

*Agenda*  
GOSHEN PLAN COMMISSION  
Tuesday, February 20, 2024, 4:00 pm  
Council Chambers, 111 E. Jefferson Street, Goshen, Indiana

**\*\*Please turn off all cell phones\*\***

- I. Roll Call
- II. Approval of Minutes from 1/16/24
- III. Filing of Zoning/Subdivision Ordinances and Official Staff Reports into Record
- IV. Postponements/Withdrawals
- V. **Zoning Ordinance Text Amendment** (public hearing)  
**24-010A** – The Goshen Plan Commission requests an amendment to the Goshen Zoning Ordinance, Ordinance 3011, Flood Control District (Overlay) Regulations and Definitions, based upon the State of Indiana Model Ordinance for Flood Hazard Areas. The amendment is proposed in order to make changes based on recent updates to the Indiana Model Ordinance, to continue compliance with the minimum participating criteria of the National Flood Insurance Program (NFIP). Changes include new, amended and deleted definitions, and regulation updates with expanded language, to add clarity and detail for existing regulations, including more detailed and specific Floodway regulations.
- VI. Audience Items
- VII. Staff/Board Items
- VIII. Adjournment

Minutes - Goshen Plan Commission  
Tuesday, January 16, 2024 - 4:00 pm  
Council Chambers, 111 E. Jefferson Street  
Goshen, Indiana

**I.** The meeting was called to order with the following members present: Richard Worsham, Tom Holtzinger, Hesston Lauver, Doug Nisley, James Wellington, Aracelia Manriquez, Caleb Morris, and Rolando Ortiz. Also present were City Planner Rhonda Yoder and Assistant City Attorney James Kolbus.

**II.** 2024 Plan Commission Appointments

Ms. Yoder explained information was unavailable when the agenda was distributed, but Doug Nisley was appointed by the Common Council on January 8, noting his term is coextensive with his council appointment.

Richard Worsham was appointed by the Board of Public Works and Safety on January 11, noting this is an annual appointment.

Aracelia Manriquez has not yet been reappointed, but she is allowed to continue serving until she's reappointed (within 90 days).

**III.** Election of 2024 Officers

- *President*
- *Vice President*
- *Secretary*

*Action:*

A motion was made and seconded, Morris/Holtzinger, to appoint Richard Worsham as Plan Commission president. The motion passed unanimously by a vote of 8-0.

*Action:*

A motion was made and seconded, Holtzinger/Lauver, to appoint Rolando Ortiz, as Plan Commission vice-president. The motion passed unanimously by a vote of 8-0.

*Action:*

A motion was made and seconded, Nisley/Morris, to appoint Tom Holtzinger as Plan Commission secretary. The motion passed unanimously by a vote of 8-0.

**IV.** Approval of Minutes from 12/19/23 – Holtzinger/Lauver 8-0

**V.** Filing of Zoning/Subdivision Ordinances and Official Staff Reports into Record – Holtzinger/Manriquez 8-0

**VI.** Postponements/Withdrawals

**VII. Primary Subdivision (public hearing)**

**24-01SUB** – Cherry Creek, LLC, Waterford Commons Business Park, LLC, and Abonmarche Consultants request primary subdivision approval for a 483-lot major mixed use (residential & commercial) subdivision, Cherry Creek. The subject property is generally located west of Dierdorff Road, north of Waterford Mills Parkway, east of Regent Street, and south of Waterford Mills Parkway on the west side of Regent Street, containing ±180 acres, zoned Residential R-3PUD.

*Staff Report:*

Ms. Yoder reminded Commission members that the Plan Commission has exclusive control over primary and secondary subdivision approval. She explained the submittal for Cherry Creek primary subdivision included sheets 1-14 with layout details and overall subdivision drainage. These sheets and a preliminary phasing plan are all included in the packets. She also noted that during subdivision review, she had comments and questions regarding several of the subdivision standards and they'll need to be addressed before the secondary subdivision can be approved. She highlighted the following points from her staff report:

- 6 No lots on dead-end streets will be allowed as part of any secondary subdivision.

7. The maintenance lot and Common Space E appear to be part of Phase 1/Zone 1 but appear to be proposed with driveways and not street connections, and more details are required in order to determine how these driveway connections would be permitted. All lots and common spaces proposed for development within a subdivision section must be part of the secondary subdivision for that section.
10. Non-access easements 5' in width are required along each abutting arterial street, Waterford Mills Parkway and Dierdorff Road, and along any interior streets where access will be prohibited, such as Fairways Drive.
11. Easements and agreements required prior to secondary subdivision approval include:
  - Temporary construction easements
  - Off-site easement across City property (Waterford Mills Parkway, for example) for drainage pipes
  - Off-site drainage retention easements, with instrument numbers included on the secondary subdivision
  - Off-site drainage agreements, executed before secondary subdivision approval is granted
  - Trail access easements (on plat) for portions of trail on Cherry Creek property
13. Final roadway design as recommended by the *Cherry Creek Development Traffic Impact Study*, dated March 2023, is required as part of secondary subdivision submittal.

Staff recommends the Plan Commission grant primary approval with the conditions noted in the Staff Report.

*Petitioner Presentation:*

Andrea Milne, Abonmarche, 303 River Race Drive, spoke on behalf of the petitioner. She asked that the Plan Commission grant primary approval so they can move on to the next phase. She noted that Brad Mosness from Abonmarche is here to answer any technical questions and Cherry Creek's developer, Tonya Detweiler is also here and available to answer any questions.

Mr. Nisley asked Ms. Milne if they are ok with the recommendations.  
Ms. Milne acknowledged that they are.

*Audience Comments:*

None

*Close Public Hearing*

*Staff Discussion:*

There was no discussion amongst Staff members.

*Action:*

A motion was made and seconded, Wellington/Morris, to grant primary approval for 24-01SUB, based upon the Staff Analysis and with the conditions listed in the Staff Report. The motion passed unanimously by a vote of 8-0.

**VIII. Vacation (public hearing)**

**24-01V** - City of Goshen Department of Redevelopment, Cherry Creek, LLC, and Abonmarche Consultants request the vacation of unimproved public right of way generally located east of Regent Street, north of Waterford Mills Parkway. The right of way is ±0.79 acres and was dedicated in 2006 but has not been improved or used as right of way. It is within a City-owned retention area and an area to be developed as part of Cherry Creek subdivision.

*Staff Report:*

Ms. Yoder explained this is a recommendation to Council. She noted that during review of the Cherry Creek PUD and subdivision, a public right-of-way was discovered and it's outlined on the map included with the Staff Report. It's in an area that's part of Cherry Creek subdivision and also the City's retention area and bike path. The right-of-way was dedicated in 2006, but because there are no improvements and it provides no access, it needs to be vacated. Following the vacation, the vacated area will be transferred to the adjoining property owners which include the City of Goshen Department of Redevelopment and Cherry Creek, LLC. She also explained that no existing utilities were identified, so no utility easement is required as part of the vacation.

Based on this analysis, Staff recommends the Plan Commission forward a favorable recommendation to the Common Council.

*Petitioner Presentation:*

Andrea Milne, Abonmarche, 303 River Race Drive, spoke on behalf of the petitioner. She stated she is familiar with the Staff Report and has nothing to add.

Mr. Wellington asked what would happen if we didn't vacate this area.

Ms. Yoder explained this area has been transferred to Cherry Creek and if not vacated it would be under their development.

*Audience Comments:*

Dustin Sailor, Director of Public Works & Utilities, spoke to the petition. He stated his department manages public rights-of-way and confirmed that this needs to be vacated. He explained they have a statutory requirement that requires them to issue a permit within 30 days if someone comes in with a utility request that meets requirements.

*Close Public Hearing*

*Staff Discussion:*

There was no discussion amongst Commission members.

*Action:*

A motion was made and seconded, Wellington/Lauver, to forward a favorable recommendation for 24-01V to the Goshen Common Council, based on Staff recommendation with findings. The motion passed unanimously by a vote of 8-0.

**IX.** Audience Items  
None

**X.** Staff/Board Items  
None

**XI.** Adjournment – 4:17 pm Nisley/Holtzinger

Respectfully Submitted:

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Lori Lipscomb, Recording Secretary

Approved By:

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Richard Worsham, President

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Tom Holtzinger, Secretary



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## MEMORANDUM

TO: Goshen City Plan Commission/Goshen Common Council

FROM: Rhonda L. Yoder, City Planner

DATE: February 20, 2024

RE: 24-010A, Goshen Zoning Ordinance Text Amendment:  
Flood Control District (Overlay) Regulations & Definitions

The Goshen Plan Commission requests an amendment to the Goshen Zoning Ordinance, Ordinance 3011, Flood Control District (Overlay) Regulations and Definitions, based upon the State of Indiana Model Ordinance for Flood Hazard Areas. The amendment is proposed in order to make changes based on recent updates to the Indiana Model Ordinance, to continue compliance with the minimum participating criteria of the National Flood Insurance Program (NFIP). Changes include new, amended and deleted definitions, and regulation updates with expanded language, to add clarity and detail for existing regulations, including more detailed and specific Floodway regulations.

The existing Zoning Ordinance provisions redlined with the proposed changes are attached. The changes occur within Section 2110, Definitions of Words and Phrases, and in Section 4270, Flood Control District (Overlay) Regulations. When a definition applies only to the Flood Control District (Overlay) Regulations, this is indicated.

Goshen participates in the National Flood Insurance Program (NFIP), which is required in order to make flood insurance available to property owners within the City of Goshen. The participation and ordinance requirements are established by FEMA and the State of Indiana, administered by the Floodplain Management Section, Indiana Department of Natural Resources (IDNR), Division of Water.

In 1968, the National Flood Insurance Act was enacted, and in 1973 the Goshen Common Council through Resolution 73-3, indicated Goshen's "intent to qualify and participate in the National Flood Insurance Program." On July 31, 1979, Ordinance 2618 was adopted by Goshen Common Council, which amended the zoning ordinance to establish flood control requirements. The flood control requirements have been updated a number of times since 1979, in accordance with changes required by federal and state standards. The City's current FIS and FIRM are dated and effective August 2, 2011.

Since the most recent update to Goshen's Flood Control District (Overlay) Regulations in 2020, there have been changes to the State of Indiana Model Ordinance for Flood Hazard Areas, and on November 21, 2023, the Goshen Plan Commission authorized Staff to prepare updates to bring Goshen's regulations in line with the model ordinance. IDNR provided the State of Indiana Model Ordinance for Flood Hazard Areas, and has reviewed and approved the draft ordinance amendment.

A thorough comparison of Goshen's existing Flood Control District (Overlay) Regulations with the model ordinance was undertaken, and the updates are primarily expanded language, to add clarity and detail for existing regulations, including more detailed and specific Floodway regulations.

## ARTICLE II. DEFINITIONS

### Section 2110 Definitions of Words and Phrases.

For the purpose of this ordinance, certain words and terms are hereby defined. Words and terms not defined herein shall be as defined in a current dictionary of general use.

**Addition** (to an existing structure). Any walled and roofed expansion to the perimeter of a structure in which the addition is connected by a common load-bearing wall other than a firewall. For purposes of Section 4270, Flood Control District (Overlay) Regulations, any walled and roofed addition, which is connected by a firewall or is separated by independent perimeter load-bearing walls, is new construction.

**Appeal**. For purposes of Section 4270, Flood Control District (Overlay) Regulations, appeal means a request for a review of the floodplain administrator's interpretation of any provision of Section 4270, Flood Control District (Overlay) Regulations, ~~or~~ a request for a variance from Section 4270, Flood Control District (Overlay) Regulations, ~~or~~ a challenge to a Board of Zoning Appeals decision.

