

ARTICLE XXVII. Floodplain/Floodway Overlay District

§ 205-152. Statutory Authorization.

The Legislature of the State of Nebraska has delegated the responsibility to local governmental units to adopt zoning regulations designed to protect the public health, safety and general welfare. The Legislature, in Sections 31-1001 to 31-1022, R.R.S. 1943, has further assigned the responsibility to adopt, administer, and enforce floodplain management regulations to the county, city or village with zoning jurisdiction over the flood-prone area.

§ 205-153. Purpose.

It is the purpose of this ordinance to promote the public health, safety and general welfare and to minimize those losses described in Subsection C by applying the provisions of this ordinance to:

- A. Restrict or prohibit uses which are dangerous to health, safety or property in times of flooding or cause undue increases in flood heights or velocities.
- B. Require that uses vulnerable to floods, including public facilities that serve such uses, be provided with flood protection at the time of initial construction.
- C. Protect individuals from buying lands that are unsuitable for intended purposes because of flood hazard.
- D. Assure that eligibility is maintained for property owners in the community to purchase flood insurance in the National Flood Insurance Program when identified by the Federal Insurance Administration as a flood-prone community.

§ 205-154. Floodplain/Floodway Overlay Districts findings of fact.

A. Flood losses resulting from periodic inundation. Flood hazard areas of the City of Papillion, Nebraska, are subject to inundation which results in loss of life or 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.

(1) General causes of these flood losses. These flood losses are caused by:

- (a) The cumulative effect of obstruction in floodways causing increases in flood heights and velocities.
- (b) The occupancy of flood areas by uses vulnerable to floods or hazardous to others that are inadequately elevated or otherwise protected from flood damages.

(2) Methods used to analyze flood hazards. This ordinance uses a reasonable method of analyzing flood hazards that consists of a series of interrelated steps.

- (a) Selection of a base flood which is based upon engineering calculations that permit a consideration of such flood factors as its expected frequency of occurrence, the area inundated and the depth of inundation. The base flood selected for this ordinance is representative of large floods that are reasonably characteristic of what can be expected to occur on the particular streams subject to this ordinance. It is in the general order of a flood which could be expected to have a one-percent chance of occurrence in any one year, as delineated in the Federal Emergency Management Administration's Flood Insurance Rate Maps and Flood Boundary and Floodway Map dated May 3, 2010, or any subsequent effective Flood Insurance Studies, Rate Maps and Flood Boundary and Floodway Maps issued after the effective date of this ordinance and adopted by the City of Papillion.
 - (b) Calculation of water surface profiles based upon a hydraulic engineering analysis of the capacity of the stream channel and overbank areas to convey the base flood.
 - (c) Computation of the floodway required to convey this flood without increasing flood heights more than one foot at any point.
 - (d) Delineation of floodway encroachment lines within which no obstruction is permitted which would cause any increase in flood height.
 - (e) Delineation of floodway fringe, i.e., that area outside the floodway encroachment lines but which still is subject to inundation by the base flood.
- (3) Land to which ordinance applies. This ordinance shall apply to all lands within the jurisdiction of the City of Papillion that are subject to a 1% or greater chance of flooding in any given year, now or in the future, as identified as numbered and unnumbered A Zones (including AE, AO and AH Zones) on the effective Flood Insurance Rate map (effective FIRM) dated May 3, 2010, or best available data as determined by more recent hydrologic and hydraulic studies completed or approved by the City of Papillion or other government agency, and/or within the Overlay Districts FP and FW established in this ordinance. Requirements established in § 205-156 of this ordinance shall apply to the Zoning Districts FW and FP based on the most restrictive information available. In all areas covered by this ordinance, no development shall be permitted except upon a permit to develop granted by the City Council or its duly designated representative under such safeguards and restrictions as the City Council may reasonably impose for the promotion and maintenance of the general welfare and health of the inhabitants of the community as contained in the City Code.
- (4) Enforcement officer. The Planning Director of the City of Papillion is hereby designated as the City Council's duly designated enforcement officer under this ordinance. Unless otherwise provided by the City Council, the Papio-Missouri River Natural Resources District shall assist the City of Papillion on interpretation of floodplain/floodway rules and regulations. The enforcement officer shall obtain comments from the NRD as part of his/her review of all proposed activity in this overlay district.
- (5) Rules for interpretation of district boundaries. The boundaries of the floodway and floodway fringe overlay districts shall be determined by scaling distances on the Official Zoning Map, the Flood Insurance Rate Map or Floodway Map, or on the Digital Flood

