

RALEIGH COUNTY FLOODPLAIN ORDINANCE

(Amended September 5, 2006)

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RALEIGH COUNTY FLOODPLAIN ORDINANCE

AN ORDINANCE ESTABLISHING A FLOOD PLAIN AREA AND REQUIRING ALL PERSONS, CONTRACTORS, PARTNERSHIPS, BUSINESSES, AND CORPORATIONS TO OBTAIN A PERMIT FOR DEVELOPMENT AND THE CONSTRUCTION, SUBSTANTIAL IMPROVEMENT OR RELOCATION OF ANY BUILDING OR STRUCTURE; PROVIDING FOR CERTAIN MINIMUM STANDARDS FOR CONSTRUCTION WITHIN THE FLOOD PLAIN AREA AND SETTING FORTH SPECIAL PROCEDURES FOR SUBMISSION AND APPROVAL OF PLANS; AND ESTABLISHING PENALTIES FOR ANY PERSON WHO FAILS TO COMPLY WITH THE REQUIREMENTS OR PROVISION OF THIS ORDINANCE.

BE IT ENACTED AND ORDAINED by the County Commission of Raleigh County, West Virginia, as follows:

ARTICLE I - GENERAL REGULATIONS

Section 1.1 Intent

The intent of this Ordinance is to:

- A. Promote the general health, welfare, and safety of the community.
- B. Encourage the utilization of appropriate construction practices in order to prevent or minimize flood damage in the future.
- C. Minimize danger to public health and safety by protecting water supply, sanitary sewage disposal in cooperation with the County Sanitarian, and to protect natural drainage.
- D. Assure the County Assessor obtains information concerning improvement of real property as required by WV State Code 11-3-3A.
- E. Assure County E-911 addresses are obtained to maintain the currency of established emergency response dispatch systems.
- F. Reduce financial burdens imposed on the community, its governmental units and its residents, by preventing the unwise design and construction of development in the areas subject to flooding.

Section 1.2 Abrogation And Greater Restrictions

This Ordinance supersedes any ordinances currently in effect in flood prone areas. However, any ordinance shall remain

in full force and effect to the extent that its provisions are more restrictive.

Section 1.3 Applicability

It shall be unlawful for any person, contractor, partnership, business, or corporation to undertake or cause to be undertaken, any development, new construction, substantial improvement, repair of substantial damage, or the placement or relocation of any structure (including manufactured homes) within Raleigh County's Flood Plain area, unless a permit application has been completed and a permit and certificate of compliance has been obtained from the Floodplain Administrator. In addition, where land is to be subdivided, utilized for a manufactured home park or subdivision or otherwise developed, a site plan must be submitted to, and approved by, the Floodplain Administrator prior to any development.

Provisions of all other codes, ordinances, and regulations shall be applicable insofar as they are consistent with the provisions of this Ordinance and the community's need to minimize the hazards and damage resulting from flooding.

ARTICLE II - INTERPRETATIONS AND DEFINITIONS

Section 2.1 Interpretations

For the purpose of this ordinance, the following interpretations shall apply:

- A. Words used in the present tense include the future tense.
- B. The singular includes the plural and the plural includes the singular.
- C. The term "shall" or "will" is always mandatory.
- D. The word "building" or "structure" shall be construed as if followed by the phrase "or part thereof".
- E. The word "Ordinance" shall refer to the Floodplain Ordinance.

Section 2.2 Definitions

Appurtenant Structure - A structure on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. This does not include a gas or liquid storage tank.

Base Flood - The flood which has been selected to serve as the basis upon which the flood plain management provisions of this and other ordinances have been prepared; for purposes of this Ordinance, the one- hundred (100) year flood.

Basement - Any area of the building having its floor subgrade (below ground level) on all sides.

Contractor - WV State Code 21-11-3(c) - A person who in any capacity for compensation, other than as an employee of another, undertakes, offers to undertake, purports to have the capacity to undertake, or submits a bid to construct, alter, repair, add to, subtract from, improve, move, wreck or demolish any building, highway, road, railroad, structure or excavation associated with a project, development or improvement, or to do any part thereof, including the erection of scaffolding or other structures or works in connection therewith, where the cost of the undertaking is one thousand dollars or more. Contractor includes a construction manager who performs management and counseling services on a construction project for a professional fee.

Contractor does not include:

A. One who merely furnishes materials or supplies without fabricating or consuming them in the construction project.

B. A person who personally performs construction work on the site of real property that the person owns or leases whether for commercial or residential purposes;

C. A person who is licensed or registered as a professional and who functions under the control of any other licensing or regulatory board, whose primary business is real estate sales, appraisal, development, management and maintenance, who acting in his or her respective professional capacity and any employee of such professional, acting in the course of his or her employment, performs any work which may be considered to be performing contracting work.

D. A pest control operator licensed under the provisions of section seven, article sixteen-a, chapter nineteen of this code to engage in the application of pesticides for hire, unless the operator also performs structural repairs exceeding one thousand dollars on property treated for insect pests; or

E. A corporation, partnership or sole proprietorship whose primary purpose is to prepare construction plans and specifications used by the contractors defined in subsection (c) of this section and who employs full time a registered

architect licensed to practice in this state or a registered professional engineer licensed to practice in this state. Employees of such corporation, partnership or sole proprietorship shall also be exempt from the requirements of this article.