**Area of Shallow Flooding**. A designated AO or AH Zone on the community's Flood Insurance Rate Map (FIRM) with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

**Base Flood**. The flood having a one percent (1%) chance of being equaled or exceeded in any given year. ~~The base flood may also be referred to as the 1% annual chance flood or one hundred (100) year flood.~~

**Base Flood Elevation (BFE)**. The ~~water surface~~ elevation of the ~~base flood in relation to a specified datum,~~ usually the North American Vertical Datum of 1988. ~~one-percent annual-chance flood.~~

**Basement**. A portion of a building with at least two-thirds of its height below curb level or below the average grade of the adjoining ground. For purposes of Section 4270, Flood Control District (Overlay) Regulations, basement means that portion of a structure having its floor sub-grade (below ground level) on all sides.

**Best Available Flood Layer (BAFL)**. ~~Floodplain studies and any corresponding floodplain maps prepared and/or approved by the Indiana Department of Natural Resources which provide base flood elevation information, floodplain limits, and/or floodway delineations for flood hazard areas identified by approximate studies on the currently effective FIRM (Zone A) and/or for watercourses where the flood hazard is not identified on available floodplain mapping.~~

**Boundary River**. The part of the Ohio River that forms the boundary between Kentucky and Indiana.

**Boundary River Floodway**. The floodway of a boundary river.

**Building**. Any structure designed or intended for the support, enclosure, shelter or protection of persons, animals or property of any kind, and includes any structure.

**Building, Prefabricated**. ~~A building that is manufactured and constructed using prefabrication. It consists of factory-made components or units that are transported and assembled on-site to form the complete building.~~

**Community**. Community is a political entity that has the authority to adopt and enforce floodplain ordinances for the area under its jurisdiction, which for purposes of Section 4270, Flood Control District (Overlay) Regulations is the City of Goshen.

**Community Rating System (CRS)**. A program developed by the Federal Insurance Administration to provide incentives for those communities in the Regular Program that have gone beyond the minimum floodplain management requirements to develop extra measures to provide protection from flooding.

**Construction.** The placing of material in permanent position and fastened in a permanent manner. Where excavation, demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such excavation, demolition or removal shall be deemed construction.

**Construction, Existing.** For purposes of Section 4270, Flood Control District (Overlay) Regulations, existing construction is any structure for which the "start of construction" commenced before the effective date of the community's first floodplain ordinance.

**Construction, New.** For purposes of Section 4270, Flood Control District (Overlay) Regulations, new construction is any structure for which the "start of construction" commenced **on or after** the effective date of the community's first floodplain ordinance, **and includes any subsequent improvements to such structures.**

**Construction, Post-FIRM.** Construction or substantial improvement that started on or after the effective date of the initial FIRM of the community, or after December 31, 1974, whichever is later.

**Construction, Pre-FIRM.** Construction or substantial improvement which started on or before December 31, 1974, or before the effective date of the initial FIRM of the community, whichever is later.

**Construction, Start of.** For purposes of Section 4270, Flood Control District (Overlay) Regulations, start of construction includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, addition, or 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 slabs or footings, installation of piles, construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. For purposes of Section 4270, Flood Control District (Overlay) Regulations, permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, foundations, or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as detached garages or sheds not occupied as dwelling units or not part of the main structure. For purposes of Section 4270, Flood Control District (Overlay) Regulations, for substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

**Development.** Any human-made change to improved or unimproved real estate, including but not limited to:

- A. Construction, reconstruction or placement of a structure or any addition to a structure or any parking improvements;
- B. Installing a manufactured home on a site, preparing a site for a manufactured home or installing a recreational vehicle on a site for more than 180 days;
- C. Installing utilities, erection of walls and fences, construction of roads, or similar projects;
- D. Construction of flood control structures such as levees, dikes, dams, channel improvements, etc.;
- E. Mining, dredging, filling, grading, excavation, or drilling operations;
- F. **Construction and/or reconstruction of boat lifts, docks, piers, and seawalls;**
- G. Construction and/or reconstruction of bridges or culverts;
- H. Storage of materials; or
- I. Any other activity that might change the direction, height, or velocity of flood or surface waters.

Development does not include activities such as:

- A. The maintenance of existing structures and facilities, such as painting and re-roofing;
- B. Resurfacing roads; or
- C. Gardening, plowing, and similar agricultural practices that do not involve filling, grading, excavation, or the construction of permanent structures.

**Elevation Certificate.** **A FEMA form that is routinely reviewed and approved by the White House Office of Management and Budget under the Paperwork Reduction Act, that is encouraged to be used to collect certified elevation information, and ~~A certified statement~~ that verifies a structure's elevation information.** This certification

must be signed and sealed by a land surveyor or engineer, ~~or architect~~ authorized by law to certify elevation information.

**Enclosed Area (Enclosure).** An area of a structure enclosed by walls on all sides.

**Enclosure Below the Lowest Floor.** See “Lowest Floor” and “Enclosed Area.”

**Encroachment.** For purposes of Section 4270, Flood Control District (Overlay) Regulations, encroachment is the advance or infringement of uses, fill, excavation, buildings, permanent structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain.

**Facility, Critical.** A facility for which even a slight chance of flooding might be too great. Critical facilities include, but are not limited to, schools, nursing homes, hospitals, police, fire, and emergency response installations, and installations which produce, use or store hazardous materials or hazardous waste.

**Facility, Functionally Dependent.** A facility which cannot be used for its intended purpose unless it is located or carried out in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, ship repair, or seafood processing facilities. The term does not include long-term storage, manufacture, sales, or service facilities.

**Federal Emergency Management Agency.** FEMA

**Federal Insurance Administration.** FIA

**Fill.** For floodplain management purposes, any material deposited or placed which has the effect of raising the level of the ground surface above the natural grade elevation. Fill material includes but is not limited to consolidated material such as concrete and brick and unconsolidated material such as soil, sand, gravel, and stone.

**Five-hundred Year Flood (500-year flood).** The flood that has a 0.2 percent chance of being equaled or exceeded in any year.

**Flood or Flooding.** A general and temporary condition of partial or complete inundation of normally dry land areas from:

- A. The overflow of inland or tidal waters.
- B. The unusual and rapid accumulation, or the runoff of surface waters from any source.
- C. Mudslides (i.e., mudflows) which are proximately caused by flooding and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.

Flood or flooding also includes the collapse or subsidence of land along the shore of a lake or similar body of water as a result of erosion or undermining caused by waves or current of water exceeding anticipated cyclical levels that result in a flood as defined above.

~~**Flood Boundary and Floodway Map (FBFM).** An official map on which the Federal Emergency Management Agency (FEMA) or Federal Insurance Administration (FIA) has delineated the areas of flood hazards and regulatory floodway.~~

~~**Flood Hazard Area.** Any floodplain, floodway or area subject to the one percent (1%) annual chance flood floodway fringe district, or any combination thereof. See “Special Flood Hazard Area.”~~

~~**Flood Insurance Rate Map (FIRM).** An official map of a community, on which FEMA has delineated both the areas of special flood hazard and the risk premium zones applicable to the community. A FIRM that has been made available digitally is called a Digital Flood Insurance Rate Map (DFIRM).~~

~~**Flood Insurance Study (FIS).** The official hydraulic and hydrologic report provided by FEMA. The report contains flood profiles, as well as the FIRM, ~~FBFM (where applicable)~~, and the water surface elevation of the base flood.~~



**Flood Profile, Regulatory.** A longitudinal profile along the thread of a stream showing the maximum water surface elevation attained by the regulatory flood.

**Flood Prone Area.** Any land area acknowledged by a community as being susceptible to inundation by water from any source. See “Floodplain” and “Flood.”

**Flood Protection Grade (FPG).** The elevation of the regulatory flood (**Base Flood Elevation**) plus two feet at any given location in the SFHA. See “Freeboard.”

**Flood, Regulatory.** The flood having a one percent (1%) chance of being equaled or exceeded in any given year, as calculated by a method and procedure that is acceptable to and approved by the Indiana Department of Natural Resources and the Federal Emergency Management Agency. The regulatory flood elevation at any location is as defined in Section 4270.6 of this Ordinance. The “Regulatory Flood” is also known by the term “Base Flood,” “One-Percent Annual Chance Flood,” and “100-Year Flood.”

**Floodplain.** ~~The channel proper and the areas adjoining any wetland, lake or watercourse which have been or hereafter may be covered by the regulatory flood. The floodplain includes both the floodway and the floodway fringe districts.~~ Any land area susceptible to being inundated by water from any source. See “Flood Prone Area” or “Flood.”

**Floodplain Development Permit.** See “Improvement Location Permit.”

**Floodplain Management.** The operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including but not limited to emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.

**Floodplain Management Regulations.** The Flood Control District (Overlay) Regulations and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (**such as a floodplain ordinance, grading ordinance, or erosion control ordinance**), and other applications of police power which control development in flood-prone areas. This term describes federal, state, or local regulations in any combination thereof, which provide standards for preventing and reducing flood loss and damage. Floodplain management regulations are also referred to as floodplain regulations, floodplain ordinance, flood damage prevention ordinance, and floodplain management requirements.

**Floodproofing (Dry Floodproofing).** A method of protecting a structure that ensures that the structure, together with attendant utilities and sanitary facilities, is watertight to the floodproofed design elevation with walls that are substantially impermeable to the passage of water. All structural components of these walls are capable of resisting hydrostatic and hydrodynamic flood forces, including the effects of buoyancy, and anticipated debris impact forces.

**Floodproofing Certificate.** A form used to certify compliance for non-residential structures as an alternative to elevating structures to or above the FPG. This certification must be by a Registered Professional Engineer or Architect.

**Floodway.** The channel of a river, ~~or~~ stream ~~or other watercourse~~ and ~~the adjacent land areas that must be reserved in order to discharge the base flood without cumulative increasing the water surface elevation more than a designated height. those portions of the floodplains adjoining the channel which are reasonably required to efficiently carry and discharge the peak flood flow of the regulatory flood of any river or stream.~~

**Floodway Fringe.** Those portions of the floodplain lying outside the floodway.

**Freeboard.** A factor of safety, usually expressed in feet above the BFE, which is applied for the purposes of floodplain management. It is used to compensate for the many unknown factors that could contribute to flood heights greater than those calculated for the base flood.

**Grade.** The average level of the finished surface of ground adjacent to the exterior walls of the building.

**Grade, Finished.** The average elevation or contours resulting from excavation or filling relative to the existing curb extending the width of the zoning lot or where no curb is established, the average elevation of the crown of the street adjacent to the front of the zoning lot.

**Grade, Highest Adjacent.** For purposes of Section 4270, Flood Control District (Overlay) Regulations, highest adjacent grade means the highest natural elevation of the ground surface, prior to the start of construction, next to the proposed walls of a structure.

**Grade, Lowest Adjacent.** For purposes of Section 4270, Flood Control District (Overlay) Regulations, lowest adjacent grade means the lowest elevation, after completion of construction, of the ground, sidewalk, patio, deck support, or basement entryway immediately next to the structure.

**Grade, Natural.** The vertical elevation of ground surface prior to excavation or filling. **For floodplain management purposes, the elevation of the undisturbed natural surface of the ground. Fill placed prior to the date of the initial identification of the flood hazard on a FEMA map is also considered natural grade.**

**Hardship.** Hardship means the exceptional hardship that would result from a failure to grant the requested variance. Hardship requires that the variance is exceptional, unusual, and peculiar to the property involved. Mere economic or financial hardship alone is NOT exceptional. Inconvenience, aesthetic considerations, physical handicaps, personal preferences, or the disapproval of one's neighbors likewise cannot, as a rule, qualify as an exceptional hardship. All of these problems can be resolved through other means without granting a variance, even if the alternative is more expensive, or requires the property owner to build elsewhere or put the parcel to a different use than originally intended.

