

Sec. 130-384. Verification of floodplain alterations.

- (a) Prior to final city acceptance of utilities and street construction for projects involving floodplain alterations or adjacent to defined floodplains, creeks, channels, and drainageways, a certified statement shall be prepared by a registered professional land surveyor, or a licensed professional engineer, showing that all lot elevations, as developed within the subject project, meet or exceed the required minimum finished pad elevations necessary to create the minimum finished floor elevations as shown on the record plat of the subdivision. This certification shall be filed with the director of engineering.
- (b) In addition, at any time in the future when a building permit is desired for an existing platted property, which is subject to flooding or carries a specified or recorded minimum finished floor elevation, a registered professional land surveyor or a registered professional engineer shall prepare a certified statement that sites are built to the design elevations. The certified survey data showing the property to be at or above the specified elevation shall be furnished to the Chief Building Official for approval. A certificate of compliance with the provisions of this article, pertaining to specified finished floor elevations, shall be required.
- (c) The applicants shall furnish, at their expense, to the director of engineering the above certifications and any other certified engineering and surveying information requested by the director of engineering to confirm that the required minimum floor and pad elevations have been achieved. Save and eExcept as provided in subsection (d), below, building permits will not be issued until:
 - (1) A letter of map revision or amendment has been issued by FEMA; and
 - (2) Lots and/or sites are certified by a registered professional land surveyor or a registered professional engineer that they are elevated from the floodplain according to FEMA-approved revisions to the floodplain and the requirements of this article.

~~(Code 1982, § 37-204; Ord. No. 99-04-39, art. 8, § D, 4-20-1999; Ord. No. 2006-12-145, § 1, 12-19-2006; Ord. No. 2009-05-027, § 12, 5-5-09)~~

(d) As an alternative to the above requirements the following procedure may be used to obtain subdivision acceptance, record a final plat which includes the a lot, and/or obtain a building permit for a lot within an area shown as flood plain on an existing FEMA map that is proposed to be reclaimed pursuant to, and prior to an the approved of a Letter of Map Revision (LOMR) by FEMA:

~~(5)(1)~~ A City reviewed and approved Conditional Letter of Map Revision (CLOMR) must have been submitted to and approved by FEMA.

~~(6)(2)~~ The infrastructure must have been constructed in accordance with plans and specifications, accepted by the City, and in substantial conformance with the FEMA-approved CLOMR as determined by the Floodplain Administrator compliance with the CLOMR as approved.

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~~(7)~~(3) A LOMR must have been submitted to and approved by the City, and then submitted to and receipt acknowledged by FEMA.

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~~(8)~~(4) A record plat that includes the lot must have been approved that includes only the proposed revised floodplain line (the floodplain line on the then effective FEMA map will not be shown) and the following form of note prominently affixed on the record plat: *The floodplain line shown on this plat represents a proposed floodplain line that which has been designated on a FEMA-approved CLOMR Number X-XXXX, for which a LOMR has been submitted and after approval of which LOMR, if it is approved by FEMA, will become the effective FEMA floodplain delineation.* ~~with a prominent note (approved by the City Attorney) indicating that the floodplain line is per a FEMA-approved CLOMR Number X-XXXX, with a LOMR that is pending approval, and that the revised line will be in effect when the LOMR goes into effect.~~

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~~(9)~~(5) An elevation certificate must have been issued confirming that the pad elevation for the lot is at or above the proposed adjacent base flood elevation shown on the submitted LOMR.

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~~(10)~~(6) The developer must present to the City a signed affidavit which affirms that the proposed lot is currently within the flood plain as shown on the effective existing FEMA FIRM map and that flood insurance must be obtained and maintained in order to receive a final green tag or certificate of occupancy prior to until the effective date of FEMA approval of the LOMR.

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~~(11)~~(7) An agreement must be entered into between the City and the developer that contains the following provisions and attachments:

(a) An executed engineering contract between the developer and its engineer covering the scope of services required to complete the LOMR process (the "Engineering Contract"), conditionally assigned to the City;

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(b) An escrow of funds/bond in an amount equal to 120% of the cost of the work remaining under the Engineering Contract relating to the LOMR process to ensure the completion of the LOMR process; and

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(c) A provision acceptable to the City Attorney whereby the developer indemnifies the City from and against any and all claims that might arise out of or be related to this alternative process.

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~~(c) A stipulation with appropriate financial guarantees acceptable to the City Legal Representative, that the developer will fund, or will cause its builder to fund, flood insurance for all habitable structures within the flood plain shown on the existing FEMA map until the effective date of the LOMR approval regardless of the time frame involved.~~

~~(12) The developer or builder obtains flood insurance for each structure within the flood plain shown on the existing FEMA map at, or prior to, the issuance of a final green tag or certificate of occupancy.~~

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(8) In order to obtain a final green tag or certificate of occupancy as appropriate for a habitable structure on the lot, the following must be accomplished:

(13)

(a) All other requirements for the final approval have been met;

(b) The record plat that includes the lot has been filed; and

(c) Proof that a policy of flood insurance written by an insurance company licensed to do business in the state of Texas and authorized to issue flood insurance policies, prepaid for up to two (2) years as determined by the Director of Development Services, has been issued for all habitable structures on the lot.

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9.) Subsequent to issuance of a green tag or a certificate of occupancy but prior to a property buyer taking ownership of the property, the property buyer shall sign an affidavit

(c) Owners sign an An affidavit signed by the owner of record must be provided to the City that acknowledges that the property buyer agrees and understands:

(a4) they understand- The improvements on the lot are located in an area shown on the effective existing FEMA map-FIRM as being in the flood plain;

(b2) A and that a Letter of Map Revision has been sent to FEMA which that, when-if approved, will change-modify the FIRM such that the the designated floodplain with the result that such improvements will no longer be shown as being located within the floodplain;

and-(c3)- FEMA may not approve the LOMR;

(d) indemnify the City and assume the risk that if FEMA does not approve the Letter of Map Revision-LOMR the improvements will continue to be shown as being in, remove the improvements on the lot from the flood plain, and that they understand that FEMA may not approve the LOMR, and if they do not the building will remain in the floodplain and the -and (4) a policy of flood insurance written by an insurance company licensed to do business in the state of Texas and authorized to issue flood insurance policies, prepaid for up to two (2) years as determined by the Director of Development Services, has been issued for all habitable structures on the lot -; property buyer's right to use, repair, replace, restore, rebuild or expand the improvements may be limited or even prohibited;

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- (e) The property buyer is assuming the foregoing risks and agrees to indemnify and hold the City harmless from and against any and all claims arising out of the absence of a FEMA approved LOMR; and
- (f) ~~that the property buyer understands that~~ the property buyer will be solely responsible for purchasing flood insurance.

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