

Ridgway Municipal Code

CHAPTER 6

SECTION 2

Flood Plain Management Regulations

Subsections:

- 6-2-1 General Provisions.
- 6-2-2 Development Permits.
- 6-2-3 Duties Of Building Official.
- 6-2-4 Standards.
- 6-2-5 Variances.
- 6-2-6 Adoption Of Maps And Study.
- 6-2-7 Additional Restrictions In Floodway.
- 6-2-8 Enforcement.
- 6-2-9 Appeals.

6-2-1 GENERAL PROVISIONS.

(A) The regulations adopted by this Section shall be in addition to and supplementary to all other ordinances and regulations of the Town of Ridgway. Whenever any conflict exists between these regulations and any other ordinance or regulations, those providing the more stringent limitation or requirement shall apply.

(B) As used in this Section, DEVELOPMENT means any man-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 or storage of equipment or materials.

(Ord 10-2013)

(C) As used in this Section, BASE FLOOD ELEVATION means the elevation of a flood having a 1% chance of being equaled or exceeded in any given year.

(D) As used in this Section, FLOOD or FLOODING means:

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

(a) The overflow of inland or tidal waters.

(b) The unusual and rapid accumulation or runoff of surface waters from any source.

(c) Mudslides (i.e., mudflows) which are proximately caused by flooding as defined in paragraph (1)(a) of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.

(2) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical

levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in (I)(a) of this Subsection.

(E) As used in this Section, FLOOD INSURANCE RATE MAP (FIRM) means an official map of a community, on which the Federal Emergency Management Agency has delineated both the special hazard areas and the risk premium zones applicable to the community.

(F) As used in this Section, FLOOD INSURANCE STUDY or FLOOD ELEVATION STUDY means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards.

(G) As used in this Section, FLOODWAY or REGULATORY FLOODWAY means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

(H) As used in this Section, NEW CONSTRUCTION means, for the purpose of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later. For flood plain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of a flood plain management regulation adopted by a community.

(I) As used in this Section, START OF CONSTRUCTION (for other than new construction or substantial improvements under the Coastal Barrier Resources Act (Pub. L. 97-348), includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for 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.

(J) As used in this Section, MANUFACTURED HOME means a structure, transportable in one or more sections, which is built on a permanent chassis and designed for use with or without a permanent foundation when connected to the required utilities. For flood plain management purposes the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days. For insurance purposes the term "manufactured home" does not include park trailers, travel trailers, and other similar vehicles.

(K) As used in this Section, MANUFACTURED HOME PARK OR SUBDIVISION means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

(L) As used in this Section, SUBSTANTIAL IMPROVEMENT means any repair, reconstruction, or improvement of a structure, including structures that have incurred Substantial Damage, the cost of

which equals or exceeds 50% of the market value of the structure either:

- (1) before the improvement or repair is started, or
- (2) if the structure has been damaged and is being restored, before the damage occurred.

For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not the alteration affects the external dimension of the structure.

The term does not, however, include either:

- (a) any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, or
- (b) any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

(Ord 10-2013)

(M) Unless another definition is specifically provided, the terms used in these Flood Plain Management Regulations shall have the same meaning provided by regulations issued by the Federal Emergency Management Agency for the National Flood Insurance Program as found in 44 CFR, 59.1.

(N) The degree of flood protection required by this Section is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This Section does not imply that land outside the area of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This Section shall not create liability on the part of the Town, any officer or employee thereof for any flood damages that result from reliance on this Section or any administrative decision lawfully made thereunder.

(O) Amendments to these regulations or the maps adopted herein shall be processed in accordance with procedures for amending the Ridgway Zoning Ordinance.

