



ILLINOIS MODEL FLOOD DAMAGE PREVENTION ORDINANCE

SAMPLE FLOODPLAIN ORDINANCE Municipalities with No Mapped Floodplain Meets 60.3a

**Illinois Department of Natural Resources
Office of Water Resources
Statewide Programs**

Revised 3/2022

60.3 (a) version for municipalities with no identified floodplain

SAMPLE FLOOD DAMAGE PREVENTION ORDINANCE NO MAPPED FLOODPLAINS

DISCLAIMER

This sample ordinance has been prepared to help communities meet the requirements of:

- the National Flood Insurance Program (NFIP), more specifically, this ordinance contains all the provisions necessary to comply with the requirements of section 60.3(a) of the NFIP
- the 615 ILCS 5/18(g) Rivers, Lakes and Streams Act, including state floodway rules and dam safety

The State of Illinois and the Illinois Department of Natural Resources/Office of Water Resources (IDNR/OWR) does not require the use of this sample floodplain ordinance. If a locally developed ordinance is used, it must be reviewed by the IDNR/OWR and FEMA for compliance with the NFIP.

Prior to the enactment of any ordinance, a community should seek the advice of its legal counsel regarding its content and enactment. If the legal counsel is not involved in the actual preparation of the ordinance, legal counsel should review and comment upon the proposed ordinance prior to its enactment.

HOW TO USE THIS SAMPLE ORDINANCE:

1. Decide if your community will adopt a single purpose ordinance that contains all the necessary provisions, such as this ordinance, or if wish to amend another other existing code, such as a zoning code, development code, or building code.
2. Review this sample ordinance and edit the text in red to include your community specific information. Higher standards are also provided for your consideration and are noted as well with red text. IDNR/OWR urges communities to consider the unique flood conditions present in your community and consider adopting these higher regulatory standards to decrease the impact of flooding in your community.

If your community is experiencing flooding that extends beyond the mapped floodplain, please consider adopting a higher flood protection elevation of two or three feet. Mapping of localized flooding may also be included to prevent flood damages outside of the mapped floodplains.

3. Submit a draft to IDNR/OWR for review to verify compliance with the NFIP.

4. Upon adoption submit an electronic copy of the signed ordinance to IDNR/OWR. IDNR/OWR will document receipt and forward a copy to FEMA

If you have questions contact Marilyn Sucoe at Marilyn.Sucoe@illinois.gov , 847.608.3181 or 217.782.4428

CITY/VILLAGE OF _____

ORDINANCE NO. _____

AN ORDINANCE REGULATING DEVELOPMENT IN FLOODPLAIN AREAS

**ADOPTED BY THE
PRESIDENT/MAYOR AND BOARD OF TRUSTEES/CITY COUNCIL
OF THE**

CITY/VILLAGE OF _____

THIS ____ DAY OF _____, 20__.

**PUBLISHED IN PAMPHLET FORM BY THE AUTHORITY OF THE
PRESIDENT/MAYOR AND BOARD OF TRUSTEES/CITY COUNCIL OF THE
CITY/VILLAGE OF _____ ILLINOIS,
THIS ____ DAY OF _____, 20__.**

ORDINANCE NO. _____

AN ORDINANCE REGULATING DEVELOPMENT IN FLOODPLAIN AREAS

WHEREAS, the (insert Village of, City of _____), pursuant to the police powers granted to by the Illinois Municipal Code (65 ILCS 5/1-2-1, 5/11-12-12, 5/11-30-2, 5/11-30-8 and 5/11-31-2), wishes to establish eligibility in the National Flood Insurance Program and in order to do so must meet the requirements of 60.3 (a) of the National Flood Insurance Program Regulations; and

WHEREAS, President/Mayor and Board of Trustees/City Council of the City/Village of _____ find it to be in the best interest of the (insert village, city) to establish rules and regulations for floodplain management throughout the(insert village, city) and superseding any less restrictive municipal rules and regulations therein; and,

WHEREAS, the President/Mayor and Board of Trustees of the City/Village of _____ have previously adopted Ordinances No. _____, and _____.

