

RESOLUTION APPLYING FOR FLOOD INSURANCE

WHEREAS, certain incorporated areas of Platte County are subject to periodic flooding, mudslides, (i.e., mudflows), or flood related erosion, causing serious damages to properties within these areas; and

WHEREAS, relief is available in the form of Federally subsidized flood insurance as authorized by the National Flood Insurance Act of 1968; and

WHEREAS, it is the intent of the Platte County Commissioners to require the recognition and evaluation of flood, mudslide (i.e., mudflow), or flood-related erosion hazards in all official actions relating to land use in areas having these hazards; and

WHEREAS, this body has the legal authority to adopt land use and control measures to reduce future flood losses pursuant to Wyoming Statutes §18-5-101 through §18-5-315 and §9-8-301 and §9-8-302.

NOW, THEREFORE, BE IT RESOLVED, that the Platte County Commissioners hereby:

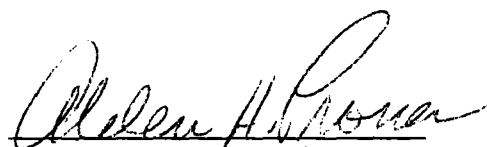
1. Assures the Federal Emergency Management Agency that it will enact, as necessary, and maintain in force in those areas having flood, mudslide (i.e., mudflow), or flood-related erosion hazards, adequate land use and control measures with effective enforcement provisions consistent with the criteria set forth in Section 60.3 of the National Flood Insurance Program Regulations; and
2. Vests Platte County Planning and Zoning Board with the responsibility, authority and means to:
 - (a) Assist the Administrator, at his/her request, in his/her delineation of the limits of the area having special flood, mudslide (i.e., mudflow), or flood-related erosion hazards.
 - (b) Provide such information as the Administrator may request concerning present uses and occupancy of the floodplain, mudslide, (i.e., mudflow) or flood-related erosion areas.
 - (c) Cooperate with Federal, State, and local agencies and private firms which undertake to study, survey, map, and identify floodplain, mudslide (i.e., mudflow) and/or aggravation of existing hazards.
 - (d) Submit on the anniversary date of the community's initial eligibility an annual report to the Administrator on the progress made during the past year within the community in the development and implementation of floodplain management measures.
 - (e) Upon occurrence, notify the Administrator in writing whenever the boundaries of the community have been modified by annexation or the community has otherwise assumed or no longer has authority to adopt and enforce floodplain management regulations for a particular area. In order that all

of a map of the community suitable for reproduction, clearly delineating the new corporate limits or new area for which the community has assumed or relinquished floodplain management regulatory authority.

3. Appoints Platte County Planning and Zoning Board and Platte County Emergency Management Coordinator to maintain for public inspection and to furnish upon request, for the determination of applicable flood insurance risk premium rates within all areas having special flood hazard identified on a Flood Hazard Boundary Map or Flood Insurance Rate Map, any certificates of flood proofing and information on the elevation (in relation to mean sea level) of the level of the lowest floor (including basement) of all new or substantially improved structures, and whether or not such structures contain a basement, and if the structure has been flood proofed, the elevation (in relation to mean sea level) to which the structure was flood proofed.
4. Agrees to take such other official action as may be reasonably necessary to carry out the objectives of the program.

DATED this 6th day of February 2001.

PLATTE COUNTY BOARD OF COUNTY COMMISSIONERS BY:


ALDEN PROSSER, Chairman


CHARLES M. COLEMAN, Commissioner


JOE REICHARDT, Commissioner

ATTEST:


Jean Dixon
Platte County Clerk

SECTION 1.0 STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND OBJECTIVES.

1.1 Statutory Authorization

The legislature of the State of Wyoming has in WS §18-5-107; and §19-5-101 thru §19-5-116, delegated the responsibility to local government units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the BOARD OF COUNTY COMMISSIONERS of PLATTE COUNTY, WYOMING does resolve as follows:

1.2 Findings of Fact

- (1) The flood hazard areas of PLATTE COUNTY are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures to provide flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.
- (2) These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazards which increase flood heights and velocities, and when inadequately anchored, damage uses in other areas. Uses that are inadequately flood proofed, elevated or otherwise protected from flood damage also contribute to the flood loss.