(P) As used in this Section, ADDITION means any activity that expands the enclosed footprint or increases the square footage of an existing structure. (Ord 10-2013)

(Q) As used in this Section BASEMENT means any area of a building having its floor sub-grade (below ground level) on all sides. (Ord 10-2013)

(R) As used in this Section, CONDITIONAL LETTER OF MAP REVISION (CLOMR) means FEMA’s comment on a proposed project, which does not revise an effective floodplain map that would, upon construction, affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodplain. (Ord 10-2013)

(S) As used in this Section CRITICAL FACILITY means a structure or related infrastructure, but not the land on which it is situated, as specified in Subsection 6-2-4(P), that if flooded may result in significant hazards to public health and safety or interrupt essential services and operations for the community at any time before, during and after a flood. (Ord 10-2013)

(T) As used in this Section FLOODPROOFING means any combination of structural and/or non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

(Ord 10-2013)

(U) As used in this Section HIGHEST ADJACENT GRADE means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

(Ord 10-2013)

(V) As used in this Section LETTER OF MAP REVISIONS BASED ON FILL (LOMR-F) means FEMA's modification of the Special Flood Hazard Area (SFHA) shown on the Flood Insurance Rate Map (FIRM) based on the placement of fill outside the existing regulatory floodway.

(Ord 10-2013)

(W) As used in this Section LOWEST FLOOR means the lowest floor of the lowest enclosed area (including basement). Any floor used for living purposes which includes working, storage, sleeping, cooking and eating, or recreation or any combination thereof. This includes any floor that could be converted to such a use such as a basement or crawl space. The lowest floor is a determinate for the flood insurance premium for a building, home or business. An unfinished or flood resistant enclosure, usable solely for parking or vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirement of Section 60.3 of the National Flood Insurance Program regulations.

(Ord 10-2013)

(X) As used in this Section SPECIAL FLOOD HAZARD AREA means the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year, i.e., the 100-year floodplain.

(Ord 10-2013)

(Y) As used in this Section SUBSTANTIAL DAMAGE means damage of any origin sustained by a structure whereby the cost of restoring the structure of its before damaged condition would equal or exceed 50 percent of the market value of the structure just prior to when the damage occurred.

(Ord 10-2013)

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

(Ord 10-2013)

(AA) As used in this Section VIOLATION means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Sections 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) of the National Flood Insurance Program regulations is presumed to be in violation until such time as that documentation is provided.

(Ord 10-2013)

6-2-2 DEVELOPMENT PERMITS.

(A) Within the Special Flood Hazard Areas and areas removed from the floodplain by the

issuance of a FEMA Letter of Map Revision Based on Fill (LOMR-F), as indicated on the Flood Insurance Rate Map adopted by Subsection 6-2-6, a development permit shall be obtained prior to commencing any construction or development. (Ord 10-2013)

(B) Application for a development permit shall be made on forms furnished by the Town which may require plans 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 their locations, and other information appropriate for the administration of these regulations.

(C) Submitted with the application for a development permit or other applicable permit for property within said Zones A and A-5 shall be the following information:

(1) Elevation in relation to mean sea level of the lowest floor (including basement) of all structures.

(2) Elevation in relation to mean sea level to which any structure has been floodproofed.

(3) Certification by a registered professional engineer or architect that the floodproofing methods of any non-residential structure meet the criteria of Subsection 6-2-4(M).

(4) Description of the extent to which any watercourse will be altered or relocated as a result of the proposed development.

(5) Other information required by the Town as necessary to administer and enforce the provision of these regulations.

(6) An application fee of \$250. (Ord 2-2019)

6-2-3 DUTIES OF BUILDING OFFICIAL.

The Building Official or other officer or employee designated by the Town Council shall administer and enforce the provisions of these regulations, including the performance of the following duties:

(A) Review all development and other permits to determine that all requirements of these regulations have been met prior to any permit being approved.

(B) Review all development and other permits to determine that all necessary permits have been obtained from those federal, state or local government agencies from which prior approval is required.

(C) Obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and record whether or not the structure contains a basement.

(D) For all new or substantially improved flood-proofed structures, verify and record the actual elevation (in relation to mean sea level); and maintain on file the flood-proofing certification required by Subsection 6-2-4(M).

(E) Maintain for public inspection all records pertaining to these regulations.

(F) Notify adjacent communities and the Colorado Water Conservation Board prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.

(G) Require as a condition of permit approval that maintenance will be provided by the owner within an altered or relocated portion of any watercourse so that the flood carrying capacity is not diminished.

