

**CITY OF HIGHLAND HAVEN, TEXAS
ORDINANCE #101
FEBRUARY 18, 2020**

**AN ORDINANCE PROCEDURE FOR MANAGEMENT OF CONSTRUCTION WITHIN
FLOOD PLAIN AND FLOOD-PRONE AREAS**

WHEREAS, flood insurance rates are largely dependent upon the monitoring and enforcement of Federal Statutes governing the construction and repair of buildings within the established Flood Plain; and

WHEREAS, Federal Statutes and FEMA regulations govern the application of this Ordinance, the City of Highland Haven hereby adopts any changes to applicable statutes and regulations upon the effective date of such changes:

SECTION 1. Definitions. See Ordinance #74 Definitions and Ordinance #51 Flood Plain Management for complete list. The following definitions are taken verbatim and added to this ordinance:

Actual Cash Value (ACV). The cost to replace an insured item of property at the time of loss, less the value of physical depreciation.

Base Flood Elevation (BFE). Base Flood Elevations (BFEs) are shown on Flood Insurance Rate Maps (FIRMs) and on the flood profiles. The BFE is the regulatory requirement for the elevation or flood proofing of structures. The relationship between the BFE and a structure's elevation determines the flood insurance premium.

Enclosure. That portion of an elevated building below the lowest elevated floor that is either partially or fully shut in by rigid walls.

Fair Market Value. The price that the seller is willing to accept and the buyer is to pay on the open market and in an arm's length transaction.

Flood Zones (per FEMA)

Zone A: areas with a 1% chance of flooding and a 26% chance of flooding over the life of a 30 mortgage. Because detailed analyses are not performed for such areas; no depths or base flood elevations are shown within these zones.

Zone AE: The base floodplain where base flood elevations are provide. AE Zones are now used on new format FIRMs instead of A1-A30 Zones.

Zone X: Areas of minimal/moderate flood hazard, usually the area between the limits of the 100-year and 500-year floods.

Freeboard. An additional amount of height above the Base Flood Elevation used as a factor of safety (e.g., 2 feet above the Base Flood) in determining the level at which a structure's lowest floor must be elevated or flood proofed to be in accordance with state or community floodplain management regulations.

Increased Cost of Compliance. Coverage for expenses that a property owner must incur, above and beyond the cost to repair the physical damage the structure actually sustained from a flooding event, to comply with mitigation requirements of state or local floodplain management ordinances or laws. Acceptable mitigation measures are elevation, flood proofing, relocation, demolition or any combination thereof.

Post-FIRM Building. A building for which construction or substantial improvement occurred after December 31, 1974 or on or after the effective date of an initial Flood Insurance Rate Map (FIRM), whichever is later.

Pre-FIRM Building. A building for which construction or substantial improvement occurred on or before December 31, 1974 or before the effective date of an initial Flood Insurance Rate Map (FIRM).

Severe Repetitive Loss Building. Any building that:

1. Is covered under a Standard Flood Insurance Policy made available under this title;
2. Has incurred flood damage for which:
 - a. 4 or more separate claim payments have been made under a Standard Flood Insurance Policy issued pursuant to this title, with the amount of each such claim exceeding \$5,000, and with the cumulative amount of such claims payments exceeding \$20,000; or
 - b. At least 2 separate claims payments have been made under a Standard Flood Insurance Policy, with the cumulative amount of such claim payments exceed the fair market value of the insured building on the day before each loss.

Suspension. FEMA's removal of an NFIP participating community from the program because the community has not enacted and/or enforced the proper floodplain management regulations required for participation.

SECTION 2. Codes and References

- A. Ordinance #51 Floodplain Management, City of Highland Haven
- B. FEMA Unit 7: Ordinance Administration
- C. FEMA Unit 8: Substantial Improvement and Substantial Damage
- D. FEMA NFHL and FIRM Maps
- E. Burnet County Development Services
- F. State of Texas Division of Emergency Management

SECTION 3. Floodplain or Flood-prone Area.

- A. This Ordinance will apply to all areas of the City of Highland Haven identified by FEMA NFHL and FIRM Maps as a **Floodplain or Flood-prone Area (Zone A and Zone A-E)**.

SECTION 4. Establishing a Base Flood Elevation

- A. The Board of Aldermen (BOA) as the Governing Body of the City of Highland Haven establishes the Base Flood Elevation (BFE), also known as “100-year flood” elevation, for areas of the City where no BFE has been engineered (Zone A). The BOA uses available data from FEMA NFHL and FIRM Maps and Site Surveys and Elevation Certificates of Elevations of individual lots in the City that are produced by licensed Surveyors. Based on the known data from these sources maintained by the City, and the experience from flood events and water encroachment relative to the designated Base Flood Elevations and Elevation Certificates of properties located throughout Zone A, the City can confidently establish the Base Flood Elevation.
- B. The current Base Flood Elevation for areas of the City where no BFE has been engineered (Zone A), based on historical data retained in the office, is hereby established as 831 feet above sea level.