1.3 Statement of Purpose

It is the purpose of this resolution to promote the public health, safety, and welfare and to reduce public and private losses due to flooding in areas of special flood hazard by provisions designed:

- (1) To protect human life and health;
- (2) To minimize expenditure of public money for costly flood control projects;
- (3) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) To minimize prolonged business interruptions;
- (5) To minimize flood damage to public facilities and utilities such as water and gas mains, electric, telephone, sewer lines, communication networks, streets and bridges, and other such systems located in areas of special flood hazard;
- (6) To help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas.
- (7) To ensure that potential buyers are notified that the property is in an area of special flood hazard; and,
- (8) To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

1.4 Methods of Reducing Flood Losses

To accomplish the purposes described in Section 1.3, this resolution includes methods and provisions designed to:

- (1) Restrict and prohibit uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- (2) Require uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (3) Control the alteration of natural floodplains, stream channels and natural protective barriers, which help accommodate or channel, floodwaters;
- (4) Control filling, grading, dredging and other development which may increase flood damages; and,
- (5) Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards in other areas.

SECTION 2.0 DEFINITIONS

2.1 Unless specifically defined below, words or phrases used in this resolution shall be interpreted so as to give them the meaning they have in common usage or in the definition attached in Title 44 – Emergency Management and Assistance, of the Code of Federal Regulations. Words and phrases shall be construed and interpreted so as to give this resolution its most reasonable application.

“Area of special flood hazard” is the land in the flood plain within a community subject to a one percent or greater chance of flooding in any given year. The area may be designated as a Zone A on the FHBM.

“Base flood” means the flood having a one percent chance of being equaled or exceeded in any given year.

“Basement” means any area of the building having its floor subgrade (below ground level) on all sides.

“Development” means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

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

- (1) The overflow of waters.
- (2) The unusual and rapid accumulation or runoff of surface waters from any source.

“Flood Hazard Boundary Map (FHBM)” means an official map of the community on which the Federal Emergency Management Agency has delineated areas of special flood hazard (generally designated as “Zone A” on such maps).

“Floodplain” or “flood-prone area” means any land area susceptible to being inundated by water from any source (see definition of “flooding”).

“Flood proofing” means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

“Highest adjacent grade” means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

“Historic structure” means any structure that is:

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

“Lowest floor” means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistance enclosure, usable solely for parking 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 non-elevation design requirements of Section 5.0.

“Manufactured home” means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term “manufactured home” does not include a “recreational vehicle”.

“Manufactured Home Park or subdivision” means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

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

“Recreational vehicle” means a vehicle which is:

- (1) Built on a single chassis;
- (2) 400 square feet or less when measured at the largest horizontal projection;
- (3) Designed to be self-propelled or permanently towable by a light duty truck; and
- (4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

“Start of construction” includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of a 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 include 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. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

“Structure” means a walled and roofed building, including gas or liquid storage tank that is principally above ground, as well as a manufactured home.

“Substantial damage” means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before damage occurred.

“Substantial improvement” means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the “start of construction” of the improvement. This term includes structures which have incurred “substantial damage”, regardless of the actual repair work performed. The term does not, however, include either:

- (1) 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; or
- (2) Any alteration of a “historic structure” provided that the alteration will not preclude the structure’s continued designation as a “historic structure”.

SECTION 3.0 GENERAL PROVISIONS

3.1 LANDS TO WHICH THIS RESOLUTION APPLIES

This resolution shall apply to all areas of special flood hazard within the jurisdiction of Platte County, Wyoming.

3.2 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD

The areas of special flood hazard identified by the Federal Emergency Management Agency in its Flood Hazard Boundary Map (FHBM) dated March 28, 1978, are hereby adopted by reference and declared to be a part of this resolution. The FHBM is on file at the Platte County Assessor's Office, at the Platte County Courthouse 800 9th Street Wheatland, Wyoming.