NOW, THEREFORE, BE IT ORDAINED by the President/Mayor and Board of Trustees of the City/Village of _____, _____ County, Illinois, the following measures shall be required within the corporate limits of the (insert the community's name):

SECTION 1. PURPOSE

This ordinance is enacted (Insert the following language if the Whereas section above is not used: pursuant to the police powers granted to the (insert village, city) by the Illinois Municipal Code (65 ILCS 5/1-2-1, 5/11-12-12, 5/11-30-2, 5/11-30-8 and 5/11-31-2) The purpose of this Ordinance is to maintain this Village's eligibility in the National Flood Insurance Program; to minimize potential losses due to periodic flooding including loss of life, loss of property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare; and to preserve and enhance the quality of surface waters, conserve economic and natural values and provide for the wise utilization of water and related land resources. This Ordinance is adopted) in order to to accomplish the following purposes:

- A. To meet the requirements of 615 ILCS 5/18(g) Rivers, Lakes and Streams Act;
- B. To assure that new development does not increase the flood or drainage hazards to others, or create unstable conditions susceptible to erosion;
- C. To protect new buildings and major improvements to buildings from flood damage;
- D. To lessen the burden on the taxpayer for flood control, repairs to public facilities and utilities, as well as flood rescue and relief operations;
- E. To lessen the burden on the taxpayer for flood control, repairs to public facilities and utilities, and flood rescue and relief operations;
- F. To maintain property values and a stable tax base by minimizing the potential for creating blight areas;
- G. To comply with the rules and regulations of the National Flood Insurance Program codified as 44 CFR 59-79, as amended;
- H. To make federally subsidized flood insurance available, and
- I. To preserve the natural characteristics and functions of watercourses and floodplains in order to moderate flood and stormwater impacts, improve water quality, reduce soil erosion, protect aquatic and riparian habitat, provide recreational opportunities, provide aesthetic benefits, and enhance community and economic development.

SECTION 2. DEFINITIONS. Unless specifically defined below, word or phrases used in this document shall be interpreted so as to give them the same meaning as they have in common usage and so as to give this document its most reasonable application.

- A. Building - A walled and roofed building, including gas or liquid storage tank, that is principally above ground, including manufactured homes and prefabricated buildings. The term also includes recreational vehicles and travel trailers installed on a site for more than 180 per year.
- B. Development - Any man-made change to real estate including:
 - i. Construction, reconstruction, repair, or placement of a building or any addition to a building,
 - ii. substantial improvement of an existing building;
 - iii. installation of a manufactured home on a site, preparing a site for a manufactured home, or installing a travel trailer on a site for more than 180 days per year;
 - iv. installation of utilities, construction of roads, bridges, culverts, or similar projects;
 - v. demolition of a building, re development of a site, clearing of land as an adjunct of construction;
 - vi. construction or erection of fences, levees, dams, walls, or channel modifications;

- vii. filling, dredging, , grading, excavating, paving, drilling, mining, or other alterations of the ground surface;
- viii. storage of materials including the placement of gas and liquid storage tanks; and any other activity that might change the direction, height, or velocity of flood or surface waters;
- ix. or any other activity of man that might change the direction, height, or velocity of flood or surface waters, including extensive vegetation removal.

Development does not include resurfacing roads; or gardening, plowing, and similar practices that do not involve filling, grading, or construction of levees.

- C. Flood - A general and temporary condition of partial or complete inundation of normally dry land areas from overflow of inland or tidal waters, or from the unusual and rapid accumulation or runoff of surface waters from any source. Flood also includes 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 an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in a general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters..
- D. Floodplain or Floodprone Area- Any land area susceptible to being inundated by water from any source (see definition of “Flood”). Floodplain also includes those areas of known flooding as identified by the community.
- E. Floodproofing - Any combination of structural and nonstructural additions, changes, or adjustments to buildings that reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, buildings. and their contents.
- F. Manufactured Home - A building, transportable in one or more sections, which is built on a permanent chassis and is designated for use with or without a permanent foundation when attached to the required utilities. The term manufactured home does not include a recreational vehicle.
- G. New Construction - Buildings for which the start of construction commenced or after the effective date of floodplain management regulations adopted by a community and includes any subsequent improvements of such buildings.
- H. Special Flood Hazard Area - is the land in the floodplain within a community subject to a 1 percent or greater chance of flooding in any given year. The area may be designated as Zones A, AO, AH, A1-30, AE, A99, AR, AR/A1-30, AR/AE, AR/AO, AR/AH, AR/A, VO, or V1-30, VE, or V. For purposes of these regulations, the term “special flood hazard area” is synonymous in meaning with the phrase “area of special flood hazard.
- I. Start of Construction - Includes Substantial Improvement and means the date the

building permit was issued, provided the actual Start of Construction, repair, reconstruction, rehabilitation, addition placement or other improvement, was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a building 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, including the placement of a manufactured home on a foundation. For a substantial improvement, actual Start of Construction means the first alteration of any wall, ceiling, floor, or other structural part of a building whether or not that alteration affects the external dimensions of the building.