Development - 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.

Flood - A general and temporary inundation of normally dry land areas.

Floodplain - (1) A relatively flat or low land area adjoining a river, stream, or watercourse which is subject to partial or complete inundation; (2) an area subject to the unusual and rapid accumulation or runoff of surface waters from any source.

Floodplain Administrator - The Raleigh County Commission shall be the floodplain Administrator. The Raleigh County Commission may delegate this authority to others as deemed appropriate. The Floodplain Administrator may also be identified as the Floodplain Manager.

Floodway - The channel of a river or other watercourse and the adjacent land area that must be reserved to discharge the base flood without increasing the water surface elevation of that flood more than one foot at any point.

Floodproofing - Any combination of structural and 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.

Historic Structure - Any structure that is:

A. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

B. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

C. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or,

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

1. By an approved state program as determined by the Secretary of the Interior; or,

2. Directly by the Secretary of Interior in states without approved programs.

Licensed Manufactured Home Dealer - A business licensed to sell Manufactured Homes in the state of WV as set forth in the WV state code.

Licensed Manufacturing Home Installer - A contractor licensed to install Manufactured Homes in WV as set forth in the WV State Code.

Licensed Professional Surveyor - Any person licensed by the WV state board of examiners of land surveyors to engage in the practice of land surveying as defined in WV state code.

Lowest Floor - The lowest flood of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.

Manufactured Home - A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days.

Manufactured Home Park or Subdivision - A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

New Construction - Structures for which the Start of Construction as herein defined commenced on or after November 13, 1984 and including any subsequent improvements to such structures.

One-Hundred (100) Year Flood - A flood that has one chance in one-hundred or a one percent chance of being equal or exceeded in any given year.

Practice of Engineering - Any person who practices any branch of the profession of engineering or who, by verbal claim, sign, advertisement, letterhead, card or in any other way represents himself or herself to be a registered professional engineer, or by using another title implies that he or she is a registered professional engineer or that he or she is registered under WV State Code, Article 13 or who holds himself or herself out as able to perform, or who performs any engineering service or work or any other service designated by the practitioner which is recognized as engineering, is considered to practice or offer to practice engineering within the meaning and intent of WV State Code, Article 13.

Person - An individual or group of individuals, corporation, partnership, association or other entity, including state and local governments and agencies.

Principally Above Ground - Where at least 51 percent of the actual cash value of a structure, less land value, is above ground.

Recreational Vehicle - A vehicle that is:

- A. Built on a single chassis;
- B. 400 square feet or less when measured at the largest horizontal projection;
- C. Designed to be self-propelled or permanently towable by a light truck; and
- D. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

Registered professional engineer - A person who has been duly registered or licensed as a registered professional engineer by the West Virginia state board of registration for professional engineers as required under WV state code article 13 et seq.

Remedy a Violation - To bring a structure or other development into compliance with the requirements of this ordinance, or, if full compliance is not possible, to reduce the adverse impacts of the non-compliance to the greatest extent feasible.

Start of Construction - The date the permit was issued, including permits for substantial improvement or substantial damage, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond initial excavation, or the placement of a manufactured home on a foundation. Although a permit must be obtained prior to beginning, 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 part of the main structure. For an alteration, the actual start of construction means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

State Coordinating Office - The West Virginia Division of Homeland Security and Emergency Management

Stream - As defined in WV State Code 7-1-3U, any watercourse, whether natural or man-made, distinguishable by banks and a bed, regardless of their size, through which water flows continually or intermittently, regardless of its volume.

Structure - A walled and roofed building, including a gas or liquid storage tank, which is principally above ground, as well as a manufactured home.

Substantial Damage - Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damage condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. . Substantial damage also means cumulative flood-related damages sustained by a structure on two separate occasions during a 10 year period for which the cost of repairs at the time of each flood event equals or exceeds 25 percent of the market value of the structure before the damage occurred. See "Substantial Improvement."

Substantial Improvement - Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction of the improvement.

This term includes structures, which have incurred "substantial damage", as defined herein regardless of the actual repair work performed. The term does not, however, include any project for improvement of a structure to correct existing violation of state or local health, sanitary or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions.

Historic structures undergoing repair or rehabilitation that would constitute a substantial improvement as defined above, must comply with all ordinance requirements that do not preclude the structure's continued designation as a historic structure. Documentation that a specific ordinance requirement will cause removal of the structure from the National Register of Historic Places or the State Inventory of Historic places must be obtained from the Secretary of the Interior or the State Historic Preservation Officer. Any exemption from ordinance requirements will be the minimum necessary to preserve the historic character and design of the structure.

For the purpose of this definition 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.

