

## Chapter 17.5

### **FLOODPLAIN AND DRAINAGE**

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**Sec. 17.5-1. Requirements and regulations established; short title.**

(a) It is the purpose of this chapter to establish requirements and regulations pertaining to the use and development of land in the Community which will minimize the occurrence of losses, hazards and conditions adversely affecting the public health, safety and general welfare which might result from flooding caused by the surface runoff of rainfall.

(b) This chapter may be referred to as the floodplain and drainage ordinance. (Code 1981, § 17.5-1; Code 2012, § 17.5-1; Ord. No. SRO-185-95, § A, 10-26-1994; Ord. No. SRO-402-2012, § 17.5-1, 5-30-2012)

**Sec. 17.5-2. Definitions.**

Unless specifically defined as follows, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application:

*Appeal* means a request for a review of the floodplain administrator's interpretation of any provision of this chapter or a request for a variance.

*Base flood* means the flood having a one percent chance of being equaled or exceeded in any given year. This is also called a 100-year flood.

*Basement* means the lowest level or story of a structure which has its floor subgrade on all sides.

*Construction* means new construction of or substantial improvements to a structure.

*Detention basin* means a hydraulic structure similar to a reservoir that intercepts and retards or detains stormwater and is specifically designed to attenuate or dampen peak discharge rates.

*Development* means any manmade change to improved or unimproved real estate, including but not limited to construction, mining, excavation, filling, grading, paving or farming.

*Environmentally sensitive lands* means environmentally sensitive lands as defined in regulations adopted pursuant to this chapter.

*Flood or flooding* means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of floodwaters;
- (2) The unusual and rapid accumulation or runoff of surface waters from any source; and/or
- (3) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood, or by some similarly unusual and unforeseeable event which results in flooding as defined in this definition.

*Floodplain or floodprone area* means any land area susceptible to being inundated by water from any source.

*Floodplain administrator* means the Community development director or designee who is authorized by this chapter to administer its provisions.

*Floodproofing or flood protection* means any combination of structural and nonstructural additions, changes, or adjustments to structures, including utility and sanitary facilities, which would preclude the entry of water. The structure must be watertight, with walls which are substantially impermeable to the passage of water. Structural components shall have the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy.

*Floodway* means the channel of a river or other watercourse and the adjacent land areas necessary in order to discharge the 100-year flood without cumulatively increasing the water surface elevation more than one foot above the base floodwater surface elevation.

*Grading* means an excavation or filling of land or combination thereof.

*Lowest floor* means the lowest floor of the lowest enclosed area (including basement). An

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

*Natural areas* means those areas within environmentally sensitive areas which are required to be retained in a natural state, including areas stipulated as such through the zoning process. Special conditions relating to environmentally sensitive lands will apply to such natural areas.

*Regulatory base flood elevation* means the water surface elevation of the base flood.

*Regulatory floodway* means the channel of a wash or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without raising the water surface elevation more than one foot above the base floodwater surface elevation.

*Residential structure* means a place of residence and may be a single-family or multifamily dwelling.

*Retention basin* means a hydraulic structure similar to a reservoir that intercepts and stores stormwater and is specifically designed to be drained to the underground or to be emptied by evaporation to the atmosphere.

*Start of construction* for purposes of this chapter only, includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it in-

clude the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

*Structure* means a walled and roofed building or a gas or liquid storage tank that is principally above ground. The term "structure" includes, but is not limited to, houses, commercial buildings, factories, storage buildings, mobile homes and similar structures.

*Substantial improvement.*

- (1) The term "substantial improvement" means any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either before the:
  - a. Improvement is started; or
  - b. Damage occurred, if the structure has been damaged and is being restored.

For the purposes of this subsection of this definition, substantial improvement is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

- (2) The term "substantial improvement" does not include any alteration to comply with existing local health, sanitary, building or safety codes or regulations which are solely necessary to ensure safe living conditions.

*Variance* means a grant of relief from some of the requirements of this chapter which permits construction in a manner that would otherwise be prohibited by this chapter.

*Waste disposal system* means any system of disposing of worthless materials and useless byproducts, either sanitary or commercial or industrial, except: existing single-family septic systems and sanitary sewer pipe lines.

*Watercourse* means a lake, river, creek, stream, wash, arroyo, channel or other topographic feature on or over which waters flow at least period-

ically. The term "watercourse" includes specifically designated areas in which substantial flood damage may occur.