3.3 COMPLIANCE

No structure in an area of special flood hazard shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this resolution and any other applicable regulations.

3.4 ABROGATION AND GREATER RESTRICTIONS

This resolution is not intended to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, where this resolution and another resolution, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

3.5 INTERPRETATION

In the interpretation of this resolution, all provisions shall be:

- (1) Considered as minimum requirements;
- (2) Liberally construed in favor of the local governing authority; and,
- (3) Deemed neither to limit nor repeal any other powers granted the local governing authority under state or federal law.

3.6 WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required by this resolution 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 local law does not imply that land outside the area of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. This resolution shall not create liability on the part of Platte County, and any officer or employee thereof, or the Federal Emergency Management Agency, for any flood damages that result from reliance on this resolution or any administrative decisions lawfully made thereunder.

SECTION 4.0 ADMINISTRATION

4.1 DESIGNATION OF THE LOCAL FLOODPLAIN MANAGER

The Platte County Planning and Zone Board is hereby appointed to administer and implement this resolution by granting or denying floodplain development permits in accordance with its provisions.

4.2 THE FLOODPLAIN DEVELOPMENT PERMIT

4.2-1 Purpose

A floodplain development permit is hereby established for all construction and other development to be undertaken in areas of special flood hazard established in Section 3.2 for the purpose of protecting its citizens from increased flood hazards and ensuring that new development is constructed in a manner that minimizes its exposure to flooding. It shall be unlawful to undertake any development in an area of special flood hazard without a valid floodplain development permit.

4.2-2 Application for a Permit

Application for a floodplain development permit shall be made on forms furnished by the Platte County Planning and Zoning Board. The applicant shall provide, at a minimum, the following information, where applicable:

- (1) Plans accompanied by supporting documentation depicting the topography, character, location and elevations of the land area in question; location and dimensions of existing and proposed structures; area and type of fill; material storage areas (indicate type of material); historical drainage; location and nature of drainage improvements or diversion facilities.
- (2) The elevation, in relation to mean sea level, of the lowest floor (including basement) of any new or substantially improved structure to be located in areas of special flood hazard. Upon completion of the lowest floor, the applicant shall submit to the Floodplain Manager the as-built elevation, certified by a Wyoming licensed professional engineer or surveyor.
- (3) The proposed elevation, in relation to mean sea level, to which any new or substantially improved non-residential structure has been flood-proofed. Upon completion of the flood-proofed portion of the structure, the applicant shall submit to the Land Use Department the as-built elevation, certified by a Wyoming licensed professional engineer or surveyor.
- (4) A certificate from a Wyoming licensed professional engineer or architect that any non-residential flood-proofed structure meets the flood-proofing criteria set forth in Section 5.2-2.
- (5) A description of the extent to which any watercourse will be altered or relocated as a result of the proposed development.

4.3 DUTIES AND RESPONSIBILITIES OF THE LOCAL FLOODPLAIN MANAGER

Duties of the local floodplain manager shall include, but not be limited to the following:

4.3-1 Permit Application Review

- (1) Review all development permits to determine that the permit requirements of this resolution have been satisfied.
- (2) Review proposed development to assure that all necessary permits have been received from those governmental agencies from which approval is required by State or Federal law.
- (3) Review all permit applications to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is located in an area of special flood hazard, all new construction and substantial improvements shall meet the applicable standards of Section 5.0, Provisions for Flood Hazard Reduction.
- (4) Review subdivision proposals and other proposed new development including manufactured home parks or subdivisions, to determine whether such proposals will be reasonably safe from flooding. If such proposal is located in an area of special flood hazard, such proposal shall meet applicable standards of Section 5.1-4, Subdivision Proposals.
- (5) Review all development permits to determine if the proposed development will adversely impact the flood carrying capacity of an area of special flood hazard. For the purposes of this resolution, "adversely impact" means the proposed development may tend to increase flood stages or cause increased damage to adjacent properties through a rise in flood stages or may result in physical changes to the channel or adjacent over-bank areas.
 - a. If it is determined that there is no adverse impact and the development is not a building, then the Floodplain Development Permit shall be granted without further consideration.
 - b. If it is determined that there is an adverse impact, then technical explanation and justification by a Wyoming licensed engineer or architect for the proposed development shall be required before the Floodplain Development Permit is issued.
 - c. If the proposed development is a building, then an adverse impact shall be presumed and the provisions of this resolution are fully applicable.

