exposed soil, soil erosion and sedimentation control measures shall be employed consistent with the following criteria:
- A. The construction area shall be minimized to preserve the maximum vegetation possible. Construction shall be scheduled to minimize the time soil is exposed and unprotected. In no case shall the existing natural vegetation be destroyed, removed, or disturbed more than 15 days prior to the initiation of improvements.
  - B. Temporary and/or permanent soil stabilization shall be applied to denuded areas as soon as possible. As a minimum, soil stabilization shall be provided within 15 days after final grade is reached on any portion of the site, and within 15 days to denuded areas which may not be at final grade but will remain undisturbed for longer than 60 days.
  - C. Sedimentation control measures shall be installed before any significant grading or filling is initiated on the site to prevent the movement of eroded sediments off site or into the channel. Potential sediment control devices include filter fences, straw bale fences, check dams, diversion ditches, and sediment traps and basins.
  - D. A vegetated buffer strip of at least 25 feet in width shall be preserved and/or re-established, where possible, along existing channels (See 4-16-7-5-15). Construction vehicle use of channels shall be minimized. Temporary stream crossings shall be constructed, where necessary, to minimize erosion. Necessary construction in or along channels shall be restabilized immediately.
  - E. Soil erosion and sedimentation control measures shall be designed and implemented consistent with "Procedures and Standards for Urban Soil Erosion and Sedimentation Control in Illinois" (1988) also known as the "Green Book" and *"The Illinois Urban Manual"* (NRCS, 1995).
- 4-16-7-5-12** Public Flood Control Projects. For public flood control projects, the permitting requirements of this section will be considered met if the applicant can demonstrate to IDNR/OWR through hydraulic and hydrologic calculations that the proposed project will not singularly or cumulatively result in increased flood heights outside the project right-of-way or

easements for all flood events up to and including the one hundred (100) year frequency event.

**4-16-7-5-13** General Criteria for Analysis of Flood Elevations.

- A. The flood profiles, flows and floodway data in the designated floodway study, referenced in 4-16-5, must be used for analysis of the base conditions. If the study data appears to be in error or conditions have changed, IDNR/OWR shall be contacted for approval and concurrence on the appropriate base conditions data to use.
- B. If the one hundred (100) year designated floodway elevation at the site of the proposed construction is affected by backwater from a downstream receiving stream with a larger drainage area, the proposed construction shall be shown to meet the requirements of this section for the one hundred (100) year frequency flood elevations of the designated floodway conditions and conditions with the receiving stream at normal water elevations.
- C. If the applicant learns from IDNR/OWR, local governments, or a private owner that a downstream restrictive bridge or culvert is scheduled to be removed, reconstructed, modified, or a regional flood control project is scheduled to be built, removed, constructed or modified within the next five years, the proposed construction shall be analyzed and shown to meet the requirements of this section for both the existing conditions and the expected flood profile conditions when the bridge, culvert or flood control project is built.

**4-16-7-5-14** Conditional Letter of Map Revision. If the Appropriate Use would result in a change in the designated floodway location or the one hundred (100) year frequency flood elevation, the applicant shall submit to IDNR/OWR and FEMA all information, calculations and documents necessary to be issued a conditional designated floodway map revision and receive from IDNR/OWR a conditional concurrence of the designated floodway change before a permit is issued. The final designated floodway map will not be changed by FEMA until as-built plans or record drawings of initial filling, grading, dredging, or excavating activities are submitted and accepted by FEMA and IDNR/OWR. In the case of non-government projects, the municipality in incorporated areas and the county in unincorporated areas shall concur with the proposed conditional designated floodway map revision before IDNR/OWR approval can be given. No filling, grading, dredging or excavating shall take place until a conditional approval is issued. After initial filling, grading, dredging or excavating, no activities shall take place until a final Letter of Map Revision (LOMR) is issued by FEMA with concurrence from IDNR/OWR.

**4-16-7-5-15** Professional Engineer's Supervision. All engineering analyses shall be performed by or under the supervision of a licensed professional engineer. For all activities in the floodway involving construction within 25 feet of the

channel, a natural vegetation buffer strip shall be preserved within at least 25 feet of the ordinary high water mark of the channel. Where it is impossible to protect this buffer strip during the construction of an Appropriate Use, a vegetated buffer strip shall be established upon completion of construction.