- J. Structure - The results of a man-made change to the land constructed on or below the ground, including a building any addition to a building; installing utilities, construction of roads or similar projects; construction or erection of levees, walls, fences, bridges or culverts; drilling, mining, filling, dredging, grading, excavating; and the storage of materials.
- K. Substantial Damage - Damage of any origin sustained by a building whereby the cost of restoring the building to its before damage condition would equal or exceed 50% of the market value of the building before the damage occurred regardless of actual repair work performed. Volunteer labor and materials must be included in this determination.
- L. Substantial Improvement - Any reconstruction, rehabilitation, addition, or improvement of a building, the cost of which equals or exceeds 50 percent of the market value of the building before the Start of Construction of the improvement or repair is started, "Substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the building. The term does not, however, include either (1) any project for improvement of a building to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions or (2) any alteration of a building listed on the National Register of Historic Places or the Illinois Register of Historic Places.

SECTION 3. DUTIES OF THE (insert local permit official's title).

The (insert local permit official's title) shall be responsible for the general administration of this ordinance and ensure that all development activities under the jurisdiction of the (insert the community) meet the requirements of this ordinance. The (insert local permit official's title) shall be responsible for receiving applications and examining the plans and specifications for the application, the (insert local permit official's title) shall require any additional measures which are necessary to meet the minimum requirements of this ordinance.

SECTION 4. FLOODPLAIN DEVELOPMENT PERMIT.

- A. No person, firm, corporation, or governmental body not exempted by state law shall commence any development activity in the floodplain, as defined, without first obtaining a floodplain development permit from the (insert local permit official's title).

- B. The (insert title of local official responsible for this ordinance) shall only issue a floodplain development permit for development activities, including new construction and substantial improvements, which meet the requirements of this ordinance.
- C. To obtain a floodplain development permit the applicant must first file a permit application on a form furnished by the (insert village, city) for that purpose. The form must be completed and submitted to the (insert local permit official's title).
- D. A floodplain development permit or approval shall become invalid unless the actual Start of Construction, as defined, for work authorized by such permit, is commenced within 180 days after its issuance, or if the work authorized is suspended or abandoned for a period of 180 days after the work commences. All permitted work shall be completed within (insert twelve (12) months, eighteen (18) months or a local permit expiration period) after the date of issuance of the permit or the permit shall expire. Time extensions, of not more than 180 days each, may be granted, in writing, by the (Insert title of Community Official Responsible). Time extensions shall be granted only if the original permit is compliant with this ordinance and the FIRM and FIS in effect at the time the extension is granted.

SECTION 5. DUTIES OF THE (insert local permit official's title).

- A. The (insert local permit official's title) shall be responsible for the general administration of this ordinance and ensure that all development activities under the jurisdiction of the (insert the community) meet the requirements of this ordinance.
- B. The (insert local permit official's title) shall be responsible for receiving applications and examining the plans and specifications for the application, the (insert local permit official's title) shall require any additional measures which are necessary to meet the minimum requirements of this ordinance.
- C. The (insert local permit official's title) shall be responsible for obtaining from the applicant copies of all other federal, state, and local permits, approvals or permit-not-required letters that may be required for this type of activity. The (insert title of local official responsible for this ordinance) shall not issue a permit unless all other federal, state, and local permits have been obtained, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.
- D. If the development is proposed for a channel or adjacent area of a stream draining 640 acres or more in an urban area, or in the channel of any stream serving a tributary area of 6,400 acres or more in a rural area., the applicant must first secure a permit from the Illinois Department of Natural Resources/Office of Water Resources, or a letter stating "Permit Not Required."
- E. The (insert local permit official's title) must review and maintain all permits applications to ensure that any development activities are consistent with criteria set forth in Section 60.3 of the National Flood Insurance Program.

SECTION 6. REVIEW OF PERMIT APPLICATION.

The (insert local permit official's title) shall review all permit applications to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is in a flood prone area, all new construction and substantial improvements (including the placement of manufactured homes) shall be:

- A. Designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure,
- B. Constructed with materials resistant to flood damage,
- C. Constructed by methods and practices that minimize flood damage,
- D. Constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during flooding.

SECTION 7. REVIEWS OF SUBDIVISION PROPOSALS

The (insert local permit official's title) shall review subdivision proposals and other proposed new development to determine whether such proposals will be reasonably safe from flooding. If a subdivision proposal or other proposed new development is in a flood prone area, any such proposals shall be reviewed to assure that:

- A. All such proposals are consistent with the need to minimize flood damage within the flood prone area,
- B. All public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage, and
- C. Adequate drainage is provided to reduce exposure of flood hazards.

SECTION 8. WATER SUPPLY SYSTEMS.