**Historic Structure.** Any structure that is:

- A. Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- B. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- C. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- D. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified by (a) an approved state program as determined by the Secretary of Interior, or (b) directly by the Secretary of Interior in states without approved programs.

**Hydrologic and Hydraulic Engineering Analysis.** Analyses performed by a professional engineer licensed by the State of Indiana, in accordance with standard engineering practices that are accepted by the Indiana Department of Natural Resources and FEMA, used to determine the base flood, other frequency floods, flood elevations, floodway information and boundaries, and flood profiles.

**IDNR.** Indiana Department of Natural Resources.

**Improvement Location Permit.** A permit issued by the Zoning Administrator in accordance with the provisions of this Ordinance prior to the erection or alteration and use of a building or structure or the use of land, stating that the proposed building, structure and/or use comply with all applicable provisions of the Zoning Ordinance and authorizing the Building Commissioner to issue a building permit. For purposes of Section 4270, Flood Control District (Overlay) Regulations, also known as Floodplain Development Permit. Also known as "Zoning Clearance."

**Increased Cost of Compliance (ICC).** For purposes of Section 4270, Flood Control District (Overlay) Regulations, ICC means the cost to repair a substantially damaged structure that exceeds the minimal repair cost and that is required to bring a substantially damaged structure into compliance with the local flood damage prevention ordinance; acceptable mitigation measures are elevation, relocation, demolition, or any combination

thereof; all renewal and new business flood insurance policies with effective dates on or after June 1, 1997, will include ICC coverage.

**International Code Council-Evaluation Service (ICC-ES) Report.** A document that presents the findings, conclusions, and recommendations from a particular evaluation. ICC-ES reports provide information about what code requirements or acceptance criteria were used to evaluate a product, and how the product should be identified, installed.

**Letter of Final Determination (LFD).** A letter issued by FEMA during the mapping update process which establishes final elevations and provides the new flood map and flood study to the community. The LFD initiates the six-month adoption period. The community must adopt or amend its floodplain management regulations during this six-month period unless the community has previously incorporated an automatic adoption clause.

**Letter of Map Change (LOMC).** A general term used to refer to the several types of revisions and amendments to FEMA maps that can be accomplished by letter. They include ~~Letter of Map Amendment (LOMA), Letter of Map Revision (LOMR), and Letter of Map Revision based on Fill (LOMR-F),~~ per the following definitions:

- A. **(CLOMR) Conditional Letter of Map Revision.** FEMA's comment on a proposed project that would, upon construction, result in modification of the SFHA through the placement of fill outside the existing regulatory floodway.
- B. **(CLOMR-F) Conditional Letter of Map Revision Based on Fill.** A letter from FEMA stating that a proposed structure that will be elevated by fill would not be inundated by the base flood.
- C. **LOMA (Letter of Map Amendment).** An amendment by letter to the currently effective FEMA map that establishes that a building or area of land property is not located in a Special Flood Hazard Area (SFHA) through the submittal of property specific elevation data. A LOMA is only issued by FEMA.
- D. **(LOMA-OAS) Letter of Map Amendment Out as Shown.** An official determination by FEMA that states the property or building is correctly shown outside the SFHA as shown on an effective NFIP map. Therefore, the mandatory flood insurance requirement does not apply. An out-as-shown determination does not require elevations.
- E. **LOMR (Letter of Map Revision).** An official revision to the currently effective FEMA map. It is issued by FEMA and changes flood zones, delineations and elevations.
- F. **LOMR-F (Letter of Map Revision Based on Fill).** FEMA's modification of the SFHA shown on the FIRM based on the placement of fill outside the existing regulatory floodway. ~~An official revision by letter to an effective NFIP map. A LOMR-F provides FEMA's determination concerning whether a structure or parcel has been elevated on fill above the BFE and excluded from the SFHA.~~

**Lowest Floor.** For floodplain management purposes, the lowest elevation described among the following:

- A. The lowest floor of a building; ~~top of the lowest level of the structure;~~
- B. The ~~top of the~~ basement floor;
- C. The ~~top of the~~ garage floor, if the garage is connected to the building; ~~the lowest level of the structure;~~
- D. The ~~top of the~~ first floor of a structure elevated on pilings or pillars; or
- E. The ~~top of the~~ floor level of any enclosure, other than a basement, below an elevated structure where the walls of the enclosure provide any resistance to the flow of flood waters. **Designs for meeting the flood opening requirement must either be certified by a registered professional engineer or architect or meet or exceed the following criteria: unless:**
  1. The walls are designed to automatically equalize the hydrostatic flood forces on the walls by allowing for the entry and exit of flood waters; ~~by providing a minimum of two openings (in addition to doorways and windows) in a minimum of two exterior walls; if a structure has more than one enclosed area, each shall have openings on exterior walls;~~
  2. ~~The total net area of all openings shall be~~ At least two (2) openings are designed and maintained for the entry and exit of floodwater; and these openings provide a total net area of at least one (1) square inch for every one (1) square foot of enclosed area; the bottom of all such openings shall be no higher than one (1) foot above the exterior grade or the interior grade immediately beneath each opening, whichever is higher; ~~doorways and windows do not qualify as openings; and~~
  3. Such enclosed space shall be usable solely for the parking of vehicles and building access.

**Manufactured Home.** A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use, with or without a permanent foundation, when attached to the required utilities. The term "manufactured home" does not include "recreational vehicle." See "Dwelling Unit."

- A. **For purposes of Section 4270, Flood Control District (Overlay) Regulations,** existing manufactured home park or subdivision means 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) is completed before the effective date of the community's first floodplain ordinance.
- B. Expansion to an existing manufactured home park or subdivision means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).
- C. **For purposes of Section 4270, Flood Control District (Overlay) Regulations,** new manufactured home park or subdivision means 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) is completed on or after the effective date of the community's first floodplain ordinance.

**Manufactured Home Park or Subdivision.** A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

**Market Value.** The building value, excluding the land (as agreed to between a willing buyer and seller), as established by what the local real estate market will bear; market value can be established by independent certified appraisal, replacement cost depreciated by age of building (actual cash value), or adjusted assessed values.

**Mitigation.** Sustained actions taken to reduce or eliminate long-term risk to people and property from hazards and their effects. The purpose of mitigation is two fold: to protect people and structures, and to minimize the cost of disaster response and recovery.

**National Flood Insurance Program (NFIP).** The federal program that makes flood insurance available to owners of property in participating communities nationwide through the cooperative efforts of the Federal Government and the private insurance industry.

- A. Emergency Program. The first phase under which a community participates in the NFIP. It is intended to provide a first layer amount of insurance at subsidized rates on all insurable structures in that community before the effective date of the initial FIRM.
- B. Regular Program. The phase of the community's participation in the NFIP where more comprehensive floodplain management requirements are imposed and higher amounts of insurance are available based upon risk zones and elevations determined in a FIS.

**National Geodetic Vertical Datum (NGVD) of 1929.** As corrected in 1929, NGVD is a vertical control used as a reference for establishing varying elevations within the floodplain.

**Non-Boundary River Floodway.** The floodway of any river or stream other than a boundary river.

**North American Vertical Datum of 1988 (NAVD 88).** As adopted in 1993, NAVD 88 is a vertical control datum used as a reference for establishing varying elevations within the floodplain.

**Obstruction.** For purposes of Section 4270, Flood Control District (Overlay) Regulations, obstruction includes, but is not limited to, any dam, wall, wharf, embankment, levee, dike, pile, abutment, protection, excavation, canalization, bridge, conduit, culvert, building, wire, fence, rock, gravel, refuse, fill, structure, vegetation, or other material in, along, across or projecting into any watercourse which may alter, impede, retard or change the direction and/or velocity of the flow of water; or due to its location, its propensity to snare or collect debris carried by the flow of water, or its likelihood of being carried downstream.

**One-hundred Year Flood (100-year Flood).** The flood that has a one percent (1%) chance of being equaled or exceeded in any given year. Any flood zone that begins with the letter A is subject to the one-percent annual chance flood. See "Flood, Regulatory."

**One-percent Annual Chance Flood.** The flood that has a one percent (1%) chance of being equaled or exceeded in any given year. Any flood zone that begins with the letter A is subject to the one-percent annual chance flood. See "Flood, Regulatory."

**Participating Community.** For purposes of Section 4270, Flood Control District (Overlay) Regulations, participating community means any community that voluntarily elects to participate in the NFIP by adopting and enforcing floodplain management regulations that are consistent with the standards of the NFIP.

**Physical Map Revision (PMR).** An official republication of a community's FEMA map to effect changes to base (1-percent annual chance) flood elevations, floodplain boundary delineations, regulatory floodways, and planimetric features. These changes typically occur as a result of structural works or improvements, annexations resulting in additional flood hazard areas, or correction to base flood elevations or SFHAs.

**Principally Above Ground.** For purposes of Section 4270, Flood Control District (Overlay) Regulations, means at least 51 percent of the actual cash value of the structure, less land value, is above ground.

**Probation.** For purposes of Section 4270, Flood Control District (Overlay) Regulations, probation is a means of formally notifying participating communities of violations and deficiencies in the administration and enforcement of the local floodplain management regulations.

**Public Safety and Nuisance.** For purposes of Section 4270, Flood Control District (Overlay) Regulations, anything which is injurious to the safety or health of an entire community, neighborhood or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

**Recreational Vehicle (RV).** A vehicle which is (1) built on a single chassis; (2) 400 square feet or less when measured at the largest horizontal projections; (3) designed to be self-propelled or permanently towable by a light duty truck; and (4) designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational camping, travel, or seasonal use.

**Repetitive Loss.** Flood-related damages sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equaled or exceeded 25% of the market value of the structure before such damage occurred.

**Replacement Cost.** The sum of money which would be required to re-erect a structure identical to the one in question.

**Riverine.** Relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

**Section 1316.** That section of the National Flood Insurance Act of 1968, as amended, which states that no new flood insurance coverage shall be provided for any property that the Floodplain Administrator finds has been declared by a duly constituted state or local zoning authority or other authorized public body to be in violation of state or local laws, regulations, or ordinances that intended to discourage or otherwise restrict land development or occupancy in flood-prone areas.

**Special Flood Hazard Area (SFHA).** ~~Synonymous with areas of special flood hazard and floodplain, those lands within the jurisdictions of the City of Goshen subject to a one percent (1%) or greater chance of flooding in any given year. inundation by the regulatory flood. The SFHAs of the City of Goshen are generally identified as such on the Elkhart County, Indiana, and Incorporated Areas Flood Insurance Rate Map dated August 2, 2011, as well as any future updates, amendments, or revisions, prepared by the Federal Emergency Management Agency with the most recent date. The SFHAs of those parts of unincorporated Elkhart County that are within the extraterritorial jurisdiction of the City or that may be annexed into the City are generally identified as such on the~~

~~Elkhart County, Indiana, and Incorporated Areas Flood Insurance Rate Map dated August 2, 2011, as well as any future updates, amendments, or revisions, prepared by the Federal Emergency Management Agency with the most recent date. These areas are shown on a FIRM as Zone Special~~ flood hazard areas are designated by the Federal Emergency Management Agency on Flood Insurance Rate Maps, Flood Insurance Studies, Flood Boundary and Floodway Maps and Flood Hazard Boundary Maps as Zones A, AE, A1-A30, AH, ~~AR~~, A99, or AO, or VE. The SFHA includes areas that are flood prone and designated from other federal, state or local sources of data including but not limited to ~~may also be identified by~~ best available flood layer ~~data regulatory data~~ maps provided by, or approved by, the Indiana Department of Natural Resources, ~~historical flood information reflecting high water marks, previous flood inundation areas, and flood prone soils associated with a watercourse.~~

**Structure.** Anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground. Among other things, structures include dwelling units, buildings, walls, fences and signs. For purposes of Section 4270, Flood Control District (Overlay) Regulations, a structure is ~~a walled and roofed building, including a gas or liquid storage tank, which is principally above ground; and is enclosed by walls and a roof;~~ the term includes ~~a gas or liquid storage tank,~~ a manufactured home, ~~or~~ as well as a prefabricated building; the term also includes recreational vehicles ~~to be~~ installed on a site for more than 180 ~~consecutive~~ days.