- 4-16-7-5-16** After receipt of conditional approval of the designated floodway change and issuance of a permit and a Conditional Letter of Map Revision, construction as necessary to change the floodway designation may proceed but no buildings or structures or other construction that is not an Appropriate Use may be placed in that area until the designated floodway map is changed and a final Letter of Map Revision is received. The designated floodway map will be revised upon acceptance and concurrence by IDNR/OWR and FEMA of the "as-built" plans.
- 4-16-7-6 Development Activities in Delegated Communities Requiring State Review.** For those projects listed below located in a designated floodway, the following criteria shall be submitted to IDNR/OWR for their review and concurrence and/or permit prior to the issuance of a permit by a community or county delegated state permitting authority in the floodway.
- 4-16-7-6-1** An engineer's analysis of the flood profile due to a proposed bridge pursuant to 4-16-7-5-4.
- 4-16-7-6-2** An engineer's determination that an existing bridge or culvert crossing is not a source of flood damage and the analysis indicating the proposed flood profile, pursuant to this section.
- 4-16-7-6-3** Alternative transition sections and hydraulically equivalent storage pursuant to this section.
- 4-16-7-6-4** PROJECT TYPE 1: The construction of any IDNR/OWR projects, dams and all other federal, state, or local units of government projects, including projects of the municipality or county.
- 4-16-7-6-5** PROJECT TYPE 2: An engineer's determination that a proposed bridge affected by backwater from a downstream receiving stream may be built with a smaller opening.
- 4-16-7-6-6** PROJECT TYPE 3: Projects which revise or establish the floodway and/or flood profiles.
- 4-16-7-6-7** PROJECT TYPE 4: Projects in public bodies of water.
- 4-16-7-7 Other Permits.** In addition to the other requirements of this Ordinance, a development permit for a site located in a floodway shall not be issued unless the applicant first obtains a permit or written documentation that a permit is not required from IDNR/OWR, issued pursuant to 615 ILCS 5/5 et seq. No correspondence from IDNR/OWR shall be required if the project meets the requirements of Regional



Permit 3. No permit from IDNR/OWR shall be required if IDNR/OWR has delegated this responsibility to the City of Evanston.

**4-16-7-8 Permits for Dams.** Any work involving the construction, modification or removal of a dam as previously defined and per 17 Ill. Adm. Code Part 3702 (Rules for Construction of Dams) shall obtain an IDNR/OWR permit prior to the start of construction of a dam. If the City Engineer finds a dam that does not have an IDNR/OWR permit, the City Engineer shall immediately notify IDNR/OWR. If the City Engineer finds a dam which is believed to be in unsafe condition, the City Engineer shall immediately notify the owner of the dam, the IDNR/OWR Bartlett office, and the Illinois Emergency Management Agency (IEMA).

**4-16-7-9 Activities That Do Not Require a Licensed Professional Engineer's Review.** The following activities may be permitted without a licensed professional engineer's review. Such activities shall still meet the other requirements of this Ordinance, including the mitigation requirements. Regional Permit 3 which authorizes, for example, underground and overhead utilities, storm and sanitary sewer outfalls, sidewalks, patios, athletic fields, playground equipment and stream bank protection activities.

**4-16-8 OCCUPATION AND USE OF SFHA AREAS WHERE FLOODWAYS ARE NOT IDENTIFIED.**

In SFHA or floodplains, (including AE, AH, AO and Unnumbered A Zones) where no floodways have been identified and no base flood or one hundred (100) year frequency flood elevations have been established by FEMA, and draining more than a square mile, no development shall be permitted unless the cumulative effect of the proposals, when combined with all other existing and anticipated uses and structures, shall not significantly impede or increase the flow and passage of the floodwaters nor significantly increase the base flood or one hundred (100) year frequency flood elevation.

**4-16-8-1 Development Permit.** No person, firm, corporation, or governmental body, not exempted by state law, shall commence any development in a SFHA or floodplain without first obtaining a development permit from the City Engineer.

**4-16-8-1-1 Application.** Application for a development permit shall be made on a form provided by the City Engineer. The application shall be accompanied by drawings of the site, drawn to scale showing property line dimensions; and existing grade elevations and all changes in grade resulting from excavation or filling, sealed by a licensed engineer, architect or surveyor; the location and dimensions of all buildings and additions to buildings; and the elevations of the lowest floor (including basement) of all proposed buildings subject to the requirements of 4-16-9 of this Ordinance. The application for a development permit shall also include the following information:

A. A detailed description of the proposed activity, its purpose, and intended use;

- B. Site location (including legal description) of the property, drawn to scale, on the designated floodway maps, indicating whether it is proposed to be in an incorporated or unincorporated area;
- C. Anticipated dates of initiation and completion of activity;
- D. Plans of the proposed activity shall be provided which include as a minimum:
  - 1. A vicinity map showing the site of the activity, name of the waterway, boundary lines, names of roads in the vicinity of the site, graphic or numerical scale, and north arrow;
  - 2. A plan view of the project and engineering study reach showing existing and proposed conditions including principal dimensions of the structure or work, elevations, using the North American Vertical Datum of 1988, adjacent property lines and ownership, drainage and flood control easements, distance between proposed activity and navigation channel (when the proposed construction is in or near a commercially navigable body of water), floodplain limit, location and orientation of cross-sections, north arrow, and a graphical or numerical scale;
  - 3. Cross-section views of the project perpendicular to the flow of floodwater and engineering study reach showing existing and proposed conditions including principal dimensions of the work as shown in plan view, existing and proposed elevations, normal water elevation, ten (10) year frequency flood elevation, one hundred (100) year frequency flood elevation, and graphical or numerical scales (horizontal and vertical); and
  - 4. A soil erosion and sedimentation control plan for disturbed areas. This plan shall include a description of the sequence of grading activities and the temporary sediment and erosion control measures to be implemented to mitigate their effects. This plan shall also include a description of final stabilization and revegetation measures, and the identification of a responsible party to ensure post-construction maintenance.
- E. Engineering calculations and supporting data shall be submitted showing that the proposed work will meet the criteria of 4-16-8-3.
- F. Any and all other federal, state, and local permits or approvals that may be required for this type of development.

**4-16-8-2 Base Flood Elevation.** Based on the best available existing data according to federal, state or other sources, the City Engineer shall compare the elevation of the site to the base flood or one hundred (100) year frequency flood elevation.

Should no elevation information exist for the site, the developer's engineer shall calculate the elevation according to 4-16-5-4. Any development located on land that can be shown to have been higher than the base flood elevation of the current Flood Insurance Rate Map Identification is not in the SFHA and, therefore, not subject to the requirements of this Ordinance. The City Engineer shall maintain documentation of the existing ground elevation at the development site and certification that this ground elevation existed prior to the date of the site's first Flood Insurance Rate Map identification. The City Engineer shall be responsible for obtaining from the applicant copies of all other federal, state, and local permits, approvals or waivers that may be required for this type of activity. The City Engineer shall not issue the development permit unless all required federal, state, and local permits have been obtained.

**4-16-8-3 Preventing Increased Damages.** No development in the SFHA where a floodway has not been determined shall create a damaging or potentially damaging increase in flood heights or velocity or threat to public health, safety and welfare or impair the natural hydrologic and hydraulic functions of the floodway or channel, or impair existing water quality or aquatic habitat. Construction impacts shall be minimized by appropriate mitigation methods as called for in this Ordinance.

**4-16-8-4 Determination of floodway.** Within all riverine SFHAs where the floodway has not been determined, the following *standards* shall apply:

**4-16-8-4-1** The developer shall have a Licensed Professional Engineer state in writing and show through supporting plans, calculations, and data that the project meets the engineering requirements of 4-16-7-5 for the entire floodplain as calculated under the provisions of 4-16-5-4 of this Ordinance. As an alternative, the developer should have an engineering study performed to determine a floodway and submit that engineering study to IDNR/OWR and FEMA for acceptance as a designated floodway. Upon acceptance of the floodway by IDNR/OWR and FEMA, the developer shall then demonstrate that the project meets the requirements of 4-16-7 for the designated floodway. The floodway shall be defined according to the definition in 4-16-2-17 of this Ordinance.

**4-16-8-4-2** A development permit shall not be issued unless the applicant first obtains an IDNR/OWR permit or a determination has been made that an IDNR/OWR permit is not required.

**4-16-8-4-3** Permits for Dams. Any work involving the construction, modification or removal of a dam as defined in 4-16-2-16 per 17 Ill. Adm. Code Part 3702 (Rules for Construction of Dams) shall obtain an IDNR/OWR permit prior to the start of construction of a dam. If the City Engineer finds a dam that does not have an IDNR/OWR permit, the City Engineer shall immediately notify the IDNR/OWR office. If the City Engineer finds a dam which is believed to be in unsafe condition, the City Engineer shall immediately notify the owner of the dam, the IDNR/OWR office, and the Illinois Emergency Management Agency (IEMA).

