

Provo City Planning Commission

# Report of Action

May 13, 2026

---

\* **ITEM 1** Provo Public Works requests Ordinance Text Amendments to Provo City Code 15.05.180, Floodplain Management and Development Standards, to adopt new FEMA maps and update language within the ordinance. Citywide Application. Hannah Salzl (801) 852-6423 hsalzl@provo.gov PLOTA20260185

---

The following action was taken by the Planning Commission on the above described item at its regular meeting of May 13, 2026:

## RECOMMENDED APPROVAL

On a vote of 8:0, the Planning Commission recommended that the Municipal Council deny the above noted application.

Motion By: Anne Allen

Second By: Melissa Kendall

Votes in Favor of Motion: Melissa Kendall, Jonathon Hill, Lisa Jensen, Daniel Gonzales, Joel Temple, Jon Lyons, Matt Wheelwright, Anne Allen

*Jonathon Hill was present as Chair.*

- New findings stated as basis of action taken by the Planning Commission or recommendation to the Municipal Council; Planning Commission determination is generally consistent with the Staff analysis and determination.

### TEXT AMENDMENT

The text of the proposed amendment is attached as Exhibit A.

### STAFF PRESENTATION

- Public Works staff presented the proposed amendment.
- The Staff Report to the Planning Commission provides details of the facts of the case and the Planning Staff's analysis, conclusions, and recommendations.

### CITY DEPARTMENTAL ISSUES

- The Coordinator Review Committee (CRC) has reviewed the application and given their approval.

### NEIGHBORHOOD MEETING DATE

- Citywide Application; all Neighborhood District Chairs received notification.

### NEIGHBORHOOD AND PUBLIC COMMENT

- This item was Citywide or affected multiple neighborhoods.
- Neighbors or other interested parties were present or addressed the Planning Commission.

### CONCERNS RAISED BY PUBLIC

Any comments received prior to completion of the Staff Report are addressed in the Staff Report to the Planning Commission. Key issues raised in written comments received subsequent to the Staff Report or public comment during the public hearing included the following:

- The public did not raise any concerns or make any public comments.

### PLANNING COMMISSION DISCUSSION

Key points discussed by the Planning Commission included the following:

- Commissioner Lyons asked about the impact to the airport and homeowners that are now in floodplain areas. Those properties would now be required to have flood insurance, which can vary between \$400-\$2000 annually for single-

family homes, depending on the property and the depth of the river. Some mortgages may pull the loan if the insurance is required by not acquired. There would also be additional development standards for new builds. A total of 115 homes would be added to the floodplain areas.

- The Commission and staff clarified that the 1% chance of flooding means a 1% chance annually. The areas in the map are deemed to be at risk of flooding in the event of a severe flood.
- Commissioner Lyons asked what would happen if the new floodplain standards were not adopted. If Provo were not to adopt the new standards by June 23, Provo would lose eligibility for the National Flood Insurance Program that offers a 10% discount on flood insurance for residents. Additionally, if there were a flood, Provo could not receive FEMA funding.
- Commissioner Lyons asked about FEMA decertifying the levies. Commissioner Hill was the Neighborhood Chair at the time the levies were decertified. FEMA has a universal nationwide standard for all levies on all rivers, and many communities across the country lost certification status. Provo Public Works has worked with FEMA, but the levies were ultimately decertified. They are exploring options for coming into compliance. Additionally, staff are working to reduce flooding risk to minimize the impacts to residents, which might in the future reduce the floodplain areas and allow residents to have that designation removed from their properties. Former floodplain maps were generated by FEMA, but the new maps are generated by the City with collaboration from a consultant.
- Commissioner Jensen sought clarification about whether the proposed amendment's language came from FEMA or staff. FEMA provided a template which Provo customized. It was reviewed by FEMA before being proposed to the Planning Commission and Council. The ordinance had not been updated in about 10 years and needed to include V zones and substantial improvement requirements for homes—meaning that if a property owner wanted to improve their home in a way that impacts 50% or more of the building, the whole building must be brought into compliance with the new code.
- Commissioner Jensen asked about possible pain points in the new standards. Staff responded that the new code gives some flexibility for the City to work with residents to help them better navigate the standards and avoid triggering heavier requirements, like the substantial improvements clause.
- Commissioner Hill asked if there was an appeal process for properties that have made the required improvements to their property to meet flood resilience standards. There is, and property owners may reach out to Public Works to begin the appeal process.
- Commissioners Wheelwright and Gonzales asked for more information about how much the residents who will be impacted know about the process. Staff held an open house that had very low turnout. They could not estimate how well impacted residents understand. Staff plans to notify the community as well as they can, and FEMA also reaches out.
- Commissioner Hill asked when residents would be required to have insurance. Staff responded that it would be required by the end of July.

#### **FINDINGS / BASIS OF PLANNING COMMISSION DETERMINATION**

The Planning Commission identified the following findings as the basis of this decision or recommendation:

- The amendment and new maps are necessary and should be adopted, but they recommend that the City reach out directly to educate and support residents who would now be required to have flood insurance and meet the other new requirements. Staff should begin working with residents who qualify for the appeal process.



---

Planning Commission Chair



---

Director of Development Services

See Key Land Use Policies of the Provo City General Plan, applicable Titles of the Provo City Code, and the Staff Report to the Planning Commission for further detailed information. The Staff Report is a part of the record of the decision of this item. Where findings of the Planning Commission differ from findings of Staff, those will be noted in this Report of Action.

Legislative items are noted with an asterisk (\*) and require legislative action by the Municipal Council following a public hearing; the Planning Commission provides an advisory recommendation to the Municipal Council following a public hearing.