(H) Review all development permits and other permits and applications, including subdivision proposals and other new developments to determine whether such development will be reasonably safe from flooding.

(I) Require that an evacuation plan indicating alternate vehicular access and escape routes be filed with the Town and County of Ouray for mobile home parks and mobile home subdivisions located within Special Flood Hazard Areas, as indicated on the Flood Insurance Rate Map.

(Ord 10-2013)

(J) For waterways with Base Flood Elevations for which a regulatory Floodway has not been designated, no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30 and AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one-half foot at any point within the community.

(Ord 10-2013)

(K) Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Program regulations, a community may approve certain development in Zones A1-30, AE, AH, on the community's FIRM which increases water surface elevation of the base flood by more than one-half foot, provided that the community first applies for a conditional FIRM revision through FEMA (Conditional Letter of Map Revision), fulfills the requirements for such revisions as established under the provisions of Section 65.12, and receives FEMA approval.

(Ord 10-2013)

6-2-4 STANDARDS.

(A) The standards provided in this Subsection shall apply within the Special Flood Hazard Areas designated on the Flood Insurance Rate Map.

(Ord 10-2013)

(B) All new construction and substantial improvements shall be designed (or modified) and adequately anchored to prevent floatation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads including the effects of buoyancy.

(C) All manufactured homes to be placed within such flood plains shall be installed using methods and practices which minimize flood damage and shall be elevated and anchored to resist floatation, collapse or lateral movement. Methods of anchoring may include, but are not limited to the use of over the top or frame ties to ground anchors. The requirements of this Paragraph (C) shall not apply when the grade of the ground itself has been elevated by compacted fill above the elevation of the base flood. Special requirements shall be that:

(1) Over the top ties be provided at each of the four (4) corners of the manufactured home,

with two (2) additional ties per side at intermediate locations; with manufactured homes less than fifty feet (50') long requiring one additional tie per side.

(2) Frame ties be provided at each corner of the home with five (5) additional ties per side at intermediate points; with manufactured homes less than fifty feet (50') long requiring four (4) additional ties per side.

(3) All components of the anchoring system be capable of carrying a force of four thousand eight hundred (4,800) pounds.

(4) Any additions to the manufactured home be similarly anchored.

(5) In lieu of the special requirements of Subsections 1, 2 and 3 above, an alternative anchoring system may be used if a licensed professional engineer certifies or technical evaluation demonstrates that such system will adequately anchor the manufactured home with respect to base flood discharge.

(D) All new construction and substantial improvements shall be constructed with materials resistant to flood damage and with electrical heating, ventilation, plumbing and air-conditions 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.

(E) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

(F) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.

(G) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from the systems into flood waters.

(H) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

(I) All subdivision proposals shall be consistent with the need to minimize flood damage, and shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.

(J) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.

(K) Base flood elevation data shall be provided with subdivision proposals and other proposed development (including proposals for manufactured home parks and subdivisions) which contain at least fifty (50) lots or five (5) acres whichever is less.

(L) New construction and substantial improvement of any residential structure shall have the lowest floor (including basement) elevated to or above base flood elevation. (Ord 10-2013)

(M) New construction and substantial improvement of any commercial, industrial or other non-residential structure shall either have the lowest floor (including basement) elevated to or above one foot above the level of the base flood elevation, or, together with the attendant utility and sanitary

facilities, shall:

(Ord 10-2013)

(1) Be flood proofed so that below a point one foot above the base flood level, the structure is watertight with walls substantially impermeable to the passage of water, (Ord 10-2013)

(2) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy, and (Ord 10-2013)

(3) Have structural design specifications and plans for the construction developed and/or reviewed by a registered professional engineer or architect who shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting applicable provisions of this Section. Such certification including elevations to which the structure is flood-proofed shall be provided to the Building Official. (Ord 10-2013)

(N) All manufactured homes to be placed within the floodplain or substantially improved shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above one foot above the base flood elevation and shall be securely anchored to an adequately anchored foundation system according to Subsection 6-2-4(C). (Ord 10-2013)

(O) For all new construction and substantial improvements, fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood water. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:

(1) A minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided.