(Code 1981, § 17.5-2; Code 2012, § 17.5-2; Ord. No. SRO-185-95, § B, 10-26-1994; Ord. No. SRO-402-2012, § 17.5-2, 5-30-2012)

### **Sec. 17.5-3. The floodplain administrator.**

(a) *Designated.* The Community development department director or designee shall be the floodplain administrator.

(b) *Responsibilities.* It is the responsibility of the floodplain administrator or his or her authorized representative to do the following:

- (1) Review all applications for development permits and ensure that the requirements of this chapter are enforced.
- (2) Take action on violations of the regulations in this chapter.
- (3) Review proposed development documents to ensure that necessary permits required by section 404 of the Clean Water Act (33 USC 1344) have been obtained for such development prior to issuance of any development permits.
- (4) Administer the processing of requests for a variance from the requirements of this chapter, maintain records of all actions taken.

(Code 1981, § 17.5-3; Code 2012, § 17.5-3; Ord. No. SRO-185-95, § C, 10-26-1994; Ord. No. SRO-402-2012, § 17.5-3, 5-30-2012)

### **Sec. 17.5-4. Appeals and variances.**

(a) A person may appeal to the Community Council for a variance or for a judgment on the interpretation of this chapter. The Community Council upon the recommendation of the land management board may grant a variance if conditions would not be created by the variance which would result in danger or damage to persons or property and if strict application of the regulations would deprive the property owner of privileges enjoyed by similar property in the floodplain. The subsections of this section describe the conditions applicable to the granting of a variance.

(b) A variance shall not be granted for property within a regulatory floodway if the water surface elevation during a base flood discharge would result in an increase in water surface elevation greater than one foot.

(c) A variance may be granted in conformance with subsections (d), (e) and (f) of this section for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures with lowest floors constructed below the base flood level.

(d) A variance shall only be granted upon the determination of the following: Granting the variance will not allow conditions to be created which result in increased floodwater heights, additional threats to public safety, extraordinary public expense, the creation of nuisances, the causing of fraud or victimization of the public, or conflict with other laws or ordinances.

(e) A variance shall only be granted upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief for the applicant.

(f) The floodplain administrator shall notify the applicant in writing that the following condition will exist as a result of the variance.

- (1) Construction of a lowest floor below the base flood level will result in increased premium rates for flood insurance.
- (2) Construction below the base flood level increases risks to life and property.

(g) While the granting of variances generally is limited to a lot size less than one-half acre, deviations from this limit may be considered by the floodplain administrator; however, as the lot size is increased beyond one-half acre, the technical justifications required for a variance must be more detailed and comprehensive.

(Code 1981, § 17.5-4; Code 2012, § 17.5-4; Ord. No. SRO-185-95, § D, 10-26-1994; Ord. No. SRO-402-2012, § 17.5-4, 5-30-2012)

### **Sec. 17.5-5. Interpretation.**

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

- (1) Considered as minimum requirements;

(2) Liberally construed in favor of the Community; and

(3) Deemed neither to limit or repeal any other powers granted under law.

(Code 1981, § 17.5-5; Code 2012, § 17.5-5; Ord. No. SRO-185-95, § E, 10-26-1994; Ord. No. SRO-402-2012, § 17.5-5, 5-30-2012)

#### **Sec. 17.5-6. Warning and disclaimer of liability.**

The degree of flood protection provided by the requirements in this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Floods larger than the base flood can and will occur on rare occasions. Floodwater heights may be increased by manmade or natural causes. This chapter does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the Community, any officer or employee thereof, or the federal government for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.

(Code 1981, § 17.5-6; Code 2012, § 17.5-6; Ord. No. SRO-185-95, § F, 10-26-1994; Ord. No. SRO-402-2012, § 17.5-6, 5-30-2012)

#### **Sec. 17.5-7. Prohibited development.**

(a) A development is prohibited if it would create hazards to life or property by increasing the potential for flooding either on the property to be developed or on adjacent property or to any other property. A watercourse may not be altered. Alteration within the meaning of this section includes, but is not limited to: Encroachments, fill, new construction, substantial improvements to existing developments, and other construction within a watercourse, unless a professional engineer certifies that the alterations will not increase flooding hazards within, upstream or downstream of the altered portion of the watercourse.

(b) Waste disposal systems shall not be installed wholly or partially in a floodway and/or a regulatory floodway. Replacement of existing systems will be reviewed on an individual basis and may be granted a variance.