Administrative decisions of the Planning Commission (items not marked with an asterisk) **may be appealed** by submitting an application/notice of appeal, with the required application and noticing fees to the Development Services Department, 445 W Center Street, Provo, Utah, **within fourteen (14) calendar days of the Planning Commission's decision** (Provo City office hours are Monday through Thursday, 7:00 a.m. to 6:00 p.m.).

# **EXHIBIT A**

## **CHAPTER 15.05 FLOODPLAIN MANAGEMENT AND DEVELOPMENT STANDARDS**

Sections:

### **15.05.180 Floodplain Management and Development Standards.**

#### **15.05.180**

#### **Floodplain Management and Development Standards.**

(1) *Statutory Authorization.*

The Legislature of the State of Utah, under Utah Code. Ann. § 10-3-701, has delegated the responsibility to local governmental units to adopt regulations designed to minimize flood losses. Therefore, the Provo Municipal Council, Utah ordains as follows:

Provo City elects to comply with the requirements of the National Flood Insurance Act of 1968 (Title XIII of P.L. 90-488, as amended).

(2) *Findings of Fact.*

The Special Flood Hazard Areas (SFHA) of Provo, Utah, are subject to periodic inundation which may result in loss of life and 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 public health, safety, and general welfare. These potential flood losses are caused by:

- (a) The cumulative effect of obstructions in floodplains that increase flood heights and velocities;
- (b) The occupancy of flood hazard areas by structures vulnerable to floods due to inadequate elevation or lack of protection from flood damages; and
- (c) Uses deemed unsuitable for floodplain areas or that do not account for the increased flood risk.

(3) *Statement of Purpose.*

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

- (a) Protect human life and health;
- (b) Minimize damage to public and private infrastructure, including utilities, streets, and bridges susceptible to flooding;

- (c) Minimize prolonged business interruptions caused by flooding;
- (d) Reduce public expenditures on flood control projects;
- (e) Reduce the need for rescue and relief efforts associated with flooding, which are generally undertaken at the expense of the public;
- (f) Protect and safeguard the welfare and safety of first responders during emergency responses;
- (g) Help maintain a stable tax base by ensuring the sound use and development of flood-prone areas to minimize future flood blight areas; and
- (h) Promote notification of potential buyers of properties that are in a SFHA.

(4) *Methods for Reducing Flood Losses.*

To accomplish the purposes outlined in the *Statement of Purpose*, this ordinance applies the following methods:

- (a) Restrict or prohibit land uses that are dangerous to health, safety, or property in times of flooding, or that cause excessive increases in flood heights or velocities;
- (b) Require that land uses vulnerable to floods, including facilities that serve such uses, be protected against flood damage at the time of initial construction;
- (c) Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodating floodwaters;
- (d) Control filling, grading, dredging, and other developments that may increase flood damage; and
- (e) Prevent or regulate the construction of flood barriers that will unnaturally divert floodwaters or may increase flood hazards to other lands.

(5) *Flood Study and Map.*

This ordinance applies to all current Special Flood Hazard Areas identified by FEMA in the Flood insurance Rate Maps (FIRM), Flood Boundary-Floodway Maps (FBFM) and Digital Flood Insurance Rate Maps (DFIRM), including: (1) maps dated June 23, 2026, numbered 49049C0338G, 49049C0340G, 49049C0341G, 49049C0343G, 49049C0526G, 49049C0527G, 49049C0528G, 49049C0529G, 49049C0531G, 49049C0533G, and 49049C0534G; and (2) maps dated June 19, 2020, numbered 49049C0342F, 49049C0344F, and 49049C0532F. The Flood Insurance Study (FIS) and the Provo City Flood Insurance Rate Map (FIRM) with an effective date of June 23, 2026, prepared by FEMA, along with any amendments, is adopted by reference and is available on the City's website for public examination and use. These maps, along with any subsequent revisions, are adopted by reference and declared to be an integral part of this ordinance.

Provo City's flood hazard information may vary from the official FEMA data/maps. In cases where the best available data is more restrictive, the City will use the more stringent flood hazard information in accordance with FEMA guidelines, as outlined in Floodplain Management Publication 480.

Where base flood elevation data has not been provided on the FIRM or in the FIS, the Floodplain Administrator may review and reasonably utilize base flood elevation and floodway data available from Federal, State, or other sources. This data will serve as criteria for ensuring that new construction, substantial improvements, or other development within the floodplain are administered in accordance with Subsection (11) of this Section, General Development Standards.

(6) *Definitions.*

For purposes of this Section, the following words and phrases have the meanings outlined below:

**“Accessory Structure”** is a structure that is on the same property as a principal structure, used for purposes incidental to the principal structure. It must be non-residential, of low value, and used solely for parking vehicles or storing tools, materials, or equipment. Human habitation is not permitted within an accessory structure.

**“Addition”** is any improvement that expands the enclosed footprint or increases the square footage of an existing structure. This includes lateral additions (to the side, front, or rear), vertical additions (on top), and enclosures (underneath).

**“Areas of Shallow Flooding”** means a designated zone on a community's Flood Insurance Rate Map (FIRM) with a one percent (1%) or greater annual chance of flooding to an average depth of one (1) to three (3) feet where there is no clearly defined channel, the flooding path is unpredictable, and velocity flow may be evident. Such flooding is characterized by ponding or sheet flow. These zones are represented on the FIRM as AO, AH, AR/AO, or AR/AH zones.

**“Base flood”** means a flood having a one percent (1%) chance of being equaled or exceeded in any given year, also known as the One-Percent-Annual-Chance Flood.