ARTICLE III - ESTABLISHMENT OF THE FLOODPLAIN AREA

Section 3.1 - Identification

The identified floodplain area shall be those areas of Raleigh County, which are subject to the one hundred (100) year flood, as shown on the Flood Insurance Rate Map (FIRM) and described in the Flood Insurance Study (FIS) prepared for Raleigh County by the Federal Emergency Management Agency (FEMA) dated September 29, 2006 or the most recent revision thereof.

Section 3.2 - Description Of Floodplain Areas

The identified floodplain area shall consist of the following four specific areas:

A. The Floodway area (F1) shall be those areas identified as such in the FIS and as shown on the floodway map or FIRM. The term shall also include floodway areas identified in other studies for the approximated area discussed in section 3.2D below.

B. The Floodway Fringe area (F2) shall be those areas for which specific one hundred (100) year flood elevations have been provided in the FIS but which lie beyond the Floodway area. These areas are shown on the FIRM.

C. The AE Area without Floodway (F3) shall be those identified as an AE Zone on the FIRM included in the FIS prepared by FEMA for which 100-year flood elevations have been provided but no Floodway has been delineated.

D. The Approximated area (F4) shall be those areas identified as an A Zone on the FIRM or Floodway Map included in the FIS prepared by FEMA and for which no one hundred (100) year flood elevations have been provided. For these areas, elevation and floodway information from other Federal, State or other acceptable source shall be used when available. Where other acceptable information is not available, the Floodplain Administrator shall require the applicant to determine the elevation with hydrologic and hydraulic engineering techniques. Only professional engineers or others of demonstrated qualifications shall undertake hydrologic and hydraulic analyses. The responsible professional shall certify that the technical methods used correctly reflect currently accepted technical concepts. The resultant study shall include a cover letter, signed by the responsible professional, providing a statement of findings in basic terms. In addition, studies, analyses, computations, etc., used to determine base flood elevations and floodways shall be submitted in sufficient detail to allow a thorough technical review by the Floodplain Administrator.

Section 3.3 - Changes In Designation Of Area

The delineation of the identified flood plain area may be revised by the County Commission of Raleigh County where natural or man-made changes have occurred and/or more detailed studies conducted or undertaken by the U.S. Army Corps of Engineers, a River Basin Commission or other qualified agency or individual document the necessity for such changes. However, prior to any such change, approval must be obtained from the Federal Insurance Administration (FIA).

Section 3.4 - Elevations Prevail

If the lowest natural grade adjacent to a proposed building site that is within an identified flood hazard area is at or above the Base Flood Elevation specified in the Flood Insurance Study, the structure shall not be required to conform to the flood prevention design and construction standards or flood-related development codes in Article VI.

Topographic data certified by a registered professional engineer or surveyor shall be submitted in sufficient detail to allow a thorough review by the Floodplain Administrator. The applicant is advised to apply for a Letter of Map Amendment (LOMA) from FEMA to have the Special Flood Hazard Area designation removed from the parcel or structure.

Section 3.5 - Boundary Disputes

Should a dispute concerning any district boundary arise, an initial determination shall be made by the Permit Officer and any party aggrieved by this decision may appeal to the County Commission of Raleigh County. The burden of proof shall be on the appellant.

ARTICLE IV - UTILIZATION OF THE FLOODPLAIN AREA

Section 4.1 - Floodway (F1)

A. Within any floodway area (F1), no encroachments, including fill, new construction, substantial improvements, repair of substantial damage, or other development shall be permitted unless it has been demonstrated through hydrologic and hydraulic analysis performed in accordance with standard engineering practice that the proposed encroachment will not result in any increase in the Base Flood Elevation.

B. The Floodway shall be preserved to the greatest extent possible to carry the discharge of the base flood. Because floodways present increased risk to human life and property because of their relatively faster and deeper flowing waters:

C. All permitted uses, activities, and development shall be undertaken in strict compliance with the flood proofing and related provisions contained herein, and in all other applicable codes, ordinances and regulations.

D. In the Floodplain Area any development and/or use of land may be permitted provided that all such uses, activities, and/or development shall be undertaken in strict compliance with the floodproofing and related provisions contained herein and in all other applicable codes, ordinances and regulations.

E. Within any floodway area, no development shall be permitted that would cause any increase in the 100 year flood elevation.

F. Whenever a developer intends to alter or relocate a watercourse within the Floodplain Area, the developer shall notify in writing by certified mail all adjacent communities

and the State Coordinating Office of all such intended activities prior to any alteration or relocation of the watercourse, and shall submit copies of such notification to the Federal Insurance Administrator. The developer shall also assure County Commission of Raleigh County in writing, that the flood carrying capacity within the altered or relocated portion of the watercourse in question will be maintained.

Section 4.2 - Floodway Fringe (F2) and Approximated Floodplain (F4)

A. In the Floodway Fringe (F2) and Approximated Floodplain (F4), any development and/or use of land shall be permitted provided that all such uses, activities and/or development shall be undertaken in strict compliance with the flood-proofing and related provisions contained herein and in all other applicable codes, ordinances and regulations.