The (insert local permit official's title) shall require within flood prone areas that new and replacement water supply systems be designed to minimize or eliminate infiltration of flood waters into the systems.

SECTION 9. SANITARY SEWAGE AND WASTE DISPOSAL SYSTEMS.

The (insert local permit official's title) shall require within flood prone areas:

- A. New and replacement sanitary sewage systems be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters and
- B. On-site waste disposal systems to be located to avoid impairment to them or contamination from them during flooding.

SECTION 10. ANNEXATIONS AND EXTRATERRITORIAL JURISDICTION

The (insert village, city) may not approve any development located in a Special Flood Hazard Area outside the corporate limits unless such development or plat is in accordance with the following:

A. A floodplain ordinance legally adopted by the (insert village, city) that meets the minimum federal (44 CFR 60.3), state (17 Illinois Administrative Code part 3700 and 3708), and local requirements for development within a Special Flood Hazard Area.

B. The Special Flood Hazard Areas of those parts of unincorporated (inset county or counties name(s)) that are within the extraterritorial jurisdiction of the (insert village, city) or that may be annexed into the (insert village, city) are generally identified as such on the Flood Insurance Rate Map panel (inset panel number) dated (insert date) and prepared by the Federal Emergency Management Agency;

SECTION 11. VARIANCES.

Whenever the standards of this ordinance place undue hardship on a specific development proposal, the applicant may apply to the (insert name of the elected or appointed board of appeals) for a variance. The (insert the name of the elected or appointed board of appeals) shall review the applicant's request for a variance and shall submit its recommendation to the (insert the name of the village or city governing board). The (insert the name of the village or city governing board) may attach such conditions to granting of a variance as it deems necessary to further the intent of this ordinance.

A. No variance shall be granted unless the applicant demonstrates that all of the following conditions are met:

- i. The development activity cannot be located outside the floodplain.
- ii. An exceptional hardship would result if the variance were not granted.
- iii. The relief requested is the minimum necessary considering the flood hazard, to afford relief.
- iv. There will be no additional threat to public health or safety, destruction of beneficial stream uses and functions including, aquatic habitat, creation of a nuisance, causation of fraud on or victimization of the public, or conflict with existing local laws or ordinances.
- v. There will be no additional public expense for flood protection, lost environmental stream uses and functions, rescue or relief operations, policing, or repairs to streambeds and banks, roads, utilities, or other public facilities.
- vi. The circumstances of the property are unique and do not establish a pattern inconsistent with the intent of the NFIP.
- vii. All other state and federal permits have been obtained.

B. The (insert the name of the elected or appointed board of appeals) shall notify an applicant in writing that a variance from the requirements of the building protections standards that would lessen the degree of protection to a building will:

- i. result in increased premium rates for flood insurance up to \$25 per \$100 of insurance coverage;
- ii. increase the risks to life and property; and

- iii. require that the applicant proceed with knowledge of these risks and that the applicant acknowledge in writing the assumption of the risk and liability.

SECTION 12. PENALTY.

Any person who violates this ordinance shall upon conviction thereof be fined not less than twenty-five dollars (\$25.00) nor more than two-hundred dollars (\$250.00) (can be up to \$750). A separate offense shall be deemed committed upon each day during or on which a violation occurs or continues.

SECTION 13. ABROGATION AND GREATER RESTRICTIONS.

This ordinance repeals and replaces other ordinances adopted by the (insert the name of the village or city governing board) to fulfill the requirements of the National Flood Insurance Program including: (insert date of prior floodplain ordinance if applicable). However, this ordinance does not repeal the original resolution or ordinance adopted to achieve eligibility in the program. Nor does this ordinance repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. Where this ordinance and other ordinance easements, covenants or deed restrictions conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

SECTION 14. DISCLAIMER OF LIABILITY.

The degree of protection required by this ordinance is considered reasonable for regulatory purposes and is based on available information derived from engineering and scientific methods of study. Larger floods may occur, or flood heights may be increased by man-made or natural causes. This ordinance does not imply that development either inside or outside of the floodplain will be free from flooding or damage. This ordinance does not create liability on the part of the (insert the name of the village or city) or any officer or employee thereof for any flood damage that results from proper reliance on this ordinance, or any administrative decision made lawfully thereunder.

SECTION 15. SEVERABILITY.

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

SECTION 16. EFFECTIVE DATE.

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

Passed by the (insert the name of the village or city governing board) of the (insert village or city name), Illinois, this (insert date) day of (insert month), 20(insert year).

(Clerk)

Approved by me this (insert day) day of (insert month, 20(insert year).

(Mayor or President)

Attested and filed in my office this(insert date) day of (insert month),
20(insert year).

(Clerk)