Insurance Rate Map. Where interpretation is needed to the exact location of the boundaries of the districts as shown on the Official Zoning Map, as for example where there appears to be a conflict between a mapped boundary and actual field conditions, the enforcement officer shall make the necessary interpretation. In such cases where the interpretation is contested, the Board of Adjustment will resolve the dispute. The regulatory flood elevation for the point in question shall be the governing factor in locating the floodplain overlay district boundary on the land. The location of the floodway overlay district boundary may be based on a map completed or approved by the City of Papillion or other government agency, provided the boundary is not less restrictive than that shown on the effective FIRM. The person contesting the location of the district boundary shall be given a reasonable opportunity to present his case to the Board and to submit his own technical evidence if he/she so desires.

- (6) Compliance. No development located within known flood hazard areas of the community shall be located, extended, converted or structurally altered without full compliance with the terms of this ordinance and other applicable regulations.
- (7) Abrogation and greater restrictions. It is not intended by this ordinance to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, where this ordinance imposes greater restrictions, the provision of this ordinance shall prevail. All other ordinances inconsistent with this ordinance are hereby repealed to the extent of the inconsistency only.
- (8) Interpretation. In their interpretation and application, the provisions of this ordinance shall be held to be minimum requirements and shall be liberally construed in favor of the governing body and shall not be deemed a limitation or repeal of any other powers granted by state statute.
- (9) Warning and disclaimer of liability. The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on engineering and scientific methods of study. Larger floods may occur on rare occasions or the flood height may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This ordinance does not imply that areas outside floodway and floodway fringe district boundaries or land uses permitted within such districts will be free from flooding or flood damages. This ordinance shall not create liability on the part of the City of Papillion or any officer or employee thereof for any flood damages that may result from reliance on this ordinance or any administrative decision lawfully made thereunder.
- (10) Application for appeal. Where a request for a permit to develop is denied by the Planning Director, the applicant may apply for such permit or variance directly to the Board of Adjustment. The Board of Adjustment may grant or deny such request by appropriate resolution adopted within 45 days after the date of such application to the Board of Adjustment.

§ 205-155. Floodplain and floodway permits and administration.

A. Permit required. No person, firm or corporation shall initiate any development or substantial improvement or cause the same to be done without first obtaining a separate permit for development as defined in Subsection C hereof.

B. Administration.

(1) The Planning Director is hereby appointed to administer and implement the provisions of this ordinance.

(2) Duties of the Planning Director shall include, but not be limited to:

- (a) Review of all development permits to assure that sites are reasonable, safe from flooding and that the permit requirements of this ordinance have been satisfied.
- (b) Review permits for proposed development to assure that all necessary permits have been obtained from those federal, state or local governmental agencies from which prior approval is required.
- (c) Notify adjacent communities, the U.S. Army Corps of Engineers, and the Nebraska Department of Natural Resources Flood Plan Management Section prior to any alteration or relocation of a watercourse, and shall submit evidence of such notification to the Federal Insurance Administration when participating in the National Flood Insurance Program.
- (d) Notify the Papio-Missouri River Natural Resources District Floodplain Management Section of any proposed construction and development activity in floodplain areas and/or upon land situated within the Floodplain/Floodway Overlay Zoning District.
- (e) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.
- (f) Verify and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures.
- (g) Verify and record the actual elevation (in relation to mean sea level) to which the new or substantially improved structures have been floodproofed.
- (h) When floodproofing is utilized for a particular structure, the Planning Director shall be presented certification from a registered professional engineer or architect.
- (i) Facilitate the approval of new Flood Insurance Rate Maps or best available data as necessary.
- (j) Maintain records of all floodplain development permits and or building permits within the floodway or flood fringe overlay district to ensure that structures are not substantially improved.