- 4-16-8-4-4** The following activities may be permitted without a Licensed Professional Engineer's review or calculation of base flood elevation and designated floodway. Such activities shall still meet the other requirements of this Ordinance.
- A. Bridge and culvert crossings of streams in rural areas meeting conditions of IDNR/OWR Statewide Permit number 2;
  - B. Barge fleeting facilities meeting conditions of IDNR/OWR Statewide Permit No. 3;
  - C. Aerial utility crossings meeting conditions of IDNR/OWR Statewide Permit No. 4;
  - D. Minor boat docks meeting conditions of IDNR/OWR Statewide Permit No. 5;
  - E. Minor, non-obstructive activities meeting conditions of IDNR/OWR Statewide Permit No. 6; activities (not involving fill or positive change in grade) are covered by this permit:
  - F. Outfall structures and drainage ditch outlets meeting conditions of IDNR/OWR Statewide Permit No. 7;
  - G. Underground pipeline and utility crossings meeting the conditions of IDNR/OWR Statewide Permit No. 8;
  - H. Bank stabilization projects meeting the conditions of IDNR/OWR Statewide Permit No. 9;
  - I. Accessory structures and additions to existing residential buildings meeting the conditions of IDNR/OWR Statewide Permit No. 10;
  - J. Minor maintenance dredging activities meeting conditions of DNR/OWR Statewide Permit No. 11;
  - K. Bridge and culvert replacement structures and bridge widening meeting conditions of IDNR/OWR Statewide Permit No. 12;
  - L. Temporary construction activities meeting conditions of IDNR/OWR Statewide Permit No. 13;
  - M. Special Uses of Public Waters meeting conditions of IDNR/OWR Statewide Permit No. 14; and
  - N. Any development determined by IDNR/OWR to be located entirely within a flood fringe area shall be exempt from State Floodway permit requirements.

**4-16-8-4-5** The flood carrying capacity of any altered or relocated watercourse shall be maintained.

**4-16-8-5 Compensatory Storage.** Whenever any portion of a floodplain is authorized for use, the volume of space which will be occupied by the authorized fill or structure below the base flood or one hundred (100) year frequency flood elevation shall be compensated for and balanced by a hydraulically equivalent volume of excavation taken from below the base flood or one hundred (100) year frequency flood elevation. The excavation volume shall be at least equal to 1.5 times the volume of storage lost due to the fill or structure. In the case of streams and watercourses, such excavation shall be made opposite or adjacent to the areas so filled or occupied. All floodplain storage lost below the existing ten (10) year flood elevation shall be replaced below the proposed ten (10) year flood elevation. All floodplain storage lost above the existing ten (10) year flood elevation shall be replaced above the proposed ten (10) year flood elevation. All such excavations shall be constructed to drain freely and openly to the watercourse.

**4-16-9 PERMITTING REQUIREMENTS APPLICABLE TO ALL FLOODPLAIN AREAS.**

**4-16-9-1 General** – In addition to the requirements found in 4-16-6, 4-16-7 and 4-16-8 for development in flood fringes, designated floodways, and SFHA or floodplains where no floodways have been identified, the following requirements shall be met:

**4-16-9-1-1** Public Health Standards

**4-16-9-1-2** No developments in the SFHA shall include locating or storing chemicals, explosives, buoyant materials, animal wastes, fertilizers, flammable liquids, pollutants, or other hazardous or toxic materials below the flood protection elevation (FPE) unless such materials are stored in a floodproofed and anchored storage tank and certified by a professional engineer or floodproofed building constructed according to the requirements of 4-16-9-3 of this ordinance.

**4-16-9-1-3** Public utilities and facilities such as sewer, gas and electric shall be located and constructed to minimize or eliminate flood damage.

**4-16-9-1-4** Public sanitary sewer systems and water supply systems shall be located and constructed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.

**4-16-9-1-5** New and replacement water supply systems, wells, sanitary sewer lines and on-site waste disposal systems may be permitted providing all manholes or other above ground openings located below the FPE are watertight.

**4-16-9-1-6** All other activities defined as development shall be designed so as not to alter flood flows or increase potential flood damages

**4-16-9-2 Carrying Capacity and Notification.** For all projects involving channel modification, fill, or stream maintenance (including levees), the flood carrying

capacity of the watercourse shall be maintained. In addition, the City of Evanston shall notify adjacent communities in writing 30 days prior to the issuance of a permit for the alteration or relocation of the watercourse.