**Structure, Accessory.** A structure located on the same lot as, but which is clearly incidental to and customarily found in connection with, the principal use. For purposes of Section 4270, Flood Control District (Overlay) Regulations, accessory structure ~~(appurtenant structure)~~ means a structure with a floor area 400 square feet or less that is located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure; ~~an accessory structure specifically excludes structures used for human habitation; and: accessory structures should constitute a minimal initial investment, may not be used for human habitation, and be designed to have minimal flood damage potential; examples of accessory structures are detached garages, carports, storage sheds, pole barns, and hay sheds.~~

- A. Accessory structures are considered walled and roofed where the structure includes at least two outside rigid walls and a fully secured roof.
- B. Examples of accessory structures include, but are not necessarily limited to, two-car detached garages (or smaller), carports, storage and tool sheds, and small boathouses.
- C. The following may have uses that are incidental or accessory to the principal structure on a parcel, but are generally not considered to be accessory structures by the NFIP:
  1. Structures in which any portion is used for human habitation, whether as a permanent residence or as temporary or seasonal living quarters, such as a detached garage or carriage house that includes an apartment or guest quarters, or a detached guest house on the same parcel as a principal residence.
  2. Structures used by the public, such as a place of employment or entertainment.
  3. Development that does not meet the NFIP definition of a structure for floodplain management purposes, including, but not necessarily limited to, a gazebo, pavilion, picnic shelter, or carport that is open on all sides (roofed but not walled).

**Structure, Elevated.** For purposes of Section 4270, Flood Control District (Overlay) Regulations, an elevated structure is a non-basement structure built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, filled stem wall foundations (also called chain walls), pilings, or columns (posts and piers).

**Substantial Damage.** For purposes of Section 4270, Flood Control District (Overlay) Regulations, substantial damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

**Substantial Improvement.** For purposes of Section 4270, Flood Control District (Overlay) Regulations, substantial improvement means any reconstruction, rehabilitation, addition or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement; this term includes structures which have incurred "repetitive loss" or "substantial damage" regardless of the actual repair work performed; the term does not include improvements of

structures to correct existing violations of state or local health, sanitary or safety code requirements **which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions.**

**Suspension.** For purposes of Section 4270, Flood Control District (Overlay) Regulations, suspension means the removal of a participating community from the NFIP because the community has not enacted and/or enforced the proper floodplain management regulations required for participation in the NFIP.

**Use, Functionally Dependent.** For purposes of Section 4270, Flood Control District (Overlay) Regulations, a functionally dependent use is a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities and port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

**Variance.** For purposes of Section 4270, Flood Control District (Overlay) Regulations, variance is a grant of relief from the requirements of Section 4270, **consistent with the variance conditions of which permits construction in a manner otherwise prohibited by Section 4270, where specific enforcement would result in unnecessary hardship.**

**Violation.** For purposes of Section 4270, Flood Control District (Overlay) Regulations, violation means the failure of a structure or other development to be fully compliant with Section 4270 of this Ordinance. **a structure or other development without the elevation, other certification, or other evidence of compliance required by Section 4270 of this Ordinance is presumed to be in violation until such time as that documentation is provided.**

**Walled and Roofed.** For purposes of Section 4270, Flood Control District (Overlay) Regulations, a building that has two or more exterior rigid walls and a fully secured roof and is affixed to a permanent site.

**Watercourse.** A lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

**Watercourse, Alteration of.** A dam, impoundment, channel relocation, change in channel alignment, channelization, or change in cross-sectional area of the channel or the channel capacity, or any other modification which may alter, impede, retard, or change the direction and/or velocity of the flow of water during conditions of the base flood.

**Water Surface Elevation.** The height, in relation to the NAVD 88 or NGVD (other datum where specified) of floods of various magnitudes and frequencies in the floodplains of riverine areas.

**Zone.** For purposes of Section 4270, Flood Control District (Overlay) Regulations, zone means a geographical area shown on a FIRM that reflects the severity or type of flooding in the area.

**Zone A.** For purposes of Section 4270, Flood Control District (Overlay) Regulations, Zone A means portions of the SFHA in which the principal source of flooding is runoff from rainfall, snowmelt, or a combination of both; in A zones, floodwaters may move slowly or rapidly, but waves are usually not a significant threat to buildings; these areas are labeled as Zone A, Zone AE, Zones A1-A30, Zone AO, Zone AH, Zone AR and Zone A99 on a FIRM. The definitions are presented below:

- A. **Zone A.** Areas subject to inundation by the one-percent annual chance flood event. Because detailed hydraulic analyses have not been performed, no base flood elevation or depths are shown.
- B. **Zone AE and A1-A30.** Areas subject to inundation by the one-percent annual chance flood event determined by detailed methods. Base flood elevations are shown within these zones. (Zone AE is on new and revised maps in place of Zones A1-A30.)
- C. **Zone AO.** Areas subject to inundation by one-percent annual chance shallow flooding (usually sheet flow on sloping terrain) where average depths are between one and three feet. Average flood depths derived from detailed hydraulic analyses are shown within this zone.

- D. **Zone AH.** Areas subject to inundation by one-percent annual chance shallow flooding (usually areas of ponding) where average depths are between one and three feet. Average flood depths derived from detailed hydraulic analyses are shown within this zone.
- E. **Zone AR.** Areas that result from the decertification of a previously accredited flood protection system that is determined to be in the process of being restored to provide base flood protection.
- F. **Zone A99.** Areas subject to inundation by the one-percent annual chance flood event, but which will ultimately be protected upon completion of an under-construction Federal flood protection system. These are areas of special flood hazard where enough progress has been made on the construction of a protection system, such as dikes, dams, and levees, to consider it complete for insurance rating purposes. Zone A99 may only be used when the flood protection system has reached specified statutory progress toward completion. No base flood elevations or depths are shown.

**Zone B, C and X.** For purposes of Section 4270, Flood Control District (Overlay) Regulations, Zone B, C and X mean areas identified in the community as areas of moderate or minimal hazard from the principal source of flood in the area; however, buildings in these zones could be flooded by severe, concentrated rainfall coupled with inadequate local drainage systems; flood insurance is available in participating communities but is not required by regulation in these zones. Zone X is used on new and revised maps in place of Zones B and C.

**Zone D.** For purposes of Section 4270, Flood Control District (Overlay) Regulations, Zone D means unstudied areas where flood hazards are undetermined, but flooding is possible. Flood insurance is available in participating communities, but is not required by regulation in this zone.

**Zone X.** For purposes of Section 4270, Flood Control District (Overlay) Regulations, Zone X means the area where the flood hazard is less than that in the SFHA. Shaded X zones shown on recent FIRMs (B zones on older FIRMs) designate areas subject to inundation by the flood with a 0.2 percent chance of being equaled or exceeded (the 500-year flood). Unshaded X zones (C zones on older FIRMs) designate areas where the annual exceedance probability of flooding is less than 0.2 percent.



## **ARTICLE IV. ESTABLISHMENT OF ZONING DISTRICTS**

### **Section 4270                    Flood Control District (Overlay) Regulations.**

The general intent of the Flood Control District (Overlay) Regulations are to guide development in areas where potential for damage from floodwater exists. The identification of these areas was made by the Department of Homeland Security's Federal Emergency Management Agency (FEMA) and are shown on the Flood Insurance Rate Map (FIRM) dated August 2, 2011. For A Zones, or in the absence of a published FEMA map, or in the absence of identification on a FEMA map, the regulatory flood elevation, floodway, and floodway fringe limits of any watercourse in the community's known flood prone areas shall be according to the best data available (best available flood data/layer) as provided by the Indiana Department of Natural Resources. These maps, along with the Flood Insurance Study (FIS), dated August 2, 2011, are incorporated herein by reference and are made a part of this Ordinance.

The Floodplain, Floodway, and Floodway Fringe districts are intended to be "overlay" districts and will put forth additional requirements on top of the other zoning regulations placed on the land by the other sections of this Ordinance.

#### **Section 4270.1                    Statutory Authorization.**

The Indiana Legislature has in **IC 36-1-4-11**, IC 36-7-4 and **IC 14-28** ~~IC 14-28-4~~ granted the power to local government units to control land use within their jurisdictions.

#### **Section 4270.2                    Findings of Fact.**

- A. The flood hazard areas of the City of Goshen are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.
- B. These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities, and by the occupancy in flood hazard areas by uses vulnerable to floods or hazardous to other lands. **Structures** which are inadequately elevated, floodproofed, or otherwise unprotected from flood damages **also contribute to the flood loss.**
- C. **The Flood Control District (Overlay) Regulations are adopted in order to minimize the threat of flood damages and to achieve the purposes hereinafter set forth.**

#### **Section 4270.3                    Statement of Purpose and Methods.**

The purpose of these Flood Control District (Overlay) Regulations are to guide development in the flood hazard areas in order to reduce the potential for loss of life and property, to reduce the potential for health and safety hazards, to reduce the potential for extraordinary public expenditures for flood protection and relief, to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions **and methods** designed to:

- A. Prevent unwise developments from increasing flood or drainage hazards to others;
- B. Protect new buildings and major improvements to buildings from flood damage;
- C. Protect human life and health from the hazards of flooding;
- D. Restrict or prohibit uses which are dangerous to health, safety, and property due to water or erosion hazards, which result in damaging increases in erosion or in flood heights or velocities;
- E. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- F. Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters, **in order to ensure the flood storage and conveyance functions of the floodplain are maintained;**

- G. Control filling, grading, dredging, and other development which may increase erosion or flood damage;
- H. Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands;
- I. Lessen the burden on the taxpayer for flood control projects, repairs to flood-damaged public facilities and utilities, and flood rescue and relief operations;
- J. Maintain property values and a stable tax base by minimizing the potential for creating flood blighted areas; and
- K. Make federal flood insurance available for structures and their contents in the City of Goshen by fulfilling the requirements of the National Flood Insurance Program.

#### **Section 4270.4            Objectives.**

The objectives of the Flood Control District (Overlay) Regulations are:

- A. To protect human life and health;
- B. To minimize expenditure of public money for costly flood control projects;
- C. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- D. To minimize prolonged business interruptions;
- E. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, and sewer lines, streets, and bridges located in floodplains;
- F. To help maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize flood blight areas; and
- G. To ensure that potential homebuyers are notified that property is in a flood area.

#### **Section 4270.5            Lands to Which the Flood Control District (Overlay) Regulations Apply.**

The Flood Control District (Overlay) Regulations shall apply to all SFHAs ~~and known flood-prone areas~~ within the jurisdiction of ~~Goshen~~ the City of Goshen, Indiana, as identified in Section 4270.6.