SECTION 5. Market value

In common parlance, **market value is the price a willing buyer and seller agree upon**. The market value of a structure reflects its original quality, subsequent improvements, physical age of building components and current condition. However, market value for property can be different than that of the building itself. Market value of developed property varies widely due to the desirability of its location. For example, two houses of similar size, quality and condition will have far different prices if one is on the coast, or in the best school district, or closer to town than the other—but the value of the building materials and labor that went into both houses will be nearly the same.

- A. Acceptable estimates of market value can be obtained from these sources: An independent appraisal by a professional appraiser. The appraisal must exclude the value of the land and not use the “income capitalization approach” which bases value on the use of the property, not the structure.
- B. Detailed estimates of the structure’s actual cash value— **the replacement cost for a building, minus a depreciation percentage based on age and condition**. For most situations, the building’s actual cash value should approximate its market value. Your community may prefer to use actual cash value as a substitute for market value, especially where there is not sufficient data or enough comparable sales.

- C. Property values used for tax assessment purposes with an adjustment recommended by the tax appraiser to reflect current market conditions (adjusted assessed value).
- D. The value of buildings taken from NFIP claims data (usually actual cash value).
- E. Qualified estimates based on sound professional judgment made by the staff of the local building department or tax assessor's office.

Some market value estimates are often used only as screening tools (i.e., NFIP claims data and property appraisals for tax assessment purposes) to identify those structures where the substantial improvement ratios are obviously less than or greater than 50 percent (i.e., less than 40 percent or greater than 60 percent). For structures that fall in the 40 percent to 60 percent range, more precise market value estimates are sometimes necessary.

SECTION 6. Substantial Improvement/Substantial Damage

- A. Substantial Improvement is defined in City of Highland Haven Ordinance #51 Floodplain Management, FEMA Unit 8, and Marshall Swift guidelines.
 1. Any new construction, addition, re-model or repair on an existing structure, that is wholly or partially within the boundary of the Base Flood Elevation or within the **Flood Plain or Flood-prone Area**, requires the property owner to submit a completed and signed "**Application for Building Within the Flood Plain or Flood-prone Area**". A **current Elevation Certificate or Site Survey showing the demarcated Base Flood Elevation must accompany the application.**
 2. The cost of new construction, addition, re-model or repair on an existing structure that is wholly or partially within the boundary of the Base Flood Elevation or within a **Floodplain or Flood-prone Area** will be reviewed by the Flood Plain Administrator for compliance with Substantial Improvement before a Building Permit is issued.
 3. Decisions to award permits within the BFE or **Floodplain or Flood-prone Area** are based on the evaluation tools available in FEMA Unit 8 and Marshall Swift Guidelines.

The final decisions on Substantial Improvement projects will be made by the Flood Plain Administrator and witnessed/cosigned by the City Building Permit Officer or an elected City Official as designated in the "**Application for Building Within the Flood Plain or Flood-prone Area**". **For the purposes of determining substantial improvement, market value pertains only to the structure in question. It does not pertain to the land, landscaping or detached accessory structures on the property.** Any value resulting from the location of the property should be attributed to the value of the land, not the building.

Items to be included

- All structural elements, including:
 - Spread or continuous foundation footings and pilings
 - Monolithic or other types of concrete slabs
 - Bearing walls, tie beams and trusses
 - Floors and ceilings
 - Attached decks and porches
 - Interior partition walls
 - Exterior wall finishes (brick, stucco, siding) including painting and moldings
 - Windows and doors
 - Re-shingling or retiling a roof
- Hardware
- All interior finishing elements, including:
 - Tiling, linoleum, stone, or carpet over subflooring
 - Bathroom tiling and fixtures
 - Wall finishes (drywall, painting, stucco, plaster, paneling, marble, etc.)
 - Kitchen, utility and bathroom cabinets
 - Built-in bookcases, cabinets, and furniture
- Hardware
- All utility and service equipment, including:
 - HVAC equipment
 - Plumbing and electrical services
 - Light fixtures and ceiling fans
 - Security systems
 - Built-in kitchen appliances
 - Central vacuum systems
 - Water filtration, conditioning, or recirculation systems
- Cost to demolish storm-damaged building components
- Labor and other costs associated with moving or altering undamaged building components to accommodate improvements or additions
- Overhead and profits

Items to be excluded

- Plans and specifications
- Survey costs
- Permit fees
- Post-storm debris removal and clean up
- Outside improvements, including:
 - Landscaping
 - Sidewalks
 - Fences
 - Yard lights
 - Swimming pools
 - Screened pool enclosures
- Detached structures (including garages, sheds and gazebos)
- Landscape irrigation systems

B. Substantial Damage is defined in City of Highland Haven Ordinance #51 Floodplain Management, FEMA Unit 8, and Marshall Swift guidelines.

