

TITLE 155: DEPARTMENT OF PUBLIC WORKS

SUBCHAPTER 155-10.2 FLOOD DAMAGE PREVENTION REGULATIONS

Part 001	General Provisions	§ 155-10.2-125	Delegation	of
§ 155-10.2-001	Statement of Purpose		Responsibilities	
§ 155-10.2-005	Definitions			
§ 155-10.2-010	Lands to Which	Part 200	Provision for Flood Hazard	
	These Regulations Apply	Reduction		
§ 155-10.2-015	Basis for Establishing	§ 155-10.2-201	Standards	of
	the Areas of Special Flood Hazards		Construction	
§ 155-10.2-020	Flood Hazards	§ 155-10.2-205	Standards for Storage	
	Mitigation Plan		of Materials and Equipment	
§ 155-10.2-025	Compliance	§ 155-10.2-210	Standards for Utilities	
§ 155-10.2-030	Abrogation and	§ 155-10.2-215	Coastal High Hazard	
	Greater Restrictions		Areas	
§ 155-10.2-035	Interpretation	§ 155-10.2-220	Standards	for
§ 155-10.2-040	Warning and		Subdivisions	
	Disclaimer of Liability	§ 155-10.2-225	Standards	for
§ 155-10.2-045	Severability		Manufactured Homes	
		§ 155-10.2-230	Standards	for
			Recreational Vehicles	
Part 100	Administration	Part 300	Variance and Appeal	
§ 155-10.2-101	Designation of the	Procedures		
	Building Safety Official	§ 155-10.2-301	Variance Procedures	
§ 155-10.2-105	Building Permit	§ 155-10.2-305	Variance Factors	
	Required	§ 155-10.2-310	Variance Conditions	
§ 155-10.2-110	Duties and	§ 155-10.2-315	Variance Decisions	
	Responsibilities			
§ 155-10.2-115	Interpretation of Firm			
	Boundaries	Part 400	Miscellaneous Provisions	
§ 155-10.2-120	Alteration of	§ 155-10.2-401	Records	
	Watercourse			

Subchapter Authority: 1 CMC § 2404; 2 CMC § 7148.

Subchapter History: Adopted 15 Com. Reg. 11070 (Oct. 15, 1993); Proposed 15 Com. Reg. 10603 (May 15, 1993).

Commission Comment: PL 1-8, tit. 1, ch. 15, codified as amended at 1 CMC §§ 2401-2405, creates the Department of Public Works (DPW) within the Commonwealth government. See 1 CMC § 2401. 1 CMC § 2404 directs the Department to adopt rules and regulations regarding those matters over which it has jurisdiction.

Title 2, division 7, chapter 1 of the Commonwealth Code sets forth the building safety code for the Commonwealth. See 2 CMC §§ 7101-7181. 2 CMC § 7121 creates a Building Safety Division within the Department of Public Works, headed by the building safety official. The building safety official is charged with enforcing the provisions of the building safety code. 2 CMC § 7122. 2 CMC § 7153 directs the building safety official to issue building safety regulations.

2 CMC § 7148 requires buildings and structures in the Commonwealth located in special flood hazard areas to conform to the National Flood Insurance Act and its implementing federal and Commonwealth regulations. The Director of DPW is authorized to promulgate regulations necessary to bring the CNMI into compliance with the

TITLE 155: DEPARTMENT OF PUBLIC WORKS

National Flood Insurance Act of 1968. See 2 CMC § 7148(b).

Part 001 - General Provisions

§ 155-10.2-001 Statement of Purpose

It is the purpose of the regulations in this subchapter to promote the public health, safety, and general welfare of the residents of the Commonwealth of the Northern Mariana Islands, and to minimize public and private economic and physical losses due to flood conditions in specific areas by provisions designed to:

- (a) Protect human life and health;
- (b) Minimize expenditure of public money for costly flood projects;
- (c) Minimize damage to public facilities and utilities;
- (d) Ensure that potential buyers are notified that property is in an area of special flood hazard; and
- (e) Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

Modified, 1 CMC § 3806(d), (f), (g).

History: Adopted 15 Com. Reg. 11070 (Oct. 15, 1993); Proposed 15 Com. Reg. 10603 (May 15, 1993).

Commission Comment: In subsection (e), the Commission changed “Insure” to “Ensure” to correct a manifest error.

§ 155-10.2-005 Definitions

- (a) “Appeal” means a request for a review of an official interpretation of any provision of the regulations in this subchapter or a request for a variance.
- (b) “Appurtenant structure” means a structure which is on the same parcel of property as the principal structure to be insured and the use of which is incidental to the use of the principal structure.
- (c) “Area of shallow flooding” means a designated zone with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.
- (d) “Area of special flood hazard” is the land in the flood plain within the Commonwealth of the Northern Mariana Islands subject to a one percent or greater chance of flooding in any given year.