#### **Section 4270.6            Basis for Establishing Special Flood Hazard Areas. ~~Regulatory Flood Data.~~**

~~The Flood Control District (Overlay) Regulations protection standard is the regulatory flood. The best available regulatory flood data is listed below. Whenever a party disagrees with the best available data, the party needs to replace existing data with better data that meets current engineering standards. To be considered, this data must be submitted to the Indiana Department of Natural Resources for review and subsequently approved.~~

- A. The regulatory flood elevation, floodway, and floodway fringe limits for the studied SFHAs within the jurisdiction of the City of Goshen, ~~delineated as an "AE Zone" on the Elkhart County, Indiana and Incorporated Areas Flood Insurance Rate Map dated August 2, 2011, shall be determined from as delineated on~~ the one-percent annual chance flood profiles in the Flood Insurance Study of Elkhart County, Indiana, and Incorporated Areas, and the corresponding Flood Insurance Rate Map (FIRM) dated August 2, 2011, as well as any ~~subsequent future~~ updates, amendments or revisions, prepared by the Federal Emergency Management Agency with the most recent date. ~~Should the floodway limits not be delineated on the Flood Insurance Rate Map for a studied SFHA designated as an "AE Zone," the limits of the floodway will be according to the best available flood layer as provided by the Indiana Department of Natural Resources.~~
- B. The regulatory flood elevation, floodway, and floodway fringe limits for each of the SFHAs within the jurisdiction of the City of Goshen, delineated as an "A Zone" on the FIRM of Elkhart County, Indiana, and Incorporated Areas dated August 2, 2011, as well as any ~~subsequent future~~ updates, amendments or revisions, prepared by the Federal Emergency Management Agency with the most recent date, shall be according to the best data available as provided by the Indiana Department of Natural Resources, provided the upstream drainage area from the subject site is greater than one square mile. ~~Whenever a party disagrees with the best available flood layer data, the party needs to replace existing data with better~~

data that meets current engineering standards. To be considered, this data must be submitted to the Indiana Department of Natural Resources for review and subsequently approved.

- C. In the absence of a published FEMA map, or absence of identification on a FEMA map, the regulatory flood elevation, floodway, and floodway fringe limits of any watercourse in the community's known flood prone areas shall be according to the best available flood layer ~~data available (best available flood data/layer)~~ as provided by the Indiana Department of Natural Resources, provided the upstream drainage area from the subject site is greater than one square mile.
- D. Upon issuance of a Letter of Final Determination (LFD), any more restrictive data in the new (not yet effective) mapping/study shall be used for permitting and construction (development) purposes, replacing all previously effective less restrictive flood hazard data provided by FEMA.

**Section 4270.7 Establishment of Floodplain Development Permit.**

A floodplain development permit shall be required in conformance with the provisions of the Flood Control District (Overlay) Regulations prior to the commencement of any development activities in SFHAs.

**Section 4270.8 Compliance.**

- A. No structure shall hereafter be located, extended, converted or structurally altered within the SFHA without full compliance with the terms of the Flood Control District (Overlay) Regulations and other applicable regulations.
- B. ~~Where an existing or proposed structure or other development is affected by multiple flood zones, by multiple base flood elevations, or both, the development activity must comply with the provisions of this Ordinance applicable to the most restrictive flood zone and the most conservative (highest) base flood elevation affecting any part of the existing or proposed structure; or for other developments, affecting any part of the area of the development.~~
- C. No land or stream within the SFHA shall hereafter be altered without full compliance with the terms of the Flood Control District (Overlay) Regulations and other applicable regulations.

**Section 4270.9 Abrogation and Greater Restrictions.**

The Flood Control District (Overlay) Regulations are not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Ordinance and another ordinance, easements, covenants, or deed restrictions conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

**Section 4270.10 Discrepancy between Mapped Floodplain and Actual Ground Elevations.**

- A. In cases where there is a discrepancy between the mapped floodplain (SFHA) ~~with base flood elevations provided (riverine or lacustrine Zone AE)~~ on the FIRM and the actual ground elevations, the elevation provided on the profiles ~~or table of still water elevations~~ shall govern.
- B. If the elevation of the site in question is below the base flood elevation, that site shall be included in the SFHA and regulated accordingly.
- C. If the ~~natural grade~~ elevation ~~(natural grade)~~ of the site in question is ~~at or above the base flood elevation and a LOMA or LOMR-FW is obtained, the floodplain regulations will not be applied provided the LOMA or LOMR-FW is not subsequently superseded or invalidated. and not located within the floodway, that site shall be considered outside the SFHA and the floodplain regulations will not be applied. The property owner shall be advised to apply for a LOMA.~~

**Section 4270.11 Interpretation.**

In the interpretation and application of the Flood Control District (Overlay) Regulations all provisions shall be:

- A. Considered as minimum requirements;

- B. Liberally construed in favor of the governing body; and
- C. Deemed neither to limit nor repeal any other powers granted under state statutes.

**Section 4270.12 Warning and Disclaimer of Liability.**

The degree of flood protection required by the Flood Control District (Overlay) Regulations is considered reasonable for regulatory purposes and is based on available information derived from engineering and scientific methods of study. Larger floods can and will occur on rare occasions. Therefore, the Flood Control District (Overlay) Regulations does not create any liability on the part of the City of Goshen, the Plan Commission, the Board of Zoning Appeals, the Indiana Department of Natural Resources, or the State of Indiana, or any elected or appointed official or employee thereof, for any flood damage that result from reliance on the Flood Control District (Overlay) Regulations or any administrative decision made lawfully thereunder.

**Section 4270.13 Penalties for Violation.**

Failure to obtain a floodplain development permit in the SFHA or failure to comply with the requirements of a floodplain development permit or conditions of a variance shall be deemed to be a violation of this Ordinance. All violations shall be considered a common nuisance and be treated as such in accordance with the provisions of the Zoning Ordinance for the City of Goshen. All violations shall be punishable by a fine not exceeding two thousand five hundred dollars (\$2,500) for each offense.

- A. **Separate Offenses.** A separate offense shall be deemed to occur for each day the violation continues to exist.
- B. **Suspending of Insurance Policy.** The Goshen City Floodplain Administrator shall inform the owner that any such violation is considered a willful act to increase flood damages and therefore may cause coverage by Standard Flood Insurance Policy to be suspended.
- C. **Other Lawful Action by City.** Nothing herein shall prevent the City of Goshen from taking such other lawful action to prevent or remedy any violations. All costs connected therewith shall accrue to the person or persons responsible.

~~**Section 4270.14 Increased Cost of Compliance (ICC).**~~

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

**Section 4270.14 Designation of Administrator.**

The Zoning Administrator is appointed to administer and implement the provisions of Section 4270, Flood Control District (Overlay) Regulations, and related provisions, and is herein referred to as the Floodplain Administrator.

**Section 4270.15 Floodplain Development Permit and Certification Requirements. Procedures**

Application for a floodplain development permit shall be made to the Floodplain Administrator on forms furnished by the Floodplain Administrator ~~for all prior to any~~ development activities ~~located wholly within, partially within, or in contact with an identified SFHA. and may~~ Such application shall be made by the owner of the property or his/her authorized agent, herein referred to as the applicant, prior to the actual commencement of such construction. Such applications shall include, but not be limited to, ~~the following:~~ plans ~~in duplicate~~ drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, earthen fill, storage of materials or equipment, drainage facilities, and the location of the foregoing. Specifically the following information is required:

## A. Application Stage:

1. A description of the proposed development.
2. Location of the proposed development sufficient to accurately locate property and structure(s) in relation to existing roads and streams.
3. A legal description of the property site.
4. For the reconstruction, rehabilitation, or improvement of an existing non-conforming structure, or an addition to an existing non-conforming building, a detailed contractor cost estimate and description of the total work to be completed, including but not limited to interior work, exterior work, and labor, as well as a certified valuation of the existing (pre-improved or pre-damaged) structure.
5. A site development plan showing existing and proposed development locations and existing and proposed land grades.
6. Verification that connection to either a public sewer system or to an approved on-site septic system is available and approved by the respective regulatory agency for proposed structures to be equipped with a restroom, kitchen or other facilities requiring disposal of wastewater.
7. Plans showing elevation of the top of the planned lowest floor (including basement) of all proposed structures in Zones A, AH, and AE. Elevation should be in ~~NGVD or~~ NAVD 88. ~~In either case, the conversion formula should be included.~~
8. Plans showing elevation (in NAVD 88 ~~or NGVD~~) to which any non-residential structure will be floodproofed.
9. Plans showing location and specifications for flood openings for any proposed structure with enclosed areas below the flood protection grade.
10. Plans showing materials to be used below the flood protection grade for any proposed structure are flood resistant.
11. Plans showing how any proposed structure will be anchored to resist flotation or collapse.
12. Plans showing how any electrical, heating, ventilation, plumbing, air conditioning equipment and other service facilities are designed and/or located. Elevation should be in NAVD 88.
13. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development. A hydrologic and hydraulic engineering ~~analysis study~~ is required and any watercourse changes submitted to Indiana Department of Natural Resources for approval. ~~Once DNR approval is obtained, a FEMA Conditional Letter of Map Revision must be obtained prior to construction. See additional information in following sections. and then to FEMA as a Letter of Map Revision. The Floodplain Administrator shall notify adjacent communities and the State Floodplain Coordinator prior to any alteration or relocation of a watercourse, and submit copies of such notifications to FEMA.~~
14. Any additional information, as requested by the Floodplain Administrator, which may be necessary to determine the disposition of a proposed development or structure with respect to the requirements of this ordinance.
15. All provisions of Article VI, Section 6180, Improvement Location Permit.

## B. Construction Stage

Upon placement of the lowest floor of an elevated structure or structure constructed on fill, it shall be the duty of the permit holder to submit to the Floodplain Administrator ~~an elevation certificate for the building under construction. a certification of the NAVD 88 or NGVD elevation of the lowest floor, as built. Said certification shall be prepared by or under the direct supervision of a registered land surveyor, professional engineer, or architect and certified by the same. Any work undertaken prior to submission of the certification shall be at the permit holder's risk.~~ The Floodplain Administrator shall review the ~~elevation certificate. lowest floor elevation survey data submitted.~~ The permit holder shall correct deficiencies detected by such review before any further work is allowed to proceed. Failure to submit the ~~elevation certificate survey~~ or failure to make said corrections required hereby shall be cause to issue a stop work order for the project.

Upon establishment of the floodproofed elevation of a floodproofed structure, it shall be the duty of the permit holder to submit to the Floodplain Administrator a floodproofing certificate. Certification shall be prepared by or under the direct supervision of a registered professional engineer or architect and certified by the same. The Floodplain Administrator shall review the floodproofing certification submitted. The permit holder shall correct any deficiencies detected by such review before any further work is allowed to proceed. Failure to submit the floodproofing certification or failure to make required corrections shall be cause to issue a stop work order for the project.

C. Finished Construction

1. Upon completion of construction of any structure requiring certification of elevation, an elevation certificate ~~certification (FEMA Elevation Certificate Form 086-0-33 or any future updates)~~ which depicts the “as-built” lowest floor elevation and other applicable elevation data is required to be submitted by the permit holder to the Floodplain Administrator. ~~The elevation certificate shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by the same.~~
2. Upon completion of construction of an elevated structure constructed on fill, a fill report is required to be submitted to the Floodplain Administrator to verify the required standards were met, including compaction.
3. ~~If the project includes~~ Upon completion of construction of a floodproofing measure, a floodproofing certificate ~~certification on the current FEMA Floodproofing Certificate Form~~ is required to be submitted by the permit holder to the Floodplain Administrator. ~~The floodproofing certificate shall be prepared by or under the direct supervision of a registered professional engineer or architect and certified by same.~~

**Section 4270.16      Duties and Responsibilities of the Floodplain Administrator.**

The Floodplain Administrator and/or designated staff is hereby authorized and directed to enforce the provisions of Section 4270, Flood Control District (Overlay) Regulations, and related provisions. The Floodplain Administrator is further authorized to render interpretations of Section 4270, Flood Control District (Overlay) Regulations, and related provisions, which are consistent with its spirit and purpose.