(Code 1981, § 17.5-7; Code 2012, § 17.5-7; Ord. No. SRO-185-95, § G, 10-26-1994; Ord. No. SRO-402-2012, § 17.5-7, 5-30-2012)

#### **Sec. 17.5-8. Development requirements to be met for issuance of a permit.**

Prior to the issuance of a permit by the Community for development on private property or for work in the public rights-of-way, the applicant for the permit shall furnish the floodplain administrator information as required to determine that all proposed building sites will be reasonably safe from flooding and sufficient data to enable the Community development department to determine that the proposed work is not of such a scope that it would be prohibited in accordance with subsections (1) and (2) of this section. Reports, construction plans, and other data submitted in support of an application for a permit shall comply with the following criteria:

- (1) *Drainage reports.* When a drainage report is required, it must be prepared and sealed by a civil engineer registered as a professional engineer in the State of Arizona, and it must be prepared in accordance with the criteria established by the Community. The purpose of the report is to analyze the effect that a proposed development would have upon the rainfall runoff in the vicinity of the development, to provide data to ensure that the development is designed to be protected from flooding, to provide data to ensure that the development is to be designed to minimize flooding and to provide data supporting the design of facilities to be constructed for the management of rainfall runoff. Each drainage report must consider rainfall runoff from storms with a return frequency up to and including a 100-year storm. The complexity of the report depends upon the nature of the development and the site on which the



development will occur. A drainage report shall be submitted by an applicant requesting one of the following:

- a. A permit for grading, unless the requirement is waived by the floodplain administrator.
  - b. A permit to construct right-of-way improvements.
  - c. A permit to construct any structure, except that a report will not be required if the structure is to be a single-family residential structure to be built without a basement and to be located at a site which the floodplain administrator has determined will not be in the vicinity of a watercourse in which the flow of rainfall runoff might be hazardous to the structure or its occupants.
- (2) *Drainage characteristics.* Rainfall runoff from storms of all return frequencies should enter and depart from property after its development in substantially the same manner as under predevelopment conditions. Any proposals to modify drainage characteristics must be fully justified by engineering data which shall demonstrate to the floodplain administrator that hazards to life and property will not be increased by the proposed modifications. As a minimum, drainage and flood control easements will be dedicated to the Community to the extent of the estimated 100-year flood for all watercourses having a capacity of 25 cubic feet per second or greater, and the development shall be responsible for the maintenance of the watercourse. Exceptions to this regulation will be for environmentally sensitive lands and other areas covered by master drainage plans or other provisions of this chapter which ensure that the standards established by this section are met. Any proposed modification must be compatible with environmentally sensitive lands criteria.
- (3) *Street crossings at natural or manmade drainage channels.*
- a. The crossing structure requirements listed herein will normally apply; however, the engineer may depart from these requirements if he or she can demonstrate to the floodplain administrator's satisfaction that they are inappropriate because of the type of development or the nature of the terrain or because the requirements violate environmentally sensitive land ordinances. In extreme cases it may be necessary to allow for the entire channel flow to pass over the road.
    1. Local and minor collector streets shall have a culvert or bridge which is capable of carrying all of the peak flow of runoff from a ten-year frequency storm beneath the roadway and which is also capable of carrying enough of the peak flow of runoff from a 25-year frequency storm beneath the road so that the portion of the flow over the road is no more than six inches deep.
    2. Major collector and major or minor arterial streets shall have a culvert or bridge which is capable of carrying all of the peak flow of runoff from a 50-year frequency storm beneath the roadway and which is also capable of carrying enough of the peak flow of runoff from a 100-year frequency storm so that the portion of the flow over the road is no more than six inches deep.
    3. Watercourse crossings for roads shall be designated so that all lots and structures within a development will be accessible from the boundary of that development by at least one route during the period of peak flow of runoff from a 100-year fre-