TITLE 155: DEPARTMENT OF PUBLIC WORKS

- (e) “Base flood” means the flood having a one percent chance of being equaled or exceeded in any given year also known as the “100 year flood.”
- (f) “Basement” means any area of a building having its floor subgrade (below ground level) on all sides.
- (g) “Coastal high hazard area” means an area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. It is an area subject to high velocity waters, including coastal and tidal inundation or tsunamis.
- (h) “Critical feature” means an integral and readily identifiable part of a flood protection system, without which the flood protection provided by the system would be compromised.
- (i) “Curvilinear line” means the border on either a flood hazard area or consists of a curved or contour line that follow the topography.
- (j) “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 and materials.
- (k) “Encroachment” means the advancement or infringement of uses, plant growth, fill excavation, buildings; permanent structures or development into a flood plain which may impede or alter the flow capacity of a flood plain.
- (l) “Erosion” means the process of the gradual wearing away of land masses. This is not covered under the National Flood Insurance program (“NFIP”).
- (m) “Existing manufactured home park or subdivision” means a manufacture 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.
- (n) “Expansion to an existing manufactured home park or subdivision” means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads).
- (o) “Fill” is the placement of fill material at a specified location to bring the ground surface up to a desired elevation.
- (p) “Fill material” can be natural sand, dirt, soil, or rock. For the purposes of flood plain management, fill materials may include concrete, cement, brick, or similar material on a case by case basis.

TITLE 155: DEPARTMENT OF PUBLIC WORKS

(q) “Flood, flooding, or floodwater” means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland or tidal waters;
- (2) The unusual or rapid accumulation or runoff of surface waters from any source; or
- (3) 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 current of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood, or an abnormal tidal surge, or by similarly unusual and unforeseeable event which results in flooding as defined in subsection (q)(1) of this definition.

(r) “Flood elevation determination” means a determination by the building safety official (“Administrator”) of the Department of Public Works that the flood level has a one percent or greater chance of occurrence in any given year.

(s) “Flood Insurance Rate Map” (FIRM) means the official map on which the Federal Insurance Administration has delineated both the areas of special flood hazard and the risk premium zones applicable to the Commonwealth of the Northern Mariana Islands.

(t) “Flood plain 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, and flood plain management regulations.

(u) “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 an area of special flood hazard.

(v) “Flood proofing” means any combination of structural and non-structural additions, changes, or adjustments which reduce or eliminate flood damage to real estate or improved real property; water and sanitary facilities; or any structures and their contents.

(w) “Flood related erosion” means a condition that exists in conjunction with a flooding event that alters the shoreline or bank of a watercourse, or one that increases the possibility of loss of the land adjacent to the shoreline or watercourse through erosion.

(x) “Functionally dependent use” means a use which cannot be performed unless it is located or carried out in close proximity to the water. The term includes only docking facilities, port facilities necessary for the loading or unloading of cargo or passengers, ship building and ship repair facilities.

(y) “Hazard mitigation plan” means a plan that incorporates a process whereby the potential of future loss due to flooding can be minimized by planning and implementing alternatives for flood plain management throughout the Commonwealth of the Northern Mariana Islands.

(z) “Highest adjacent grade” means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

TITLE 155: DEPARTMENT OF PUBLIC WORKS

- (aa) “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 is not considered a building’s lowest floor; provided, that such enclosure is not built so as to render the structure in violation of applicable non-elevation design requirements.
- (bb) “Mangrove stand” means an assemblage of mangrove trees which are mostly low trees noted for a copious development adventitious roots above the ground and which contain one or more of the following species: black mangrove (*Avicennia nitida*); red mangrove (*Rhizophora mangle*); white mangrove (*Languncularia racemost*); and buttonwood (*Conocarpus erecta*).
- (cc) “Map” means the Flood Insurance Rate Map (FIRM) of the Commonwealth of the Northern Mariana Islands.
- (dd) “Mean sea level” means for purposes of the NFIP the National Geodetic Vertical Datum (NGVD) or other datum to which base flood elevations shown on the Commonwealth’s FIRM are referenced.
- (ee) “New construction” means for flood plain management purposes structures for which the start of construction commenced on or after the effective date of a flood plain management regulation adopted by the Commonwealth.
- (ff) “Parcel” means any contiguous quantity of land in the possession of, owned by, or recorded as the property of the same claimant, person, or company.
- (gg) “Person” includes any individual or group of individuals, corporation, partnership, association, or any other entity including the Commonwealth of the Northern Mariana Islands government.
- (hh) “Recreational vehicle” means a vehicle which is
- (1) Built on a single chassis;
 - (2) 400 square feet or less when measured at the largest horizontal projection;
 - (3) Designed to be self-propelled or permanently towable by a light-duty truck; and
 - (4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.
- (ii) “Regulatory floodway” means the channel of a 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 desired height.
- (jj) “Special flood hazard area” means an area having special flood and/or flood related erosion hazards as shown on the FIRM.
- (kk) “Standard flood insurance policy” means the flood insurance policy issued by the federal Administrator, or an insurer pursuant to an arrangement with the federal Administrator, pursuant