Duties and responsibilities of the Floodplain Administrator shall include, but not be limited to:

- A. Review all floodplain development permits to assure that the permit requirements of the Flood Control District (Overlay) Regulations have been satisfied.
- B. ~~Interpret floodplain boundaries and provide flood hazard and flood protection elevation information.~~
- C. Provide information and assistance to citizens upon request about floodplain development permit procedures.
- D. ~~Issue floodplain development permits to develop in special flood hazard areas when the provisions of these regulations have been met or refuse to issue the same in the event of noncompliance.~~
- E. ~~Inspect and inventory damaged structures in SFHA and complete~~ Conduct substantial damage determinations to determine whether existing structures, damaged from any source and in special flood hazard areas, must meet the development standards of these regulations.
- F. Ensure that construction authorization has been granted by the Indiana Department of Natural Resources for all development projects subject to Section 4270.18.E.1 and Section 4270.18.E.3G.4 of the Flood Control District (Overlay) Regulations, and maintain a record of such authorization, either copy of actual permit/authorization or floodplain analysis and regulatory assessment.
- G. ~~Ensure that all necessary federal or state permits have been received prior to issuance of the local floodplain development permit.~~ Advise applicant ~~permittee~~ that additional Federal, State and/or local permits may be required. If specific Federal, State and/or local permits are known, require that copies of such permits be provided and ~~are to be~~ maintained on file with the floodplain development permit.
- H. Maintain and track permit records involving additions and improvements to residences located in the floodway.

- I. For applications to improve structures, including alterations, movement, enlargement, replacement, repair, change of occupancy, additions, rehabilitations, renovations, substantial improvements, repairs of substantial damage, and any other improvement of or work on such buildings and structures, the Floodplain Administrator shall:
  1. Verify and document the market value of the pre-damaged or pre-improved structure.
  2. Compare the cost to perform the improvement; or the cost to repair a damaged building to its pre-damaged condition; or, the combined costs of improvements and repair, if applicable, to the market value of the pre-damaged or pre-improved structure. The cost of all work must be included in the project costs, including work that might otherwise be considered routine maintenance. Items/activities that must be included in the cost shall be in keeping with guidance published by FEMA to ensure compliance with the NFIP and to avoid any conflict with future flood insurance claims of policyholders within the community.
  3. Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage; the determination requires evaluation of previous permits issued for improvements and repairs as specified in the definition of "substantial improvement" for proposed work to repair damage caused by flood, and the determination requires evaluation of previous permits issued to repair flood-related damage as specified in the definition of substantial damage.
  4. Notify the applicant if it is determined the work constitutes substantial improvement or repair of substantial damage, and that compliance with the applicable general and specific standards of the Flood Control District (Overlay) Regulations is required.
- J. Verify the upstream drainage area of any proposed development site near any watercourse not identified on a FEMA map to determine if construction authorization by Indiana DNR is applicable.
- K. Maintain for public inspection and furnish upon request local permit documents, damaged structure inventories, substantial damage determinations, regulatory flood data, SFHA maps, Letters of Map Change (LOMC), copies of DNR permits, letters of authorization, and floodplain analysis and regulatory assessments (letters of recommendation), federal permit documents, and "as-built" elevation and floodproofing data for all buildings constructed subject to the Flood Control District (Overlay) Regulations.
- L. Utilize and enforce all Letters of Map Change (LOMC) or Physical Map Revisions (PMR) issued by FEMA for the currently effective SFHA maps of the community.
- M. Notify adjacent communities and the State Floodplain Coordinator prior to any alteration or relocation of a watercourse, and submit copies of such notifications to FEMA. (*moved*)
- N. Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.
- O. Verify and record the actual elevation of the lowest floor (including basement) of all new or substantially improved structures, in accordance with the permit procedures outlined in Section 4270.15.46.
- P. Verify and record the actual elevation to which any new or substantially improved structures have been floodproofed, in accordance with the permit procedures outlined in Section 4270.15.46.
- Q. ~~Review certified plans and specifications for compliance.~~ Conduct on-site inspections of projects in accordance with Section 4270.17.
- R. Coordinate with insurance adjusters prior to permitting any proposed work to bring any flood-damaged structure covered by a standard flood insurance policy into compliance (either a substantially damaged structure or a repetitive loss structure) to ensure eligibility for ICC funds.
- S. Ensure that an approved connection to a public sewer system or an approved on-site septic system is planned for any structures (residential or non-residential) to be equipped with a restroom, kitchen or other facilities requiring disposal of wastewater.
- T. Provide information, testimony, or other evidence as needed during variance hearings.
- U. Serve notices of violations, issue stop work orders, revoke permits and take corrective actions in accordance with Flood Control District (Overlay) Regulations, and related provisions.
- V. Coordinate map maintenance activities and associated FEMA follow up in accordance with Section 4270.20.

- W. Request any additional information which may be necessary to determine the disposition of a proposed development or structure with respect to the Flood Control District (Overlay) Regulations.

**Section 4270.17 Administrative Procedures.**

**A. Inspections**

1. **Work in Progress Inspections.** As the work pursuant to a floodplain development permit progresses, the Floodplain Administrator shall make as many inspections of the work as may be necessary to ensure the work is being done according to the provisions of the Flood Control District (Overlay) Regulations and the terms of the floodplain development permit. In exercising this power, the Floodplain Administrator has a right, upon presentation of proper credential, to enter on any premises within the territorial jurisdiction of the City of Goshen at any reasonable hour for the purposes of inspection or other enforcement action.
2. **Periodic Inspections.** Once a project is completed, periodic inspections may be conducted by the Floodplain Administrator to ensure compliance. The Floodplain Administrator shall have a right, upon presentation of proper credential, to enter on any premises within the territorial jurisdiction of the City of Goshen at any reasonable hour for the purposes of inspection or other enforcement action.

**B. Stop Work Orders**

1. Upon written notice from the Floodplain Administrator, the Building Commissioner shall issue a stop work order when work on any building, structure or premises is being done contrary to the Flood Control District (Overlay) Regulations.
2. Upon notice from the Building Commissioner, work on any building, structure or premises that is being done contrary to the provisions of the Flood Control District (Overlay) Regulations shall immediately cease.
3. Such notice shall be in writing and shall be given to the owner of the property, or to his or her agent, or to the person doing the work, and shall state the conditions under which work may be resumed.

**C. Revocation of Floodplain Development Permits**

1. The Floodplain Administrator may revoke a floodplain development permit **or approval** issued under the provisions of the Flood Control District (Overlay) Regulations in cases where there has been any false statement or misrepresentation as to the material fact in the application or plans on which the floodplain development permit **or approval** was based.
2. The Floodplain Administrator may revoke a floodplain development permit upon determination that the construction, erection, alteration, repair, moving, demolition, installation, or replacement of the structure for which the floodplain development permit was issued is in violation of, or not in conformity with, the provisions of the Flood Control District (Overlay) Regulations.

**D. Floodplain Management Records**

1. Regardless of any limitation on the period required for retention of public records, records of actions associated with the administration of the Flood Control District (Overlay) Regulations shall be kept on file and maintained under the direction of the Floodplain Administrator in perpetuity. These records include floodplain development permit applications, plans, certifications, Flood Insurance Rate Maps; Letters of Map Change, records of issuance of permits and denial of permits, determinations of whether proposed work constitutes substantial improvement or repair of substantial damage, required design certifications and documentation of elevations, notifications to adjacent communities, FEMA, and the state related to alterations of watercourses, assurances that the flood carrying capacity of altered watercourses will be maintained, documentation related to appeals and variances including justification for issuance or denial, and records of enforcement actions taken pursuant to the Flood Control District (Overlay) Regulations.
2. These records shall be available for public inspection at Goshen Plan Commission office, 204 East Jefferson Street, Suite 4, Goshen, Indiana 46528.



## **Section 4270.18**      **Provisions for Flood Hazard Reduction.**

- A. **General Standards.** In all SFHAs ~~and known flood prone areas~~ the following provisions are required:
1. New construction, ~~reconstruction or repairs made to a repetitive loss structure~~, and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.
  2. Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable state requirements for resisting wind forces.
  3. New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage below the FPG.
  4. New construction and substantial improvements shall be constructed by methods and practices that minimize flood damage.
  5. Electrical, heating, ventilation, plumbing, air conditioning equipment, ~~utility meters~~, and other service facilities shall be located at/above the FPG ~~for residential structures. Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be located at/above the FPG~~ or designed so as to prevent water from entering or accumulating within the components below the FPG ~~for non-residential structures~~. Water and sewer pipes, electrical and telephone lines, submersible pumps, and other waterproofed service facilities may be located below the FPG.
  6. New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
  7. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
  8. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.
  9. Any alteration, repair, reconstruction or improvements to a structure that is in compliance with the provisions of the Flood Control District (Overlay) Regulations shall meet the requirements of "new construction" as contained in this Ordinance.
  10. ~~Base flood elevation data shall be provided for subdivision proposals and other proposed development (including manufactured homes parks and subdivisions) greater than fifty (50) lots or five (5) acres, whichever is the lesser.~~
  11. Any alteration, repair, reconstruction or improvement to a structure that is not in compliance with the provisions of the Flood Control District (Overlay) Regulations, shall be undertaken only if said non-conformity is not further, extended, or replaced.
  12. ~~Where an existing or proposed structure or other development is affected by multiple flood zones, by multiple base flood elevations, or both, the development activity must comply with the Flood Control District (Overlay) Regulations applicable to the most restrictive flood zone and the highest base flood elevation affecting any part of the existing or proposed structure; or for other developments, affecting any part of the area of the development.~~
  13. ~~Fill projects that do not involve a structure must be protected against erosion and scour during flooding by vegetative cover, riprap, or bulk heading. If vegetative cover is used, the slopes shall be no steeper than 3 feet (3') horizontal to 1 foot (1') vertical.~~
  14. ~~Construction of new solid waste disposal facilities, hazard waste management facilities, salvage yards, and chemical storage facilities shall not be permitted in SFHAs.~~
- B. **Specific Standards.** In all SFHAs ~~where base flood elevation data or flood depths have been provided, as set forth in Section 4270.6~~, the following provisions are required:
1. **Building Protection Requirement.** In addition to the requirements of Section 4270.18.A, all structures to be located in the SFHA shall be protected from flood damage below the FPG. This building protection requirement applies to the following situations:

- a. Construction or placement of any new structure having a floor area greater than 400 square feet.
  - b. Construction or placement of a residential structure.
  - c. Construction or placement of a non-residential structure.
  - d. Addition or improvement made to any existing **non-conforming** structure where the cost of the addition or improvement equals or exceeds 50% of the market value of the existing structure (excluding the value of the land). **An addition and/or improvement project that is continuous in scope or time is considered as one project for permitting purposes.**
  - e. Reconstruction or repairs made to a damaged structure where the costs of restoring the structure to its before damaged condition equals or exceeds 50% of the market value of the structure (excluding the value of the land) before damage occurred. **The costs of any proposed additions or improvements beyond restoring the damaged structure to its before damaged condition must be included in the cost.**
  - f. Installing a travel trailer or recreational vehicle on a site for more than 180 days.
  - g. Installing a manufactured home on a new site or a new manufactured home on an existing site. The Flood Control District (Overlay) Regulations do not apply to returning the existing manufactured home to the same site it lawfully occupied before it was removed to avoid flood damage.
  - h. Reconstruction or repairs made to a repetitive loss structure.
2. **Residential Construction.**
- a. **New construction or substantial improvement of any residential structures shall meet applicable standards of Section 4270.18.**
  - b. **In Zone A and Zone AE, new construction or substantial improvement of any residential structure (or manufactured home) shall have the lowest floor, including basement, at or above the FPG (two feet above the base flood elevation). Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with the standards of Section 4270.18.B.4. Should fill be used to elevate a structure, the standards of Section 4270.18.B.5 must be met.**
  - c. **A residential structure may be constructed using a stem wall foundation (also called chain wall, raised-slab-on-grade, and slab-on-stem-wall-with-fill). Any backfilled stem wall must be backfilled with compacted structural fill, concrete, or gravel that supports the floor slab. No flood openings are required for this type of construction.**
3. **Non-Residential Construction.**
- a. **New construction or substantial improvement of any non-residential structures (excluding accessory structures) shall meet applicable standards of Section 4270.18.**
  - b. **In Zone A and Zone AE, new construction or substantial improvement of any commercial, industrial, or non-residential structure ~~(or manufactured home)~~ shall either have the lowest floor, including basement, elevated to or above the FPG (two feet above the base flood elevation) or be floodproofed to or above the FPG. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with the standards of Section 4270.18.B.4. Should fill be used to elevate a structure, the standards of Section 4270.18.B.5 must be met.**
  - c. **Structures located in all "A-Zones"—A nonresidential structure may be floodproofed ~~in lieu of being elevated if done~~ in accordance with the following:**
    - i. A registered professional engineer or architect shall certify the structure has been designed so that below the FPG the structure and attendant utility facilities are watertight and capable of resisting the effects of the regulatory flood. The structure design shall take into account flood velocities, duration, rate of rise, hydrostatic pressures, and impacts from debris or ice. Such certification shall be provided to the Floodplain Administrator. **as set forth in the floodplain development permit procedures.**