- quency storm. The boundary shall include any adjacent street or streets. Accessibility will be considered to exist if it can be demonstrated by the engineer that at the time of the peak flow the depth of flow over the road will be no greater than one foot.
- b. Regardless of the size of the culvert or bridge, the street crossing should be designed to convey the 100-year storm runoff flow under and/or over the road to the area downstream of the crossing to which the flow would have gone in the absence of the street crossing. The construction of a channel crossing must not cause the diversion of the drainage flows except when that diversion is part of an approved plan for modification of drainage patterns.
- (4) *Streets as water carriers.* It is expected that streets will carry water from adjacent property and from local areas, but they are not to be used as major water carriers in lieu of natural washes or manmade channels. The maximum depth for water flowing in any street shall be eight inches during the peak runoff from a 100-year frequency storm. The above requirements imply that in some cases water may flow deeper than a normal vertical curb height and may flow for a short distance over sidewalk or other back-of-curb areas, but the flow of the water shall always be confined to the road right-of-way or to drainage easements. Particular care must be taken in street sag locations to ensure that these requirements are met. Catchbasins, scuppers or similar facilities, together with the necessary channels, must be provided at appropriate locations to remove water flowing in the streets so as not to exceed the above described depth limit.
  - (5) *Design procedures and criteria.* The design procedures and criteria to be used shall be in accordance with those prepared and published by the Community.
  - (6) *Lowest floor elevations in residential structures.*
    - a. New residential structures (single or multifamily) shall be constructed according to one of the two following requirements:
      1. The lowest floor shall be constructed at an elevation which is a minimum of one foot above the base floodwater surface elevation. In all cases the finished floor elevation shall be a minimum of 14 inches above the lot outfall elevation.
      2. The lowest floor may be constructed below the base floodwater surface elevation, but floodproofing shall be provided for the structure to an elevation which is at least one foot above the base floodwater surface elevation. In all cases the finished floor elevation shall be a minimum of 14 inches above the lot outfall elevation.
    - b. In those single-family residential structures which are to be built without a basement and located at a site which the floodplain administrator has determined will not be in the vicinity of a watercourse in which the flow of rainfall runoff might be hazardous to the structure or its occupants, the elevation of the lowest floor may be established by the method described in this subsection as follows: The floor elevations chosen for the residence may be indicated on a topographic plan of the building site parcel which shows the construction pad site and any grading proposed on the parcel. This plan must be prepared and sealed by a civil engineer or architect registered as a professional engineer or architect in the State of Arizona. The floor elevations indicated on the plan are to be elevations certified by the engineer or architect sufficiently high



- to provide protection during the base flood in the event of flooding caused by a 100-year storm.
- (7) *Lowest floor elevations in nonresidential structures.*
- a. New nonresidential structure or the substantial improvement of an existing nonresidential structure shall be constructed according to one of the following requirements:
    1. The lowest floor shall be constructed at an elevation which is at or above the base floodwater surface elevation.
    2. The lowest floor may be constructed below the elevation of the base floodwater surface elevation but floodproofing shall be provided for the structure to an elevation which is at least as high as the base floodwater surface elevation.
  - b. Adequate drainage paths must be constructed to guide floodwaters around and away from the structures.
- (8) *Reference to regulatory base floodwater surface elevations on development plans.* The grading and drainage plans for any development adjacent to a regulatory floodway and the grading and drainage plans for any development which proposes to modify an existing regulatory floodway as a part of the development must indicate the base floodwater surface elevations.
- (9) *Information pertaining to flood protection to be placed on building plans.* The following subsections describe requirements for information which shall be placed on building plans for both residential and nonresidential structures. Depending upon the type of structure and its location, one or more of the subsections will apply:
- a. The proposed elevation of the lowest floor must be shown, regardless of the type of structure or its location.
  - b. If the structure is to be built in a regulatory floodway, the base floodwater surface elevation must be shown.
  - c. If the structure is to be floodproofed, the elevation to which the floodproofing will be provided must be shown.
- (10) *Minimizing the potential for flood damage.* Within any area of the Community where the floodplain administrator determines that the land is subject to flooding, all development, including substantial improvements to structures, must meet the following requirements:
- a. All structures shall be anchored to their foundations to prevent flotation, collapse, or lateral movement.
  - b. Building construction materials and utility system equipment shall be resistant to flood damage.
  - c. The construction methods and practices shall be those which minimize flood damage.
  - d. Multiple occupancy developments such as subdivisions, shopping centers, etc., shall have their public utility systems such as sewer, water, gas and electric lines and their associated facilities located and constructed in a manner to minimize or eliminate the potential for flood damage. The developments must be constructed with drainage systems which will minimize the exposure to flood damage.
  - e. New and replacement water supply systems shall be designated and constructed to minimize or eliminate infiltration of floodwater into the systems.
  - f. New and replacement sanitary sewage systems shall be designed and constructed to minimize or eliminate infiltration of floodwaters into the systems and the discharge of sewage into the floodwaters.

