

**Chapter 9
FLOOD DAMAGE PREVENTION**

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Editor’s Note: Chapter was completely replaced Aug 2010 with the passing of Ordinance 2010-389.

Chapter 9 FLOOD DAMAGE PREVENTION REGULATIONS

ARTICLE I. AUTHORIZATION, PURPOSE AND METHODS

Sec. 9-1. Statutory Authorization.

The Legislature of the State of New Mexico has, in NMSA 1978, Section 3-18-7, required that a county or municipality with identified flood or mudslide hazard areas shall by ordinance:

1. Designate and regulate flood plain areas having special flood or mudslide hazards;
2. Prescribe standards for constructing, altering, installing or repairing buildings and other improvements under a permit system within a designated flood or mudslide hazard area;
3. Require review by the local flood plain manager for development within a designated flood or mudslide hazard area provided final decisions are approved by the local governing body;
4. Review subdivision proposals and other new developments within a designated flood or mudslide hazard area to ensure that:
 - 1) All such proposals are consistent with the need to minimize flood damage;
 - 2) All public utilities and facilities such as sewer, gas, electrical and water systems are designed to minimize or eliminate flood damage; and
 - 3) Adequate drainage is provided so as to reduce exposure to flood hazards;
5. Require new or replacement water supply systems or sanitary sewage systems within a designated flood or mudslide hazard area to be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters and require on-site waste disposal systems to be located so as to avoid impairment of them or contamination from them during flooding; and
6. Designate and regulate floodways for the passage of flood waters.

Sec. 9-2. Findings of Fact.

The flood hazard areas of the City of Aztec are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, and extraordinary public expenditures for flood protection and relief, all of which adversely affect the public health, safety and general welfare. These flood losses are created by the cumulative effect of obstructions in floodplains which cause an increase in flood heights and velocities, and by the occupancy of flood hazard areas by uses vulnerable to floods and hazardous to other lands because they are inadequately elevated, flood proofed or otherwise protected from flood damage.

Sec. 9-3. Statement of Purpose.

It is the purpose of this ordinance to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

1. Protect human life and health;
2. Minimize expenditure of public money for costly flood control projects;
3. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
4. Minimize prolonged business interruptions;
5. Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains;
6. Help maintain a stable tax base by providing for the sound use and development of flood-prone areas in such a manner as to minimize future flood blight areas; and
7. Insure that potential buyers are notified that property is in a flood area.

Sec. 9-4. Methods of Reducing Flood Losses.

In order to accomplish its purposes, this ordinance uses the following methods:

1. Restrict or prohibit uses that are dangerous to health, safety or property in times of flood or cause excessive increases in flood heights or velocities;
2. Require or prohibit 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 are involved in the accommodation of flood waters;
4. Control filling, grading, dredging and other development which may increase flood damage;
5. Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.

ARTICLE II. GENERAL PROVISIONS

Sec. 9-5. Lands to which these Regulations Apply.

These regulations shall apply to all areas of special flood hazard within the jurisdiction of the City of Aztec, New Mexico, designated by the Federal Emergency Management Agency as community number 350065, and other floodplain areas that are adopted by the City of Aztec Commission.

Sec. 9-6. Basis for Establishing the Lands to which these Regulations Apply.

1. The areas of special flood hazard are identified by the Federal Emergency Management Agency in a scientific and engineering report entitled, *The Flood Insurance Study for San Juan County, New Mexico and Incorporated Areas*, dated August 5, 2010, with accompanying Flood Insurance Rate Map (FIRM).
2. Other floodplain areas (clearly and legally defined) may be adopted by the City of Aztec Commission upon request by the Floodplain Administrator. These floodplain areas may be determined in one of two ways:
 - 1) Floodplains may be delineated by accepted hydrologic and hydraulic practices; or
 - 2) Floodplains may be based on an area flooded by a historic flood.
3. If the base flood elevation has been determined for a stream reach, in no case shall a floodplain be adopted that has a flood elevation lower than the base flood elevation.
4. For Flood-Related Areas of Erosion such as but not limited to arroyos and streambeds, a 60 Year Setback shall apply. No permanent structures shall be placed in the setback area.
 - 1) A setback developed by a Licensed Engineer can be submitted to dispute the standard setback.