**“Base Flood Elevation (BFE)”** is the water surface elevation of the one-percent-annual-chance flood event. It is the height in relation to mean sea level expected to be reached by the waters of the base flood at pertinent points in the floodplains of coastal and riverine areas. It is also the elevation shown on the FIRM and found in the accompanying Flood Insurance Study (FIS) for Zones A, AE, AH, A1-A30, AR, V1-V30, or VE that indicates the water surface elevation resulting from the flood that has a 1 percent (1%) chance of equaling or exceeding that level in any given year.

**“Basement”** means any area of the building having its floor subgrade (below ground level) on all sides. A walkout basement that does not require a step up to grade is not considered a basement.

**“Best Available Data”** means existing flood hazard information adopted by a community and reflected on an effective FIRM, FBFM, and/or within an FIS report; or draft or preliminary flood hazard information supplied by FEMA or from another source. Other sources may include, but are not limited to, the state, other federal agencies, or local studies, the more restrictive of which would be reasonably used by the community.

**“Breakaway Wall”** means 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. Any walls below the lowest floor in a building in a V or VE Zone should give way under wind and water loads without causing collapse, displacement, or other damage to the elevated portion of the building or the supporting pilings or columns. Breakaway walls apply only to V or VE Zones.

**“Building”** A structure with 2 or more outside rigid walls and a fully secured roof, that is affixed to a permanent site.

**“Conditional Letter of Map Revision (CLOMR)”** is FEMA's comment on a proposed project that would, upon construction, affect the hydrologic and/or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective BFEs, and/or the SFHA. The letter does not revise an effective map; it indicates whether the project, if built as proposed, would be recognized by FEMA.

**“Conditional Letter of Map Revision Based on Fill (CLOMR-F)”** is FEMA's comment on a proposed structure or property that would, upon construction, result in a modification of the SFHA through the placement of fill outside the existing regulatory floodway. The letter does not revise an effective map; it indicates whether the project, if built as proposed, would be removed from the floodplain.

**“Crawlspace”** means an under-floor space that has its interior floor area (finished or not) no more than four (4) feet from the bottom floor joist of the next higher floor elevation, designed with proper openings that equalize hydrostatic pressures of floodwater, and is not used for habitation.

**“Development”** means any human-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 located within the Special Flood Hazard Area.

**“Elevated Building”** is a non-basement building built, in the case of a building in Zone A1-30, AE, A, A99, AR, AO, AH, B, C, X and D, to have the top of the elevated floor above the ground level by means of pilings, columns (post and piers), or shear walls parallel to the flow of the water and 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. In the case of a building in Zone A1-30, AE, A, A99, AR, AO, AH, B, C, X and D, an “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 floodwaters.

**“Enclosure”** refers to an enclosed walled-in area below the lowest floor of an elevated building. Enclosures below the BFE may only be used for building access, vehicle parking, and storage.

**“Erosion”** means the process of the gradual wearing away of land masses by wind, water, or other natural agents.

**“Existing Manufactured Home Park”** means 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”** means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufacturing 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).

**“FEMA”** means the Federal Emergency Management Agency.

**“Fill”** refers to the placement of materials, such as dirt, sand, or rock to elevate a structure, property, or portion of a property above the natural elevation of the site, regardless of where the material was obtained from. The common practice of removing unsuitable material and replacing it with engineered material is not considered fill if the elevations are returned to the existing conditions. Any fill placed or used prior to the area being mapped as a flood hazard area is not deemed as fill.

**“Flood”** or **“flooding”** means a general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters and/or the unusual and rapid accumulation or runoff of surface waters from any source.

**“Flood Boundary-Floodway Maps (FBFM)”** means an official map of a community issued by FEMA, where the boundaries of the flood, mudflow and related erosion areas having special hazards have been designated. The FBFM is no longer produced but is an older version of a flood map and is based on approximate data.

**“Flood Insurance Rate Map (FIRM)”** means the official map of which the Federal Emergency Management Agency has delineated both the Special Flood Hazard Areas and the risk premium zones applicable to the community.

**“Flood Insurance Study (FIS)”** means the official report provided by the Federal Emergency Management Agency that compiles and presents flood risk data for specific water bodies within a community.

**“Flood Opening”** refers to an opening in the wall of an enclosed structure that allows floodwaters to automatically enter and exit the enclosure. Refer to FEMA Technical Bulletin 1.

**“Floodplain”** means the relatively flat area or lowlands adjoining a river, stream, watercourse, ocean, or lake which have been or may be covered by floodwater. For purposes of this Chapter, this is the area designated on the FIRM as Special Flood Hazard Areas.

**“Floodplain Administrator”** means the local official or other person designated by a community as responsible for administering the floodplain management ordinance.

**“Floodplain Development Permit”** is a community issued permit or document that is used for any development that occurs within an SFHA identified by FEMA or the community. It is used to address the proposed development to ensure compliance with the community’s ordinance.

**“Floodplain Management”** means 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, mitigation plans, and floodplain management regulations.

**“Floodproofing”** means any combination of structural and non-structural additions, changes, or adjustments to structures that reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents. Floodproofing can either be accomplished in the form of dry floodproofing in which the structure is watertight below the levels that need flood protection, or wet floodproofing in permanent or contingent measures applied to a structure that prevent or provide resistance to a structure that prevent or provide resistance to damage from flooding, while allowing floodwaters to enter the structure area.

**“Flood Protection System”** means 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 area within a community subject to an SFHA and to reduce the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees or dikes. These specialized, flood modifying works are constructed in conformance with sound engineering standards. FEMA only accredits levees, both private and public, that have been certified by a professional engineer or firm in which the certification shows that the levee have met and continue to meet the minimum regulatory standards cited in Title 44, Chapter 1, Section 65.10 of the Code of Federal Regulations (44 CFR 65.10).