TITLE 155: DEPARTMENT OF PUBLIC WORKS

to federal statutes* and regulations.

* So in original.

(ll) “Start of construction” 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 the slab or footings, the installation of piles, the construction of columns or any work beyond the stage of excavation. Permanent construction does not include:

- (1) Land preparation, such as clearing, grading and filling;
- (2) The excavation of basements, footings, piers, or foundations;
- (3) The erection of temporary forms; or,
- (4) The installation of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

(mm) “Structure” means for flood plain management purpose, a walled or roofed building, including a gas or liquid storage tank, that is principally above ground land affixed to a permanent site, as well as a manufactured home on a permanent foundation. For the latter purpose, the term includes a building while in the course of construction, alteration, or repair, but does not include building materials or supplies intended for use in such construction, unless such materials are within an enclosed building on the premises.

(nn)(1) “Substantial improvement” means any repair, reconstruction, or improvement of structure, the cost of which equals or exceeds 50 percent of the market value or replacement value, whichever is lower of the structure either

- (i) Before the improvement or repair is started or
 - (ii) If the structure has been damaged and is being restored, before the damage occurred.
- (2) 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 that alteration affects the external dimensions of the structure. The term does not include any project for improvement of a structure to comply with existing federal, local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions or any alteration of a structure listed on the National Register of Historic Places or Commonwealth inventory of historic places.

(oo) “Variance” means a grant of relief from the requirements of the regulations in this subchapter which permit construction in a manner that would otherwise be prohibited by these regulations.

(pp) “Watercourse” means a channel cut by running water, through which at least periodically.*

*So in original.

(qq) “Water surface elevation” means the height in relation to the (NGVD) of 1929*, of floods

TITLE 155: DEPARTMENT OF PUBLIC WORKS

of various magnitudes and frequencies in the flood plains of coastal or riverine areas.

* See Commission Comment.

Modified, 1 CMC § 3806(d), (f), (g).

History: Adopted 15 Com. Reg. 11070 (Oct. 15, 1993); Proposed 15 Com. Reg. 10603 (May 15, 1993).

Commission Comment: The original paragraphs of subsection (nn) were not designated. The Commission designated subsections (nn)(1) and (nn)(2).

In subsection (e), the Commission corrected the spelling of “equaled” and moved the period after “flood” inside of the closing quotation mark. In subsection (hh), the Commission changed “build” to “built” to correct a manifest error. In subsection (hh)(3), the Commission changed the final comma to a semi-colon to ensure consistent punctuation. In subsection (qq), the Commission corrected the spelling of “coastal.” The Commission inserted commas after the words “unpredictable” in subsection (c), “brick” in subsection (p), “works” in subsection (t), “appropriated” in subsection (u), “changes” in subsection (v), “person” in subsection (ff), “association” in subsection (gg), “placement” in subsection (ll), and “alteration” in subsection (mm) pursuant to 1 CMC § 3806(g).

The NGVD of 1929, referenced in subsection (qq), does not contain information for the CNMI, as it was not a part of the United States at the time. The National Oceanic and Atmospheric Administration superseded previous vertical datum for the CNMI with the Northern Marianas Vertical Datum of 2003. 74 Fed. Reg. 3990 (Jan. 22, 2009).

§ 155-10.2-010 Lands to Which These Regulations Apply

The regulations in this subchapter shall apply to all areas of special flood hazard within the Commonwealth of the Northern Mariana Islands.

Modified, 1 CMC § 3806(d).

History: Adopted 15 Com. Reg. 11070 (Oct. 15, 1993); Proposed 15 Com. Reg. 10603 (May 15, 1993).