Sec. 9-7. Establishment of a Floodplain Use Permit.

A Floodplain Use Permit shall be required to ensure conformance with the provisions of these regulations.

Sec. 9-8. Compliance.

No structure or land shall hereafter be located, altered, or have its use changed without full compliance with the terms of these regulations and other applicable regulations.

Sec. 9-9. Abrogation and Greater Restrictions.

These regulations are not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where these regulations and another ordinance, regulation, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

Sec. 9-10. Interpretation.

In the interpretation and application of these regulations, all provisions shall be:

1. Considered as minimum requirements;
2. Liberally construed in favor of the governing body; and
3. Deemed neither to limit nor repeal any other powers granted under State statutes.

Sec. 9-11. Warning and Disclaimer of Liability.

The degree of flood protection required by these regulations is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. On rare occasions greater floods can and will occur and flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. These regulations shall not create liability on the part of the community or any official or employee thereof for any flood damages that result from reliance on these regulations or any administrative decision lawfully made there under.

ARTICLE III. ADMINISTRATION

Sec. 9-12. Designation of the Floodplain Administrator.

The Director of Planning and Community Development is hereby appointed the Floodplain Administrator to administer and implement the provisions of this ordinance and other appropriate sections of 44 CFR (National Flood Insurance Program Regulations) pertaining to floodplain management.

Sec. 9-13. Duties and Responsibilities of the Floodplain Administrator.

Duties and responsibilities of the Floodplain Administrator shall include, but not be limited to, the following:

1. Maintaining and holding open for public inspection all records pertaining to the provisions of this ordinance.
2. Ensuring that all floodplain use permits are reviewed by a Certified Floodplain Manager.
3. Reviewing development permit applications to determine whether proposed building sites, including proposed divisions of land and the placement of manufactured homes, will be reasonably safe from flooding and flood-related erosion.
4. Reviewing and approving or denying all applications for floodplain use permits required by adoption of these regulations.
5. Reviewing permits for proposed development and divisions of land to assure that all necessary permits have been obtained from those Federal, State or local governmental agencies (including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334) from which prior approval is required.
6. Where interpretation is 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) the Floodplain Administrator shall request further documentation if needed and make the necessary interpretation.
7. Notifying, in riverine situations, adjacent communities and the New Mexico Department of Homeland Security and Emergency Management prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.
8. Assuring that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.
9. When base flood elevation data has not been provided in accordance with Article II, Section 9.6, the Floodplain Administrator shall obtain, review and reasonably utilize any base flood elevation data and floodway data available from a Federal, State or other source, in order to administer the provisions of Article II.

10. When a regulatory floodway has not been designated, the Floodplain Administrator must require that no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30 and AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.
11. Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Program regulations, a community may approve certain development in Zones A1-30, AE, AH, on the community's FIRM which increases the water surface elevation of the base flood by more than one foot, provided that the community first applies for a conditional FIRM revision through FEMA (Conditional Letter of Map Revision).
12. Designate the Floodplain Administrator as the Community Rating System (CRS) Coordinator.

Sec. 9-14. Floodplain Use Permit Procedures.

Application for a Floodplain Use Permit shall be presented to the Floodplain Administrator on forms furnished by him/her and may include, but not be limited to, plans in duplicate drawn to scale showing the location, dimensions, and elevation of proposed landscape alterations, existing and proposed structures, including the placement of manufactured homes, and the location of the foregoing in relation to areas of special flood hazard and/or flood-related erosion areas. Additionally, the following information may be requested in digital and hard copy mediums:

1. In Zones A or AO or other designated floodplains where no base flood elevation is provided:
 - 1) The elevation of the lowest floor of any building above the highest adjacent grade.
 - 2) Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development.
 - 3) Maintain record of all such information in accordance with Article III, Section 9-13-1.
2. In Zones AE, AH or A1-A30 or other designated floodplains where a base flood elevation is provided.
 - 1) Elevation (in relation to mean sea level), of the lowest floor (including basement) of all new and substantially improved structures.
 - 2) Elevation in relation to mean sea level to which any non residential structure shall be flood proofed.
 - 3) A certificate from a registered professional engineer or architect that the nonresidential flood proofed structure shall meet the flood proofing criteria of Article IV, Section 9-18-2.