(11) *Stormwater detention or retention storage facilities.*

- a. Except as noted below, development of all land within the Community must include provisions for the management of stormwater runoff from the property which is to be developed. This management shall consist of constructing stormwater storage facilities which includes detention basins. Stormwater storage facilities will provide reduced peak rates of outlet flow from the developed property onto downstream property in comparison to the peak rates of runoff flow from the same property under natural conditions with no development. As a minimum, all development will make provisions to store runoff from rainfall events up to and including the 100-year two-hour duration event. If a suitable outlet for a detention basin is not available, or if engineering analysis indicates that available outlet systems would be overtaxed by a detention basin outflow a retention basin may be constructed in lieu of a detention basin. The requirement for construction of a detention system or a retention basin may be waived in the following cases:

1. The runoff has been included in a storage facility at another location.
2. An application for a building permit to construct a single-family residential structure.
3. Development adjacent to a floodway or a watercourse drainage channel which has been determined by the Community development department using engineering analyses provided by the development to have been designed and constructed to handle the additional runoff flow without increasing the potential for flood damage on any other downstream property.

4. Development of a parcel under one-half acre in an area where it can be demonstrated by engineering analyses that no significant increase in the potential for flood damage will be created by the development.

If storage is waived, the development shall be required to contribute to the cost of public drainage works on the basis of runoff contribution.

- b. Stormwater storage facilities shall be designed and constructed according to the procedures and criteria established by the Community including the following:

1. The extent of the area to be used to estimate development storage requirements is the entire proposed development including: streets, alleys, easements and rights-of-way, and one-half or other fractional parts of streets, alleys, easements and rights-of-way.
2. If possible, storage facilities are to be located so they can intercept the flow from the entire development.
3. If portions of the area cannot drain to a primary storage facility then additional facilities are to be added for these additional areas as approved by the director of the Community development department. These facilities may include individual lot retention.
4. No stormwater storage facility shall detain or retain standing water longer than 36 hours if the basin has not been designed and constructed to be a permanent body of water with appropriate health, safety, and water quality measures for such a body of water.

- c. Stormwater storage facilities are to be drained by either controlled bleed-off, discharge pump and, in limited cases, by infiltration or dry well or injection wells. Controlled bleed-off or pumping to a recognized watercourse is the preferred method. Methods which discharge stored stormwater to the underground must be approved by the floodplain administrator.
- (12) *Parking in flood hazard areas.* Parking areas shall be permitted within regulatory floodways provided that there will be no overnight parking, that there will be no unattended vehicles, and that there will be no obstruction to the natural flow of water.
- a. Overnight parking shall be considered to exist when a vehicle is left unattended during the hours from sunset to sunrise.
  - b. The term "unattended" means that the owner or authorized driver cannot reasonably be expected to be available to remove the vehicle before flooding occurs.
- Whenever parking is permitted within regulatory floodways, warning signs shall be posted by the parking area owner to indicate that the parking area is subject to flooding.
- (13) *Special considerations in environmentally sensitive land areas.*
- a. Existing watercourses with a capacity of 50 cubic feet per second or greater, disregarding any estimated peak discharge values, shall be maintained in their natural state unless it is determined that alterations are required to meet other provisions of this chapter.
  - b. A drainage and flood control easement will be dedicated to the Community which encompasses the area required to convey the base flood in the watercourse.
  - c. Road-wash crossings may disrupt the natural channel beyond the right-of-way limits if engineering investigations determine the need, and are approved by the director of project review.
  - d. Stormwater storage facilities may not be required in areas zoned for environmentally sensitive development if the Community staff determines that such facilities cannot be built without conflicting with the Community's environmentally sensitive lands ordinance requirements. If on-site stormwater storage facilities requirements are waived, the development may be required to contribute to the cost of public drainage works at another location on the basis of runoff contribution.
  - e. All drainage structures and detention facilities shall be constructed in such a manner as to minimize the impact on the natural environment, promote recharge and when finished, shall be revegetated to be compatible with nearby natural areas.
- (Code 1981, § 17.5-8; Code 2012, § 17.5-8; Ord. No. SRO-185-95, § H, 10-26-1994; Ord. No. SRO-402-2012, § 17.5-8, 5-30-2012)
- Sec. 17.5-9. Requirement for certifications and required permits.**
- Before the Community will make a final inspection and grant a utility clearance for a single-family residential structure built in a regulatory floodway, a special flood hazard area or before the Community will grant a certificate of occupancy for a structure other than a single-family residential structure built in a regulatory floodway, the builder must submit certain certificates to the floodplain administrator. The certificates which are required pertain to lowest floor elevations, adjacent ground elevations and floodproofing. The following subsections describe the required certificates:
- (1) Certificates pertaining to elevations shall be made by either a civil engineer or land surveyor who is registered to practice in the State of Arizona.