**“Floodway”** means the channel of the river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without accumulatively increasing the water surface elevation more than one (1) foot.

**“Freeboard”** means a factor of safety usually expressed in feet above a flood level for purposes of flood plain management. Freeboard tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed.

**“Functionally Dependent Use”** means a development that cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and repair facilities. It does not include long-term storage or related manufacturing facilities.

**“Highest Adjacent Grade (HAG)”** means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure. In AO Zones, the highest adjacent grade is utilized by comparing the lowest floor elevation to that of the highest adjacent grade and the depth of the AO Zone.

**“Historic Structure”** means any structure that is:

- (a) 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;
- (b) 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;

(c) Individually listed on a state inventory of historic places in states with historic reservation programs that have been approved by the Secretary of the Interior; or

(d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

(i) By an approved state program as determined by the Secretary of the Interior, or

(ii) Directly by the Secretary of the Interior in states without approved programs.

**“Letter of Map Revision (LOMR)”** means FEMA's modification or revision to an entire or portion of the effective FIRM, or Flood Boundary and Floodway Map, or both. LOMRs are generally based on the implementation of physical measures that affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective BFEs, or the SFHA.

**“Letter of Map Revision Based on Fill (LOMR-F)”** means FEMA’s amendment, by letter, to an effective FIRM where fill was brought in or used to elevate a property, portion of property or structure above the BFE.

**“Levee”** means a human-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.

**“Lowest Adjacent Grade (LAG)”** means the lowest natural elevation of the ground surface prior to construction next to the proposed walls of a structure. For an existing structure, it means the lowest point where the structure and ground touch, including but not limited to attached garages, decks, stairs, and basement windows.

**“Lowest floor”** means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or storage in an area other than a basement area, is not considered a building’s lowest floor; provided, that such enclosure is built in accordance with enclosure requirements of this ordinance and 44 CFR Section 60.3.

**“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; however, a manufactured home may be used for both residential and non-residential use.

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

**“Map”** means the FHBM or the FIRM for a community issued by FEMA.

**“Mean Sea Level”** means, for purposes of the NFIP, the National Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum (NAVD) of 1988, or other datum, to which BFEs shown on a community's FIRM are referenced.

“**New construction**” means structures for which the start of construction commenced on or after the effective date of this Chapter.

“**New Manufactured Home Park**” means 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.

“**No-Rise Certifications**” are formal certifications signed and stamped by a professional engineer licensed to practice in the state, demonstrating through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that a proposed development will not result in any increase (zero (0) feet) in flood levels within the community during the occurrence of a base flood event.

“**One-Percent-Annual-Chance Flood**” means a flood having a recurrence interval that has a one percent (1%) chance of being equaled or exceeded during any given year. Also known as the Base Flood.

“**Recreational Vehicle**” means a vehicle that is:

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

“**Riverine**” means relating to, formed by, or resembling a river (including tributaries), stream, brook, creek, etc., which can be intermittent or perennial.

“**Special Flood Hazard Area (SFHA)**” is the land in the flood plain within a community subject to a one percent (1%) or greater chance of flooding in any given year. The area may be designated as Zones A, AO, AH, A1-30, AE, A99, AR, AR/A1-30, AR/AE, AR/AO, AR/AH, AR/A, or V1-30, VE, or V.

“**Start of construction**” includes substantial improvements and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, or other improvement was within one hundred eighty (180) days of the permit date. The actual start means 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 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 as 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, for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home. The term building or structure does not include open pavilions, bleachers, carports and similar structures that do not have at least two rigid walls and a roof.

“**Substantial Damage**” means damage of any origin sustained by a structure whereby the cost of restoring the structure to its pre-damaged condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred.

“**Substantial Improvement**” means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty percent (50%) 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 “substantial improvement” does not include any alteration of a structure or facility listed on the National Register of Historic Places or a State Inventory of Historic Places.

“**Variance**” means a grant of relief by a community from the terms of a flood plain management regulation.

“**Violation**” means the failure of a structure or other development to be fully compliant with the community's flood plain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Sections 44 CFR 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**” means the height, in relation to the North American Vertical Datum of 1988, (or other datum, where specified) of floods of various magnitudes and frequencies, such as the 1-percent-annual-chance flood event, in the floodplains of coastal or riverine areas.

“**Watercourse**” means the channel and banks of an identifiable water in a creek, brook, stream, river, ditch, or other similar feature.

(7) *Administration.*

The Public Services section of the Public Works Department is designated as the Floodplain Administrator responsible for administering and implementing the provisions of this ordinance as well as relevant sections of the NFIP Regulations and 44 CFR pertaining to floodplain management.

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

- (a) Uphold the goals of the community and the NFIP’s objectives to reduce risk when possible and increase the community’s resistance to future disasters.
- (b) Maintain and make available for public inspection all records related to this ordinance, including the actual elevation of the lowest floor (including basement or crawlspace) of all new or substantially improved structures within the SFHA.