- 4) Description of the extent to which any watercourses or natural drainage will be altered or relocated as a result of proposed development.
 - 5) Maintain a record of all such information in accordance with Article III, Section 9-13-1.
3. Approval or denial of a Floodplain Use Permit by the Flood Administrator shall be based on all of the provisions of this ordinance and the following relevant factors:
- 1) The danger to life and property due to flooding or erosion damage;
 - 2) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - 3) The danger that materials may be swept onto other lands to injury of others;
 - 4) The compatibility of the proposed use with existing and anticipated development;
 - 5) The safety of access to the property in times of flood for ordinary and emergency vehicles;
 - 6) The costs of providing government services during and after flood conditions including maintenance and repair of streets and bridges, and public utilities and facilities such as sewer, gas, electrical and water systems;
 - 7) The expected height, velocity, duration, rate of rise and sediment transport of the flood waters expected at the site;
 - 8) The necessity to the facility of a water front location, where applicable;
 - 9) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
 - 10) The relationship of the proposed use to the comprehensive plan for that area.

Sec. 9-15. Elevation Certificates and Floodproofing Certificates.

1. The Floodplain Administrator shall require that permits for any development in a floodplain provide a FEMA Elevation Certificate for such development prior to issuance of an approved planning permit.
2. The Floodplain Administrator shall require that a second elevation certificate is provided to the City prior to issuance of approval for any utility hookups for development within a floodplain.
3. The Floodplain Administrator will review all FEMA Elevation Certificates for completeness and correctness.
4. The Floodplain Administrator shall maintain a file of all FEMA Elevation Certificates and make them available to the public upon request.

Sec. 9-16. Variance Procedures.

1. The City of Aztec Commission shall hear and render judgment on requests for variances from the requirements of these regulations.
2. The City of Aztec Commission shall hear and render judgment on an appeal only when it is alleged there is an error in any requirement, decision or determination made by the Floodplain Administrator in the enforcement or administration of these regulations.
3. Any person or persons aggrieved by the decision of the City of Aztec Commission may appeal such decision in the courts of competent jurisdiction.
4. The Floodplain Administrator shall maintain a record of all actions involving an appeal and shall report variances to the Federal Emergency Management Agency upon request.
5. Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State inventory of Historic Places, without regard to the procedures set forth in the remainder of these regulations.
6. Variances may be issued 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 base flood level, providing the relevant factors in Section 9-14(2) have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
7. Upon consideration of the factors noted above and the intent of these regulations, the City of Aztec Commission may attach such conditions to be granted of variances as it deems necessary to further the purpose and objectives of these regulations.
8. Variances shall not be issued for development within any designated floodway if any increase in flood levels during the base flood discharge would result.
9. 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 character and design of the structure.
10. Prerequisites for granting variances:
 - 1) Variances shall only be issued upon determination that the variance, considering the flood hazard, is the minimum necessary to afford relief.
 - 2) Variances shall only be issued upon:
 - (a) Showing good and sufficient cause for the variance;
 - (b) A determination that failure to grant the variance would constitute an "unnecessary hardship" for the applicant, as defined in Section 26-4-551 of Aztec Municipal Code; and
 - (c) 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, regulations or ordinances.
- 3) Any applicants to whom a variance for development within a flood hazard area is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the base flood elevation, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduction in lowest floor elevation.
11. Variances may be issued by a community for new construction and substantial improvements and for other development necessary for functionally dependent community uses provided that:
- 1) The criteria outlined in Article III, Section 9-14 are met; and
 - 2) The structure or development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

ARTICLE IV. PROVISIONS FOR FLOOD HAZARD REDUCTION

Sec. 9-17. General Standards.