(k) Require that any filling of the floodway fringe associated with new development within the West Papillion Creek System be limited to 25% of the floodway fringe in the floodplain development application project area, unless approved mitigation measures are implemented. The remaining 75% of floodway fringe within the project area shall be designated as a restricted fill zone. For redevelopment, these provisions may be modified or waived in whole or in part by the local jurisdiction.

C. Application for permit. To obtain a permit, the applicant shall first file an application, in writing, on a form furnished for that purpose. Every such application shall:

- (1) Identify and describe the work to be covered by the permit.
- (2) Describe the land on which the proposed work is to be done by lot, block, tract and house and street address, or similar description that will readily identify and definitely locate the proposed building or work.
- (3) Indicate the use or occupancy for which the proposed work is intended.
- (4) Be accompanied by plans for the proposed construction, including but not limited to the following information: 1) existing (natural) grades, 2) proposed grades as a result of proposed development, 3) the proposed lowest floor elevation and any higher floor elevations, including attached garage, of any proposed structures, 4) the lowest and highest adjacent grades next to any proposed structures, 5) the most restrictive base flood elevation nearest the proposed development.
- (5) Be signed by the permittee or his authorized agent who may be required to submit evidence to indicate such authority.
- (6) Give such other information as reasonably may be required by the Planning Director or Chief Building Official.

D. Best available information. When a draft (D)FIRM is being considered for adoption by either the city or FEMA, any building permit or grading permit application for property located within an area that will have a known change in floodplain designation requires City Council approval per the following process:

- (1) City Council approval is only required when the change in designation on the draft (D)FIRM is more restrictive than the designation on the current (D)FIRM and the change results in a floodway designation or a floodplain designation with a 1% annual chance of flood.
- (2) City Council approval is only required for a building permit when the permit is for a new structure or building addition that will affect the floodplain or floodway, as determined by the Planning Director. Building permits associated with an existing building where the exterior building footprint remains unchanged should generally not require City Council approval. Typical exempt types of permits include interior finishes, renovation, re-roofing, plumbing, or electrical for an existing building.

- (3) The Planning Director may waive the requirement for City Council approval of a building permit or grading permit if the application is in compliance with both the current (D)FIRM and the draft (D)FIRM.
- (4) City Council may not approve any permit application that is in violation of a current (D)FIRM, even if the application conforms with a draft (D)FIRM.
- (5) City Council shall receive a recommendation from the Planning Commission prior to voting on a permit application.
- (6) City Council shall hold a public hearing, but may approve a permit by resolution.

§ 205-156. Establishment of zoning districts.

The mapped floodplain areas within the jurisdiction of this ordinance are hereby divided into the two following districts: a Floodway Overlay District (FW) and a Floodplain Overlay District (FP) as identified in the Official Floodplain Study, effective FIRM, or best available data. The zoning districts created by this resolution overlie other zoning districts and place additional restrictions upon the manner in which lands in such underlying district may be used. Within these districts, all uses not meeting the standards of this ordinance and those standards of the underlying zoning district shall be prohibited. These zones may not be identified on the Official Zoning Map, but shall be consistent with the numbered and unnumbered A Zones as identified on the official FIRM or best available data.

§ 205-157. Standards for Floodway Overlay District and Floodplain Overlay District.