- (c) Maintain and make available for public inspection maps that identify and locate the boundaries of the SFHAs to which this ordinance applies, including, but not limited to, the FIRM.
- (d) Review development proposals to determine whether a proposed building site, including sites designed for the placement of manufactured homes, will be reasonably safe from flooding.
- (e) Review, approve, or deny all applications for development permits required by this ordinance.
- (f) Ensure that all necessary permits have been obtained from relevant federal, state, or local governmental agencies (including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334, and the Endangered Species Act of 1973) where prior approval is required.
- (g) Ensure that the flood-carrying capacity within the altered or relocated portion of any watercourse is maintained.
- (h) Notify adjacent impacted communities and the State Coordinating Agency, which is the Utah Division of Emergency Management, prior to any alteration or relocation of a watercourse in riverine situations and submit evidence of such notification to FEMA.
- (i) Where interpretation is needed as to the exact location of the boundaries of the of Special Flood Hazard Areas (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), the Floodplain Administrator is authorized to make the necessary interpretation.
- (j) When BFE data has not been provided by FEMA, the Floodplain Administrator is required to obtain, review, and reasonably utilize any BFE data and floodway data available from a federal, state, or other source including data provided by the applicant, to administer the provisions of this ordinance.
- (k) When a regulatory floodway has not been designated, no new construction, substantial improvements, or other development (including fill) are permitted within Zones AE and AH 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 (1) foot at any point.

(8) *Floodplain Development Permit.*

- (a) A Floodplain Development Permit must be obtained before construction or development begins within the SFHA.
- (b) Applications for a Floodplain Development Permit must be made on forms furnished by the Floodplain Administrator. These applications may include, but are not limited to, plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures; fill; storage of materials; drainage facilities; and the location of the foregoing.
- (c) Specifically, the following information is required:
  - (i) Location of the proposed development project in relation to SFHAs.

- (ii) Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures. Plans must show that the elevation of lowest floor (including basement) is at least one (1) foot above the BFE.
  - (iii) Description of the extent to which any watercourse will be altered or relocated as a result of the proposed development.
- (d) Choose one of the following if the application would alter the course, elevations or delineations of floodplains based on riverine or overland flow:
- (i) A CLOMR may be required at the discretion of the Floodplain Administrator. Upon approval by the Floodplain Administrator, the CLOMR must be submitted to FEMA. Approval by FEMA is required to obtain the Floodplain Development Permit. A LOMR must be obtained to complete the process.
  - (ii) A CLOMR-F may be required at the discretion of the Floodplain Administrator if fill is used to the site out of the SFHA. Upon approval by the Floodplain Administrator, the CLOMR-F must be submitted to FEMA. Approval by FEMA is required to obtain the Floodplain Development Permit. A LOMR-F must be obtained to complete the process.
- (e) All applications for a Floodplain Development Permit must be approved by the Floodplain Administrator.
- (f) Applicants for a Floodplain Development Permit must pay the associated permit fee as indicated in the Consolidated Fee Schedule.
- (g) Copies of all Floodplain Development Permits and the associated documents are Provo City property and are kept as a permanent record.
- (h) Approval of a Floodplain Development Permit by the Floodplain Administrator is based on the provisions of this ordinance and the following relevant factors:
- (i) The danger to life and property due to flooding or erosion damage.
  - (ii) The susceptibility of the proposed development and its contents to flood damage and the effect of such damage on the individual owner.
  - (iii) The risk that materials could be swept onto other lands, causing injury to others.
  - (iv) The compatibility of the proposed use with existing and anticipated development.
  - (v) The safety of access to the property in times of flood for ordinary and emergency vehicles.
  - (vi) The costs of providing governmental services during and after flood conditions including maintenance and repair of streets, bridges, and public utilities and facilities such as sewer, gas, electrical, and water systems.
  - (vii) The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters, as well as the effects of wave action, if applicable, anticipated at the site.

- (viii) The necessity to the development of a waterfront location, where applicable.
- (ix) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use.
- (x) The relationship of the proposed use to the comprehensive plan for that area.

(i) The Board of Adjustment is responsible for hearing and rendering judgment on requests for variances from the requirements of this ordinance after a Floodplain Development Permit has been denied. Additionally, the Appeal Board is authorized to hear and adjudicate appeals when it is alleged that there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the enforcement or administration of this ordinance.

(i) Upon consideration of the factors noted above and the intent of this ordinance, the Board of Adjustment may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this ordinance.

(ii) Any person or persons aggrieved by the decision of the Board of Adjustment may appeal such decision in the District Court of competent jurisdiction.

(iii) The Floodplain Administrator must maintain a record of all actions involving an appeal and must report variances to FEMA and the State Coordinating Agency upon issuing a variance.

(iv) Variances may not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

(v) 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.

(j) Prerequisites for granting variances:

Variances may only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief. Variances may only be issued upon:

(i) Showing a good and sufficient cause.

(ii) A determination that failure to grant the variance would result in exceptional hardship to the applicant.

(iii) A determination that the granting of a variance:

(A) will not result in increased flood heights, additional threats to public safety, or extraordinary public expense;

(B) will not create nuisances; cause fraud on or victimization of the public;

(C) will not conflict with existing local laws or ordinances;

- (D) considers the need of ingress and egress during times of floods; and
- (E) does not jeopardize first responders' health and welfare.

(k) Any applicant to whom a variance is granted is required to receive written notice stating that the structure is permitted to be built with the lowest floor elevation below the BFE. The notice will also inform the applicant that the cost of flood insurance needs to reflect the increased risk resulting from the reduced lowest floor elevation.

(l) Variances may be issued for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:

- (i) The criteria outlined in this section are met; and
- (ii) The structure or other development is protected by methods that minimize flood damage during the base flood and create no additional threats to public safety.

(9) *Submittal Requirements for the Certificate of Occupancy.*

The following is required prior to the issuance of any certificate of occupancy for any structure in the SFHA:

- (a) An approved Floodplain Development Permit from Provo City; and
- (b) One of the following:
  - (i) A letter of map change (LOMC) approved by the Floodplain Administrator and FEMA to remove the structure from the SFHA; or
  - (ii) A LOMC that has been submitted to FEMA that has not yet been approved, but has had a previous conditional approval from FEMA (i.e. CLOMR and CLOMR-F), and a FEMA elevation certificate completed and signed by a registered professional engineer or land surveyor indicating the structure is above the base flood indicated in the LOMC submittal.