- ii. Floodproofing measures shall be operable without human intervention and without an outside source of electricity.
  - d. A nonresidential structure may be constructed using a stem wall foundation (also called chain wall, raised-slab-on-grade, and slab-on-stem-wall-with-fill). Any backfilled stem wall foundation must be backfilled with compacted structural fill, concrete, or gravel that supports the floor slab. No flood openings are required for this type of construction.
4. **Elevated Structures.** ~~New construction or substantial improvements of elevated structures shall have the lowest floor at or above the FPG.~~ Residential and non-residential elevated structures with fully enclosed areas formed by foundation and other exterior walls below the flood protection grade shall meet the following requirements: ~~(crawlspaces or under floor spaces) shall~~
- a. Be designed to preclude finished living space and designed to allow for the automatic entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls. Flood openings must be designed and installed in compliance with criteria set out in FEMA Technical Bulletin 1. Engineered flood openings must be designed and certified by a registered design professional (requires supporting engineering certification or make/model specific ICC-ES Report), or meet the following criteria for non-engineered flood openings: ~~The opening requirement does not apply to back-filled stem wall foundations. Designs must meet the following minimum criteria:~~
    - i. Provide a minimum of two openings located on different sides of an enclosure. ~~in a minimum of two exterior walls~~ If there are multiple enclosed areas, each is required to meet the requirements for enclosures, including the requirement for flood openings in exterior walls (having a total net area of not less than one square inch for every one square foot of enclosed area).
    - ii. The bottom of all openings shall be no more than one foot above the higher of the final interior grade (or floor) and the finished exterior grade immediately under each opening ~~exterior grade or the interior grade immediately beneath each opening, whichever is higher.~~
    - iii. If the floor of the enclosure is below the BFE, the openings must be located wholly below the BFE.
    - iv. If the floor of the enclosure is at or above the BFE, but below the FPG, the openings must be located wholly below the FPG.
    - v. Doors and windows do not qualify as openings.
    - vi. Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.
  - b. The floor of such enclosed area must be at or above grade on at least one side.
    - ~~a. Access to the enclosed area shall be the minimum necessary to allow for parking for vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the living area (stairway or elevator).~~
    - ~~b. The interior portion of such enclosed area shall not be partitioned or finished into separate rooms.~~
    - ~~c. The interior grade of such enclosed area shall be at an elevation at or higher than the exterior grade.~~
5. **Structures Constructed on Fill.** A residential or non-residential **structure building** may be constructed on ~~a permanent land~~ fill in accordance with the following:
- a. The fill shall be placed in layers no greater than one (1) foot deep before compacting to 95 percent of the maximum density obtainable with either the Standard or Modified Proctor Test method. The results of the test showing compliance shall be retained in the permit file.
  - b. The fill should extend at least ten feet beyond the foundation of the structure before sloping below the BFE.

- c. The fill shall be protected against erosion and scour during the flooding by vegetative cover, riprap, or bulkheading. If vegetative cover is used, the slopes shall be no steeper than 3 feet horizontal to 1 foot vertical.
  - d. The fill shall not adversely affect the flow of surface drainage from or onto neighboring properties.  
~~The top of the lowest floor including basements shall be at or above the FPG.~~
  - e. Fill shall be composed of clean granular or earthen material.
6. **Standards for Manufactured Homes and Recreational Vehicles.** ~~Manufactured homes and recreational vehicles to be installed or substantially improved on a site for more than 180 days must meet one of the following requirements:~~
- a. ~~These requirements apply to all manufactured homes to be placed on a site in the SFHA:~~
    - i. The manufactured home shall be elevated on a permanent foundation such that the lowest floor shall be at or above the FPG and securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
    - ii. Fully enclosed areas formed by the foundation and other exterior walls below the FPG shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls as required for elevated structures in Section 4270.18.B.4. ~~These requirements apply to all manufactured homes to be placed on a site:~~
    - iii. Flexible skirting and rigid skirting not attached to the frame or foundation of a manufactured home are not required to have openings.
      - ~~i. Outside a manufactured home park or subdivision;~~
      - ~~ii. In a new manufactured home park or subdivision;~~
      - ~~iii. In an expansion to an existing manufactured home park or subdivision; or~~
      - ~~iv. In an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as a result of a flood.~~
    - ~~a. The manufactured home shall be elevated so that the lowest floor of the manufactured home chassis is supported by reinforced piers or other foundation elevations that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement. Fully enclosed areas formed by the foundation and other exterior walls below the FPG shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls as required for elevated structures in Section 4270.18.B.4. These requirements apply to all manufactured homes to be placed on a site in an existing manufactured home park or subdivision that has not been substantially damaged by a flood.~~
  - b. Recreational vehicles placed on a site in the SFHA shall either:
    - i. Be on the site for less than 180 days; and;
    - ii. Be fully licensed and ready for highway use (defined as being on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions); or
    - iii. Meet the requirements for "manufactured homes" as stated earlier in this section.
7. **Accessory Structures.** ~~Relief to the elevation or dry floodproofing standards may be granted for accessory structures. Such~~ Within SFHAs, new construction or placement of accessory structures shall meet the following standards:
- a. Shall have a floor area of 400 square feet or less.
  - b. Use shall be limited to parking of vehicles and limited storage.
  - c. Shall not be used for human habitation.
  - d. Shall be constructed of flood resistant materials.

- e. Shall be constructed and placed on the lot to offer the minimum resistance to the flow of floodwaters.
- f. Shall be firmly anchored to prevent flotation or lateral movement.
- g. Service facilities such as electrical or heating equipment shall be elevated or floodproofed to or above the FPG.
- h. Shall be designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls as required for elevated structures in Section 4270.18.B.4.
- i. Shall not have subsequent additions or improvements that would preclude the structure from its continued designation as an accessory structure.

8. **Above Ground Gas or Liquid Storage Tanks.** Within SFHAs, all newly placed above ground gas or liquid storage tanks shall meet the requirements for a non-residential structure as required in Section 4270.18.B.3. ~~be anchored to prevent flotation or lateral movement~~

9. **Freestanding Pavilions, Gazebos, Decks, Carports, and Similar Development.** Within SFHAs, new construction or placement of freestanding pavilions, gazebos, decks, carports, and similar development must meet the following standards:

- a. Shall have open sides (having not more than one rigid wall).
- b. Shall be anchored to prevent flotation or lateral movement.
- c. Shall be constructed of flood resistant materials below the FPG.
- d. Any electrical, heating, plumbing and other service facilities shall be located at/above the FPG.
- e. Shall not have subsequent additions or improvements that would preclude the development from its continued designation as a free-standing pavilion, gazebo, carport, or similar open-sided development.

C. **Standards for Subdivision Proposals.** ~~The Plan Commission shall review all proposed subdivisions to determine whether the subdivision lies in the SFHA as defined elsewhere by this Ordinance. If the Plan Commission finds the subdivision to be located in a floodway, the Plan Commission shall forward plans and materials to the IDNR for review and comment. The Plan Commission shall require appropriate changes and modifications in order to assure that:~~

- 1. All subdivision proposals shall be consistent with the need to minimize flood damage.
- 2. All subdivision proposals shall have public utilities and facilities, such as sewer, gas, electrical, and water systems, located and constructed to minimize flood damage.
- 3. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards. ~~Base flood elevation data shall be provided for subdivision proposals and other proposed development (including manufactured home parks and subdivisions) which is greater than the lesser of fifty lots or five acres. On-site waste disposal systems, if provided, will be so located and designed to avoid impairment of them or contamination from them during the occurrence of the regulatory flood.~~
- 4. Developers shall record the elevation of the SFHA on all subdivision plats containing lands within the SFHA prior to submitting the plats for approval by the Plan Commission.
- 5. In all SFHAs where base flood elevation data are not available, the applicant shall provide a hydrologic and hydraulic engineering analysis that generates base flood elevations for all subdivision proposals (including manufactured home parks and subdivisions) greater than fifty (50) lots or five (5) acres, whichever is the lesser.
- 6. All subdivision proposals shall minimize development in the SFHA and/or limit density of development permitted in the SFHA.
- 7. All subdivision proposals shall ensure safe access into/out of SFHA for pedestrians and vehicles (especially emergency responders).

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

E. **Floodplain Status Standards. ~~Standards for Identified Floodways.~~**

1. **Floodways (Riverine)**

Located within SFHAs, established in Section 4270.6, are areas designated as floodways. The floodway is an extremely hazardous area due to the velocity of floodwaters, which carry debris, potential projectiles, and has erosion potential. Under the provisions of **the Flood Control Act (IC 14-28-1)**, a permit for construction in a floodway from the Indiana Department of Natural Resources is required prior to the issuance of a local building permit for any excavation, deposit, construction, or obstruction activity located in the floodway. This includes land preparation activities such as filling, grading, clearing, and paving ~~ete.~~, undertaken before the actual start of construction of the structure. ~~General licenses and exemptions to the requirements of the Flood Control Act (IC 14-28-1 and 312 IAC 10) may apply to qualified additions/improvements to existing lawful residential structures, rural bridges, logjam removals, wetland restoration, utility line crossings, outfall projects, creek rock removal, and prospecting. However, it does exclude non-substantial additions/improvements to existing (lawful) residences in a non-boundary river floodway. IC 14-28-1-26 allows construction of non-substantial additions/improvements to residences in a non-boundary river floodway without obtaining a permit for construction in the floodway from the Indiana Department of Natural Resources. Please note that if fill is needed to elevate an addition above the existing grade, prior approval for the fill is required from the Indiana Department of Natural Resources.~~

- a. If the site is in an identified floodway, the Floodplain Administrator shall require the applicant to forward the application, along with all pertinent plans and specifications, to the Indiana Department of Natural Resources and apply for ~~approval a permit~~ for construction in a floodway, ~~provided the activity does not qualify for a general license or exemption (IC 14-28-1 or 312 IAC 10).~~
- b. No action shall be taken by the Floodplain Administrator until ~~approval a permit or letter of authorization (when applicable)~~ has been ~~granted issued~~ by the Indiana Department of Natural Resources ~~granting approval~~ for construction in the floodway, or evidence provided by an applicant that the development meets specified criteria to qualify for a general license or exemption to the requirement of the Flood Control Act.
- c. ~~Once a permit for construction in a floodway or letter of authorization~~ After approval has been ~~granted issued~~ by the Indiana Department of Natural Resources, the Floodplain Administrator may issue the local floodplain development permit, provided the provisions ~~contained in Section 4270.18~~ of the Flood Control District (Overlay) Regulations have been met. The floodplain development permit cannot be less restrictive than ~~an approval the permit~~ for construction in a floodway issued by the Indiana Department of Natural Resources, ~~or exemption to the Flood Control Act for a specific site/project.~~ However, a community's more restrictive regulations (if any) shall take precedence.
- d. ~~In floodway areas identified on the FIRM, development shall cause no increase in flood levels during the occurrence of the base flood discharge without first obtaining a Conditional Letter of Map Revision and meeting requirements of Section 4270.20. A Conditional Letter of Map Revision cannot be issued for development that would cause an increase in flood levels affecting a structure and such development should not be permitted.~~
- e. ~~No development shall be allowed, which acting alone or in combination with existing or future development, that will~~ In floodway areas identified by the Indiana Department of Natural Resources through detailed or approximate studies but not yet identified on the effective FIRM as floodway areas, the total cumulative effect of the proposed development, when combined with all other existing

and anticipated development, shall not adversely affect the efficiency of or unduly restrict the capacity of the floodway. This adverse effect is defined as an increase in the elevation of the regulatory flood of at least fifteen-hundredths (0.15) of a foot as determined by comparing the regulatory flood elevation under the project condition to that under the natural or pre-floodway condition as proven with hydraulic analyses.