- A. No permit for development shall be granted for new construction, substantial improvement or other improvements including the placement of manufactured homes within the identified floodplain unless the conditions of this section are satisfied.
- B. All areas identified as unnumbered A Zones on the effective FIRM or best available data are subject to inundation of the one-hundred-year flood; however, the water surface elevation was not provided. The unnumbered A Zones shall be subject to all development provisions of this ordinance. If Flood Insurance Study data is not available, the community shall utilize any base flood elevation data currently available within its area of jurisdiction. Further, in cases of proposed development within unnumbered A Zones, the developer's engineer shall be required to conduct the necessary studies to determine the one-hundred-year-flood elevation and its extent in relation to such development.
- C. New construction, subdivision proposals, substantial improvement, prefabricated buildings, placement of manufactured homes and other development shall require:
 - (1) Design or anchorage to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads including the effect of buoyancy.
 - (2) New or replacement water supply systems and/or sanitary sewage systems designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters, and on-site waste disposal systems be located so as to avoid impairment or contamination.

- (3) Construction with materials resistant to flood damage, utilizing methods and practices that minimize flood damages, and with electrical, heating and ventilation that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
- (4) All electrical equipment and sanitary facilities, including circuits, installed electric appliances, toilets, sinks, drains, in new developments and substantial improvements shall be located so as to not be subject to flooding or shall be floodproofed to prevent damage resulting from flood levels exceeding the base flood elevation by one foot. Backflow valves should be installed on all septic lines leading from the structure.
- (5) That until a floodway has been designated, no development, including landfill, may be permitted within the identified floodplain unless the applicant for the land use has demonstrated that the proposed use, when combined with all other existing and reasonably anticipated uses, will not increase the water surface elevation of the one-hundred-year flood more than one foot on the average cross section of the reach in which the development or landfill is located as shown in the effective FIRM or best available data..
- (6) Storage of materials and equipment.
 - (a) The storage or processing of materials that are in time of flooding buoyant, flammable, explosive or could be injurious to human, animal or plant life is prohibited.
 - (b) Storage of other materials or equipment may be allowed if not subject to major damage by floods and firmly anchored to prevent flotation or if readily removable from the area within the time available after flood warning.
- (7) Subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, be required to assure that:
 - (a) All such proposals are consistent with the need to minimize flood damage.
 - (b) All public utilities and facilities, such as sewer, gas, electrical and water systems, are located, elevated and constructed to minimize or eliminate flood damage.
 - (c) Adequate drainage is provided so as to reduce exposure to flood hazards.
 - (d) Proposals for development (including proposals for manufactured home parks and subdivisions) of five acres or 50 lots, whichever is less, include within such proposals the regulatory flood elevation.

§ 205-158. Floodplain Overlay District regulations.

- A. Permitted uses. Any use permitted in the underlying base district shall be permitted in the Floodplain Overlay District. No use shall be permitted in the district unless the standards of § 205-157 are met.

B. Standards for the Floodplain Overlay District.

- (1) Any new construction or substantial improvements of residential structures shall have the lowest floor, including basement, elevated one foot above the highest base flood elevation available, now or in the future.
- (2) Any new construction or substantial improvements of nonresidential structures shall have the lowest floor, including basement, elevated one foot above the highest base flood elevation available, now or in the future or, together with attendant utility and sanitary facilities, shall be floodproofed so that below such a level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effect of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the official as set forth in § 205-155B(2)(h). Such floodproofing is permitted only for nonresidential properties.
- (3) All new construction and substantial improvements that fully enclosed areas below the lowest floor that are subject to flooding shall be designated to automatically equalize hydrostatic flood forces or exterior walls by allowing for the entry and exit of floodwaters. The area below lowest floor subject to flooding shall be a maximum of four (4) feet in height measured from the bottom of the floor joists, unless used for parking of vehicles. Areas other than a basement and which 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 the registered professional engineer or architect or meet or exceed the following minimum criteria:
 - (a) 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.
 - (b) The bottom of all openings shall be not higher than one foot above grade.
 - (c) Openings may be equipped with screens, louvers, valves or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
- (4) All electrical equipment and sanitary facilities, including circuits, installed electric appliances, toilets, sinks, drains, in new developments and substantial improvements shall be located so as to not be subject to flooding or shall be floodproofed to prevent damage resulting from flood levels exceeding the highest base flood elevation available, now or in the future, by one foot. Backflow valves should be installed on all septic lines leading from the structure.
- (5) Within AH Zones, adequate drainage paths around structures on slopes shall be required in order to guide floodwaters around and away from proposed structures.