§ 155-10.2-015 Basis for Establishing the Areas of Special Flood Hazards

The areas of special flood hazard identified by the Federal Insurance Administration (“FIA”), through the Federal Emergency Management Agency (“FEMA”) in a scientific and engineering report entitled “The Flood Insurance Study for the Commonwealth of the Northern Mariana Islands,” dated April 30, 1990, with the accompanying FIRM and any amendment thereto is hereby adopted as reference and declared to be a part of the regulations in this subchapter. The flood insurance study and FIRM are on file at the Building Safety Official Office, Department of Public Works (“DPW”).

Modified, 1 CMC § 3806(d), (g).

History: Adopted 15 Com. Reg. 11070 (Oct. 15, 1993); Proposed 15 Com. Reg. 10603 (May 15, 1993).

Commission Comment: The Commission moved the comma after “Islands” inside of the closing quotation mark.

§ 155-10.2-020 Flood Hazards Mitigation Plan

The building safety official (“Administrator”) of the Department of Public Works shall create a

flood hazards mitigation plan for prevention of flood damage within the Commonwealth. The plan shall be completed and submitted to the Governor for approval within a reasonable time not to exceed six months from the promulgation of the regulations in this subchapter. The building safety official shall use all appropriate federal, state, local, and other information to provide for orderly building and development within special hazard areas while also preventing flood damage. The plan shall not be inconsistent with federal or Commonwealth law or regulations.

Modified, 1 CMC § 3806(d), (e), (f).

History: Adopted 15 Com. Reg. 11070 (Oct. 15, 1993); Proposed 15 Com. Reg. 10603 (May 15, 1993).

§ 155-10.2-025 Compliance

No structure or land shall be constructed, located, extended converted*, or altered without full compliance of the regulations in this subchapter. Violators shall be subject to penalties as outlined in 2 CMC § 7126.

* So in original.

Modified, 1 CMC § 3806(d).

History: Adopted 15 Com. Reg. 11070 (Oct. 15, 1993); Proposed 15 Com. Reg. 10603 (May 15, 1993).

§ 155-10.2-030 Abrogation and Greater Restrictions

The regulations in this subchapter are not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where there exists another rule, easement, or deed restriction which imposes a more stringent application of these regulations, it shall apply.

Modified, 1 CMC § 3806(d).

History: Adopted 15 Com. Reg. 11070 (Oct. 15, 1993); Proposed 15 Com. Reg. 10603 (May 15, 1993).

Commission Comment: The Commission inserted commas after the words “abrogate,” “covenants,” and “easement” pursuant to 1 CMC § 3806(g).

§ 155-10.2-035 Interpretation

In the interpretation and application of the regulations in this subchapter, all provisions shall be:

- (a) Considered as minimum requirements.
- (b) Liberally construed in favor of the governing body.
- (c) Deemed neither to limit nor repeal any other powers granted under Commonwealth or federal law.

Modified, 1 CMC § 3806(d).

History: Adopted 15 Com. Reg. 11070 (Oct. 15, 1993); Proposed 15 Com. Reg. 10603 (May 15, 1993).

§ 155-10.2-040 Warning and Disclaimer of Liability

The degree of flood protection required by the regulations in this subchapter 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 uses. These regulations do not imply that land outside such areas will be free from flooding or flood damage. These regulations shall not create liability on the part of the Commonwealth of the Northern Mariana Islands government, any officials thereof or the Federal Insurance Administration for any flood damage that results from reliance on these regulations or any administrative decision lawfully made under these regulations.

Modified, 1 CMC § 3806(d).

History: Adopted 15 Com. Reg. 11070 (Oct. 15, 1993); Proposed 15 Com. Reg. 10603 (May 15, 1993).

§ 155-10.2-045 Severability

The regulations in this subchapter and the various parts thereof are hereby declared to be severable. Should any section be declared by the courts to be invalid, such decision shall not affect the validity of the regulations as a whole, or any portion thereof other than that section so declared invalid.

Modified, 1 CMC § 3806(d).

History: Adopted 15 Com. Reg. 11070 (Oct. 15, 1993); Proposed 15 Com. Reg. 10603 (May 15, 1993).

Part 100 - Administration

§ 155-10.2-101 Designation of the Building Safety Official

The building safety official is hereby designated to administer and implement the regulations in this subchapter by granting or denying building or development permits in accordance with the provisions herein.

Modified, 1 CMC § 3806(d), (f).

History: Adopted 15 Com. Reg. 11070 (Oct. 15, 1993); Proposed 15 Com. Reg. 10603 (May 15, 1993).