(2) The bottom of all openings shall be no higher than one (1) foot above grade.

(3) Openings may be equipped with screens, louvers, valves or other coverings or devices provided that they permit the automatic entry and exit of flood waters.

(P) Standards for Critical Facilities:

(1) A Critical Facility is a structure or related infrastructure, but not the land on which it is situated, that if flooded may result in significant hazards to public health and safety or interrupt essential services and operations for the Town at any time before, during, or after a flood. Critical facilities are classified as essential services, hazardous materials, at risk populations and vital to restoring normal services. The Town shall identify Critical Facilities pursuant to the following criteria: (Ord 10-2013)

(2) (a) Essential services facilities include public safety, emergency response, emergency medical, designated emergency shelters, communications, public utility plant facilities, and transportation lifelines. These facilities consist of: public safety (police stations, fire and rescue stations, emergency vehicle and equipment storage, and emergency operation centers); emergency medical (hospitals, ambulance service centers, urgent care centers having emergency treatment functions, and non-ambulatory surgical structures but excluding clinics, doctors offices, and non-urgent care medical structures that do not provide these functions); designated emergency shelters; communications (main hubs for telephone, broadcasting equipment for cable systems, satellite dish systems, cellular

systems, television, radio, and other emergency warning systems, but excluding towers, poles, lines, cables, and conduits); public utility plant facilities for generation and distribution (hubs, treatment plants, substations and pumping stations for water, power and gas, but not including towers, poles, power lines, buried pipelines, transmission lines, distribution lines, and service lines); and Air Transportation lifelines (airports [municipal and larger], helicopter pads and structures serving emergency functions, and associated infrastructure [aviation control towers, air traffic control centers, and emergency equipment aircraft hangars]). (Ord 10-2013)

(b) (i) Specific exemptions to this category include wastewater treatments plants (WWTP), non-potable water treatment and distribution systems, and hydroelectric power generating plants and related appurtenances. (Ord 10-2013)

(ii) Public utility plant facilities may be exempted if it can be demonstrated that the facility is an element of a redundant system for which service will not be interrupted during a flood. At a minimum it shall be demonstrated that redundant facilities are available (either owned by the same utility or available through an intergovernmental agreement or other contract) and connected, the alternative facilities are either located outside of the 100-year floodplain or are compliant with the provisions of this Section, and an operations plan is in effect that states how redundant systems will provide service to the affected area in the event of a flood. Evidence of ongoing redundancy shall be provided to the Town on an as needed basis upon request. (Ord 10-2013)

(3) (a) Hazardous materials facilities include facilities that produce or store highly volatile, flammable, explosive, toxic or water-reactive materials. These facilities may include: chemical and pharmaceutical plants (chemical plant, pharmaceutical manufacturing); laboratories containing highly volatile, flammable, explosive, toxic and/or water-reactive materials; refineries; hazardous waste storage and disposal sites; and aboveground gasoline or propane storage or sales centers. Facilities shall be determined to be Critical Facilities if they produce or store materials in excess of threshold limits. If the owner of a facility is required by the Occupational Safety and Health Administration (OSHA) to keep a Material Safety Data Sheet (MSDS) on file for any chemicals stored or used in the workplace, AND the chemical(s) is stored in quantities equal to or greater than the Threshold Planning Quantity (TPQ) for that chemical, then that facility shall be considered to be a Critical Facility. The TPQ for these chemicals is: either five hundred (500) pounds or the TPQ listed (whichever is lower) for the chemicals listed under 40 C.F.R., Section 302, as amended, also known as Extremely Hazardous Substances (EHS); or ten thousand (10,000) pounds for any other chemical. This threshold is consistent with the requirements for reportable chemicals established by the Colorado Department of Health and Environment. OSHA requirements for MSDS can be found in 29 C.F.R., Section 1910, as amended. The Environmental Protection Agency (EPA) regulation "Designation, Reportable Quantities, and Notification," 40 C.F.R., Section 302, as amended, and OSHA regulation "Occupational Safety and Health Standards," 29 C.F.R., Section 1910, as amended, are incorporated herein by reference. (Ord 10-2013)

