CHAPTER 4. FLOODPRONE AREA REGULATION*

*Editor's note: This chapter includes the greater part of Ordinance No. 1978-872-TC-88 establishing floodprone area regulations. Other provisions of this ordinance are codified elsewhere in the Code, on the subjects of permits, applications for permits, and plans and specifications (§§10-6032--10-6034); zoning (§§10-2002, 10-2011, 10-2020 and 10-2087); subdivisions (§§10-3015 and 10-3017 and 10-3053); and water and sewer (§8-2009). (Ord. No. 1995-760-TC-122, §51, TC-20B-95, 11-21-95)

Ordinance 1978-872-TC-88, §§31--33 provided for the interpretation of words and phrases as under the National Flood Insurance Program, filing of portions of the ordinance with the Wake County Register of Deeds, and filing of the floodway boundary map with the Register of Deeds and Clerk of Wake County Superior Court, respectively, and are not codified.

Cross reference: Floodproofing standards in building code enforcement, §10-6032(f).

State law references: Floodway regulations,*G.S.* 143-215.51 et seq. ; zoning powers, *G.S.* 160A-381 et seq.

Sec. 10-4001. Declaration of necessity; purpose.
Sec. 10-4002. Definitions.
Sec. 10-4003. Creation of floodway, floodway fringe areas and future conditions flood hazard areas; official maps established.
Sec. 10-4004. Flood hazard soils maps.
Sec. 10-4005. Rules for interpretation of districts' boundaries.
Sec. 10-4006. Floodway and non-encroachment areas--Permitted uses.
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Sec. 10-4008. Floodway, floodway fringe areas and future conditions flood hazard areas--Permitted uses.
Sec. 10-4009. Same--Prohibited uses.
Sec. 10-4010. Floodway and non-encroachment area; restrictions on existing structures.
Sec. 10-4011. Floodprone areas--Soil erosion and sedimentation control regulations.
Sec. 10-4012. Same--Subdivision and site plan standards ordinance.
Sec. 10-4013. Same--Water and sewer systems.
Sec. 10-4014. Same--Building regulations.
Sec. 10-4015. Warning and disclaimer of liability.
Sec. 10-4016. Exception.
Sec. 10-4017. Penalties.

Sec. 10-4001. DECLARATION OF NECESSITY; PURPOSE.

The*Council* finds that regulation of *floodprone areas* is necessary for the *following* purposes:

(1) To make appropriate land use adjustments to construct the development of land which is exposed to*flood* damage and to minimize damage caused by *flood* losses, by guiding proposed future development and construction away from locations which are threatened by *flood* hazards;

(2) To participate in the National Flood Insurance Program, while authorizing continued studies of*floodprone areas* in order to provide accurate delineation of these areas based on engineering data;

(3) To protect the water-carrying capacity of*floodway* s and the water-storage capacity of *floodway fringe* areas and future conditions *flood hazard area* s during *flood* s by means of an overall program of corrective and preventive measures for reducing *flood* damage, including but not being limited to: building regulations, education, emergency preparedness plans, *flood* control works, and land use control measures;

(4) To protect the public health and safety and to prevent loss or damage to homes or other*property* which might be caused by water, mud, or water-borne debris;

(5) To permit an acceptable use of land in relation to the hazards involved by permitting the construction of buildings in*floodway fringe* areas and future conditions *flood hazard areas* under specific conditions; and
(6) To reduce the financial burdens imposed on the community, its governmental units and its citizens by frequent and periodic*flood* s.
(Ord. No. 1978-872-TC-88, §7, 8-15-78; Ord. No. 2006-999-TC-282, §2, TC-4-06, 4-18-06)

Sec. 10-4002. DEFINITIONS.

Certain words in this chapter are defined for the purpose of this chapter, as follows, unless contrary clearly appears from the context:
Addition.*Addition (to an existing building)* means any walled and roofed expansion to the perimeter of a *building* in which the *addition* is connected by a common load-bearing wall other than a fire wall. Any walled and roofed *addition* which is connected by a fire wall or is separated by independent perimeter load-bearing walls is "new construction."
Base flood elevation (BFE).*Base flood elevation* means a determination of the water surface elevations of the *base flood* based on *current conditions hydrology* or *future conditions hydrology* as published in the *flood insurance study* . When the BFE has not been provided in a *flood hazard area* , it *may* be obtained from engineering studies available from a Federal or State other source using FEMA approved engineering methodologies. This elevation, when combined with two (2) additional vertical feet establishes the *regulatory flood protection elevation* in *flood hazard areas* .
Base flood.*Base flood* means the *flood* having a one per cent chance of being equaled or exceeded in any given *year* .
Basement.*Basement* means any area of the building having its floor subgrade (below grade level) on all sides.
Bulk lot coverage.*Bulk lot coverage* means the amount of net lot area within designated *floodway fringe* areas *future conditions flood hazard areas* expressed in terms of a percentage that is covered by any obstruction restricting or displacing the flow of *flood* waters and any fill added to the lot after the application of this regulation.
Editor's Note: Section §10-4008(c) first became applicable on May 3, 2006 [Ordinance No. (2005) 953 TC 279, TC-22-04].
Current conditions hydrology.*Current conditions hydrology* means the *flood* discharges associated with the land-use conditions existing within the drainage area of a watercourse at the time a *flood* study of the watercourse was conducted. Current conditions *flood* discharges and historical *flood* study information published in the *flood insurance study.*
Drainage basin study maps.*Drainage basin study maps* means *flood hazard boundary maps* adopted by the *City* . *Floodplain areas* and the *base flood elevation* s shown on *drainage basin study maps* are based on *future conditions hydrology* .
Elevated building.*Elevated building* means an above-ground *building* :
(a) Built to have the top of the elevated floor above the ground by means of pilings, columns (posts and piers), shear walls parallel to the flow of water; and
(b) Adequately anchored so as not to impair the structural integrity of the*building* during a *flood* up to the magnitude of the "baseflood."
"Elevated building" also includes a *building* elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of floodwaters.
Floodor **flooding. *Flood* or *flooding* means the general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of streams, rivers, or other inland water.**
Flood hazard boundary map(s).*Flood hazard boundary map(s)* means the official map(s) of the *City* on which appears a description of the boundaries of *flood (plain), (prone),*