B. All subdivision proposals and other proposed new developments that are proposed to take place either fully or partially within the Approximated Floodplain area (F4) shall include base flood elevation data. This data may be available from an authoritative source, such as the U.S. Army Corps of Engineers, U.S. Geological Survey, Natural Resource Conservation Service or state and local water resource department. If the data is not available the applicant shall develop the technical data using detailed methodologies comparable to those contained in a Flood Insurance Study. This data shall be prepared and certified by a registered professional engineer or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently accepted technical concepts.

Section 4.3 - AE Area Without Floodway (F3)

Within any AE area without floodway, no new construction or development shall be allowed 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 elevation of the 100-year flood more than one (1) foot at any point. This requirement can be satisfied by utilization of the floodway area where determined.

Section 4.4 - Alteration Or Relocation Of A Stream

A. Whenever a developer intends to alter (including placement of bridges, culverts or other stream crossings) or relocate a stream within the Floodplain Area, the developer shall notify in writing, by certified mail, the Raleigh

County Commission, Floodplain Administrator, The State Coordinating Office at Building 1 Room EB-80, 1900 Kanawha Blvd., Charleston, WV 25305-0360 and any adjacent communities of all such intended activities prior to the alteration or relocation of the stream, and shall submit copies of such notification to the Federal Insurance Administration c/o FEMA Region III, One Independence Mall, Sixth Floor, 615 Chestnut Street, Philadelphia, PA 19106-4404. All applicants proposing to alter or relocate a stream must obtain all required permits including those set forth in the West Virginia stream alteration/Stream Crossing administrative procedures. The Floodplain Administrator shall require copies of all necessary permits from those governmental agencies from which Federal or State Law requires approval prior to issuing the local permit.

B. The developer shall also assure the Raleigh County Commission in writing that the carrying capacity within the altered or relocated portion of stream will be maintained. The Floodplain Administrator may require the applicant to demonstrate that the altered or relocated portion of stream will provide equal or greater conveyance than the original stream segment. If hydrologic and hydraulic analyses are required, they shall only be undertaken by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently accepted professional practice. The resultant study shall include a cover letter, signed by the responsible professional, providing a statement of findings in basic terms. In addition, studies, analyses, computations, etc. shall be submitted in sufficient detail to allow a thorough technical review by the floodplain administrator.

C. All new and replacement bridges, culverts and other stream crossings shall adhere to the relevant anchoring requirements contained in this ordinance.

D. The developer is required to provide the community a legal agreement detailing all scheduled inspections and maintenance to be performed on altered or relocated watercourses including culverts and bridges. It shall be the responsibility of the applicant to transfer this agreement to the new owner when the land associated with the watercourse alteration is transferred. A copy of all new agreements shall be provided to the floodplain administrator.

E. The applicant must submit any maps, computations or other material required by the Federal Emergency Management Agency (FEMA) to revise the Flood Insurance Study and/or Flood Insurance Rate Maps, when notified

ARTICLE V - CRITERIA FOR BUILDING AND SITE PLAN APPROVAL

Section 5.1 - General

Building permits are required in order to determine whether all new construction or substantial improvements are:

- A. Located in the identified floodplain or floodway.
- B. 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.
- C. Constructed with materials and utility equipment resistant to flood damage as outlined in FEMA Technical Bulletin 2-93 (FIA-TB-2) or the most recent revision thereof.
- D. Constructed by methods and practices that minimizes flood damage.
- E. 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.

Section 5.2 - Basic Formats

The basic format of the Building Permit shall include the following:

- A. Name and address of applicant and name and address of owner of land on which proposed construction is to occur.
- B. Name, address, and valid WV license number of contractor(s), or affidavit stating that work is being performed by individuals exempt from contractor licensing as set forth in Title 28, Series 2, section 3.9 (b) of the West Virginia Code of state regulations or the most recent revision thereof.
- C. Site location including tax district, tax map and parcel number.
- D. The contract required by WV Code of State Regulations, Title 28, Series 4, and all addendums to the contract(s) shall be presented to the floodplain administrator for review within five (5) business days of contract signing. The community does not require and will not keep copies of the contracts or addendums. Failure to present contract or

addendums for review may void the permit. If a licensed contractor is not involved or the work is of an aggregate value of less than ten thousand dollars, including materials and labor a brief written description of proposed work and the estimated cost will suffice.

E. A standard site plan showing the exact size and location of the proposed development, adjacent roads and watercourses with direction of flow as well as any existing buildings or structures.

F. An acknowledgement that the applicant agrees to pay any and all fees associated with the permitting process as set forth in Section 7.9 hereof.

G. An acknowledgement that the applicant agrees to allow the Floodplain Compliance Officer access to the development to inspect for compliance.

Section 5.3 - Elevations and Floodproofing Information

All applicants are encouraged to exceed the minimum elevation requirements contained herein. Flood insurance rates can be lowered significantly by increasing the elevation of the lowest floor above the height required by this ordinance.

Depending on the type of structure involved, the following information shall also be included in the application for work within the Flood Plain Area:

A. For structures to be elevated one foot above the Base Flood Elevation:

1. A plan showing the size of the proposed structure and its relation to the lot where it is to be constructed.

2. A determination of elevations of the base flood, existing ground, proposed finished ground and lowest floor, certified by a Registered Professional Engineer, Surveyor or Architect.