4.3-2 Use of Other Flood Data

When Base Flood Elevation has not been provided in accordance with Section 3.2, Basis for Establishing Areas of Special Flood Hazard, the local floodplain manager shall obtain, review and reasonably utilize any

base flood elevations and floodway data available from a Federal, State or other source as criteria for requiring that new construction, substantial improvements or other development in Zone A are administered in accordance with Section 5.2, Specific Standards.

4.3-3 Alteration of Watercourses

- (1) Notify adjacent communities and the Wyoming Emergency Management Agency, NFIP Coordinator, prior to permitting any alteration or relocation of a watercourse, and submit evidence of such notification to the Regional Director of the Federal Emergency Management Agency.
- (2) Require maintenance be provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

4.3-4 Information to be Obtained and Retained

- (1) Obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement.
- (2) For all new or substantially improved flood-proofed structures:
 - a. Verify and record the actual elevation (in relation to mean sea level) to which the structure has been flood-proofed.
 - b. Maintain the flood-proofing certifications required in Section 4.2-2.
- (3) Variances issued pursuant to Section 6.0, Variance Procedure, including findings of fact and justifications included in Biennial Report.

4.3-5 Interpretation of FHBM Boundaries

Make interpretation, where needed, as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions).

SECTION 5.0 PROVISIONS FOR FLOOD HAZARD REDUCTION

5.1 GENERAL STANDARDS

In all areas of special flood hazard, the following standards are required:

5.1-1 Anchoring

- (1) New structures and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure and capable of resisting hydrostatic and hydrodynamic loads.
- (2) All manufactured homes must be elevated and anchored to resist flotation, collapse or lateral movement and capable of resisting hydrostatic and hydrodynamic loads. Methods of anchoring may include, but are not limited to the use of over-the-top or frame ties to ground anchors. Specific requirements may be:
 - a. Over-the-top ties provided at each of the four corners of the manufactured home. Homes less than 50 feet long shall require one additional tie per side. Homes 50 feet long or greater shall require two additional ties per side.
 - b. Frame ties be provided at each corner of the home. Homes less than 50 feet long shall require four additional ties per side. Homes 50 feet long or greater shall require five additional ties per side.
 - c. All components of the anchoring system be capable of carrying a force of 4,800 pounds; and,
 - d. Any additions to the manufactured home shall be similarly anchored.

5.1-2 Construction Materials and Methods

- (1) New construction and substantial improvements to structures shall be constructed with materials and utility equipment resistant to flood damage.
- (2) New construction and substantial improvements to structures shall be constructed using methods and practices that minimize flood damage.

- (3) All new construction and substantial improvements shall be 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 conditions of flooding.

5.1-3 Utilities

- (1) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system,
- (2) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from the systems into the flood waters; and,
- (3) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

5.1-4 Subdivision Proposals

- (1) Proposals shall be consistent with the need to minimize flood damage;
- (2) Public utilities and facilities such as sewer, gas, electrical and water systems shall be located and constructed so as to minimize flood damage;
- (3) Adequate drainage shall be provided to reduce exposure to flood damage; and,
- (4) Base flood elevation data shall be provided for subdivision proposals and other proposed development which contain at least 50 lots or 5 acres, whichever is less.

5.1-5 Encroachments

Encroachments, including fill, new constructions, substantial improvements, and other development shall be prohibited in any floodway unless a technical evaluation demonstrates that the encroachments will not result in any increase in flood levels during the occurrence of the base flood discharge.