(10) *New Technical Data*

- (a) The property owner or developer must notify FEMA by submittal of a LOMR or LOMR-F within 6 months of project completion when an applicant has obtained a CLOMR or LOMR-F from FEMA or when development has altered a watercourse, modified floodplain boundaries, or modified BFE.
- (b) The property owner or developer is responsible for preparing technical data to support the CLOMR, CLOMR-F, LOMR, or LOMR-F application and paying any processing or application fees to FEMA. The property owner or developer is responsible for submitting the CLOMR and LOMR to FEMA and is required to provide all necessary data to FEMA if requested during the review process to ensure that the CLOMR or LOMR is issued.
- (c) The Floodplain Administrator is not required to sign the Community Acknowledgement Form, which is part of the CLOMR/LOMR/CLOMR-F/LOMR-F application, until the applicant demonstrates that the project is going to meet or has met the requirements of this ordinance, all applicable state, federal, and local laws.

(11) *General Development Standards.*

In order for any final subdivision, condominium, or other record of survey plat to be approved, or for any Floodplain Development Permit to be issued, for property located within the SFHA all of the following requirements must be met:

- (a) All applicable development permits for the proposed construction or improvements must be obtained from Federal, State, or local governmental agencies from which prior approval is required.
- (b) Any encroachments such as fill, new construction, substantial improvements, and other development within the floodway that would result in any increase in flood levels during the occurrence of the base flood discharge must first obtain a CLOMR approved by the Floodplain Administrator and FEMA before construction begins.
- (c) All new construction or substantial improvements, including manufactured homes, must be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
- (d) All new construction or substantial improvements must be constructed by methods and practices that minimize flood damage. The construction materials used must be resistant to flood damage.
- (e) All proposals for new construction, redevelopment, or for substantial improvements to existing structures within the SFHA, including manufactured homes, must be designed (or modified) to meet the storm drainage system performance standards of Provo City Code Section 18.03.020.
- (f) All public utilities including sewer, gas, electricity, and water systems must be located and constructed to minimize or eliminate flood damage. All proposals for construction or improvements (including replacements), within the SFHA, must be provided with water supply systems or sanitary sewage systems that are designed to minimize or eliminate infiltration of floodwaters into the system and discharges from the system into floodwater. On-site waste disposal systems must be located so as to avoid impairment of them, or contamination from them, during flooding.
- (g) Any structure, earth fill, or parking lot, in connection with any development, or any surface obstruction to water flow, must be located at least one hundred (100) feet from the high point of the bank of Provo River, except for:
  - (i) Bridges;
  - (ii) Flood Control Devices;
  - (iii) Public Restrooms; and
  - (iv) Recreational Facilities.
- (h) All new construction and substantial improvements must 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.

- (i) Any structural storage facilities for chemicals, explosives, buoyant materials, flammable liquids, or other toxic materials that could be hazardous to public health, safety, and welfare must be located one (1) foot above the BFE.
- (j) All new public surface improvements (roads, curb and gutter, sidewalk, manhole rims, etc.) must be constructed one foot above the BFE.
- (k) Lowest floors (including basements) of all structures in the SFHA must be a minimum of one (1) foot above the BFE. A registered professional engineer, architect, or land surveyor shall submit certified elevations to the Floodplain Administrator that the standards of this ordinance are satisfied.
- (l) The minimum elevation of parking lots must be no lower than six (6) inches below the BFE.

(12) *Substantial Improvement.*

If the structure has sustained substantial damage any repairs are considered substantial improvements regardless of the actual repair work performed. The term does not, however, include either:

- (a) Any project for improvement of a building required to correct existing health, sanitary, or safety code violations identified by the building official, and that are the minimum necessary to ensure safe living conditions; or
- (b) Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

(12) *Substantial Damage.*

When a structure or building has been determined as substantially damaged, any work or repair on said structure or building will be considered as substantial improvement and will be required to meet the development requirements set forth within this ordinance for substantial improvement.

(13) *Substantial Improvement and Substantial Damage Determination.*

For building permit applications within the SFHA related to improvements of buildings and structures, including alterations, relocations, enlargements, replacement, repairs, changes in occupancy, additions, rehabilitations, renovations, and any other form of work on such buildings and structures, the Floodplain Administrator and staff, must:

- (a) Require the applicant to obtain an appraisal of the market value prepared by a qualified independent appraiser of the building or structure, not including the land, before the start of construction of the proposed work. In the cases of repairs, the market value of the buildings or structures must be the market value before the damage occurred and before any repairs are made.
- (b) Compare the cost to perform the improvements, the cost to repair a damaged building to its pre-damaged condition, or the combined costs of improvements and repairs, if applicable, to the market value of the buildings or structures.

(c) Determine and document whether the proposed work constitutes substantial improvement. This determination requires evaluation of any permits issued for improvements and repairs as specified in the first paragraph of this section, even if multiple permits are issued. Therefore, the determination of the cost of the improvement should consider all costs of all phases of the work before issuance of the first permit.

(d) Notify the applicant when it is determined that the work constitutes substantial improvement or repair of substantial damage.

(14) *Specific Development Standards for Floodplain Development.*

(a) Subdivision proposals, including the placement of manufactured home parks, within the SFHA must:

- (i) Meet the Floodplain Development Permit requirements of this ordinance to minimize flood damage;
- (ii) Include the mapped flood hazard zones from the effective FIRM;
- (iii) Have adequate drainage provided to reduce exposure to flood hazards; and
- (iv) Ensure that public utilities and facilities such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage.