3. Plans showing the method of elevating the proposed structure including details of proposed fills, pile structures, retaining walls, foundations, erosion protection measures, etc. When required by the Floodplain Administrator, these plans shall be prepared by a Registered Professional Engineer or Architect.

4. Plans showing the methods used to protect utilities (including sewer, water, telephone, electric, gas, etc.) from flooding to one foot above the Base Flood Elevation at the building site.

B. For structures to be floodproofed to one foot above the Base Flood Elevation (nonresidential structures only):

All applicants are encouraged to exceed the minimum flood proofing requirements contained herein. Flood insurance rates can be lowered significantly by increasing the level of flood proofing above the height required by this ordinance. In order to obtain an "elevation credited" flood insurance rate on dry flood proofed buildings, flood proofing must extend at least one foot above the Base Flood Elevation.

1. Plans showing details of all floodproofing measures, prepared by a Registered Professional Engineer or Architect, and showing the size of the proposed structure and its relation to the lot where it is to be constructed.

2. A determination of elevations of the base flood, existing ground, proposed finished ground, lowest floor, and floodproofing limits; certified by a Registered Professional Engineer, Surveyor, or Architect.

3. A Flood proofing Certificate, FEMA 81-65, as revised by FEMA, shall be prepared by the Registered Professional Engineer or Architect who prepared the plans in (1) above, stating the structure in question, together with attendant utility and sanitary facilities is designed so that:

a. The structure is water tight with walls substantially impermeable to the passage of water from the lowest structural element to one foot above the Base Flood Elevation.

b. The structure will withstand the hydrostatic, hydrodynamic, buoyant, impact, and other forces resulting from the flood depths, velocities, pressures, and other factors associated with the Base Flood.

C. For structures constructed of flood resistant materials - used solely for parking of vehicles, or storage, (Appurtenant Structures only)

1. Plans showing details of all flood proofing measures and showing the size of the proposed structure and its relation to the lot where it is to be constructed.

2. A completed Elevation Certificate showing elevation of existing ground, proposed finished ground, and lowest floor.

3. A certificate must be prepared by the Floodplain Administrator, that confirms that the structure in question, together with attendant utilities is designed so that:

a. Flood resistant materials are used from one foot above the Base Flood Elevation down and that all utilities are located at least one foot above the Base Flood Elevation.

b. Hydrostatic flood forces on exterior walls are equalized by allowing for automatic entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a Registered Professional Engineer or Architect 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 shall be provided.

ii. The bottom of all openings shall be no higher than one foot above grade.

iii. Openings may be equipped with screens, louvers, valves or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

iv. The applicant shall sign a Non-conversion Agreement and notify prospective buyers of the existence of the agreement. It shall be the responsibility of the applicant to transfer the Non-conversion Agreement to any new owner at closing via notarized signature. A copy of the signed agreement shall be provided to the floodplain administrator.

Section 5.4 - Site Plan Criteria

The owner or developer of any proposed development, including subdivisions and manufactured home parks, shall submit a site plan to the Floodplain Administrator, which includes the following information:

A. Name of engineer, surveyor, or other qualified person responsible for providing the information required in this section.

B. A map showing the location of the proposed development with respect to the flood plain areas, proposed lot sites, fills, flood and erosion protective facilities. In addition, it is required that all new developments which are proposed to take place either fully or partially within the approximated floodplain shall include base flood elevation data. If FEMA has completed a Flood Insurance Study (FIS), that data must be used to substantiate the base flood. Otherwise, the developer may submit data provided by an

authoritative source. This data shall be certified by a registered professional engineer or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently accepted technical concepts.

C. Where the development lies partially or completely in the flood plain areas, the plan map shall include detailed information giving the location and elevation of proposed roads, public utilities and building sites. All such maps shall also show contours at intervals of two (2) or five (5) feet depending upon the slope of the land and identify accurately the boundaries of the flood plain areas.

D. Where the subdivision lies partially in the floodplain area and all proposed development will take place a significant vertical distance above the floodplain area, development of detailed Base Flood Elevation data may not be necessary. In these cases the site plan for the proposed development must clearly delineate the area to be developed and the location of the floodplain areas as depicted on the FEMA map. A registered professional engineer, licensed professional surveyor or others of demonstrated qualifications must certify the site plan.

ARTICLE VI - SPECIFIC REQUIREMENTS

Section 6.1 - Design and Construction Standards

In order to prevent excessive damage to buildings, structures and related utilities and facilities, the following restrictions apply to all development, subdivision proposals, manufactured home parks, and new construction and to construction of substantial improvements to existing structures occurring in the Flood Plain Area.

A. Basement and Lower Floors

1. All new construction and substantial improvements of residential structures must have the lowest floor, including basement, ductwork and utilities, elevated to one (1) foot above the Base Flood Elevation.

2. All new construction and substantial improvements of non-residential structures must have the lowest floor including basement, ductwork and utilities, elevated to one (1) foot above the Base Flood Elevation; or, together with attendant utility and sanitary facilities, be designed so that below the Base Flood Elevation the structure is floodproofed in accordance with Section 5.3B.