§ 155-10.2-105 Building Permit Required

A building permit shall be obtained before construction, subdivision, or development begins within any area of special flood hazard. Application for a building or development permit shall be made to the building safety official and will follow DPW's Building Safety Code guidelines for application. The application will specifically include:

- (a) Proposed elevation in relation to mean sea level, of the lowest floor (including basement)

TITLE 155: DEPARTMENT OF PUBLIC WORKS

of all structures; the elevation of the highest adjacent grade and proposed elevation of the lowest floor of all structures.

(b) Proposed elevation in relation to mean sea level to which any structure will be flood proofed.

(c) Certification by a CNMI licensed professional land surveyor, engineer or architect that the flood proofing methods for any non-residential structure meets the flood proofing criteria in § 155-10.2-201, including the elevation to which the structure is flood proofed.

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

Modified, 1 CMC § 3806(c), (f).

History: Adopted 15 Com. Reg. 11070 (Oct. 15, 1993); Proposed 15 Com. Reg. 10603 (May 15, 1993).

§ 155-10.2-110 Duties and Responsibilities

The duties and responsibilities of the building safety official shall include but are not limited to:

(a) Permit Review. The building safety official shall:

(1) Review all building, subdivision, and other development permit applications to determine that the requirements of the regulations in this subchapter have been satisfied, and all other Commonwealth and federal permits have been obtained.

(2) Review all permit applications to determine if the building sites are reasonably safe from flooding, and that the proposed development is consistent with the need to minimize or eliminate flood damage.

(3) Review all building, subdivision, and other development permit applications to determine if the proposed development will be reasonably safe from flooding. If a proposed building site is in a flood-prone area, all new construction and substantial improvements shall be:

(i) 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;

(ii) Constructed with materials resistant to flood damage;

(iii) Constructed by methods and practices that minimize flood damages; and,

(iv) 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.

(4) Review all subdivision and development permit applications to determine that adequate drainage is provided to reduce exposure to flood hazards.

(b) Use of other Flood Data. The building safety official shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from federal or other sources as criteria for requiring that new construction, substantial improvements or other development meet the requirements of the regulations in this subchapter.

TITLE 155: DEPARTMENT OF PUBLIC WORKS

(c) Information to Be Obtained and Maintained. The building safety official shall promulgate, periodically up date, and make available as needed, flood insurance policies and procedures covering the following:

- (1) The certified elevation required in § 155-10.2-201 (residential);
- (2) The certification required in § 155-10.2-201 (shallow flooding);
- (3) The flood proofing certification required in § 155-10.2-201 (non-residential);
- (4) The flood proofing certification required in § 155-10.2-201 (subdivision); and
- (5) The coastal high hazard certification required in part 200. (coastal).

(d) When an area of special flood hazard has been designated, the building safety official shall prohibit encroachments, including fill, new construction, substantial improvement, and other development which would cause an increase in flood elevations of more than one foot during the occurrence of a base flood.

Modified, 1 CMC § 3806(c), (d), (f).

History: Adopted 15 Com. Reg. 11070 (Oct. 15, 1993); Proposed 15 Com. Reg. 10603 (May 15, 1993).

Commission Comment: The Commission inserted a colon at the end of subsection (a)(3) and inserted a comma after the word “review” in subsection (b) pursuant to 1 CMC § 3806(g).

§ 155-10.2-115 Interpretation of Firm Boundaries

The building safety official shall make interpretations as to the exact location of the boundaries of the areas of special flood hazard. A person contesting the location of a boundary shall be given a reasonable opportunity to appeal the interpretation.

Modified, 1 CMC § 3806(f).

History: Adopted 15 Com. Reg. 11070 (Oct. 15, 1993); Proposed 15 Com. Reg. 10603 (May 15, 1993).

§ 155-10.2-120 Alteration of Watercourse

Prior to the issuance of a permit for the alteration or relocation of a watercourse within a special hazard area the person seeking the alteration or relocation shall:

- (a) Have the written permission of the building safety official and submit copies of that permission to FEMA, FIA.
- (b) Ensure that the flood carrying capacity of the altered or relocated portion of said watercourse is maintained and not lessened.

Modified, 1 CMC § 3806(f).

History: Adopted 15 Com. Reg. 11070 (Oct. 15, 1993); Proposed 15 Com. Reg. 10603 (May 15, 1993).

§ 155-10.2-125 Delegation of Responsibilities

TITLE 155: DEPARTMENT OF PUBLIC WORKS

The Director of the Department of Public Works is hereby empowered to delegate authority granted herein, including the authority to promulgate rules and any regulations as hereinafter set forth in § 1(b), PL 8-7. Any duty prescribed herein to be performed by the Director is hereby assigned and charged to the Building Safety Code Division and the building safety official (Administrator) may designate one member of his staff as floodplain administrator or create a new position of floodplain administrator.