**4-16-9-3 Protecting Buildings.** All buildings located within a one hundred (100) year floodplain, also known as a SFHA, shall be protected from flood damage below the flood protection elevation. This building protection criteria applies to the following situations:

- 4-16-9-3-1** Construction or placement of a new building or alteration or addition to an existing building valued at more than one thousand dollars (\$1,000) or seventy (70) square feet.
- 4-16-9-3-2** Substantial improvements or structural alterations made to an existing building that increase the floor area by more than twenty percent (20%) or equal or exceed the market value by fifty percent (50%). Alteration shall be figured cumulatively subsequent to the adoption of this ordinance. If substantially improved, the existing structure and the addition must meet the flood protection standards of this section.
- 4-16-9-3-3** Repairs made to a substantially damaged building. These repairs shall be figured cumulatively subsequent to the adoption of this ordinance. If substantially damaged the entire structure must meet the flood protection standards of this section.
- 4-16-9-3-4** Installing a manufactured home on a new site or a new manufactured home on an existing site (the building protection requirements do not apply to returning a manufactured home to the same site it lawfully occupied before it was removed to avoid flood damage).
- 4-16-9-3-5** Installing a travel trailer or recreational vehicle on a site for more than 180 days per year; and
- 4-16-9-3-6** Repetitive loss to an existing building (see definitions). This building protection requirement may be met by one of the methods described in 4-16-9-4.

**4-16-9-4 Methods of Building Protection.** The building protection requirement may be met by one of the following methods:

- 4-16-9-4-1** A residential or non-residential building, when allowed, may be constructed on permanent land fill in accordance with the following:
  - A. The lowest floor (including basement) shall be at or above the flood protection elevation; and
  - B. The fill shall be placed in layers no greater than six (6) inches deep before compaction and should extend at least twenty five (25) feet beyond the foundation of the building before sloping below the flood protection

elevation. The top of the fill shall be above the flood protection elevation. However, the twenty five (25) foot minimum may be waived if a structural engineer certifies an alternative method to protect the building from damages due to hydrostatic pressures. The fill shall be protected against erosion and scour during flooding by vegetative cover, riprap or other structural measure. The fill shall be composed of rock or soil and not incorporate debris or refuse materials. The fill shall not adversely affect the flow or surface drainage from or onto neighboring properties, and when necessary, storm water management techniques such as swales or basins shall be incorporated.

- 4-16-9-4-2** A residential or non-residential building may be elevated in accordance with the following:
- A. The building or improvements shall be elevated on crawl space, stilts, piles, walls, or other foundation that is permanently open to flood waters and not subject to damage by hydrostatic pressures of the base flood or one hundred (100) year frequency flood. Designs must either be certified by a licensed professional engineer or architect or the permanent openings, one on each wall, shall be no more than one foot above existing grade, and consists of a minimum of two openings. The openings must have a total net area of not less than one square inch for every one square foot of enclosed area subject to flooding below the Base Flood Elevation; and
  - B. The foundation and supporting members shall be anchored and aligned in relation to flood flows and adjoining structures so as to minimize exposure to known hydrodynamic forces such as current, waves, ice and floating debris; and
  - C. All areas below the flood protection elevation shall be constructed of materials resistant to flood damage. The lowest floor (including basement) and all electrical, heating, ventilating, plumbing, and air conditioning equipment and utility meters shall be located at or above the flood protection elevation. Water and sewer pipes, electrical and telephone lines, submersible pumps, and other waterproofed service facilities may be located below the flood protection elevation provided they are waterproofed; and
  - D. The areas below the flood protection elevation may only be used for the parking of vehicles, building access or storage in an area other than a basement and not later modified or occupied as habitable space; and
  - E. In lieu of the above criteria, the design methods to comply with these requirements may be certified by licensed professional engineer or architect; and
  - F. Manufactured homes, and travel trailers to be installed on a site for more than 180 days, shall be elevated to or above the flood protection

elevation; and, shall be anchored to resist flotation, collapse, or lateral movement by being tied down in accordance with the Rules and Regulations for the Illinois Mobile Home Tie-Down Act issued pursuant to 77 Ill. Adm. Code Part 870. In addition, all manufactured homes shall meet the following elevation requirements:

1. In the case of manufactured homes placed or substantially improved (1) outside of 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 from a flood, the top of the lowest floor shall be elevated to or above the flood protection elevation.
2. In the case of manufactured homes placed or substantially improved in an existing manufactured home park or subdivision, the manufactured home shall be elevated so that either the top of the lowest floor is above the base flood elevation or the chassis is at least 36 inches in height above grade and supported by reinforced piers or other foundations of equivalent strength, whichever is less.

G. Recreational vehicles or travel trailers shall be required to meet the elevation and anchoring requirements of Subsection above unless:

1. They are on site for fewer than 180 consecutive days; and,
2. They are fully licensed, ready for highway use, and used only for recreation, camping, travel or seasonal use rather than as a permanent dwelling. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utility and service devices, and has no permanently attached additions.