3. For all new construction, relocation, substantial improvements, and repair of substantial damage, those fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a Registered Professional Engineer or meet or exceed the following minimum criteria:

1. 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 shall be provided.

2. The bottom of all openings shall be no higher than one 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 floodwaters.

B. Manufactured Home Placement

Manufactured homes to be placed or substantially improved within the flood hazard areas shall:

1. Be elevated so that the lowest floor, ductwork and utilities including HVAC/heat pump are elevated one foot above the Base Flood Elevation.

2. Be elevated on reinforced piers or other foundation elements of at least equivalent strength engineered for use in a flood hazard area and attached to a permanent foundation.

3. The frame of the unit shall be anchored to an adequately anchored permanent foundation system to resist flotation, collapse and lateral movement.

4. Installation designs incorporating dry stacked block shall not be used in flood hazard areas.

5. Ground anchors shall not be considered permanent foundation systems.

6. The Floodplain Administrator shall perform or shall cause to be performed a site inspection. The inspector shall certify in writing that the manufactured home has been installed to the standards set forth in this section.

C. Appurtenant Structures

1. Except as provided in subsection 2 below, appurtenant structures shall be located out of the floodplain area or elevated to one foot above the Base Flood Elevation.

2. Where appurtenant structures not connected to the principal structure are to be located on sites below the Base Flood Elevation, the following flood damage reduction provisions apply:

a. Structures shall be no more than 600 square feet in size and valued at less than \$10,000.00.

b. Floors shall be at or above grade on at least one side.

c. Structures shall be located, oriented and constructed to minimize flood damage.

d. Structures shall be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.

e. Flood resistant materials as detailed in FEMA Technical Bulletin 2-93 (FIA-TB-2) shall be used in the construction of the structure from the lowest structural element to two feet above the Base Flood Elevation.

f. Machinery, electric devices or appliances, and all utilities shall be located at least one foot above the Base Flood Elevation.

g. The venting requirements contained in Section 5.3C are applicable and shall be strictly adhered to.

h. A Non-conversion Agreement shall be signed by the applicant stating that the use of the appurtenant structure or detached or attached garage shall not be changed from the use permitted, acknowledging that the structure may be subject to greater flood risk and that higher flood insurance premiums may be possible, and that a change in use may require full compliance with this ordinance. The applicant agrees to notify prospective buyers of the existence of this agreement. It shall be the responsibility of the applicant to transfer the agreement at closing to the new owner via notarized signature, a copy of all new agreements shall be provided to the floodplain administrator.

D. Recreational Vehicle Placement

1. Recreational vehicles to be placed within any floodplain area shall either:

a. Be on site for fewer than 180 consecutive days and be fully licensed and ready for highway use or

b. Meet the provision of Section 6.1 of this ordinance. 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 utilities and security devices, and has no permanently attached additions.

E. Fill

If fill is used to raise the finished surface of the lowest floor to the Base Flood Elevation:

1. Fill shall extend beyond a structure for a sufficient distance to provide acceptable access. For residential structures, fill shall extend laterally fifteen (15) feet beyond the building line from all points. For non-residential structures, fill shall be placed to provide access acceptable for intended use. At-grade access, with fill extending laterally fifteen (15) feet beyond the building line, shall be provided to a minimum of twenty-five (25) percent of the perimeter of a non-residential structure.

2. Fill shall consist of soil or rock materials only. Sanitary landfills shall not be permitted.

3. Fill materials shall be compacted to provide the necessary stability and resistance to erosion, scouring, or settling.

4. Fill slopes shall be no steeper than one (1) vertical on two (2) horizontal, unless substantiating data justifying steeper slopes are submitted to and approved by the Floodplain Administrator.

5. Fill shall be used only to the extent to which it does not adversely affect adjacent properties.

F. Placement of Buildings

1. All buildings and structures shall be constructed and placed on the lot so as to offer the minimum obstruction to the flow of water and shall be designed to have a minimum obstruction effect upon the flow and height of floodwater.

a. Whenever possible, structures shall be constructed with the longitudinal axis parallel to the direction of flood flow and,

b. So far as practicable, structures shall be placed approximately on the same flood-flow lines as those of adjoining structures.

G. Anchoring

1. All buildings and structures shall be firmly anchored in accordance with accepted engineering practices to prevent flotation, collapse, and lateral movement, thus reducing the threat to life and property and decreasing the possibility of the blockage of bridge openings and other restricted sections of the watercourse.

2. All air ducts, large pipes and storage tanks located at or below the Base Flood Elevation shall be firmly anchored to resist flotation.

3. All manufactured homes shall be anchored in compliance with the requirements of 42 CSR Series 19, Sections 10.1, 10.2, and 10b et seq. Anchoring shall be adequate to resist flotation, collapse, or lateral movement. Methods of anchoring may include but are not limited to the over-the-top and frame ties, attached to foundation elements, such as the following:

a. Over-the-top ties shall be provided at each of the four corners of the manufactured home, with two additional ties per side for manufactured homes less than 50 feet long.

b. Frame ties shall be provided at each corner of the home with five additional ties per side at intermediate points, with manufactured homes less than 50 feet long requiring four additional ties per side.

c. All components of the anchoring system shall be capable of carrying a force of 4,800 pounds.

d. Any additions to a manufactured home shall be similarly anchored.