(b) Specific exemptions to this category include:

(i) Finished consumer products within retail centers and households containing hazardous materials intended for household use, and agricultural products intended for agricultural use. (Ord 10-2013)

(ii) Buildings and other structures containing hazardous materials for which it can be demonstrated to the satisfaction of the Town by hazard assessment and certification by a qualified professional (as determined by the Town) that a release of the subject hazardous material does not pose a major threat to the public. (Ord 10-2013)

(iii) Pharmaceutical sales, use, storage, and distribution centers that do not manufacture pharmaceutical products. (Ord 10-2013)

(iv) These exemptions shall not apply to buildings or other structures that also function as Critical Facilities under another category outlined in this Subsection. (Ord 10-2013)

(4) At risk population facilities include medical care, congregate care, and schools. These facilities consist of: elder care (nursing homes); congregate care serving twelve (12) or more individuals (daycare and assisted living); public and private schools (pre-schools, K-12 schools), before-school and after-school care serving twelve (12) or more children. (Ord 10-2013)

(5) (a) Facilities vital to restoring normal services including government operations. These facilities consist of: essential government operations (public records, courts, jails, building permitting and inspection services, community administration and management, maintenance and equipment centers); essential structures for public colleges and universities (dormitories, offices, and classrooms only). (Ord 10-2013)

(b) These facilities may be exempted if it is demonstrated to the satisfaction of the Town that the facility is an element of a redundant system for which service will not be interrupted during a flood. At a minimum, it shall be demonstrated that redundant facilities are available (either owned by the same entity or available through an intergovernmental agreement or other contract), the alternative facilities are either located outside of the 100-year floodplain or are compliant with Section, and an operations plan is in effect that states how redundant facilities will provide service to the affected area in the event of a flood. Evidence of ongoing redundancy shall be provided to the Town on an as needed basis upon request. (Ord 10-2013)

(6) New Construction and Substantial Improvement of any Critical Facility shall comply with the provisions of Subsection (M) above, except that the required elevation or flood proofing shall be to at least two feet above the base flood elevation. (Ord 10-2013)

(7) New Critical Facilities shall, when practicable as determined by the Town, have continuous non-inundated access (ingress and egress for evacuation and emergency services) during a 100 year flood event. (Ord 10-2013)

(Q) New construction of any structure on property removed from the floodplain by issuance of a FEMA Letter of Map Revision based on Fill (LOMR-F) shall have the lowest floor (including basement) elevated to or above one foot above the base flood elevation which existed prior to placement of fill. (Ord 10-2013)

(R) All recreational vehicles placed on sites within Zones A1-30, AH, and AE on the community's FIRM shall either: (Ord 10-2013)

(1) Be on the site for fewer than 180 consecutive days, (Ord 10-2013)

- (2) Be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect-type utilities and security devices, and has no permanently attached additions. (Ord 10-2013)
- (3) Meet the permit requirements of Subsection 6-2-2, and the elevation and anchoring requirements for “manufactured homes” in subsection 6-2-4(C) of this section. (Ord 10-2013)

6-2-5 VARIANCES.

(A) The Building Official is hereby authorized to grant a variance from these regulations for the reconstruction, rehabilitation, or restoration of structures listed on the National Register or State Inventory of Historic Places 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. (Ord. 10-2013)

(B) The Board of Zoning Adjustment shall have authority to grant a variance from the provisions of these regulations in accordance with the criteria provided in this Subsection following a hearing of which reasonable notice has been published, and has been posted visible from each street frontage abutting the property for at least 10 days prior to the hearing. (Ord 14-1998)

(C) Application for a variance shall be accompanied by an application fee of \$150 and by all information necessary to show that the variance is justified in accordance with the criteria of this Subsection. (Ord 2-2019)

(D) Generally, variances shall be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size, contiguous to and surrounded by lots with existing structures constructed below the base flood level, provided that all relevant technical considerations have been fully considered. As lot size increases beyond one-half acre, the technical justification required for issuing the variance increases.