(hazard) areas , including representations of the *floodway* , *floodway fringe* , *future conditions flood hazard areas* , applicable to the community within the corporate limits and within the extraterritorial jurisdiction of the *City.* The *flood hazard boundary map(s)* consist of *flood insurance rate maps and drainage basin study maps* , *flood hazard soils* plus additional distances required in section 10-4004 and recorded *flood* storage areas required by the *Code* . The *floodway* areas, *floodway fringe* areas, and *future conditions flood hazard areas* shown and illustrated on *floodway hazard boundary map(s)* are hereby adopted as official *flood hazard boundary maps* and *floodway* maps for the *City* and extraterritorial jurisdiction of the *City* . These maps and other data are hereby incorporated herein by reference and duly made a part of this chapter. The most recent maps and data officially approved by the *City Council* are identified in the evidence of the *Council's* action and are kept on file in the City Inspections Department for public inspection.
Flood hazard soils. Occurring*flood hazard soils* are those types of soils in the relatively flat areas of natural watercourses which are subject to periodic *flooding* . The types of soils and their corresponding symbols are as follows:
TABLE INSET:

Name	Map Symbol
Altavista fine sandy loam, 0 to 4 per cent slopes	AfA
Augusta fine sandy loam	Au
Buncombe soils	Bu
Chewacla soils	Cm
Congaree fine sandy loam	Co
Congaree silt loam	Cp
Mantachie soils	Me
Roanoke fine sandy loam	Ro
Wahee fine sandy loam	Wh
Wehadkee silt loam	Wn
Wehadkee and Bibb soils	Wo

Flood insurance rate map (FIRM).*Flood insurance rate map* means an official map of the *City* on which appears a description of the boundaries of *flood (plain), (prone), (hazard) areas* , including representations of the *floodway* , *floodway fringe* , *future conditions flood hazard areas* , and a delineation of the risk premium zones applicable to the community within the corporate limits and within the extraterritorial jurisdiction of the *City.* The *flood insurance study* , Wake County, Federal Emergency Management Agency, latest publication, consisting of (i) *flood insurance rate maps* , and (ii) other pertinent data furnished by the Federal Emergency Management Agency (FEMA) and the U.S. Army Corps of Engineers, to the *City* , showing and illustrating *floodway* areas, *floodway fringe* areas, and *future conditions flood hazard areas* are hereby adopted as official *flood hazard boundary maps* and *floodway* maps for the *City* and extraterritorial jurisdiction of the *City* . These maps and other data are hereby incorporated herein by reference and duly made a part of this chapter. The most recent maps and data officially approved by the City

Council are identified in the evidence of the *Council's* action and are kept on file in the City Inspections Department for public inspection.

Flood insurance study.*Flood insurance study* means an examination, evaluation, and determination of *flood* hazards, corresponding water surface elevations (if appropriate), *flood* hazard risk zones and other *flood* data in a community issued by the Federal Emergency Management Agency. The *flood insurance study* report includes *flood insurance rate maps* (FIRM).

Flood (plain) (prone) (hazard) area.*Floodplain* , *floodplain area* , *floodprone area* , or *flood hazard area* means that maximum area, adjoining a river, stream, watercourse, or lake which is likely to be flooded, by the *base flood* or the *future conditions flood* . The *floodplain (prone) (hazard) area* includes " *floodway* " areas, " *floodway fringe* " areas and *future conditions flood hazard areas* . These areas are illustrated on *flood hazard boundary maps, flood hazard soils* plus additional distances, recorded *flood* storage areas required by this Code, and *drainage basin study maps* .

Floodproofing; floodproofed.*Floodproofing* or *floodproofed* means any combination of structural and nonstructural features, *addition* s, changes or adjustments to *properties* and structures in accordance with or comparable to guidelines set forth in "Floodproofing Regulations" June 1972 edition, published by the Office of the Chief Engineers U.S. Army, Washington, D.C. for an essentially dry floodproof class (W2).

Floodway.*Floodway* means that portion of channels of streams and areas of land adjacent thereto within the *City* and its extraterritorial jurisdiction, necessary to carry and discharge the waters of the *base flood* without increasing the water surface elevation of that *flood* more than one foot at any point and illustrated on the maps referred to in the definition of *flood hazard boundary map* above, and those areas adjoining watercourses draining one square mile or more of watershed which lie within the outermost boundaries of either the *flood hazard soils* or the made land which traverse such soils lying along said watercourses and either those areas required by this Code to be delineated as *flood* storage areas, or are delineated as a *floodprone area* on the *drainage basin study maps* .

Floodway fringe.*Floodway fringe* is that portion of the *flood (plain), (prone), (hazard), area* outside the *floodway* , and illustrated on the map referred to in the definition of *flood hazard boundary map* above. The *floodway fringe* for watercourses not defined on maps referred to in the definition of *flood hazard boundary map* above are herein defined for those areas adjoining watercourses draining less than one square mile of watershed as the *flood hazard soils* plus two (2) additional vertical feet from the outermost boundaries of either said soils or the made land which traverse such soils lying along said watercourses, and the *floodway fringe* for those areas adjoining watercourses one square mile or more is defined as lands which lie five (5) vertical feet from the outermost boundaries of either the *flood hazard soils* or the made land which traverse such soils lying along said watercourse.

Floor.*Floor* means the top surface of an enclosed area in a *building* (including *basement*), i.e., top of slab in concrete slab construction or top of wood flooring in wood frame construction. The term does not include the floor of a garage used solely for parking of vehicles.

Future conditions flood.*Future conditions flood* means the *flood* having a one (1) per cent chance of being equaled or exceeded in any given year based on *future conditions hydrology* .

Future conditions flood elevation.*Future conditions flood elevation* means a determination of the water surface elevations of the one per cent (1%) annual chance *flood* based on *future conditions hydrology* as published in the *flood insurance study* . This elevation, when combined with two (2) additional vertical feet, establishes the *regulatory flood protection elevation* in *future conditions flood hazard areas* .

Future conditions flood hazard area.*Future conditions flood hazard area* means the land area that would be inundated by the one per cent (1%) annual chance *flood* based on *future conditions hydrology* as determined in Section 10-4003 of this chapter.

Future conditions hydrology.*Future conditions hydrology* means the *flood* discharges associated with projected land-use conditions based on Raleigh's zoning maps, or comprehensive land-use plan or both and without consideration of projected future construction of *flood* detention structures or projected future hydraulic modifications within a stream or other waterway such as bridge and culvert construction, fill, and excavation. Future conditions *flood* discharges are published in the *flood insurance study.*

Hazardous waste facility.*Hazardous waste facility* means, as defined in NCGS Article 9 of Chapter 130A, a facility for the collection, storage, processing, treatment, recycling, recovery, or disposal of hazardous waste.