**4-16-9-4-3** Only a non-residential building may be structurally dry floodproofed (in lieu of elevation) provided that a licensed professional engineer or architect shall certify that the building has been structurally dry floodproofed below the flood protection elevation, the structure and attendant utility facilities are watertight and capable of resisting the effects of the base flood or one hundred (100) year frequency flood. The building design shall take into account flood velocities, duration, rate of rise, hydrostatic and hydrodynamic forces, the effects of buoyancy, and impacts from debris or ice. Flood proofing measures shall be operable without human intervention and without an outside source of electricity (levees, berms, floodwalls and similar works are not considered floodproofing for the purpose of this subsection).

**4-16-9-4-4** A building may be constructed with a crawlspace located below the flood protection elevation provided that 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. Any enclosed area below the flood protection elevation shall have openings that equalize hydrostatic pressures by allowing for the automatic entry and exit of floodwaters. A minimum of one opening on each wall having a total net area of not less than one square inch per one square foot of enclosed area. The openings shall be no more than one (1) foot above grade. The interior grade of the crawlspace below the flood protection elevation must not be more than 2 feet below the lowest adjacent exterior grade. The interior height of the crawlspace measured from the interior grade of the crawl to the top of the foundation wall must not exceed 4 feet at any point. 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. Portions of the building below the flood protection elevation must be constructed with materials resistant to flood damage. Utility systems within the crawlspace must be elevated above the flood protection elevation.

- 4-16-9-4-5** Construction of new or substantially improved critical facilities shall be located outside the limits of the floodplain. Construction of new critical facilities shall be permissible within the floodplain if no feasible alternative site is available. Critical facilities constructed within the SFHA shall have the lowest floor (including basement) elevated or structurally dry floodproofed to the 500-year flood frequency elevation or three feet above the level of the one hundred (100) year flood frequency elevation whichever is greater. 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 level of the base flood elevation shall be provided to all critical facilities.
- 4-16-9-4-6** Tool sheds, detached garages, and other minor accessory structures on an existing single-family platted lot, may be constructed with the lowest floor below the flood protection elevation in accordance with the following:
- A. The building is not used for human habitation; and
  - B. All areas below the base flood or one hundred (100) year frequency flood elevation shall be constructed with waterproof material. Structures located in a designated floodway shall be constructed and placed on a building site so as not to block the flow of flood waters and shall also meet the Appropriate Use criteria of 4-16-7. In addition, all other requirements of 4-16-6, 4-16-7 and 4-16-8 must be met; and
  - C. The structure shall be anchored to prevent flotation; and
  - D. Service facilities such as electrical and heating equipment shall be elevated or floodproofed to the flood protection elevation; and

- E. The building shall be valued at less than \$10,000 and be less than 500 square feet in floor size; and
- F. The building shall be used only for the storage of vehicles or tools and may not contain other rooms, workshops, greenhouses or similar uses and cannot be modified later into another use; and
- G. The building shall meet the permanent opening criteria of this section.
- H. All flammable or toxic materials (gasoline, paint, insecticides, fertilizers, etc.) shall be stored above the flood protection elevation; and
- I. The lowest floor elevation should be documented and the owner advised of the flood insurance implications.

**4-16-9-4-7**

Existing buildings located within a designated floodway shall also meet the more restrictive Appropriate Use standards included in 4-16-7. Non-conforming structures located in a designated floodway may remain in use and may only be enlarged, replaced or structurally altered in accordance with 4-16-7-3. A non-conforming structure damaged by flood, fire, wind or other natural or man-made disaster may be restored unless the damage exceeds fifty percent (50%) of its market value before it was damaged, in which case it shall conform to this Ordinance.

**4-16-10 OTHER DEVELOPMENT REQUIREMENTS**

The City Council shall take into account flood hazards, to the extent that they are known in all official actions related to land management, use and development.