(E) In considering any variance, all technical considerations, all relevant factors, and the standards provided in these regulations shall be considered.

(F) A variance shall be issued only upon the determination that all of the following exist:

- (1) The variance is a minimum necessary considering the flood hazards to afford relief.
- (2) There is good and sufficient cause.
- (3) Failure to grant the variance would result in exceptional hardship to the applicant, and
- (4) The granting of the variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create a nuisance, cause fraud on or victimization of the public, or conflict with existing laws.

(G) A variance shall be disallowed within the floodway if any increase in flood levels during the base flood discharge would result.

(H) The applicant for any variance shall have the burden of proof to show that the above criteria are met. Any technical or engineering data or information shall be prepared and certified by a registered professional engineer or other qualified professional.

(I) Records shall be maintained of all variance actions, including justification of their issuance, and shall be included in the annual report submitted to the Federal Emergency Management Agency. The applicant for a variance which is granted shall be given written notice that (i) the structure will be permitted to be built with the lowest floor elevation below the base flood elevation, and that the cost of flood insurance will be increased commensurate with the increased risk resulting from the reduced lowest floor elevation; and (ii) that such construction increases risk to life and property. Copies of such notice shall be kept by the Town. (Ord 10-2013)

6-2-6 ADOPTION OF MAPS AND STUDY.

(A) The Flood Insurance Study for the Town of Ridgway, Colorado, dated September 27, 1985, together with the Flood Insurance Rate Map, dated September 27, 1985, and any revisions hereto, as prepared and promulgated by the Federal Emergency Management Agency is hereby adopted and designated for use in the enforcement and administration of these regulations. Such studies and maps reflect the floodplain developed by the "Floodplain Information Report" prepared by A&S Consultants, Inc., dated April 1978, for the Uncompahgre River – Ouray to Dallas Creek, which has been designated and approved by the Colorado Water Conservation Board in December 1981. Said Flood Insurance Study, related maps, and Floodplain Information Report including Plates 4 through 6 thereof, shall be and are hereby adopted and designated for use in the enforcement and administration of these regulations. (Ord 10-2013)

(B) The Building Official shall interpret the exact locations of the boundary of the flood-way, flood-fringe, and high hazard areas and of base flood elevations as provided in the Report, study and maps referenced above. Elevations determined from the profiles shall take precedence over plates or maps.

(C) In interpreting the boundaries of the flood-way, flood-fringe, high hazard areas and determining base flood elevation, the building official shall obtain, review and reasonably utilize any base flood elevation or flood-way data and other data available from other federal sources or sources officially approved by the Colorado Water Conservation Board.

6-2-7 ADDITIONAL RESTRICTIONS IN FLOODWAY.

(A) In addition to the other requirements of these Flood Plain Management Regulations, the restrictions of this Section shall apply within the floodway as designated on the Floodplain Information Report which is adopted in Section 6-2-6.

(B) No encroachments, including fill, new construction, substantial improvements, and other development shall be allowed within the boundaries of the floodway unless a technical evaluation demonstrates that the encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

6-2-8 ENFORCEMENT.

(A) It shall be unlawful for any person to violate any of the provisions of this Section. Any person convicted of such a violation may be punished by a fine of up to \$300. Each day any violation

continues shall be considered a separate offense.

(Ord 1-2017)

(B) The Town may maintain an action in any court of competent jurisdiction to enjoin or abate any violation of the requirements of this Section.

(C) Any property, building or structure existing or maintained in violation of the requirements of this Section is hereby declared to be a nuisance which may be abated in accordance with law.

6-2-9 APPEALS.

(A) The Board of Adjustment shall hear and decide appeals of any requirement, decision, or determination made by the building official in the enforcement or administration of this ordinance.

(B) Appeals shall be submitted accompanied by a \$25.00 application fee and all necessary information.

(C) The Board shall hold a hearing with reasonable notice to the applicant, notice of which shall be posted visible from each street frontage abutting the property for at least 10 days prior to the hearing. The Board of Adjustment's decision shall be final.

(Ord 14-1998)