(6) Manufactured homes.

- (a) All manufactured homes shall be anchored to resist flotation, collapse or lateral movement. Manufactured homes must be anchored in accordance with local building codes or FEMA guidelines. In the event that over-the-top frame ties to ground anchors are used, the following specific requirements (or their equivalent) shall be met:

[1] Over-the-top ties shall be provided at each of the four corners of the manufactured home with two additional ties per side at intermediate locations, and manufactured homes less than 50 feet long requiring one additional tie per side.

[2] Frame ties shall be provided at each corner of the home with five additional ties per side at intermediate points, and manufactured homes less than 50 feet long requiring four additional ties per side.

[3] All components of the anchoring system shall be capable of carrying a force of 4,800 pounds.

[4] Any additions to manufactured homes shall be similarly anchored.

- (b) All manufactured homes placed within an Area of Special Flood Hazard on the community's FIRM shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above one foot above the base flood elevation and be securely anchored to an adequately anchored foundation system in accordance with the provisions of the Uniform Building Code.

- (7) Recreational vehicles placed on sites within the special flood hazard areas on the community's official map shall either (i) be on the site for fewer than 180 consecutive days and be fully licensed and ready for highway use, or (ii) meet the permit requirements and the elevation and anchoring requirements for "manufactured homes" of this ordinance. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect type utilities and security devices, and has no permanently attached additions.

C. AO Zones: special regulations. Located within the areas of special flood hazard are areas designated as AO Zones. These areas have special flood hazards associated with base flood depths of 1 to 3 feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate. Therefore, the following provisions apply with AO Zones:

- (1) All new construction and substantial improvements of residential structures have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as one foot above the depth number specified in feet on the community's FIRM.
- (2) All new construction and substantial improvements of nonresidential structures shall:

- (a) Have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as one foot above the depth number specified in feet on the community's FIRM; or
 - (b) Together with attendant utility and sanitary facilities, be completely floodproofed to or above that level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effect of buoyancy. Such certification shall be provided to the official as set forth in § 205-155B(2)(h).
- (3) Adequate drainage paths around structures on slopes shall be required in order to guide floodwaters around and away from proposed structures.

§ 205-159. Floodway Overlay Districts.

A. Permitted uses. Only uses having a low flood-damage potential and that do not obstruct flood flows shall be permitted within the Floodway District to the extent that they are not prohibited by any other ordinance and provided that they do not require structures, fill, or storage of materials or equipment. No use shall increase the flood levels of the base flood elevation. These uses are subject to the standards of § 205-157 and § 205-158.

Recommended uses for the Floodway District include:

- (1) Open space uses not requiring a closed building, such as agricultural cropland, livestock feeding and grazing, or open public and private recreation areas.
- (2) Wire fences or other appurtenances may be constructed which would not constitute an obstruction or debris-catching obstacle to the passage of flood waters.
- (3) Railroads, streets, bridges, public utility wire and pipelines for transmission and local distribution.
- (4) Commercial excavation of materials from pits, strips, or pools; provided, that no stockpiling of materials, products or overburden shall be such as to create a potential restriction to the passage of flood waters.
- (5) Non-restrictive improvements in stream channel alignment, cross section, and capacity in the normal maintenance thereof.
- (6) Uses of a type not appreciably damaged by flood waters; provided, no structures for human habitation shall be permitted

B. The uses enumerated in § 205-159A above shall only be permitted if certification by a registered professional engineer or architect is provided demonstrating that the development shall not result in any increase in water surface elevations along the floodway profile during occurrence of the base flood discharge. These uses are subject to the standards of § 205-157 and § 205-158. In Zone A unnumbered, obtain, review and reasonably utilize any floodway data available through federal, state or local sources in meeting the standards of this section.