- f. For all projects involving channel modifications or fill (including levees) the City of Goshen shall submit the data and request that the Federal Emergency Management Agency revise the regulatory flood data per mapping standard regulations found at 44 CFR § 65.12.

~~F.~~ **Standards for Identified Floodway Fringe.**

2. Fringe (Riverine)

If the site is located in an identified floodway fringe (either identified on the FIRM or identified by the Indiana Department of Natural Resources through detailed or approximate studies and not identified on a FIRM), then the Floodplain Administrator may issue the local floodplain development permit provided the provisions contained in Section 4270.18 of the Flood Control District (Overlay) Regulations have been met. ~~The key provision is that the top of the lowest floor of any new or substantially improved structure shall be at or above the FPG.~~

~~G.~~

3. **Standards for SFHAs Without Established Base Flood Elevation and/or Floodways/Floodway Fringes (Riverine)**

~~1.~~

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

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

No action shall be taken by the Floodplain Administrator until either ~~written approval (approval for construction in a floodway, letter of authorization, or evidence of general license qualification) a permit for construction in a floodway (including letters of authorization)~~ or a floodplain analysis/regulatory assessment citing the one-percent annual chance flood elevation and the recommended FPG has been received from the Indiana Department of Natural Resources.

Once the Floodplain Administrator has received the proper ~~written approval, evidence of general license qualification, permit for construction in a floodway (including letters of authorization)~~ or floodplain analysis/regulatory assessment approving the proposed development ~~from the Indiana Department of Natural Resources~~, a floodplain development permit may be issued, provided the conditions of the floodplain development permit are not less restrictive than the conditions received from the Indiana Department of Natural Resources and the provisions contained in ~~this section Section 4270.18 of the Flood Control District (Overlay) Regulations~~ have been met.

~~2.~~

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

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

Upon receipt, the Floodplain Administrator may issue the local floodplain development permit, provided the provisions contained in Section 4270.18 of the Flood Control District (Overlay) Regulations have been met.

#### 4. **SFHAs not Identified on a Map**

- a. If a proposed development site is near a watercourse with no SFHA identified on a map, the Floodplain Administrator shall verify the drainage area upstream of the site. If the drainage area upstream of the site is verified as being greater than one square mile, the Floodplain Administrator shall require the applicant to forward the application, along with all pertinent plans and specifications, to the Indiana Department of Natural Resources for review and comment.
- b. No action shall be taken by the Floodplain Administrator until written approval from the Indiana Department of Natural Resources (approval for construction in a floodway, letter of authorization, or evidence of general license qualification) or a floodplain analysis/regulatory assessment citing the one-percent annual chance flood elevation and the recommended Flood Protection Grade has been received from the Indiana Department of Natural Resources.
- c. Once the Floodplain Administrator has received the proper written approval, evidence of general license qualification, or floodplain analysis/regulatory assessment approving the proposed development from the Indiana Department of Natural Resources, a floodplain development permit may be issued, provided the conditions of the floodplain development permit are not less restrictive than the conditions received from the Indiana Department of Natural Resources and the provisions contained in Section 4270.18 of the Flood Control District (Overlay) Regulations have been met.

~~3. The total cumulative effect of the proposed development, when combined with all other existing and anticipated development, shall not adversely affect the efficiency of or unduly restrict the capacity of the floodway. This adverse effect is defined as an increase in the elevation of the regulatory flood of at least fifteen hundredths (0.15) of a foot as determined by comparing the regulatory flood elevation under the project condition to that under the natural or pre floodway condition as proven with hydraulic analyses.~~

~~H. **Standards for Flood Prone Areas.** All development in known flood prone areas not identified on FEMA maps, or where no FEMA published map is available, shall meet applicable standards as required per Section 4270.18.~~

#### **Section 4270.19      Variance Procedures in Flood Districts.**

- A. **Designation of Variance and Appeals Board.** The Board of Zoning Appeals as established by the Common Council of the City of Goshen shall hear and decide appeals and requests for variances from requirements of the Flood Control District (Overlay) Regulations.
- B. **Duties of Variance and Appeals Board.** The Board of Zoning Appeals shall hear and decide appeals when it is alleged an error in any requirement, decision, or determination is made by the Floodplain Administrator in the enforcement or administration of the Flood Control District (Overlay) Regulations. Any person aggrieved by the decision of the Board of Zoning Appeals may appeal such decision to a court of competent jurisdiction. ~~the Circuit or Superior Court of Elkhart County, Indiana.~~
- C. **Variance Procedures.** In ~~considering passing upon~~ such applications, the Board of Zoning Appeals shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this Ordinance, and:
  1. The danger of life and property due to flooding or erosion damage;
  2. The danger that materials may be swept onto other lands to the injury of others;



3. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
4. The importance of the services provided by the proposed facility to the community;
5. The necessity to the facility of a waterfront location, where applicable;
6. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
7. The compatibility of the proposed use with existing and anticipated development;
8. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
9. The safety of access to the property in times of flood for ordinary and emergency vehicles;
10. The expected height, velocity, duration, rate of rise, and sediment ~~of~~ transport of the floodwaters at the site; and
11. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

A written report addressing each of the above factors shall be submitted by the applicant with the application for a variance.

#### D. Conditions for Variances.

1. Variances ~~from the provisions of the Flood Control District (Overlay) Regulations shall only be granted when the board can make positive findings of fact based on evidence submitted at the hearing for the following: shall only be issued when there is:~~
  - a. A showing of good and sufficient cause;
  - b. A determination that failure to grant the variance would result in exceptional hardship; and
  - c. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud or victimization of the public, or conflict with existing laws or ordinances.
2. No variance for a residential use within a floodway subject to Section 4270.18.E.1, **Section 4270.18.E.3.a** or Section 4270.18.E.4.G.1 of the Flood Control District (Overlay) Regulations may be granted.
3. Any variance granted in a floodway subject to Section 4270.18.E.1, **Section 4270.18.E.3.a** or Section 4270.18.E.4.G.1 of the Flood Control District (Overlay) Regulations will require a permit from the Indiana Department of Natural Resources. **Variances shall not be issued within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.**
4. Variances to the provisions for flood hazard reduction of Section 4270.18.B may be granted only when a new structure is to be located on a lot of one-half acre or less in size, contiguous to and surrounded by lots with existing structures constructed below the FPG.
5. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief. ~~and be such that the maximum practical flood protection will be given to the proposed construction.~~
6. Variances may be granted for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as an historic structure and the variance is the minimum to preserve the historic character and design of the structure.
7. **Variances may be issued for new construction, substantial improvements, and other development necessary for the conduct of a functionally dependent use.**

8. Any applicant to whom a variance is granted shall be given written notice specifying the difference between the Flood Protection Grade and the elevation to which the lowest floor is to be built and stating that the cost of the flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation. ~~See Section 4270.19.E.~~
9. The Floodplain Administrator shall maintain the records of appeal actions and report any variances to the Federal Emergency Management Agency or the Indiana Department of Natural Resources upon request. ~~See Section 4270.19.E.~~

~~E. **Variance Notification.**~~

~~Any applicant to whom a variance is granted that allows the lowest floor of a structure to be built below the Flood Protection Grade shall be given written notice over the signature of the Floodplain Administrator that:~~

- ~~1. The issuance of a variance to construct a structure below the Flood Protection Grade will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage; and~~
- ~~2. Such construction below the Flood Protection Grade increases risks to life and property.~~

~~The Floodplain Administrator shall maintain a record of all variance actions, including justification for their issuance.~~

- E. **Special Conditions.** Upon the consideration of the factors listed in Section 4270.19, and the purposes of the Flood Control District (Overlay) Regulations, the Board of Zoning Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of the Flood Control District (Overlay) Regulations.

**Section 4270.20 Map Maintenance Activities.**

To meet NFIP minimum requirements to have flood data reviewed and approved by FEMA, and to ensure that City of Goshen flood maps, studies and other data identified in Section 4270.6 accurately represent flooding conditions so appropriate floodplain management criteria are based on current data, the following map maintenance activities are identified:

- A. Requirement to Submit New Technical Data
  1. For all development proposals that impact floodway delineations or base flood elevations, the City of Goshen shall ensure that technical data reflecting such changes be submitted to FEMA within six months of the date such information becomes available. These development proposals include:
    - a. Floodway encroachments that increase or decrease base flood elevations or alter floodway boundaries.
    - b. Fill sites to be used for the placement of proposed structures where the applicant desires to remove the site from the special flood hazard area.
    - c. Alteration of watercourses that result in a relocation or elimination of the special flood hazard area, including the placement of culverts; and subdivision or large-scale development proposals requiring the establishment of base flood elevations.
  2. It is the responsibility of the applicant to have required technical data for a Conditional Letter of Map Revision or Letter of Map Revision and submitted to FEMA. The Indiana Department of Natural Resources will review the submittals as part of a partnership with FEMA. The submittal should be mailed to the Indiana Department of Natural Resources at the address provided on the FEMA form (MT-2) or submitted through the online Letter of Map Change website. Submittal and processing fees for these map revisions shall be the responsibility of the applicant.

3. The Floodplain Administrator shall require a Conditional Letter of Map Revision prior to the issuance of a floodplain development permit for proposed floodway encroachments that increase the base flood elevation.
  4. Floodplain development permits issued by the Floodplain Administrator shall be conditioned upon the applicant obtaining a Letter of Map Revision from FEMA for any development proposal subject to this section.
- B. Right to Submit New Technical Data  
The Floodplain Administrator may request changes to any of the information shown on an effective map that does not impact floodplain or floodway delineations or base flood elevations, such as labeling or planimetric details. Such a submission shall include appropriate supporting documentation made in writing by the Mayor of the City of Goshen and may be submitted to FEMA at any time.
- C. Annexation/Detachment  
Upon occurrence, the Floodplain Administrator shall notify FEMA in writing whenever the boundaries of the City of Goshen have been modified by annexation or the community has assumed authority over an area, or no longer has authority to adopt and enforce floodplain management regulations for a particular area. In order that the Elkhart County and Incorporated Areas Flood Insurance Rate Map accurately represent the City of Goshen boundaries, include within such notification a copy of a map of the City of Goshen suitable for reproduction, clearly showing the new corporate limits or the new area for which the City of Goshen has assumed or relinquished floodplain management regulatory authority.

**Section 4270.21**      **Severability.**

If any section, subsection, clause, sentence, or phrase of the Flood Control District (Overlay) Regulations is, for any reason, held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect ~~effect~~ the validity of the remaining portions of this Ordinance.