In all areas of special flood hazards the following provisions are required for all new construction and substantial improvements:

1. All new construction or substantial improvements shall be designed (or modified and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrostatic loads, including the effects of buoyancy;
2. All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;
3. All new construction or substantial improvements shall be constructed with materials resist to flood damage;
4. All new material construction or substantial improvement shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as the prevent water from entering or accumulating within the components during conditions of flooding;
5. All improvements or repairs shall be counted cumulatively toward the substantial improvement threshold of equal or greater than 50% of market value of the structure prior to improvement or damage;
6. All new construction with a below-grade crawlspace will not be considered to be a basement if compliant with the following (see FEMA Bulletin FIA-TB 11):
 - 1) The interior grade of a crawlspace below the Base Flood Elevation (BFE) must not be more than 2 feet below the lowest adjacent exterior grade (LAG).
 - 2) The height of the below-grade crawlspace, measured from the interior grade of the crawlspace to the top of the crawlspace foundation wall must not exceed 4 feet at any point.
 - 3) There must be an adequate drainage system that removes floodwaters from the interior area of the crawlspace.
 - 4) The velocity of floodwaters at the site should not exceed 5 feet per second for any crawlspace.

Sec. 9-18. Specific Standards.

1. In A Zones and other designated floodplains where no base flood elevation is provided, the following provisions are provided:
 - 1) All New Construction. New construction and substantial improvement of any structure, including manufactured housing, shall be elevated three feet above the highest adjacent

natural grade of the proposed structure. Any structure elevated on compacted fill will require supporting engineering documentation, as stated in FEMA “Technical Bulletin 10”, to substantiate that:

- (a) The structure will be built or placed on compacted fill that is at least two (2.0) feet above the highest adjacent grade prior to any disturbance of the building site; and
 - (b) Such fill shall extend at least 10 feet from the walls of the structure before it drops below the two foot elevation, shall have positive drainage away from the buildings; and
 - (c) The finished floor of the structure shall be at least one (1.0) foot above the elevation of the fill.
- 2) Enclosures. New construction and substantial improvements, with fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area 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 a registered professional engineer or architect or meet or exceed the following minimum criteria:
- (a) A minimum of two openings on separate walls 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; and
 - (b) The bottom of all openings shall be no higher than 1 foot above grade; and
 - (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.
2. In all areas of special flood hazards where base flood elevation data has been provided, the following provisions are required:
- 1) All New Construction. New construction and substantial improvement of any structure, including manufactured housing, shall be elevated 1 foot above the base flood elevation. For structures built or placed on compacted fill, engineering documentation shall be submitted prior to development, including the addition of fill dirt, documenting the increase in the existing Base Flood Elevation for the extent of the studied area and shall substantiate (per FEMA “Technical Bulletin 10”) that:
 - (a) The structure will be built or placed on compacted fill that is at least two (2.0) feet above the highest adjacent grade prior to any disturbance of the building site; and
 - (b) Such fill shall extend at least 10 feet from the walls of the structure before it drops below the two foot elevation and shall have positive drainage away from the structure; and
 - (c) The finished floor of the structure shall be at least one (1.0) foot above the elevation of the base flood elevation.