§ 205-160. Request for variances from district requirements.

- A. The Board of Adjustment, as established by the City of Papillion, shall hear and decide appeals and requests for variances from the requirements of this ordinance.
- B. The Board of Adjustment shall hear and decide appeals when it is alleged that there is an error in any requirement, decision or determination made by the Planning Director in the enforcement or administration of this ordinance.
- C. Any person aggrieved by the decision of the Board of Adjustment or any taxpayer may appeal such decision to the District Court as provided in Nebraska statute 19-912, R.R.S. 1943.
- D. In passing upon such applications, the Board of Adjustment shall consider all technical evaluation, all relevant factors, standards specified in other sections of this ordinance and:
 - (1) The danger that materials may be swept onto other lands to the injury of others,
 - (2) The danger of life and property due to flooding or erosion damage,
 - (3) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner,
 - (4) The importance of the services provided by the proposed facility to the community,
 - (5) The necessity to the facility of a waterfront location, where applicable,
 - (6) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use,
 - (7) The compatibility of the proposed use with existing and anticipated development,
 - (8) The relationship of the proposed use to the Comprehensive Plan and floodplain management program for that area,
 - (9) The safety of access to the property in time of flood for ordinary and emergency vehicles,
 - (10) The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effect of wave action, if applicable, expected at the site; and,
 - (11) The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.
- E. Conditions for variances.
 - (1) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of ½ acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level provided that Subsections

E(2) through (6) below have been fully considered. As the lot size increases beyond ½ acre, the technical jurisdiction required for issuing the variance increases.

- (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) Variances shall not be issued within any designated floodway if any increase in flood levels along the floodway profile during the base flood discharge would result.
- (4) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (5) Variances shall only be issued 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.
- (6) This application shall be given a written notice over the signature of a community official that (1) the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25.00 for \$100 of insurance coverage and (2) such construction below the base flood level increases risks to life and property. Such notification shall be maintained with the record of all variance actions as required by this ordinance.

§ 205-161. Zoning regulations for nonconforming uses.

- A. Continuation of nonconforming uses. A structure or the use of a structure or premises which was lawful before the passage or amendment of this ordinance but which is not in conformity with the provisions of this ordinance may be continued subject to the following conditions:
 - (1) No such use or substantial improvement of that use shall be extended, changed, enlarged or altered in a way which increases its nonconformity.
 - (2) If such use is discontinued for 12 consecutive months, any future use of the building premises shall conform to this ordinance. The Utility Department shall notify the Building Inspector, in writing, of instances of nonconforming uses where utility services have been discontinued for a period of 12 months.
 - (3) Uses or adjuncts thereof which are or become nuisances shall not be entitled to continue a nonconforming uses.
- B. Replacement of residential uses. If any residential nonconforming use of a structure is destroyed by any means, including flood, it shall not be reconstructed if the cost is more than 50% of the market value of the structure before the damage occurred within those areas identified as floodway (FW). This limitation does not include the cost of any alteration to

comply with existing state or local health, sanitary, building or safety codes or regulations or the cost of any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

- C. Replacement of nonresidential uses. If any nonresidential nonconforming use of a structure is destroyed by any means, including flood, it should not be reconstructed if the cost is more than 50% of the market value of the structure before the damage occurred except if it is reconstructed in conformity with the provisions of this ordinance. This limitation does not include the cost of any alteration to comply with existing state or local health, sanitary, building or safety codes or regulations or the cost of any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

§ 205-162. (Reserved)

§ 205-163. (Reserved)