- 4-16-10-1** New subdivisions, manufactured home parks, annexation agreements, and Planned Unit Developments (PUDs) within the SFHA shall be reviewed to assure that the proposed developments are consistent with 4-16-6, 4-16-7, 4-16-8 and 4-16-9 of this Ordinance and the need to minimize flood damage. Plats or plans for new subdivisions, mobile home parks and Planned Unit Developments (PUDs) shall include a signed statement by a Licensed Professional Engineer that the plat or plans account for changes in the drainage of surface waters in accordance with the Plat Act (765 ILCS 205/2).
- 4-16-10-2** Proposals for new subdivisions, manufactured home parks, travel trailer parks, planned unit developments (PUDs) and additions to manufactured home parks and additions to subdivisions shall include base flood or one hundred (100) year frequency flood elevation data and floodway delineations. Where this information is not available from an existing adopted study, the applicant's engineer shall be responsible for calculating the base flood or one hundred (100) year frequency flood elevation per 4-16-5-4 and the floodway delineation per the definition in the section on "Designated Floodway".
- 4-16-10-3** Streets, blocks, lots, parks and other public grounds shall be located and laid out in such a manner as to preserve and utilize natural streams and channels. Wherever possible, the floodplains shall be included within parks or other public grounds.
- 4-16-10-4** The City Council shall not approve any Planned Unit Development (PUD) or plat of subdivision located outside the corporate limits unless such agreement or plat is in accordance with the provisions of this Ordinance.
- 4-16-10-5** All development shall be set back from the center line of any stream or channel or at least the distance required to prevent encroachment of the floodway widths. Floodway easements shall be provided which, will permit necessary channel maintenance and improvement work.
- 4-16-10-6** All other activities defined as development shall be designed so as not to alter flood flows or increase potential flood damages.
- 4-16-10-7** The elevation of the crown of any new street or the low point of any new exterior parking areas constructed within or adjacent to the SFHA shall be not less than one (1) foot above the Base Flood Elevation for the area. The design of such facilities shall be such that the normal direction of course of drainage or runoff throughout the area is not altered.
- 4-16-10-8** New development standards. All new developments shall have:
- 4-16-10-8-1** The proposed site of the structure filled so that the elevation of the top of the foundation or lowest point of water entry for the structure is at the FPE.

- 4-16-10-8-2** Basements, cellars or crawl spaces made of concrete, structurally adequate poured in place with no openings below FPE except for openings for utilities which shall be sealed, floodproofed and made watertight in a manner acceptable to the Community Development Director.
- 4-16-10-8-3** A door sill, window sill or the base of any other opening in the outer walls of a structure or any gravity connected sewer opening constructed at an elevation not lower than the FPE, except at the point of access for an interior truck dock which must be at least one and one-half feet above the Base Flood Elevation.
- 4-16-10-8-4** All structures floodproofed, watertight and designed to prevent sewer backup and groundwater seepage according to standards approved by the Community Development Director.
- 4-16-10-8-5** The elevation of the ground for a minimum distance of 25 feet immediately surrounding any building or structure erected or moved within or adjacent to a SFHA at an elevation which is not less than one foot above the Base Flood Elevation and no portion of the lot or parcel below the Base Flood Elevation.

#### **4-16-11 VARIANCES**

- 4-16-11-1** General. No variances shall be granted to any development located in a designated floodway as defined in 4-16-2-17 "Designated Floodway". However, when a development proposal is located outside of a designated floodway, and when the standards of this Ordinance place undue hardship on a specific development proposal, the applicant may apply for a variance. Upon proper application and after 15 days notice of public hearing, the Community Development Director and City Engineer shall review the applicant's request for a variance and shall submit the staff recommendation to the City Council. The City Council may attach such conditions to granting of a variance, as it deems necessary to further the intent of this Ordinance.
- 4-16-11-2** Requirements. No variance shall be granted unless the applicant demonstrates that all of the following conditions are met:
- 4-16-11-2-1** The development activity cannot be located outside the SFHA; and
  - 4-16-11-2-1** An exceptional hardship would result if the variance were not granted; and
  - 4-16-11-2-2** The relief requested is the minimum necessary; and
  - 4-16-11-2-3** There will be no additional threat to public health, safety, beneficial stream uses and functions, especially aquatic habitat, or creation of a nuisance; and

**4-16-11-2-4** There will be no additional public expense for flood protection, lost environmental stream uses and functions, rescue or relief operations, policing, or repairs to streambeds and banks, roads, utilities, or other public facilities; and

**4-16-11-2-5** The provisions of 4-16-6 and 4-16-8 shall still be met; and

**4-16-11-2-6** The activity is not in a designated floodway; and

**4-16-11-2-7** The applicant's circumstances are unique and do not establish a pattern inconsistent with the intent of the NFIP; and

**4-16-11-2-8** The granting of the variance will not alter the essential character of the area involved including existing stream uses; and

**4-16-11-2-9** All other required state and federal permits or waivers have been obtained

**4-16-11-3** Notice. The Community Development Director shall notify an applicant in writing that a variance from the requirements of 4-16-9 that would lessen the degree of protection to a building will:

**4-16-11-3-1** Result in increased premium rates for flood insurance up to amounts as high as \$25 per \$100 of insurance coverage; and

**4-16-11-3-2** Increase the risks to life and property; and

**4-16-11-3-3** Require that the applicant proceed with knowledge of these risks and that the applicant will acknowledge in writing the assumption of the risk and liability.