I. Storage

No materials that are buoyant, flammable, explosive, or in times of flooding could be injurious to human, animal or plant life, shall be stored below Base Flood Elevation.

J. Utility and Facility Requirements

1. All new or replacement water systems whether public or private, shall be designed to minimize or eliminate infiltration of floodwaters into the systems.

2. All new or replacement sanitary disposal systems, whether public or private, shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters.

3. All other new or replacement public and/or private utilities and facilities shall be located and constructed to minimize or eliminate flood damage.

4. Onsite waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

K. Drainage

Adequate drainage shall be provided to reduce exposure to flood hazard.

ARTICLE VII - ADMINISTRATION

Section 7.1 - Designation of Floodplain Administrator

The Raleigh County Commission staff is hereby appointed as Floodplain administrator to administer and implement this local law by granting or denying floodplain development permits in accordance with its provisions.

Section 7.2 - Building Permits and Site Plan Approvals Required

It shall be unlawful for any person, partnership, business, or corporation to undertake or cause to be undertaken, any development or the new construction, substantial improvement, the placement or relocation of any structure (including manufactured homes) within the Raleigh County, unless a permit has been obtained from the Floodplain Administrator. In addition, where land is to be subdivided, utilized for a manufactured home park or subdivision or otherwise developed, a site plan must be submitted to, and approved by, the Floodplain Administrator prior to any development.

Section 7.3 - Approvals of Permits and Plans

1. The Floodplain Administrator shall review, or shall cause to be reviewed; all permit applications and plans in order to determine whether proposed building sites are reasonably safe from flooding.

2. All permits and plans shall be approved only after it has been determined that the proposed work to be undertaken will be in conformance with the requirements of the State and all other applicable codes and ordinances.

3. The Floodplain Administrator shall require copies of all necessary permits from those governmental agencies from which approval is required by Federal or State Law.

4. The Raleigh County Commission shall keep on file all information supplied by the Floodplain Administrator.

Section 7.4 - Application Procedures

Application for building permit and site plan approvals shall be made, in writing, to the Floodplain Administrator, and shall include all information stipulated under Article V of this Ordinance.

Section 7.5 - Changes

After the issuance of a building permit or site plan approval by the Floodplain Administrator, no changes of any kind shall be made to the application, permit, or any of the plans, specifications or other documents submitted with the application without the written consent or approval of the Floodplain Administrator.

Section 7.6 - Start of Construction

Work on the proposed construction shall begin within six (6) months after the date of issuance of the building permit or the permit shall expire unless a time extension is granted, in writing, by the Floodplain Administrator.

Section 7.7 - Stop Work Orders, Inspections and Revocations

1. Stop-Work Orders

The Floodplain Administrator or other authorized official shall issue, or cause to be issued, a "Stop Work Order Notice" for any development found ongoing without having obtained a permit and/or found to be non-compliant with the provisions of this ordinance and/or the conditions of the permit. . Disregard of a stop work order shall subject the

violator to the penalties described in Section 8.3 of this ordinance.

2. During the construction period, the Floodplain Administrator or other authorized official may inspect the premises to determine that the work is progressing in compliance with the information provided on the permit application and with all applicable laws and ordinances. In the event it is discovered that the work does not comply with the permit application or any applicable laws and ordinances or that there has been a false statement or misrepresentation by any applicant, a "Stop Work Order Notice" shall be issued and the permit revoked and request a temporary injunction.

Section 7.8 - Certificate of Compliance

1. In areas of flood hazard it shall be unlawful to occupy, or to permit the use or occupancy, of any building or premises, or both, or part thereof hereafter created, erected, installed, changed, converted or wholly or partly altered or enlarged in its use or structure until a certificate of compliance has been issued by the Local Floodplain Administrator stating that the building or land conforms to the requirements of this local law.

2. In areas of flood hazard it shall be unlawful to install a permanent utility connection to any building or premises, or both, or part thereof hereafter created, erected, installed or rebuilt until a certificate of compliance has been issued by the Local Floodplain Administrator stating that the development conforms to the requirements of this local law.

3. In areas of flood hazard the 911 Director shall not issue an address to any building or premises, or both, or part thereof hereafter created, erected or rebuilt until a certificate of compliance or permit has been issued by the Floodplain Administrator stating that the development conforms to the requirements of this local law.

4. A certificate of compliance shall be issued by the Local Administrator upon satisfactory completion of all development in areas of special flood hazard.

5. Issuance of the certificate shall be based upon the inspections conducted as prescribed in this ordinance or local administrative procedures, and any finished construction elevation certificate, hydraulic data, flood proofing certificate, or encroachment analyses, which may have been required as a condition of permit approval.