Highest adjacent grade.*Highest adjacent grade* means the highest natural elevation of the ground surface, prior to grading, filling, or construction, next to the proposed or existing walls of the structure.

Levee.*Levee* means a manmade structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary *flooding* .

Lowest floor. The*lowest floor* of the lowest enclosed area (including *basement*). An unfinished or *flood* resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a *basement* area is not considered a *building* 's lowest floor provided that such enclosure is not constructed so as to render the structure in violation of the applicable nonelevation design requirements of this chapter.

Major repairs.*Major repairs* means any repair, reconstruction, *addition* , rehabilitation, or improvement of a structure, the cost of which equals or exceeds fifty (50) per cent of the actual market value of the structure either (i) before the improvement is started or (ii) before the damage occurred, if the structure has been damaged and is being restored. Major repairs are started when the first alteration of any structural part of the *building* commences.

Manufactured home. *Manufactured home* means a structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term includes mobile homes; the term also includes park trailers, travel trailers, and similar transportable structures placed on a site for one hundred eighty (180) consecutive days or longer and intended to be improved *property* .

Mean sea level.*Mean sea level* means the average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within the *floodplain* . For purposes of this chapter, the term is synonymous with National Geodetic Vertical Datum (NGVD).

New construction.*New construction* means structures for which the "start of construction" commenced on or after the effective date of a *floodplain* management regulation adopted by the *City* of Raleigh and includes any subsequent improvements to such structures.

Non-encroachment area.*Non-encroachment area* means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the *base flood* without cumulatively increasing the water surface elevation for the *future conditions flood* more than one (1) foot as designated in the Flood Insurance Study report.

Regulatory flood protection elevation.*Regulatory flood protection elevation* means the elevation to which structures and uses within *floodway fringe* areas and *future conditions flood hazard areas* are required to be elevated or *floodproofed* . Within areas which have approved engineered flood studies, such as the FEMA flood insurance study, and *floodway fringe* areas, this elevation will be the "without floodway" *base flood elevation* plus two (2)

additional vertical feet. *Base flood elevations* are shown in the *flood insurance study* for Wake County, Volumes 1 through 7. Within *future conditions flood hazard area* , this elevation will be the *future conditions flood elevation* plus two (2) additional vertical feet. *Future conditions flood elevations* are shown in the *flood insurance study* for Wake County, Volumes 1 through 7. For *flood hazard soil* areas and for areas without established flood elevations within watercourses, which drain one square mile or more, this elevation is the topographic contour lying five (5) vertical feet from the outermost boundaries of either the *flood hazard soils* or the made land, which traverse such soils. The *regulatory flood protection elevation* for *flood hazard soil* areas and for areas without established flood elevations within watercourses which drain less than one square mile is the elevation of the outermost boundaries of either the *flood hazard soils* or the made land which traverse such soils plus two (2) additional vertical feet; or as determined from a *flood hazard soil* interpretation. The *regulatory flood protection elevation* shall be the *base flood elevation* established on the *drainage basin study maps* plus two (2) additional vertical feet.

Salvage yard.*Salvage yard* means any non-residential property used for the storage, collection, and/or recycling of any type of equipment, and including but not limited to vehicles, appliances and related machinery.

Solid waste disposal facility.*Solid waste disposal facility* means, as defined in NCGS 130A-290(a)(35), any facility involved in the disposal of solid waste.

Solid waste disposal site.*Solid waste disposal site* means, as defined in NCGS 130A-290(a)(36), any place at which solid wastes are disposed of by incineration, sanitary landfill, or any other method.

Start of construction.*Start of construction* includes "substantial improvement" and means the date the *building* permit was issued, provided, the actual "start of construction," repair, reconstruction, rehabilitation, *addition* , placement, or other improvement was made within one hundred eighty (180) days of the permit date. The actual start means either the first placement of permanent construction of a structure on site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a "manufactured home" on a foundation. For a substantial improvement, the actual start of construction means the first alteration of any load-bearing wall, ceiling, floor, or other structural part of a *building* , whether or not that alteration affects the external dimensions of the *building* .

Substantial damage.*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 the fifty (50) per cent of the estimated market value of the structure before the damage occurred.

Substantial improvement.*Substantial improvement* means any reconstruction, repair, rehabilitation, *addition* , or other improvement of a structure, the cost of which over a five-year period singularly or collectively equals or exceeds fifty (50) per cent of the market value of the structure before the "start of construction" of the substantial improvement. This term includes structures which have incurred "substantial damage," regardless of the actual amount of repair work performed. The term does not include either any project for improvement of a structure to correct existing violations of state or local health,sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions.

(Ord. No. 1978-872-TC-88, §7, 8-15-78; Ord. No. 1982-849-TC-157, §§4--6, 2-16-82; Ord. No. 1987-927-TC-279, §3, 2-17-87; Ord. No. 1987-932-TC-282, §§1--3, 2-17-87; Ord. No. 1991-767-TC-369, §28, 4-16-91; Ord. No. 1992-921-TC-390, §§1, 2, TC-2-92, 2-4-92; Ord. No. 1994-440-TC-82, §§1--5, TC-5-94, 7-5-94; Ord. No. 1998-276-TC-162, §1, TC-2-98, 2-3-98; Ord. No. 2002-298-TC-227, § 2, TC-15-02, 10-1-02; Ord. No. 2006-953-TC-279, §4,

TC-22-04, 1-3-06; Ord. No. 2006-999-TC-282, §§3--10, TC-4-06, 4-18-06; Ord. No.2006-134-TC-296, §§1--6, TC-10-06, 11-21-06)

Sec. 10-4003. CREATION OF FLOODWAY, FLOODWAY FRINGE AREAS AND FUTURE CONDITIONS FLOOD HAZARD AREAS; OFFICIAL MAPS ESTABLISHED.

(a) The*floodprone areas* within the corporate limit and extraterritorial jurisdiction of the City are hereby divided into the following areas: *floodway* areas, *floodway fringe* areas, and *future conditions flood hazard areas* as defined in §10-4002. They are identified under the Cooperating Technical State (CTS) agreement between the State of North Carolina and FEMA in its *flood insurance study* and accompanying *flood insurance rate maps* , §10-4002, *flood hazard soil* maps, §10-4004, and d *rainage basin study maps* , §10-4004. The above-mentioned maps together with all explanatory matter thereon and attached thereto are hereby adopted and incorporated herein by reference, as if fully set forth.