- 2) Residential Construction. New construction and substantial improvement of any residential structure shall have the lowest floor (including basement), elevated to at least one foot above the base flood elevation. A registered professional engineer or land surveyor shall submit FEMA Elevation Certificate – FEMA Form 81-31 to the Floodplain Administrator to ensure that the standard of this subsection is satisfied.
- 3) Nonresidential Construction. New construction and substantial improvements of any commercial, industrial or other nonresidential structure shall meet the requirements for residential construction.
- 4) Manufactured Homes.
 - (a) Require that all manufactured homes to be placed within Zone A on a community's FIRM, or in any floodplain area where no base flood elevation is provided, shall be installed using methods and practices which minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.
 - (b) Require that manufactured homes that are placed or substantially improved within AH and AE on the community's FIRM, or in any floodplain where base flood elevations are provided, on sites
 - Outside of a manufactured home park or subdivision;
 - In a new manufactured home park or subdivision;
 - In an expansion to an existing manufactured home park or subdivision; or
 - In an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as a result of a floodcomply with Sec. 9-18-1 and be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to at least one foot above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
 - (c) Require that manufactured homes be placed or substantially improved on sites in an existing manufactured home park or subdivision with Zones AH and AE on the community's FIRM, or in any floodplain where base flood elevations are provided, that are not subject to the provisions Section 9-18-2 be elevated so that either:
 - The lowest floor of the manufactured home is at least one foot above the base flood elevation; or
 - The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength 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) Recreational Vehicles. Require that recreational vehicles placed on sites within Zones A1-30 and AE on the community's FIRM, or in any floodplain where base flood elevations are provided, either:
- (a) Be on the site for fewer than 180 consecutive days; or
 - (b) Be fully licensed and ready for highway use (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); or
 - (c) Meet the permit requirements of Sec. 9-14(1), and the elevation and anchoring requirements for "manufactured homes" in Section 9-18 (2). 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.

Sec. 9-19. Standards for Subdivision Proposals.

1. All proposed divisions of land including the placement of manufactured home parks and subdivisions shall be consistent with Article I, Sections 9-2, 9-3 and 9-4 of these regulations.
2. All proposals for divisions of land including the placement of manufactured home parks and subdivisions shall meet the Floodplain Use Permit requirements of Article II, Section 9-7; Article III, Section 9-14; and the provisions of Article IV of these regulations.
3. Base flood elevation data shall be generated for proposed development including the placement of manufactured home parks and subdivisions greater than 50 lots or 5 acres, whichever is less, if not otherwise provided pursuant to Article II, Section 9-6 or Article III, Section 9-13 of these regulations.
4. All proposed divisions of land including the placement of manufactured home parks and subdivisions shall have adequate drainage provided to reduce exposure to flood hazards.
5. All proposed divisions of land including the placement of manufactured home parks and subdivisions shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.
6. All proposed divisions of land including the placement of manufactured home parks and subdivisions shall publicize or disclose all flood hazards on their properties.

Sec. 9-20. Standards for Utilities.

1. All new and replacement water supply and sanitary sewage systems shall be designed to minimize or eliminate:

- 1) Infiltration of flood waters into the systems; and
 - 2) Discharge from the systems into flood waters.
2. All new water wells shall either:
- 1) Have the casing extend at least one foot above the base flood elevation or be sealed so that flood water cannot enter the casing.
 - 2) Shall have all electrical controls and devices elevated at least one foot above the base flood elevation or have such electrical controls and devices flood proofed to at least one foot above the base flood elevation.
3. On-site waste disposal systems shall be located to avoid impairment to them, or contamination from them during flooding.
4. Septic tanks located within floodplains shall:
- 1) Be anchored to prevent flotation in the event that the ground is saturated from the bottom of the tank to ground level;
 - 2) Be sealed so that water will not infiltrate the tank;
 - 3) Be sealed so that sewage will not escape the tank; and
 - 4) Have one-way valves to prevent sewage from leaving the tank if the tank is inundated and the ground is saturated from the bottom of the tank to ground level.

Sec. 9-21. Floodways.

Floodways – located within areas of special flood hazard established in Article II, Section 9-6, are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles and erosion potential, the following provisions shall apply:

1. Encroachments are prohibited, including fill, new construction, substantial improvements and other development within the adopted regulatory floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practices that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge.
2. If Article IV, Section 9-21(1) above is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Article IV.
3. Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Regulations, a community may permit encroachments within the adopted regulatory floodway that would result in an increase in base flood elevations, provided that the community first applies for a conditional FIRM and floodway revision through FEMA.

Sec. 9-22. Accessory Structures.