Section 7.9 - Fees

Application for a building permit shall be accompanied by a fee, payable to the Raleigh County Building and Safety Department based upon the fee schedule established at the time of applying for the permit.

ARTICLE VIII - APPEALS AND PENALTIES

Section 8.1 - Appeals

Whenever any person is aggrieved by a decision of the Floodplain Administrator with respect to the provision of this Ordinance, it is the right of that person to appeal to the County Commission of Raleigh County, which shall be known as the Appeals Authority. Such appeal must be filed, in writing, within thirty (30) days. The Appeals Authority shall set a time and place not less than ten (10) days nor more than sixty (60) days for the purpose of hearing the appeal. Notice of the hearing shall be given to all parties at which time they may appear and be heard. The determination by the Appeals Authority shall be final in all cases.

Section 8.2 - Appeal Review Criteria

A. All appeals contesting only the permit fee may be handled at the discretion of the Appeals Authority. All decisions on appeals to all other provisions of this Ordinance shall adhere to the following criteria:

1. Affirmative decisions shall only be issued by the Appeals Authority upon:

a. A showing of good and sufficient cause,

b. A determination that failure to grant the appeal would result in exceptional hardship to the applicant, and

c. A determination that the granting of an appeal will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinance.

2. An affirmative decision shall be issued only upon determination that it is the minimum necessary, considering the flood hazard, to afford relief. Financial hardship, as a sole criterion, shall not be considered sufficient justification to grant an appeal.

3. The Appeals Authority shall notify the applicant in writing over the signature of a community official that:

a. The issuance of a decision to allow construction of a structure below the Base Flood Elevation may result in increased premium rates for flood insurance,

b. Such construction below the Base Flood Elevation increases risk to life and property. Such notifications shall be maintained with a record of all decisions as required in this ordinance; and

4. The Appeals Authority shall:

a. Maintain a record of all decisions including justification for their issuance, and

b. Report such decisions issued in its biennial report submitted to the Federal Insurance Administration,

5. No variance shall be granted for any construction, development, use or activity within any floodway or any Special Floodplain Area that would cause any increase in the one hundred (100) year flood elevation.

Section 8.3 - Penalties

Any person who fails to comply with any or all of the requirements or provisions of this ordinance or direction of the Floodplain Administrator or any other authorized employee of the community shall be unlawful and shall be referred to the Raleigh County Commission Attorney who shall expeditiously prosecute all such violators. A violator shall, upon conviction, pay a fine to the County Commission of Raleigh County of not less than fifty dollars (\$50.00) or more than five hundred dollars (\$500.00) plus cost of prosecution. In default of such payment such person shall be imprisoned in county prison for a period not to exceed 10 days. Each day during which any violation of this Ordinance continues shall constitute a separate offense. In addition to the above penalties all other actions are hereby reserved including an action in equity for the proper enforcement of this Ordinance. The imposition of a fine or penalty for any violation of, or non-compliance with, this Ordinance shall not excuse the violation or non-compliance with this Ordinance or permit it to continue; and all such persons shall be required to correct or remedy such violations or non-compliances within a reasonable time. Any structure constructed, reconstructed, enlarged, altered or relocated in non-compliance with this Ordinance may be declared by the County Commission of Raleigh County to be a public nuisance and abatable as such.

ARTICLE IX - GOVERNMENT ACTIONS

Section 9.1 - Municipal Annexation

1. The County floodplain ordinance in effect on the date of annexation shall remain in effect and shall be enforced by the municipality for all annexed areas until the municipality adopts and enforces an ordinance meeting the requirements for participation in the National Flood Insurance Program.

2. Municipalities with existing floodplain ordinances shall pass a resolution acknowledging and accepting responsibility for enforcing floodplain ordinance standards prior to annexation of any are containing identified flood hazards.

3. All plats or maps of annexation shall show the floodplain boundaries, Base Flood Elevation and location of the floodway where determined.

Section 9.2 - Permits for Government Entities

Unless specifically exempted by law, all cities, villages, towns, public utilities, County and State agencies are required to comply with this ordinance and obtain all necessary permits.

ARTICLE X SEVERABILITY AND MUNICIPAL LIABILITY

Section 10.1 - Severability

If any section, subsection, paragraph, sentence, clause, or phrase of this Ordinance shall be declared invalid for any reason whatever, such decision shall not affect the remaining portions of this Ordinance which shall remain in full force and effect, and for this purpose the provisions of this Ordinance are hereby declared to be severable.

Section 10.2 - Liability

The granting of a permit or approval of a subdivision or development plan in an identified flood-prone area, shall not constitute a representation, guarantee, or warranty of any kind by the County Commission of Raleigh County or by any official or employee thereof of the practicability or safety of the proposed use, and shall create no liability upon the County Commission of Raleigh County. The Raleigh County Commission urges all applicants proposing development in or near a flood hazard area to locate all development as far away from, and as high above, all flooding sources as possible.

ARTICLE XI ENACTMENT

Adopted and ordained this 5th day of September, 2006. This Ordinance shall become effective September 29, 2006.

John L. Aliff, President

Pat Reed, Commissioner

John D. Humphrey, Commissioner

ATTEST: _____