Floodway , *floodway fringe and future conditions flood hazard area* regulations are to be superimposed upon zoning districts established in Chapter 2 of this Part and the requirements of this chapter shall be deemed to apply in addition to any zoning regulation. For example, if an industrial I zoning district contains a *floodway* , the land *may* be used *for* industrial-commercial uses such as loading areas, and parking areas. *Flood hazard areas shall* be designated as follows:

TABLE INSET:

Floodway Areas	Floodway Fringe Areas	Future Conditions Flood Hazard Areas
Conservation/Buffer Floodway	Conservation/Buffer Floodway Fringe	Conservation Management Future Conditions Flood Hazard Areas
Agricultural Productive Floodway	Agricultural Productive Floodway Fringe	Agricultural Productive Future Conditions Flood Hazard Areas
Rural Residential 1 Floodway	Rural Residential 1 Floodway Fringe	Rural Residential 1 Future Conditions Flood Hazard Areas
Residential 2 Floodway	Residential 2 Floodway Fringe	Residential 2 Future Conditions Flood Hazard Areas
Residential 4 Floodway	Residential 4 Floodway Fringe	Residential 4 Future Conditions Flood Hazard Areas
Special Residential 6 Floodway	Special Residential 6 Floodway Fringe	Special Residential 6 Future Conditions Flood Hazard Areas
Residential 6 Floodway	Residential 6 Floodway Fringe	Residential 6 Future Conditions Flood Hazard Areas
Residential 10 Floodway	Residential 10 Floodway Fringe	Residential 10 Future Conditions Flood Hazard Areas
Residential 15 Floodway	Residential 15 Floodway Fringe	Residential 15 Future Conditions Flood Hazard Areas

Residential 20 Floodway	Residential 20 Floodway Fringe	Residential 20 Future Conditions Flood Hazard Areas
Residential 30 Floodway	Residential 30 Floodway Fringe	Residential 30 Future Conditions Flood Hazard Areas
Special Residential 30 Floodway	Special Residential 30 Floodway Fringe	Special Residential 30 Future Conditions Flood Hazard Areas
Residential Business Floodway	Residential Business Floodway Fringe	Residential Business Future Conditions Flood Hazard Areas
Office and Institution 1 Floodway	Office and Institution 1 Floodway Fringe	Office and Institution 1 Future Conditions Flood Hazard Areas
Office and Institution 2 Floodway	Office and Institution 2 Floodway Fringe	Office and Institution 2 Future Conditions Flood Hazard Areas
Office and Institution 3 Floodway	Office and Institution 3 Floodway Fringe	Office and Institution 3 Future Conditions Flood Hazard Areas
Buffer Commercial Floodway	Buffer Commercial Floodway Fringe	Buffer Commercial Future Conditions Flood Hazard Areas
Shopping Center Floodway	Shopping Center Floodway Fringe	Shopping Center Future Conditions Flood Hazard Areas
Neighborhood Business Floodway	Neighborhood Business Floodway Fringe	Neighborhood Business Future Conditions Flood Hazard Areas
Business Floodway	Business Floodway Fringe	Business Future Conditions Flood Hazard Areas
Thoroughfare Floodway	Thoroughfare Floodway Fringe	Thoroughfare Future Conditions Flood Hazard Areas
Industrial 1 Floodway	Industrial 1 Floodway Fringe	Industrial 1 Future Conditions Flood Hazard Areas
Industrial 2 Floodway	Industrial 2 Floodway Fringe	Industrial 2 Future Conditions Flood Hazard Areas
Manufactured Home Floodway	Manufactured Home Floodway Fringe	Manufactured Home Future Conditions Flood Hazard Areas

The zoning districts of Chapter 2 of this Part include all condition use zoning districts.

(b) The*City Council may* , on its own motion or upon petition after public notice and hearing amend, supplement, change, modify, or repeal the regulations, and the *flood hazard boundary maps* , and the delineated *flood* storage area maps which are a part of this chapter. No regulation or map *shall* be amended, supplemented, changed, modified, or repealed until after a public hearing in relation thereto, at which parties in interest and citizens *shall* have an opportunity to be heard. Hearings before the *City Council shall* be held at regular meetings of the *Council* . Notice of the public hearing *shall* be given in a newspaper of general circulation in the area at least once a week for two (2) successive

calendar weeks. The notice *shall* be published the first time not less than ten (10) days nor more than twenty-five (25) days before the date fixed for the hearing. All applications for a change *shall* be submitted to the Planning Department. All graphics and/or maps proposed to be used at the hearings must be delivered to the Planning Department in sufficient time to allow the *City* at least four (4) normal work days, excluding Saturdays, Sundays and legal holidays before the date established for a public hearing. All approved changes to any map *shall* be filed with the Clerk of the Superior Court and with the Register of Deeds of Wake County.

Amendment to*flood insurance rate maps* originating from the Federal Insurance Administration, or a part thereof *shall* not become official until a letter stating approval from the Federal Insurance Administration is received by the *City* .

(Ord. No. 1978-872-TC-88, §7, 8-15-78; Ord. No. 1979-988, §1, 1-11-79; Ord. No. 1982-849-TC-157, §7, 2-16-82; Ord. No. 1988-291-TC-327, §12, 12-13-88; Ord. No. 1991-879C-TC-386, §3, TC-12C-91, 11-19-91; Ord. No. 1994-440-TC-82, §6, TC-5-94, 7-5-94; Ord. No. 2000-734-TC-189, TC-2-00, §1, 2-15-00; Ord. No. 2006-999-TC-282, §§11--14, TC-4-06, 4-18-06)

Editor's note: Ord. No. 1987-928-TC-280, adopted Feb. 17, 1987, and Ord. No. 1988-117A, §1, adopted Jan. 19, 1988, amended §10-4003 by amending the*flood hazard boundary maps* created by §10-4003. Said amendments are kept on file in the office of the *City* Clerk.

Sec. 10-4004. FLOOD HAZARD SOILS MAPS.