5.2 SPECIFIC STANDARDS

In areas of special flood hazard where base flood elevation data has been provided as set forth in Section 3.2, BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD or Section 4.3-2, USE OF OTHER FLOOD DATA, the following provisions are required:

5.2-1 Residential Construction

- (1) New construction and substantial improvement of any residential structure shall have the lowest floor (including basement) elevated to or above the base flood elevation.

5.2-2 Nonresidential Construction

New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor (including basement) elevated to or above the level of the base flood elevation; or, together with attendant utility and sanitary facilities, shall:

- (1) Be flood-proofed so that below the base flood elevation the structure is watertight with walls substantially impermeable to the passage of water;
- (2) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and,
- (3) Be certified by a Wyoming registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this paragraph. Such certifications shall be provided to the official as set forth in Section 4.2-2.

5.2-3 Manufactured Homes

- (1) Manufactured homes shall be anchored in accordance with Section 5.1-1(2).

- (2) All manufactured homes or those to be substantially improved shall conform to the following requirements:
- a. Require that manufactured homes that are placed or substantially improved on a site:
 - (i) outside of a manufactured home park or subdivision,
 - (ii) in a new manufactured home park or subdivision,
 - (iii) in an expansion to an existing manufactured home park or subdivision, or
 - (iv) in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as the result of a flood,

be elevated on a permanent foundation with the lowest floor of the manufactured home elevated to or above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.
 - b. Require that manufactured homes to be placed or substantially improved on sites in existing manufactured home parks or subdivisions that are not subject to the provision in (a) above be elevated so that either:
 - (i) the lowest floor of the manufactured home is at or above the base flood elevation, or
 - (ii) the manufactured home chassis is supported by reinforced piers or other foundation elements that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

5.2-4 Recreational Vehicles

Require that recreational vehicles placed within areas of special flood hazard either:

- (1) Be on the site for fewer than 180 consecutive days;
- (2) Be fully licensed and ready for highway use; or,
- (3) Meet all permit requirements and the elevation and anchoring requirements for manufactured homes in Section 5.2-3(2)a.

A recreational vehicle is ready for highway use if it is on its wheel or jacking system, is attached to the site only by quick disconnect to utilities and security devices, and has no permanently attached additions.

5.2-5 Openings in Enclosures Below the Lowest Floor

For all new construction and substantial improvements, fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a Wyoming registered professional engineer or architect or must meet or exceed the following minimum criteria:

- (1) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided;
- (2) The bottom of all openings shall be no higher than one foot above grade;
- (3) Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

SECTION 6.0 VARIANCES

6.1 VARIANCE PROCEDURE

- (1) The issuance of a variance is for flood plain management purposes only. Insurance premium rates are determined by statute according to actuarial risk and will not be modified by the granting of a variance. The Board of County Commissioners, after examining the applicant's hardships, shall approve or disapprove a request. FEMA

may review a community's findings justifying the granting of variances, and if that review indicates a pattern inconsistent with the objectives of sound floodplain management, FEMA may take appropriate action under Sec. 59.24(b) of Title 44 – Emergency Management and Assistance, of the Code of Federal Regulations.

- (2) Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- (3) Procedures for the granting of variances by a community are as follows:
 - a. Variances shall not be issued by a community within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result;
 - b. Variances may be issued by a community 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 constructed below the base flood level, in conformance with the procedures of paragraphs (3) c., d., e, and f. of this section. As lot size increases beyond one-half acre, the technical justification required for issuing a variance increases;
 - c. Variances shall only be issued by a community upon
 - (i) a showing of good and sufficient cause,
 - (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and
 - (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances;
 - d. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief;
 - e. A community shall notify the applicant in writing over the signature of a community official that
 - (i) the issuance of a variance to construct a structure below the base flood level will result in increased premium rates and
 - (ii) such construction below the base flood level increases risks to life and property.Such notification shall be maintained with a record of all variance actions as required in paragraph (3)f. of this section;
 - f. A community shall maintain a record of all variance actions, including justification for their issuance, and report such variances issued in its annual or biennial report submitted to FEMA;
 - g. Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that
 - (i) the criteria of paragraphs (3)a. through (3)d. of this section are met, and
 - (ii) the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.