**4-16-11-4** Historic Sites. Variances requested in connection with restoration of a historic site or historic structure as defined in 4-16-2-35 "Historic Structures", may be granted using criteria more permissive than the requirements of 4-16-11-2, subject to the conditions that the repair or rehabilitation is the minimum necessary to preserve the historic character and design of the structure and the repair or rehabilitation will not result in the structure being removed as a certified historic structure.

#### **4-16-12      DISCLAIMER OF LIABILITY**

**4-16-12-1** The degree of flood protection required by this Ordinance is considered reasonable for regulatory purposes and is based on available information derived from engineering and scientific methods of study.

**4-16-12-2** Larger floods may occur or flood heights may be increased by man-made or natural causes.

**4-16-12-3** This Ordinance does not imply that development, either inside or outside of the SFHA, will be free from flooding or damage.

**4-16-12-4** This Ordinance does not create liability on the part of the City of Evanston or any officer or employee thereof for any flood damage that results from reliance on this Ordinance or any administrative decision made lawfully there under.

**4-16-13 PENALTY**

**4-16-13-1** Failure to obtain a permit for development in the SFHA or failure to comply with the requirements of a permit or conditions of variance resolution shall be deemed to be a violation of this Ordinance. Upon due investigation, the Community Development Director in consultation with the City Attorney and City Engineer may determine that a violation of the minimum standards of this Ordinance exist. The Community Development Director shall notify the owner in writing of such violation. If such owner fails after ten days notice to correct the violation then:

**4-16-13-1-1** The City of Evanston may make application to the Circuit Court for an injunction requiring conformance with this Ordinance or make such other order as the Court.

**4-16-13-1-2** Any person who violates this Ordinance shall, upon conviction thereof, be fined not less than fifty dollars (\$50.00) or more than one-thousand dollars (\$1,000.00) for each offense.

**4-16-13-1-3** A separate offense shall be deemed committed upon each day during or on which a violation occurs or continues.

**4-16-13-1-4** The City of Evanston shall record a notice of violation on the title to the property.

**4-16-13-2** The Community Development Director 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.

**4-16-13-3** The Community Development Director is authorized to issue an order requiring the suspension of the subject development. The stop-work order shall be in writing, shall indicate the reason for the issuance, and shall order the action, if necessary, to resolve the circumstances requiring the stop-work order. The stop-work order constitutes a suspension of the permit.

**4-16-13-4** No site development permit shall be permanently suspended or revoked until a hearing is held. Written notice of such hearing shall be served on the permittee and shall state: (1) the grounds for complaint or reasons for suspension or revocation; and (2) the time and place of the hearing. At such hearing, the permittee shall be given an opportunity to present evidence on his/her behalf. At the conclusion of the hearing, the Community Development Director shall determine whether the permit shall be suspended or revoked.

**4-16-13-5** Nothing herein shall prevent the City of Evanston from taking such other lawful action to prevent or remedy any violations. All costs connected therewith shall accrue to the person or persons responsible.

**4-16-14 ABROGATION AND GREATER RESTRICTIONS**

**4-16-14-1** This Ordinance is not intended to repeal, abrogate or impair any existing easements, covenants, or deed restrictions.

**4-16-14-2** Where this Ordinance and other ordinance, easements, covenants, or deed restrictions conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

**4-16-14-3** This Ordinance is intended to repeal the original ordinance or resolution which was adopted to meet the National Flood Insurance Program regulations, but is not intended to repeal the resolution which the City of Evanston passed in order to establish initial eligibility for the program

**4-16-15 SEVERABILITY.**

The provisions and sections of this Ordinance shall be deemed separable and the invalidity of any portion of this Ordinance shall not affect the validity of the remainder.

**4-16-16 EFFECTIVE DATE**

This Ordinance shall be in full force and effect from and after its passage and approval and publication, as required by law.

**SECTION 2:** That all ordinances or parts of ordinances in conflict herewith are hereby repealed.

**SECTION 3:** That this Ordinance 85-O-08 shall be in full force and effect from and after its passage, approval, and publication in the manner provided by law.

Introduced: July 14, 2008

Approved:

Adopted: July 28, 2008

August 1, 2008

Lorraine H. Morton  
Lorraine H. Morton, Mayor

Attest:

Rodney Greene  
Rodney Greene, City Clerk

Approved as to form:

Elke Tober-Purze  
Elke Tober-Purze, Interim  
First Assistant Corporation Counsel