The *floodprone areas* adjoining creeks, streams, tributaries, and watercourses not defined on *flood hazard boundary maps* are defined for watercourses which drain one square mile or more as those areas lying five (5) vertical feet from the outer limit of the *flood hazard soils* or the made land which spans such *flood hazard soils* lying along such watercourses; provided the *floodprone areas* adjoining all watercourses draining less than one square mile are defined as those areas lying within two (2) additional feet vertical from the outer limits of the *flood hazard soils* , or made land which traverse such soils lying along said watercourses. *Flood hazard soils* are shown on aerial photographic base maps prepared by the U.S. Soil Conservation Service and the North Carolina Agricultural Experiment Station from a soil survey. The outer limits of said *flood hazard soils may* be more specifically described by metes and bounds or other means from detailed surveys by *owners* of *property* on which they lie, provided the accuracy of such description is reviewed and approved by the *City* Public Works Department and that maps or plats of such description is filed with the Clerk of the Superior Court and with the Register of Deeds of Wake County. The *floodway areas* of watercourses which drain one square mile or more are defined as lying within the same limits of *flood hazard soil* areas.

Upon approval by the*City* Engineer, *drainage basin study maps* *shall* be considered "Best Available Data" and will supersede *flood hazard soil maps.* *Floodway, floodway fringe,* *future conditions flood hazard areas* and *flood* elevation data *shall* be obtained from the most current *drainage basin study maps* or the *flood* studies.

In all cases,*floodway, floodway fringe* , *future conditions flood hazard areas* and *flood* elevation data *shall* be obtained, reviewed, and reasonably utilized when available from Federal, state, or other sources.

(Ord. No. 1978-872-TC-88, §7, 8-15-78; 1987-932-TC-282, §§4, 5, 2-17-87; Ord. No. 1994-440-TC-82, §7, TC-5-94, 7-5-94; Ord. No. 2006-999-TC-282, §§15--17, TC-4-06, 4-18-06)

Sec. 10-4005. RULES FOR INTERPRETATION OF DISTRICTS' BOUNDARIES.

(a) The boundaries of*floodway, floodway fringe* and *future conditions flood hazard areas* shown on *flood insurance rate maps shall* be determined from the information obtained from the Corps of Engineers, and presented in the *flood insurance rate maps* and the *flood insurance study* by FEMA. It is the intent of this chapter that *floodprone* boundaries *shall* be based on engineering data which most accurately reflect actual field and hydrologic conditions existing prior to the adoption of this chapter. To this end, the field and hydraulic conditions *shall* prevail over mapped boundaries shown on *flood insurance rate maps,* flood *hazard soils* , and *drainage basin study maps* . In areas between official cross-sections, floodway *, floodway fringe and future conditions flood hazard area* boundaries *shall* be determined by scaling distances on the *flood insurance rate maps* . Where interpretation of the lateral location of scaled distances is needed to determine the actual field location of these boundaries, the Chief Engineer is directed to make the necessary interpretation and corrections of *flood insurance rate maps* upon the following: the *regulatory flood protection elevation shall* in all cases be the controlling factor in locating the outer limits of a *floodway fringe* or *future conditions flood hazard area* boundary; interpretations of *floodway* boundaries on *flood insurance rate maps shall* be based on the current procedures for interpreting *floodway* s in accord with the Federal Emergency Management Agency guidelines.

(b) Interpretation of the*flood hazard soils* boundaries shall be based upon hydrologic analysis and hydraulic routing methods used by the U.S. Corps of Engineers to establish *flood insurance rate maps* . These methods are contained in *flood insurance study* , Wake County, Federal Emergency Management Agency, latest publication. Approved interpretations of flood *hazard soils'* boundaries may be described by bearings and distances and drawn with elevations in mean *sea level* datum given for each cross-section used in the routing computations.

(c) All interpretation requests*shall* be accompanied with a list of the names, mailing addresses, and Wake County tax parcel numbers of any *property* owner, including the petitioner, affected by the requested interpretation. The *City* Engineer *shall* give notice by certified or registered mail, return receipt requested, or by personal service to such *property* owners. The notices required to be given in this section are for the convenience of *property* owners and any defect or omission therein *shall* not impair the validity of any hearing or decision with respect to any interpretation.

(d) The notice*shall* inform affected *property* owners that they can within fourteen (14) days of the date of the letter, direct the *City* Engineer to conduct a public hearing on the matter. All requests for a public hearing *shall* be directed to the *City* Engineer. If a request for a hearing is received, at least ten (10) days prior to the public hearing the *City* Engineer *shall* by certified or registered mail, return receipt requested, or by personal service give notice of the time and place of the hearing to the petitioner and to affected *property* owners. Hearings conducted under this section *shall* follow the procedures prescribed by law for hearings before the Board of Adjustment. The establishment and documentation of field conditions used in interpretations *shall* be based on certified testimony or information supplied by a licensed registered land surveyor and all calculations *shall* be made and certified by a registered and qualified professional.

(e) Upon rendering a decision, the*City* Engineer *shall* immediately give notice by certified or registered mail, return receipt requested, or by personal service to the petitioner and to affected *property* owners. Within fifteen (15) days after receipt of *written* notice of the interpretation, any affected *property* owner, including petitioner, *may* appeal the decision of the *City* Engineer to the *City Council* .

(f) All approved interpretations of*floodprone* boundaries *shall* be described on maps or plats which *shall* then be filed with the Clerk of the Superior Court and with the Register of Deeds of Wake County. The map or plats *shall* show the locations of all cross-sections, the

elevation at the boundary of the *floodway fringe* areas, *future conditions flood hazard area* and *flood* storage area at the cross-section, the location of a benchmark *used for* vertical control; its elevation in reference to *mean sea level* datum, all *floodplain* boundaries, and the source of the *floodplain area* . The map or plats *shall* also bear the name, title and professional seal of the *person(s)* who supplied the survey and the calculation as well as the date the interpretation was approved by the *City* Chief Engineer.
(Ord. No. 1978-872-TC-88, §7, 8-15-78; Ord. No. 1982-849-TC-157, §§8, 9, 2-16-82; Ord. No. 1987-927-TC-279, §§4, 5, 2-17-87; Ord. No. 1992-921-TC-390, §3, 2-4-92; Ord. No. 1994-440-TC-82, §8, TC-5-94, 7-5-94; Ord. No. 2006-999-TC-282, §§18, 19, TC-4-06, 4-18-06; Ord. No. 2006-134-TC-296, §7, TC-10-06, 11-21-06)
Cross reference: Responsibilities of the Department of Central Engineering, §6-1002(3).

Sec. 10-4006. FLOODWAY AND NON-ENCROACHMENT AREAS--PERMITTED USES.