- (2) Certificates pertaining to the adequacy of floodproofing shall be made by a civil engineer or architect who is registered to practice in the State of Arizona.
- (3) A certificate shall be submitted stating the as-built elevation (in relation to mean sea level) of the lowest floor of each new structure or substantial improvement to a structure built in a regulatory floodway. If the lowest floor is below grade on one or more sides, the certificate must also state the elevation of the floor immediately above the lowest floor. This certificate must indicate whether the structure does or does not have a basement. If a structure has been floodproofed, a statement of the elevation to which the structure was floodproofed must be included with this certificate.
- (4) For those structures which have been built in a regulatory floodway and have been floodproofed, a certificate shall be submitted which certifies that the floodproofing methods are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the base flood conditions expected at the building site.

(Code 1981, § 17.5-9; Code 2012, § 17.5-9; Ord. No. SRO-185-95, § I, 10-26-1994; Ord. No. SRO-402-2012, § 17.5-9, 5-30-2012)

#### **Sec. 17.5-10. Obstruction of a waterway prohibited.**

No person, firm or corporation in the Community shall either obstruct or reduce the capacity of a watercourse by any use or by filling, dumping, or constructing or by any other means, except as provided in this chapter.

(Code 1981, § 17.5-10; Code 2012, § 17.5-10; Ord. No. SRO-185-95, § J, 10-26-1994; Ord. No. SRO-402-2012, § 17.5-10, 5-30-2012)

#### **Sec. 17.5-11. Removal of obstructions.**

(a) Any person who owns, occupies, or leases real property within the Community and who obstructs or reduces the capacity of a watercourse other than as provided for in this chapter, shall be

deemed to have created a public nuisance. Such persons shall be notified in writing, either personally delivered or by certified or registered mail, return receipt requested, by the floodplain administrator or his or her authorized representative, to remove said obstructions or the materials creating the reduction of the capacity of a watercourse within ten days after receipt of said written notice. If the owner does not reside on such property, a duplicate shall also be sent to him or her at his or her last known address.

(b) If the owner, lessee, or occupant of such real property, after having been given notice as required by this chapter, does not comply and abate such conditions which constitute a public nuisance, the floodplain administrator shall be authorized to abate such condition at the expense of such owner, lessee or occupant.

(c) The floodplain administrator, or his or her authorized representative, shall prepare a verified statement and account of actual cost of such abatement, including inspection and other incidental costs in connection with such abatement. Said verified statement and account is hereby declared as a debt of such owner, lessee, or occupant. A copy of said statement and account shall be personally delivered or sent by certified mail, return receipt requested, to the party served with the original notice. The Community attorney may institute an action to collect the debts so created in the Community court at any time after delivery of said statement and account.

(d) Within ten days after receipt of the notice described in subsection (a) of this section, any person, firm or corporation may appeal the Community's request by serving written notice of appeal upon the Community secretary and shall be entitled to a hearing before the administrative hearing officer on said appeal. In the event such an appeal is filed, all proceedings shall be stayed pending disposition of the appeal. Any person, firm or corporation may also appeal to the Community land management board within ten days after the receipt of the statement and account prepared and served pursuant to subsection (c) of this section the amount of said debt by serving written notice of appeal upon the Community secretary which also shall stay all further proceed-

ings pending disposition of said appeal. The decision of the land management board shall be final and not appealable.

(e) When, in the opinion of the floodplain administrator, there is immediate danger to life or property, constituting an emergency, as the result of any obstruction or reduction of the capacity of a watercourse not authorized under this chapter, he or she may order the immediate abatement of said condition notwithstanding the notice provisions provided in subsection (a) of this section. The cost of said abatement shall be collected in the same manner as other debts, as provided for in subsection (c) of this section.

(Code 1981, § 17.5-11; Code 2012, § 17.5-11; Ord. No. SRO-185-95, § K, 10-26-1994; Ord. No. SRO-402-2012, § 17.5-11, 5-30-2012)

#### **Sec. 17.5-12. Penalties.**

Any person, corporation, partnership or association violating or failing to comply with the provisions of this chapter, shall, upon conviction thereof, be guilty of a civil offense and be subject to a fine not to exceed \$1,000.00 for each day of violation. Each day of violation of this chapter shall constitute a separate civil offense.

(Code 1981, § 17.5-12; Code 2012, § 17.5-12; Ord. No. SRO-185-95, § L, 10-26-1994; Ord. No. SRO-402-2012, § 17.5-12, 5-30-2012)