1. **Substantial Damage may result from any cause (fire, tornado, high winds, etc.) and is not restricted to flooding.**
2. **Any repair on an existing structure that is wholly or partially within the boundary of the Base Flood Elevation or within a Floodplain or Flood-prone Area, to restore it to its pre-damaged condition (immediately before the damage occurred), requires the property owner to submit a completed and signed "Application for Building Within the Floodplain or Flood-prone Area". A current Elevation Certificate or Survey must accompany the application.**
3. The cost of repair on an existing structure that is wholly or partially within the boundary of the Base Flood Elevation or within a **Floodplain or Flood-prone Area** will be reviewed by the Floodplain Administrator for compliance with Substantial Damage before a Building Permit is issued.
4. Decisions to award permits within the BFE or **Floodplain or Flood-prone Area** are based on the evaluation tools available in FEMA Unit 8 and Marshall Swift Guidelines.
5. Any costs of up-grading, re-modeling, or additions to the structure will be included in the determination of Substantial Damage.
6. The final decisions on Substantial Improvement projects will be made by the Flood Plain Administrator and witnessed/cosigned by the City Building Permit Officer or an elected City Official as designated in the **"Application for Building Within the Floodplain or Flood-prone Area"**.

Section 7. Community Awareness and Education

A. The City will use newsletters, notices, and other media resources to inform property owners of the risks that may be present as a result of construction that exists or is planned within the boundary of the Base Flood Elevation or within a **Floodplain or Flood-prone Area** in the City of Highland Haven. Additionally, other efforts, including, but not limited to those listed here will be undertaken.

1. City Officials, Board, Commission, Association officers, and City Staff will be aware of Flood Plain issues covered by Ordinance #51 and this Ordinance and will take efforts to inform the community of property owners.
2. Members of the BOA, P&Z Commission, Property Owners Association officers, City Staff, and Flood Plain Administrator will make available and offer presentations to various community gatherings or meetings such as Highland Haven Ladies Club or other civic organizations to present information on the Flood Plain and Flood Plain Management .

3. Members of the BOA, P&Z Commission, Property Owners Association officers, City Staff, and Floodplain Administrator will offer to meet with Realtor Organizations to present information and receive feedback on Flood Plain and Floodplain Management in Highland Haven and to elicit feedback and encourage transparency on the information presented to property buyers and sellers.

Section 8. Tracking Procedures and Data Management

- A. In the event of a flood which damages residences or other qualified structures within the City of Highland Haven, the City will take actions to track damages and collect data from owners to be retained for use in communication of losses to County, State, or Federal (FEMA) officials
 1. Data on Damage Assessments completed by owners, contractors, and/or City Officials will be tracked on hard copy logs or electronic format.
 2. All Damage Assessments will be validated by the Flood Plain Administrator and a City Official.
 3. Emergency Building Permits may be issued without charge by consent of the Board of Aldermen for owners to restore property to its pre-flood condition. Otherwise, standard building permit practices will be followed.
 4. All Building Permits issued as a result of flooding of a residence or qualified structure will be reviewed by the Flood Plain Administrator and Substantial Damage criteria applied.
 5. The Flood Plain Administrator, Elected City Officials, and City Staff will represent the City at flood information or recovery symposia, workshops, presentations, etc., to the extent necessary to coordinate recovery efforts with other municipalities, counties, state, federal, or other government jurisdictions.
 6. Official communication with the owners and residents of the City about flood related matters will be done through the Office of the Mayor of Highland Haven using the resources available per Section 6 of this Ordinance.

Section 9. Competency and Training

- A. Annual attendance of training will be documented for the following City of Highland Haven Officials:
 1. The Flood Plain Administrator
 2. The Mayor and elected officials (Board of Aldermen)
 3. Members of the Planning and Zoning Commission
 4. The Building Permit Officer
 5. City Staff as directed by the Board of Aldermen

NOW, BE IT THEREFORE RESOLVED, that the Board of Aldermen of the City of Highland Haven, Texas does hereby approve and adopt the attached Procedure for Management of Construction Within Flood Plain and Flood-Prone Areas dated August 19, 2019.

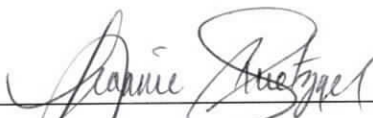
PASSED AND APPROVED this the 18th day of February 2020, during a scheduled meeting by the Board of Aldermen of the City of Highland Haven, Texas.

CITY OF HIGHLAND HAVEN, TEXAS

ATTEST:



Olan Kelley, Mayor



Jeannie Gruetzner, City Secretary

seal