(b) Where BFE data does not already exist for subdivision proposals and other proposed developments, including the placement of manufactured home parks, within the SFHA, it must be generated if they either exceed fifty (50) lots or five (5) acres.

(15) *Standards for Areas of Shallow Flooding (AO/AH Zones)*

One type of SFHA includes areas designated as shallow flooding. Such flooding is characterized by ponding or sheet flow. The Provo City standard is one (1) foot freeboard, meaning that the following requirements apply:

(a) All new construction and substantial improvements of all structures must have the lowest floor elevated one (1) foot above the BFE defined as the ponding depth specified, in feet, on the FIRM compared to the HAG. If no depth is specified, the BFE is assumed to be two (2) feet above the HAG. The lowest floor must then be elevated an additional one (1) foot above the BFE for freeboard.

(b) A registered professional engineer or architect must submit a certification to the Floodplain Administrator confirming that the standards of this Subsection are met.

(c) Zones AH or AO require adequate drainage paths around structures on slopes to direct floodwaters away from the proposed structures.

(16) *Standards for Velocity Zones in Coastal Hazard Areas (VI-30/V/VE Zones)*

One uncommon type of SFHA in Provo City includes high-risk coastal velocity or wave action zones that include an additional hazard from storm waves. All new construction and substantial improvements of all structures in these zones must have the approval of the City Engineer. The Provo City standard of one (1) foot freeboard, meaning that the following requirements will apply:

- (a) All new construction and substantial improvements of all structures must be elevated and secured to anchored pilings or columns and have the lowest horizontal structural member of the lowest floor elevated one (1) foot above the BFE.
- (b) A registered professional engineer or architect must submit a certification to the Floodplain Administrator confirming that the standards of this Subsection are met.
- (c) The space below the lowest floor must either be free of obstruction or constructed with breakaway walls. Any enclosed space shall be used solely for parking, building access, or storage.
- (d) All new construction must be landward of the mean high tide.
- (e) No fill for structural support shall be permitted within these zones.
- (f) No altering of sand dunes and mangrove stands shall be permitted.

*(17) Standards for Nonresidential Construction*

New construction and substantial improvements of any commercial, industrial, or other nonresidential structure shall either have the lowest floor (including basement) elevated to one (1) foot above the BFE, or, together with attendant utility and sanitary facilities, be designed so that below the BFE 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 effects of buoyancy. A registered professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice as outlined in this subsection. A record of such certification that includes the specific elevation (in relation to mean sea level) to which such structures are floodproofed shall be maintained by the Floodplain Administrator. If the use or occupancy of the building changes in the future to residential, then the dry floodproofing of the structure cannot be used when determining compliance of the structure to the residential construction of this ordinance. As such, the building will not be grandfathered into compliance and will be required to be brought into compliance with the residential construction requirements of this ordinance.

At the discretion of the Floodplain Administrator loading docks may be designed below the BFE provided they are floodproofed to the elevation of the BFE.

*(18) Enclosures*

New construction and substantial improvements with fully enclosed areas below the lowest floor that are intended solely for parking of vehicles, building access, or storage (excluding basements), and subject to flooding, must be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing the entry and exit of floodwaters. Designs to meet 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 must be provided, with a total net area of at least one (1) square inch for every square foot of enclosed area subject to flooding.

(b) The bottom of all openings may not be higher than one (1) foot above grade.

(c) Openings may be equipped with screens, louvers, valves, or other coverings or devices if they permit the automatic entry and exit of floodwaters.

The development and construction of the structure must conform to the provisions in FEMA/Federal Insurance Administration (FIA) Technical Bulletins 1 and 2. Certification and documentation from a licensed professional engineer or architect are required if the structure's lowest floor is built below the BFE.

(19) *Crawlspace*

New construction and substantial improvements built on a crawlspace or sub-grade (below grade) crawlspace may be permitted if the development is designed to meet or exceed the standards found in FEMA's Technical Bulletins 1, 2, and 11, including but not limited to the following:

(a) The structure must be affixed to a permanent foundation, designed, and adequately anchored to resist flotation, collapse, and lateral movement resulting from hydrodynamic and hydrostatic loads, including buoyancy effects. Because of hydrodynamic loads, crawlspace construction is not allowed in areas with flood velocities greater than five (5) feet per second unless the design is reviewed by a qualified design professional, such as a registered architect or professional engineer.

(b) As the crawlspace is an enclosed area below the BFE, it must have openings that equalize hydrostatic pressures by allowing the automatic entry and exit of floodwaters. The bottom of each flood vent opening may not be more than one (1) foot above the LAG.

(c) The crawlspace enclosure must have proper openings to equalize hydrostatic pressure by allowing automatic entry and exit of floodwaters. A minimum of one (1) square inch of flood opening is required per one (1) square foot of the enclosed area subject to flooding.

(d) Portions of the building below the BFE must be constructed with materials resistant to flood damage. This includes the foundation walls of the crawlspace and any joists, insulation, piers, or other materials extending below the BFE. Ductwork must either be placed above the BFE or sealed from floodwaters.

(e) Any building utility systems within the crawlspace must be elevated above the BFE or designed to prevent floodwaters from entering or accumulating within the system components during flood conditions.

(f) The interior grade of a crawlspace below the BFE may not be more than 2 feet below the LAG.

(g) The height of the below-grade crawlspace, measured from the lowest interior grade of the crawlspace floor to the bottom of the floor joist of the next higher floor, cannot exceed four (4) feet at any point.

(h) There must be an adequate drainage system to remove floodwaters from the interior area of the crawlspace. The enclosed area must be able to drain within a reasonable time after a flood event.