Modified, 1 CMC § 3806(f).

History: Adopted 15 Com. Reg. 11070 (Oct. 15, 1993); Proposed 15 Com. Reg. 10603 (May 15, 1993).

Part 200 - Provision for Flood Hazard Reduction

§ 155-10.2-201 Standards of Construction

In all areas of special flood hazard, the following standards are required that all structures shall conform to all portions of Commonwealth Public Law 6-45.

(a) **Anchoring**

All new construction, including manufactured homes, and new improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic or hydrostatic loads, including the effects of buoyancy.

(b) **Construction Materials and Methods**

(1) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

(2) All new construction and substantial improvements shall use methods and practices that minimize flood damage.

(3) All electrical, heating, ventilation, plumbing, airconditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding, provided that none of the service facilities shall be located below the base flood elevation or depth number specified on the FIRM.

(c) **Elevation and Flood Proofing**

(1) New construction and substantial improvement of any structure shall have the lowest floor, including the basement, elevated to or above the base flood elevation. Non-residential structures may meet the standards of this section. Upon completion of the structure, the elevation of the lowest floor including basement shall be certified by a CNMI licensed professional land surveyor, engineer or architect and verified by the local building inspector that elevation requirements have been met. Notification of compliance shall be in writing to the building safety official.

(2) New construction and substantial improvement of new structure in zone AO shall have the lowest floor, including basement, elevated to or above the depth specified on the FIRM's highest adjacent grade. If there is no depth number on the FIRM then the lowest floor including the basement shall be elevated to a depth of at least two feet above the highest adjacent grade. Non-residential structures may meet standards in subsection (c)(3). Upon completion, the

TITLE 155: DEPARTMENT OF PUBLIC WORKS

structures compliance shall be certified by a CNMI licensed professional land surveyor, engineer or architect and verified by the local building inspector. Notification shall be in writing to the building safety official.

(3) Non-residential construction shall either be elevated in conformance with subsection (c)(1) or together with attendant utility and sanitary facilities shall be flood proofed so that below the base flood level the structure shall

- (i) Be watertight with walls substantially impermeable to the passage of water,
- (ii) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy and
- (iii) Be certified by a licensed professional engineer or architect that the design and methods of construction of the structure are in accordance with accepted standards of practice for meeting the requirements of this subsection.

(d) Construction Methods

(1) 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 waters. Designs for meeting this requirement must either be certified by a CNMI licensed professional engineer or meet or exceed the following minimum criteria:

(i) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding, the bottom of all openings may be equipped with screens, louvers, or other coverings provided that they permit the automatic entry and exit of floodwaters.

(2) All new construction and substantial improvements in the coastal high hazard area (if base flood elevation data available on the FIRM) shall be elevated on pilings and columns so that the bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated to or above the base flood level, and the pile or column foundation and structure attached thereto is anchored to resist flotation, collapse, and lateral movement due to the effects of wind and water loads acting simultaneously on all building components. Wind and water loading values shall have a one percent chance of being equaled or exceeded in any given year (100 year mean recurrence interval). A CNMI licensed professional engineer shall develop or review the structural design, specifications, and plans for construction and shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this subsection. Pilings used as structural support shall be designed and anchored so as to withstand all impact forces and buoyancy factors of a base flood. There shall be no fill used for structural support of buildings.

(3) If breakaway walls are used, such enclosed space or storage shall not be used for human habitation.

(4) Prior to construction, plans of any structure with breakaway walls must be approved by the building safety official.

(5) Compliance with this section shall be certified by a CNMI licensed professional land surveyor, engineer or architect and that certification shall be forwarded to the building safety official of the Department of Public Works.

(e) Drainage. All new construction and substantial improvements shall have adequate drainage paths around structures on slopes, to guide flood water around, from, and away from

proposed structures.

Modified, 1 CMC § 3806(c), (d), (f), (g).

History: Adopted 15 Com. Reg. 11070 (Oct. 15, 1993); Proposed 15 Com. Reg. 10603 (May 15, 1993).

Commission comment: In subsection (c)(2), the Commission corrected the spelling of “depth” and “equaled.” The Commission inserted commas after the words “collapse” in subsection (a), “plumbing” and “equipment” in subsection (b)(3), “louvers” in subsection (d)(1)i, and “collapse” and “specifications” in subsection (d)(2) pursuant to 1 CMC § 3806(g).

§ 155-10.2-205 Standards for Storage of Materials and Equipment

The storage or processing of materials that are in times of flooding buoyant, flammable, explosive, or could be injurious to persons or the environment is prohibited. Storage of other materials or equipment may be allowed if not subject to damage by flooding and firmly anchored or readily removable from the sea within the time available after flood warning.