1. For purposes of Flood Damage Prevention Regulations, an accessory structure is defined as a structure not exceeding 600 square feet in size, unfinished on the interior, which can be used only for parking and limited storage. The structure shall not be used for human habitation including, but not limited to, work, sleeping, living, cooking or restroom areas and shall be low-valued and representing a minimal investment.
2. The structure shall be constructed and placed on the building site so as to offer minimum resistance to the flow of flood waters.
3. The structure shall be designed to have low flood damage potential and shall be constructed with flood-resistant materials.
4. The structure shall be firmly anchored to prevent floatation, collapse and lateral movement.
5. The structure must contain openings to relieve hydrostatic and hydrodynamic pressure during a flood at those levels below the base flood elevation.
6. The structure shall be built in such a manner that all service facilities including electrical and heating equipment are elevated at or above the base flood elevation or are flood-proofed in accordance with federal regulations.
7. Floodway requirements must be met in the construction of the accessory structure.

ARTICLE V. PENALTIES FOR NONCOMPLIANCE

Any person who violates any provision of these regulations shall be punished by a fine not to exceed three hundred dollars (\$300.00) or imprisonment not to exceed ninety (90) days, or both such fine and imprisonment. Each day of violation shall be deemed a separate offense.

ARTICLE VI. SEVERABILITY OF PORTIONS OF REGULATIONS

It is the intention of the City of Aztec Commission that the articles, sections, paragraphs, sentences, clauses and phrases of these regulations are severable, and if any article, section, paragraph, sentence, clause or phrase of these regulations shall be declared unconstitutional or invalid by the judgment or decree of any court of competent jurisdiction, such judgment or decree shall not affect the remaining portions of these regulations since the same would have been enacted without the unconstitutional or invalid portion(s) of these regulations.

ARTICLE VII. DEFINITIONS

Unless specifically defined below, words or phrases used in these regulations shall be interpreted to give them the meaning they have in common usage and to give these regulations their most reasonable application.

Alluvial Fan Flooding

Flooding occurring on the surface of an alluvial fan or similar landform which originates at the apex and is characterized by high-velocity flows; active processes of erosion, sediment transport, and deposition; and unpredictable flow paths.

Apex

A point on an alluvial fan or similar landform below which the flow path of the major stream that formed the fan becomes unpredictable and alluvial fan flooding can occur.

Area of Future-Conditions Flood Hazard

The land area that would be inundated by the 1-percent-annual-chance flood based on future-conditions hydrology.

Area of Special Flood Hazard

The land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. The area may be designated a Zone A on the Flood Hazard Boundary Map (FHBM). After detailed ratemaking has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zones A, AE, AH, or AO.

Area of Special Flood-Related Erosion Hazard

The land within a community that is most likely to be subject to severe flood-related erosion losses. The area may be designated as Zone E on the Flood Hazard Boundary Map (FHBM).

Base Flood

The flood having a one percent chance of being equaled or exceeded in any given year.

Base Flood Elevation (BFE)

The elevation on the Flood Insurance Rate Map (FIRM) and found in the accompanying Flood Insurance Study (FIS) for Zones A, AE, AH, A1-30, AR, V1-30, or VE that indicates the water surface elevation resulting from the flood that has a 1% chance of equaling or exceeding that level in any given year – also called the Base Flood.

Basement

Any area of the building having its floor sub-grade (below ground level) on all sides.

Breakaway Wall

A wall that is not part of the structural support of the building and is intended, through its design and construction, to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

Community Rating System (CRS)

The Nation Flood Insurance Program's (NFIP) Community Rating System (CRS) provides insurance premium rate reductions to NFIP communities that go beyond the minimum standards for floodplain management.

Critical Feature

An integral and readily identifiable part of a flood protection system, without which the flood protection provided by the entire system would be compromised.

Development

The division of land or any man-made change in improved and 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.

Elevated Building

A non-basement building:

1. Built, in the case of a building in Zones A, AE, AH, AO, A1-99, B, C, X, and D, to have the top of the elevated floor elevated above the ground level by means of pilings, columns (posts and piers), or shear walls parallel to the floor of the water; and
2. Adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood.

"Elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters.

Erosion

The process of gradual wearing down (or reduction) of land masses.

Existing Construction

For the purposes of determining rates, structures for which the "start of construction" commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date. "Existing construction" may also be referred to as "existing structures."

Existing Manufactured Home Park or Subdivision

A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

Expansion to an Existing Manufactured Home Park or Subdivision

The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

Flood or Flooding

A general and temporary condition of partial or complete inundation of normally dry land areas from:

1. The overflow of waters; and/or
2. The unusual and rapid accumulation or runoff of surface waters from any source.

Flood Elevation Determination

A determination by the Floodplain Administrator of the water surface elevations of the base flood, that is, the flood level that has a one percent or greater chance of occurrence in any given year.

Flood Elevation Study

An examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards.

Flood Insurance Rate Map (FIRM)

An official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

Flood Insurance Study

The official report provided by the Federal Emergency Management Agency. The report contains flood profiles, water surface elevation of the base flood, as well as the Flood Boundary-Floodway Map.

Floodplain or Flood-Prone Area

Any land area susceptible to being inundated by water from any source (see definition of flooding).

Floodplain Management

The operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and floodplain management regulations.

Floodplain Management Regulations

Zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

Flood Protection System

Those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the areas within a community subject to a "special flood hazard" and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

Flood Proofing

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.

Flood-Related Erosion

The collapse or subsidence of land along the shore of a lake or other body of water as a result of 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 a flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding.

Flood-Related Erosion Area or Flood-Related Erosion Prone Area

A land area adjoining the shore of a lake or other body of water, which due to the composition of the shoreline or bank or high water levels or wind-driven currents, is likely to suffer flood-related erosion damage.

Flood-Related Erosion Area Management

The operation of an overall program of corrective and preventive measures for reducing flood-related erosion damage, including but not limited to emergency preparedness plans, flood-related erosion control works, and floodplain management regulations.

Floodway (Regulatory Floodway)

The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

Functionally Dependent Use

A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

Highest Adjacent Grade

The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Historic Structure

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 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 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.

Levee

A man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding.

Levee System

A flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

Lowest Floor

The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirement of Section 60.3 of the National Flood Insurance Program regulations.

Manufactured Home

A factory-built, single-family structure, transportable in one or more sections, constructed to the standards of the United States Department of Housing and Urban development, the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5401 et. seq.) and the Housing and Urban Development Zone Code II or the Uniform Building Code, as amended to the date of the unit's construction, and installed consistent with the Manufactured Housing Act (Chapter 60, Article 14 NMSA 1978) and with the regulations made pursuant thereto relating to ground level installation and ground anchors. The term "manufactured home" does not include a "recreational vehicle".

Manufactured Home Park or Subdivision

A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Mean Sea Level

For purposes of the National Flood Insurance Program, the North American Vertical Datum (NAVD) of 1988 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

New Construction

For the purpose of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 13, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, "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.

New Manufactured Home Park or Subdivision

A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.

Recreational Vehicle

A vehicle which is:

1. Built on a single chassis;
2. 400 square feet or less when measured at the largest horizontal projections;
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.

60 Year Set Back

A distance equal to 60 times the average annual long term recession rate at a site, measured from the reference feature.

Start of Construction

For construction other than new construction or substantial improvements under the Coastal Barrier Resources Act (Pub. L. 97-348), 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 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 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 dimension of the building.

Structure

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

Substantial Damage

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

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 “start of construction” of the improvement. This 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 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.”

Variance

A grant of relief to a person from the requirements of these regulations when specific enforcement would result in unnecessary hardship. A variance, therefore, permits construction or development in a manner otherwise prohibited by these regulations. (For full requirements see Section 60.6 of the National Flood Insurance Program regulations.)

Violation

The failure of a structure or other development to be fully compliant with the community’s floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Section 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided.

Water Surface Elevation

The height, in relation to the North American Vertical Datum (NAVD) of 1988 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.