The following uses, having low flow-obstructing characteristics,*may* be permitted within *floodway and non-encroachment areas* ; provided they are not otherwise prohibited by this or any other law or ordinance:
Cross reference: Prohibited uses, §4-4007.
(a) General farming, pasture, outdoor plant or nurseries, horticulture, forestry, wildlife sanctuary, game preserves, and other similar agricultural wildlife and related uses;
(b) Lawns, yards, gardens, parking areas, play areas, and other similar uses;
(c) Golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, parks, greenways, bikeways, hiking or horseback-riding trails, botanical and zoological gardens, open space, and other similar private and public recreational uses;
(d) Any use employing a structure provided all portions of any structure, including foundation and supports, shall be located outside the floodway area and that any structure which overhangs the floodway is elevated above the depth of the 500-year flood;
(e) Any other use not employing a structure and not subject to floating away during a flood.
(f) Other encroachments, including fill;*new construction* ; *substantial improvements; structures* , as defined in the North Carolina State Building Code; *manufactured home* ; use and other developments when it has been demonstrated that: the proposed encroachment would not do any one or more of the following:
(1) adversely affect the capacity of the channels*floodway and non-encroachment areas* or drainage facilities or systems
(2) redirect velocities of water of the*base flood or future conditions flood* onto adjacent properties
(3) result in any increase in the flood levels during the occurrence of the*base flood* or *future conditions flood*
all based on hydrologic and hydraulic analyses performed in accordance with standard engineering practice and presented to the*floodplain* administrator prior to issuance of *floodplain* development permit, or a Conditional Letter of Map Revision (CLOMR) has been approved by FEMA. A Letter of Map Revision (LOMR) must also be obtained upon completion of the proposed encroachment.
(Ord. No. 1978-872-TC-88, §7, 8-15-78; Ord. No. 1982-873-TC-160, §§1--3, 3-23-82; Ord. No. 1992-921-TC-390, §4, TC-2-92, 2-4-92; Ord. No. 1994-440-TC-82, §8, TC-5-94, 7-5-94; Ord. No. 2006-134-TC-296, §8, TC-10-06, 11-21-06)

Sec. 10-4007. SAME--PROHIBITED USES.

No encroachments, including fill;*new construction;* *substantial* improvements; structures as defined in the North Carolina Building Code; *manufactured home;* use and other

developments shall be permitted within the *floodway* and/or *non-encroachment areas* unless it has been demonstrated that: the proposed encroachment would not adversely affect the capacity of the channels *floodway and non-encroachment areas* or drainage facilities or systems, or redirect velocities of water of the *base flood or future conditions flood* onto adjacent properties, or result in any increase in flood levels during the occurrence of the *base flood or future conditions flood* based on hydrologic and hydraulic analyses performed in accordance with standard engineering practice and presented to the floodplain administrator prior to issuance of flood permit, or a Conditional Letter of Map Revision (CLOMR) has been approved by FEMA. A Letter of Map Revision (LOMR) must also be obtained upon completion of the proposed encroachment.

Chemical storage facilities which store or process acetone, acetylene gas, ammonia, benzene, calcium carbide, carbon disulfide, celluloid, chlorine, gasoline, hydrochloric acid, hydrocyanic acid, magnesium, materials or fuel which are flammable or explosive, nitric acid, oxides of nitrogen, petroleum products, phosphorus, potassium, sodium, sulfur, or any other item which in time of*flooding* is buoyant, or could be injurious to human, animal, or plant life is expressly prohibited and is unlawful within the *floodway* and/or *non-encroachment areas* .

New*solid waste disposal facilities* , *hazardous waste management facilities* and *salvage yards* , are prohibited in the *floodway* and/or *non-encroachment areas* .

(Ord. No. 1978-872-TC-88, §7, 8-15-78; Ord. No. 1987-932-TC-282, §6, 2-17-87; Ord. No. 2006-134-TC-296, §9, TC-10-06, 11-21-06)

Sec. 10-4008. FLOODWAY, FLOODWAY FRINGE AREAS AND FUTURE CONDITIONS FLOOD HAZARD AREAS--PERMITTED USES.

The*following* uses shall be permitted within *Floodway fringe* areas and *future conditions flood hazard areas* to the extent that they are not otherwise prohibited by this or any other law or ordinance:

(a) Subject to subsection (c) below, uses permitted below the*regulatory flood protection elevation* :

(1) Uses permitted and regulated in *floodways* ;

(2) Nonresidential structures and residential accessory structures which comply with §10-6037(b)(2) or (3), subject to subsection (c) below;

(3) Underground storage and structure foundations and supports which are watertight and substantially impermeable to the passage of water and are designed to withstand the*flood* depths, pressure, velocities, impact and uplift forces associated with the *base flood* or *future conditions flood* at the location of the structure.

(b) Subject to subsection (c) below, uses which are permitted above the*regulatory flood protection elevation* are:

(1) Structures which comply with Code §10-6037;

(2) *Manufactured homes* and *additions* thereto which comply with Code §10-6037;

(3) Structures constructed on fill so that the*lowest floor,* including the *basements,* are above the *regulatory flood protection elevation* provided the top of the fill *shall* be at a point no lower than one (1) foot below the *regulatory flood protection elevation* for the particular area and *shall* extend in all directions, at such elevation, at least fifteen (15) feet beyond the limits of any structure or *building* erected thereon;

(4) Open storage of materials subject to floating away during a*flood* provided said storage is placed on fill at least one (1) foot above the *regulatory flood protection elevation.*

(c) Limits of Development. The*Bulk lot coverage* of any lot *shall* not exceed more than fifty per cent (50%) of that portion of the *Floodway fringe* or *future conditions flood hazard areas* on that lot with the following exceptions:

(1) Uses permitted in*floodways.*
(2) Ground level loading areas, parking areas, heliports and other similar ground level uses.
(3) Any lot one-half (1/2) acre or less in size which was either recorded at the time of application of this regulation* or which was approved for recordation prior to the application of this regulation and which has not sunsetted*.
(4) No existing or approved structure, for which a*building* permit has been issued prior to the effective date of this text change, *shall* be considered a nonconforming structure as defined in §10-2046 of this *Code* . In the event of damage to such a structure by *flood* or other casualty requiring a substantial improvement of said structure, the structure *may* be repaired or rebuilt with:
a. An administrative approval by the Floodplain Administrator, if all of the following are met:
1. The land use existing at the time of the*flood* or other casualty remains the same; and
2. The area of the footprint of the structure does not increase; and
3. There is no rise in the*Base Flood* Elevation or, if there is any rise in the *Base Flood* Elevation, as determined by a Flood Study identifying upstream and downstream structures that will be impacted, it will:
(i) not raise the levels of the*base flood* or *future conditions flood* onto impacted structures, and
(ii) not redirect velocities of water onto impacted structures.
b. A variance by the*City Council* , if all of the following are met:
1. The land use existing at the time of the*flood* or other casualty remains the same; and
2. The area of the footprint of the structure does not increase; and
3. There are unique circumstances applicable to the site such that strict adherence to the provisions of the chapter will result in unnecessary hardship or create practical difficulties; and
4. The variance granted is the minimum necessary to maintain the land use.
A*written* request under subsection (b) above for a variance *shall* be submitted to the *City Clerk* and *shall* state the specific variance sought, the justification for the variance, and what measures will be taken to insure the requirements of this chapter have been met to the maximum extent practicable. It *shall* include descriptions, drawings, calculations and any other information that is necessary to evaluate the proposed variance as determined by the Floodplain Administrator.
(5) An administrative approval by the Floodplain Administrator for any redevelopment that does not increase the*flood* elevation and that decreases the bulk of existing *building* (s) or structure(s) below the *base flood* or *future conditions flood* level by at least twenty-five per cent (25%) of the portion exceeding fifty per cent (50%) of the *Floodway Fringe* or *future conditions flood hazard areas* . Any additional fill or material being added as a part of the redevelopment *shall* be included for calculation of the bulk of the proposed redevelopment. For example, if structure(s) on a property cover eighty per cent (80%) of the *Floodway Fringe* or *future conditions flood hazard areas* , the proposed redevelopment of the site must reduce the bulk of the structure(s) to no more than seventy-two and one-half per cent (72.5%) of the site in order to qualify for this administrative approval. A *written* request for a variance *shall* be submitted to the Floodplain Administrator. It *shall* include descriptions, drawings, calculations and any other information that is necessary to evaluate the proposed exception as determined by the Floodplain Administrator.
(6) Notwithstanding the preceding exceptions, the*City Council may* approve a variance to the fifty per cent (50%) limitation if the following conditions are met:
a. There are unique circumstances applicable to the site such that strict adherence to the provisions of the chapter will result in unnecessary hardship or create practical difficulties; and

b. The variance is in harmony with the general purpose and intent of this chapter; and
c. In granting this variance, public safety and welfare has been assured, and substantial justice has been done.
A*written* request in this subsection for a variance *shall* be submitted to the *City Clerk* and *shall* state the specific variance sought, the justification for the variance, and what measures will be taken to insure the requirements of this chapter have been met to the maximum extent practicable. It *shall* include descriptions, drawings, calculations and any other information that is necessary to evaluate the proposed variance as determined by the Floodplain Administrator.
(7) The*City Council shall* allow development in excess of the fifty per cent (50%) limitation of the *Floodway Fringe* or *future conditions flood hazard areas* whenever it determines that the extent of the development limit will deprive the land owner of reasonable use of their property.
(Ord. No. 1978-872-TC-88, §7, 8-15-78; Ord. No. 1982-849-TC-157, §10, 2-16-82; Ord. No. 1987-932-TC-282, §7, 2-17-87; Ord. No. 2006-953-TC-279, §5, TC-22-04, 1-3-06; Ord. No. 2006-999-TC-282, §§20--24, TC-4-06, 4-18-06; Ord. No. 2006-134-TC-296, §§10--12, TC-10-06, 11-21-06)
*Editor's Note: This regulation first became applicable on May 3, 2006, Ordinance No. (2005) 953 TC 279, TC-22-04.
Cross references:*Flood* permits, applications for permits, and plans and specifications, §§10-6033(6), 10-6034; limitations on issuance of building permits for construction in *floodprone areas* §10-6037; manufactured homes in *floodprone areas* , §10-6172.

Sec. 10-4009. SAME--PROHIBITED USES.

Any use, structure as defined in the North Carolina State Building Code, or encroachment, including fill, which adversely affects the capacity of channels,*floodways* or drainage facilities or systems is prohibited. The storage or processing of acetone, ammonia, benzene, calcium carbide, carbon disulfide, celluloid, chlorine, hydrochloric acid, hydrocyanic acid, magnesium, nitric acid, oxides of nitrogen, phosphorous, potassium, sodium, sulphur, or any other item which in time of *flooding* could be caustic is prohibited. New *solid waste disposal facilities* , *hazardous waste management facilities* and *salvage yards* , are prohibited in the *floodway* fringe areas and/or future conditions flood hazards areas.
In*flood hazard soils* areas of watercourses that drain areas less than one square mile *may* use, structure as defined in the North Carolina State Building Code, or encroachment, including fill, which is located within ninety (90) per cent of the distance of the outer limits of the *flood hazard soils* (as measured from either side of the center line of the stream channel, or the low point when there is no stream channel, or the midpoint, when there is no stream channel or low point) and which increases the elevation of the *base flood* or *future conditions flood* at any point by more than one-half foot, is prohibited. Provided nothing in this paragraph *shall* prevent a landowner from voluntarily redelineating *flood hazard soils* areas of water courses which drain less than one square mile to accommodate more than a one-half foot rise of the *base flood* or *future conditions flood* if:
(a) All of the more than one-half-foot*flood* rise for the *base flood* or *future conditions flood* remains on the *property* of petitioner;
(b) The establishment and documentation of field conditions used in the redelineation are based on information supplied by a licensed registered land surveyor and all calculations are made and certified by a licensed professional engineer;
(c) Any sanitary sewer manholes in an area of increased depth are*floodproofed* by the petitioner;
(d) The petitioner notifies by certified or registered mail, return receipt requested, all adjoining*property* owners, and tenants, including the petitioning *property* . Such notice

shall explain the proposed redelineation, and it *shall* inform such *persons* that they can appeal the proposed redelineation to the *City* Engineer within ten (10) days after receipt of the letter;

(e) Appeals from decisions of the*City* Engineer *shall* be to the *City Council* ; and

(f) Upon the approval of the redelineation, by the*City* , the new delineation is filed with the Wake County Clerk of the Superior Court and with the Register of Deeds of Wake County, and the new delineation is recorded with the Wake County Registry. Recorded delineations *shall* mark the additional lands subject to *flooding* as "flood storage areas."