History: Adopted 15 Com. Reg. 11070 (Oct. 15, 1993); Proposed 15 Com. Reg. 10603 (May 15, 1993).

Commission Comment: The Commission inserted a comma after the word “explosive” pursuant to 1 CMC § 3806(g).

§ 155-10.2-210 Standards for Utilities

All new and replacement water supply and sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from systems into flood waters. On site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

History: Adopted 15 Com. Reg. 11070 (Oct. 15, 1993); Proposed 15 Com. Reg. 10603 (May 15, 1993).

§ 155-10.2-215 Coastal High Hazard Areas

Coastal high hazard areas are located within the areas of special flood hazard established in § 155-10.2-015. These areas have special flood hazards associates with high velocity waters from coastal and/or tidal inundation, and tsunamis and the following provisions shall apply therein:

- (a) Location of structures
 - (1) All building or structures shall be located landward and out of reach of mean high tide.
 - (2) Man-made alterations of sand dunes or mangrove stands which would increase flood damage are prohibited.

Modified, 1 CMC § 3806(c), (g).

History: Adopted 15 Com. Reg. 11070 (Oct. 15, 1993); Proposed 15 Com. Reg. 10603 (May 15, 1993).

Commission Comment: In subsection (a)(2), the Commission changed “is” to “are” and corrected the spelling of “sand dunes” to correct manifest errors.

§ 155-10.2-220 Standards for Subdivisions

- (a) All preliminary subdivision proposals shall identify the flood hazard area and the elevation of the base flood.
- (b) All subdivision plans will provide the elevation of proposed structure(s) and pad(s). If the site is filled above the base flood elevation, the final first floor and pad elevations shall be certified by a registered professional engineer or surveyor and provided to the Floodplain Administrator.
- (c) All subdivision proposals shall be consistent with the need to minimize flood damage.
- (d) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
- (e) All subdivisions shall provide adequate drainage to reduce exposure to flood hazards.

History: Adopted 15 Com. Reg. 11070 (Oct. 15, 1993); Proposed 15 Com. Reg. 10603 (May 15, 1993).

Commission Comment: The Commission inserted commas after the words “gas” and “electrical” in subsection (d) pursuant to 1 CMC § 3806(g).

§ 155-10.2-225 Standards for Manufactured Homes

- (a) All manufactured homes that are placed or substantially improved, within zones A1-30, AH, and AE on the community’s Flood Insurance Rate Map, on sites located
 - (1) Outside of a manufactured home park or subdivision,
 - (2) In a new manufactured home park or subdivision,
 - (3) In an expansion to an existing manufactured home park or subdivision, or
 - (4) In an existing manufactured home park or subdivision on a site upon which a manufactured home has incurred “substantial damage” as the result of a flood, shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to or above the base flood elevation (the CNMI Building Safety Code recommends at least one foot above the base flood elevation) and be securely anchored to an adequately anchored foundation system to resist flotation collapse and lateral movement.
- (b) All manufactured homes that are placed or substantially improved on sites located within zones V1-30, V, and VE on the community’s Flood Insurance Rate Map will meet the requirements of § 155-10.2-215 and subsection (a) of this section.
- (c) All manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within zones A1-30, AH, AE, V1-30, V, and VE on the community’s Flood Insurance Rate Map that are not subject to the provisions of § 155-10.2-315(a) will be elevated so that either the
 - (1) Lowest floor of the manufactured home is at or above the base flood elevation (CNMI Building Safety Code recommends at least one foot above the base flood elevation), or

(2) Manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

Modified, 1 CMC § 3806(c), (d), (f), (g).

History: Adopted 15 Com. Reg. 11070 (Oct. 15, 1993); Proposed 15 Com. Reg. 10603 (May 15, 1993).

Commission Comment: In subsection (c), the Commission changed “place” to “placed.” In subsection (c)(2), the Commission changed “support” to “supported” and “reinforce” to “reinforced” to correct manifest errors. The Commission corrected the spelling of the word “chassis” in subsection (c)(2) pursuant to 1 CMC § 3806(g).

§ 155-10.2-230 Standards for Recreational Vehicles

(a) All recreational vehicles placed on sites within zones A1-30, AH, and AE on the community’s Flood Insurance Rate Map will either:

- (1) Be on the site for fewer than 180 consecutive days,
- (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, or
- (3) Meet the permit requirements of part 100 of this subchapter and the elevation and anchoring requirements for manufactured homes in § 155-10.2-215.