(20) *Manufactured Homes*

(a) All manufactured homes placed within Zone A on Provo City's FHBM or FIRM must be installed using methods and practices that minimize flood damage. Manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Acceptable anchoring methods include, but are not limited to, over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State anchoring requirements for resisting wind forces.

(b) Manufactured homes placed, or substantially improved, within Zones A1-30, AH, AE, V, VE, and V1-30 on Provo City's FIRM must meet the conditions in Subsection (c) if they are:

- (i) Outside of a manufactured home park;
- (ii) In a new manufactured home park;
- (iii) In an expansion to an existing manufactured home park; or
- (iv) In an existing manufactured home park where a manufactured home has incurred substantial damage as a result of a flood.

(c) Manufactured homes described in Subsection (b) must be elevated on a permanent foundation such that the lowest floor is at least one (1) foot above the BFE and must be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

(d) All manufactured homes located within Zones A1-30, AH, AO, AE, V, VE, and V1-30 and not described in subsection (b), must be either:

- (i) Elevated so that the lowest floor is at least one (1) foot above the BFE; or
- (ii) If no BFE is specified on the FIRM, the chassis must be supported by reinforced piers that are securely anchored and at least 36 inches above the HAG.

#### *(21) Recreational Vehicles*

In all Special Flood Hazard Areas, Recreational Vehicles must either:

- (a) Be on the site for fewer than 180 consecutive days;
- (b) Be fully licensed and ready for highway use, on its wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and have no permanently attached structures or additions; or
- (c) Meet all the requirements for a Floodplain Development Permit and meet the anchoring and elevation requirements for manufactured homes as specified in this ordinance.

#### *(22) Floodways.*

Floodways located within SFHAs are extremely hazardous areas due to the velocity of floodwaters that carry debris, potential projectiles, and erosion potential. Therefore, the following requirements must be met with regard to floodways:

- (a) Designate a regulatory floodway that will not increase the base flood elevation more than 1 foot.
- (b) Encroachments, including fill, new construction, substantial improvements and other development within adopted regulatory floodways are prohibited unless hydrologic and hydraulic analyses demonstrate that the proposed encroachment will not increase flood levels and a registered professional engineer signs and submits a No-Rise Certificate. Exceptions require a CLOMR and LOMR as outlined in this ordinance.
- (c) All new construction and substantial improvements must comply with all applicable provisions of this ordinance.

(23) *Noncompliance.*

- (a) **Enforcement Authority.** The Floodplain Administrator, or the Floodplain Administrator's designee, shall have the authority to issue notices of violation and stop work orders and to recoup any costs incurred to correct a violation of this ordinance.
- (b) **Notice of Violation.** Whenever the Floodplain Administrator or the Floodplain Administrator's designee finds that a person has violated any of the provisions of this ordinance, the Floodplain Administrator or the Floodplain Administrator's designee may issue a written notice of violation. Such notice shall comply with the provisions of Section 17.030.020, Provo City Code
- (c) **Stop Work Order.** Where there is work in progress that causes or constitutes a violation of any provision of this ordinance, the Floodplain Administrator or the Floodplain Administrator's designee is authorized to issue a stop work order to prevent further or continuing violations. All persons to whom the stop work order is directed, or who are involved, in any way, with the work described in the stop work order shall fully comply therewith. In situations which may be deemed a risk to the public health or safety, the Floodplain Administrator or the Floodplain Administrator's designee may also undertake or cause to be undertaken any necessary or advisable protective measures to correct the violation, the cost of which shall be the responsibility of the owner of the property upon which the work is being done and any person carrying out or participating in the work. Such costs shall be a lien upon the property. In cases where the violation is associated with work permitted by the City and a bond was required, the costs may be applied to the bond in lieu of a lien upon the property, at the discretion of the City. In cases where the costs exceed available bond monies, the responsible party shall not be granted new permits by the City until the costs have been repaid to the City in full.
- (d) **Penalties.** Continuing any work after receiving a stop work order, except as required to remove a violation or unsafe condition, is unlawful and is punishable as a Class B misdemeanor.

If, as the result of the violation of any provision of this ordinance, the City, or any other party, suffers damages and is required to make repairs and/or replace any materials, the cost of such repair, disposal, and/or replacement shall be borne by the violating party and shall be in addition to any criminal or civil fines and/or penalties. In cases where the violation is associated with work permitted by the City and a bond was required, the costs may be applied to the bond in lieu of a lien upon the property, at the discretion of the City. In cases where the costs exceed available bond monies, the responsible party shall not be granted new permits by the City until the costs have been repaid to the City in full.

(e) Administrative Hearing. A person or entity served a notice of violation of any of the provisions of this ordinance shall have the right to an administrative hearing. A request for such hearing shall be in writing and shall be filed, with the Public Works Director or the Director's designee within ten (10) days from the date of service of the notice. Failure to request an administrative hearing shall constitute a waiver to an administrative hearing and a waiver of the right to appeal. Administrative hearings shall adhere to the provisions of Chapter 17.02, Provo City Code.

(24) *Warning and Disclaimer of Liability.*

- (a) The flood protection measures outlined in this Chapter are deemed reasonable for regulatory purposes and are grounded on engineering and scientific methodologies. It is important to acknowledge that larger floods may occur, and flood heights may be increased by human or natural causes, such as ice jams and bridge openings restricted by debris. This Chapter does not imply that areas outside the floodplain will be free from flooding or flood damages. Provo City and its officials are not liable for any flood damages resulting from adherence to this Chapter or any lawful administrative decisions made in accordance with it.
- (b) This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

If any section, provision, or portion of this ordinance is adjudged unconstitutional or invalid by a court, the remainder of the ordinance shall not be affected.