(Ord. No. 1978-872-TC-88, §7, 8-15-78; Ord. No. 1979-47, 3-22-79; Ord. No. 1982-849-TC-157, §11, 2-16-82; Ord. No. 2006-134-TC-296, §§13--16, TC-10-06, 11-21-06)

Sec. 10-4010. FLOODWAY AND NON-ENCROACHMENT AREA; RESTRICTIONS ON EXISTING STRUCTURES.

(a) No structure existing and lying within a *floodway* district and completed at the time of the adoption of this section or for which a *building* permit has been issued and construction of which is completed within twelve (12) *months* after the adoption of this section *shall* be considered a nonconforming structure, as dealt with in §10-2146 of this *Code* . All such structures *may* be repaired, improved, strengthened and enlarged; provided, no construction will be permitted which will:

(1) Enlarge the foundation area of the structure within the*floodway* ;

(2) Increase the bulk of the building or structure below the*base flood* or *future conditions flood* level; or

(3) Enlarge the surface area perpendicular to the direction of flow of the watercourse to which the*floodway* relates.

(b) In the event of damage to an existing structure in a*floodway* district, by *flood* or other means, requiring a *substantial improvement* of said structure, the structure *may* be repaired; provided, the surface area of the *floodway* district formerly occupied by the structure *shall* not be increased; provided further, the repairs to the structure *shall* incorporate appropriate *floodproofing* measures; and provided still further, the repairs *shall* not increase the bulk of the structure below the *base flood* or *future conditions flood* level.

(c) Notwithstanding the provisions of subsection (a) above,*additions may* be made to existing structures located in *floodway* districts upon recommendation from the Corp of Engineers and upon a letter of approval from FEMA to the *City Council* that the impact of the proposed *addition* would not result in any increase in *flood* levels within the community during the occurrence of the *base flood* discharge. Final approval will lie with the Raleigh *City Council* .

(*Code 1959* , §24-34.9; Ord. No. 1978-872-TC-88, §8, 8-15-78; Ord. No. 1982-849-TC-157, §12, 2-16-82; Ord. No. 1985-634-TC-247, §1, 9-3-85; Ord. No. 1991-879C-TC-386, §4, 11-19-91; Ord. No. 2006-134-TC-296, §§17--19, TC-10-06, 11-21-06)

Sec. 10-4011. FLOODPRONE AREAS--SOIL EROSION AND SEDIMENTATION CONTROL REGULATIONS.

All plans for*floodway fringe* reclamation and all *new construction* , and *substantial improvements* within *floodprone areas shall* comply with the applicable soil erosion and sedimentation control measures.

(Ord. No. 1978-872-TC-88, §9, 8-15-78)

Sec. 10-4012. SAME--SUBDIVISION AND SITE PLAN STANDARDS ORDINANCE.

Subdivisions proposed for*floodprone areas shall* comply with §10-3053 of the subdivision code of the *City* .
(Ord. No. 1978-872-TC-88, §9, 8-15-78; Ord. No. 1995-760-TC-122, §52, TC-20B-95, 11-21-95)

Sec. 10-4013. SAME--WATER AND SEWER SYSTEMS.

Water and sewer systems proposed for*floodprone areas shall* comply with §8-2009 of the water and sewer code of the *City* .
(Ord. No. 1978-872-TC-88, §9, 8-15-78)

Sec. 10-4014. SAME--BUILDING REGULATIONS.

Any and all*new construction, major repairs* , or *substantial improvements* proposed for *floodprone areas shall* comply with §10-6037 of the building code of the *City* .
(Ord. No. 1978-872-TC-88, §9, 8-15-78)

Sec. 10-4015. WARNING AND DISCLAIMER OF LIABILITY.

The degree of*flood* protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger *floods* can and will occur on rare occasions. *Flood* heights *may* be increased by man-made or natural causes. This chapter does not imply that areas outside the boundaries of *floodprone areas* or land uses permitted within such areas will be free from *flooding* or *flood damages* . This chapter *shall* not create liability on the part of the *City* or by any *officer* or employee thereof for any *flood* damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.
(Ord. No. 1978-872-TC-88, §9, 8-15-78)

Sec. 10-4016. EXCEPTION.

Nothing contained in this chapter*shall* be construed to restrain, interfere, or prevent continuation of any use of land, building or structure which legally existed on the date of enactment of the ordinance from which this chapter is derived.
(Ord. No. 1978-872-TC-88, §9, 8-15-78)

Sec. 10-4017. PENALTIES.

(a) Civil penalties.
(1) Any*person* controlling or managing any building or land wherein or whereon there *shall* be placed or there now exists anything in violation of this chapter; or, any *person* who *shall* commit or assist in the commission of any violation of this chapter; or, any *person* who *shall* build contrary to this chapter after plans and specifications have been submitted to and approved by the Department of Inspections; or, any *person* who *shall* omit, neglect or refuse to do any act provided for in this chapter *shall* be subject to a civil penalty of one hundred dollars ($100.00) per day of continuing noncompliance. No penalty *shall* be assessed until the *person* alleged to be in violation is served by registered mail notice to comply. The notice *shall* set forth a description of the violation for which the penalty has been invoked.
(2) As an additional remedy or in lieu of other remedies, the*City Council may* either before or after the institution of any other action or proceeding authorized by this section, institute any appropriate action or proceeding to restrain or prevent any violation of this chapter or the *City Council may* direct the removal or abatement of any obstruction which violates this chapter and direct the restoration of conditions existing before the placement of the unlawful obstruction. The institution of an action for abatement or injunctive relief *shall* not relieve

any party to such proceeding from any civil or criminal penalty prescribed for violations of this chapter.

(b) Criminal penalties.

Any*person* controlling or managing any building or land wherein or whereon there *shall* be placed or there now exists anything in violation of this chapter or any *person* who *shall* assist in the commission of any violation of this chapter; or any *person* who *shall* build contrary to this chapter after plans and specifications have been submitted to and approved by the Department of Inspections; or any *person* who *shall* omit, neglect, or refuse to do any act provided for in this chapter *shall* be guilty of a misdemeanor. Failure to correct an identified violation *shall* constitute a separate violation for each ten (10) days that such failure continues after *written* notice has been received.

(Ord. No. 1978-872-TC-88, §9, 8-15-78; Ord. No. 1982-849-TC-157, §13, 2-16-82; Ord. No. 2000-746-TC-191, TC-4-00, §1, 3-7-00)

Cross reference: General code violations, penalty, §14-1005.