(b) Recreation vehicles placed on sites within zones V1-30, V and VE on the community’s Flood Insurance Rate Map will meet the requirements of subsection (a) of this section and § 155-10.2-215.

Modified, 1 CMC § 3806(c), (d), (f), (g).

History: Adopted 15 Com. Reg. 11070 (Oct. 15, 1993); Proposed 15 Com. Reg. 10603 (May 15, 1993).

Commission Comment: In subsection (a)(2), the Commission corrected the spelling of “by.”

Part 300 - Variance and Appeal Procedures

§ 155-10.2-301 Variance Procedures

No variance shall be granted by the building safety official unless he finds that:

(a) A showing of good and sufficient cause such as a renovation, rehabilitation or reconstruction, a determination that a failure to grant the variance would result in exceptional hardship to the applicant, a determination that the granting of a variance shall not result in increased flood heights, additional threats to public safety, extraordinary public expense, nuisances, fraud or a conflict with existing federal or Commonwealth laws or regulations.

(b) Reasons of economic considerations, aesthetics, or because variances have been issued in the past are not good or sufficient cause.

Modified, 1 CMC § 3806(f).

History: Adopted 15 Com. Reg. 11070 (Oct. 15, 1993); Proposed 15 Com. Reg. 10603 (May 15, 1993).

Commission Comment: The Commission inserted a comma after the word “variance” in subsection (b) pursuant to 1 CMC § 3806(g).

§ 155-10.2-305 Variance Factors

In deciding upon variance applications the building safety official shall consider all technical evaluations and all relevant factors and standards specified in other sections of the regulations in this subchapter, including but not limited to:

- (a) The danger that materials may be swept into floodwaters and cause injury to others;
- (b) The danger to life and property due to flooding or erosion damage;
- (c) The importance of the services provided by the proposed facility to the community;
- (d) The availability of alternative locations;
- (e) The compatibility of the proposed use with existing and anticipated development;
- (f) The safe access of ordinary and emergency vehicles in times of floods; and
- (g) The cost of providing governmental services during and after flood conditions, including repair and maintenance of public utilities, streets, and bridges.

Modified, 1 CMC § 3806(d), (f), (g).

History: Adopted 15 Com. Reg. 11070 (Oct. 15, 1993); Proposed 15 Com. Reg. 10603 (May 15, 1993).

Commission Comment: In subsection (b), the Commission deleted the word “due” after “danger” to correct a manifest error. The Commission inserted a comma after the word “streets” in subsection (g) pursuant to 1 CMC § 3806(g).

§ 155-10.2-310 Variance Conditions

(a) Upon consideration of the factors above and the purpose of the regulations in this subchapter the Director may attach such additional conditions to the granting of variances as he deems necessary to further the purposes of these regulations.

(b) Variances shall not be issued within any designated floodway if any increase in flood levels during a base flood discharge would result.

(c) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard to afford relief.

(d) Variances may be issued for the reconstruction, rehabilitation, or restoration of structures listed in the National Register of Historic Places or a Commonwealth listing of historic places without regard to the procedures set forth in the remainder of this part.

Modified, 1 CMC § 3806(d), (f).

History: Adopted 15 Com. Reg. 11070 (Oct. 15, 1993); Proposed 15 Com. Reg. 10603 (May 15, 1993).

Commission Comment: The Commission inserted a comma after the word “rehabilitation” in subsection (d) pursuant to 1 CMC § 3806(g).

§ 155-10.2-315 Variance Decisions

(a) Upon granting or denying an application for a variance, the building safety official shall provide all parties concerned the written decision which shall include the reason for said decision. No granted variance shall be operative until such written decision has been provided.

(b) When a variance application has been granted, the building safety official shall notify in writing that

(1) The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage, and

(2) Such construction below the base flood level increases risks to life and property. Such notification shall be maintained with a record of all variance actions as required by § 155-10.2-401.

Modified, 1 CMC § 3806(c), (f).

History: Adopted 15 Com. Reg. 11070 (Oct. 15, 1993); Proposed 15 Com. Reg. 10603 (May 15, 1993).

Part 400 - Miscellaneous Provisions

§ 155-10.2-401 Records

The building safety official shall maintain the records of all variance applications. The decisions rendered thereon shall also be maintained and shall be provided to FEMA and to any Commonwealth agencies that so request, as well as to the general public at a nominal cost for copying. All CNMI flood control records shall be considered public documents open to the public for inspection during regular working hours.

Modified, 1 CMC § 3806(f).

History: Adopted 15 Com. Reg. 11070 (Oct. 15, 1993); Proposed 15 Com. Reg. 10603 (May 15, 1993).