

FLOODPLAIN MANAGEMENT ORDINANCE

AN ORDINANCE OF THE COUNTY OF, RUSSELL, VIRGINIA, ESTABLISHING FLOODPLAIN DISTRICTS. REQUIRING THE ISSUANCE OF PERMITS FOR DEVELOPMENT, PROVIDING FOR CERTAIN MINIMUM STANDARDS FOR DEVELOPMENT, AND PROVIDING FACTORS AND CONDITIONS FOR SPECIAL EXCEPTIONS AND VARIANCES TO THE TERMS OF THE ORDINANCE.

BE IT ENACTED AND ORDAINED BY THE BOARD OF SUPERVISORS, RUSSELL COUNTY, AS FOLLOWS:

ARTICLE I - GENERAL PROVISIONS

SECTION 1.1 - PURPOSE

The purpose of these provisions is to prevent the loss of life and property, the creation of health and safety hazards, the disruption of commerce and governmental services, the extraordinary and unnecessary expenditure of public funds for flood protection and relief, and the impairment of the tax base by:

- A. Regulating uses, activities, and development which, alone or in combination with other existing or future uses, activities, and development, will cause unacceptable increases in flood heights, velocities, and frequencies,
- B. Restricting or prohibiting certain uses, activities, and development from locating within areas subject to flooding.
- C. Requiring all those uses, activities, and developments that do occur in flood-prone areas to be protected and/or flood-proofed against flooding and flood damage.
- D. Protecting individuals from buying lands and structures which are unsuited for intended purposes because of flood hazards.

Section 1.2 - Applicability

These provisions shall apply to all lands within the jurisdiction of Russell County and identified as being in the 100-year floodplain by the Federal Insurance Administration.

Section 1.3 - Compliance and Liability

- A. No land shall hereafter be developed and no structure shall be located, relocated, constructed, reconstructed, enlarged, or structurally altered except in full compliance with the terms and provisions of this ordinance and any other applicable ordinances and regulations which apply to uses within the jurisdiction of this ordinance.
- B. The degree of flood protection sought by the provisions of

this ordinance is considered reasonable for regulatory purposes and is based on acceptable engineering methods of study. Larger floods may occur on rare occasions. Flood heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This ordinance does not imply that areas outside the floodplain districts, or that land uses permitted within such districts will be free from flooding or flood damages.

C. This ordinance shall not create liability on the part of Russell County or any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

Section 1.4 - Abrogation and Greater Restrictions

This ordinance supersedes any ordinance currently in effect in flood-prone areas. However, any underlying ordinance shall remain in full force and effect to the extent that its provisions are more restrictive than this ordinance.

Section 1.5 - 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. The remaining portions shall remain in full force and effect; and for this purpose, the provisions of this ordinance are hereby declared to be severable.

Section 1.6 - Penalties (Optional)

A. Any person who fails to comply with any of the requirements or provisions of this ordinance or directions of the building inspector or any other authorized employee of Russell County shall be guilty of a misdemeanor of the first class and subject to the penalties therefor.

B. 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 noncompliance with, this ordinance shall not excuse the violation or noncompliance to permit it to continue; and all such persons shall be required to correct or remedy such violations or noncompliances within a reasonable time. Any structure constructed, reconstructed, enlarged, altered, or relocated in noncompliance with this ordinance may be declared by the Board of Supervisors to be a public nuisance and abatable as such. Flood insurance may be withheld from structures in violation of this ordinance.

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ARTICLE II - DEFINITIONS

- A. Development- Any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, the placement of manufactured homes, streets, and other paving, utilities, filling, grading, excavation, mining, dredging, or drilling operations.
- B. Flood- A general and temporary inundation of normally dry land areas.
- C. Floodplain- (a) A relatively flat or low land area adjoining a river, stream, or watercourse which is subject to partial or complete inundation; (b) an area subject to the unusual and rapid accumulation or runoff of surface waters from any source.
- D. Manufactured Homes- A structure, transportable in one or more sections, which is built on a permanent chassis, and designed to be used with or without permanent foundation, when connected to the required utilities. The term also includes park trailer, travel trailers, and other similar vehicles placed on a site for greater than 180 days.
- E. Manufactured Home Park/Subdivision- A parcel (or contiguous parcels) of land divided into two or more lots for rent or sale.
- F. Base Flood/One-Hundred Year Flood- A flood that, on the average, is likely to occur once every 100 years (i.e., that has a one (1) percent chance of occurring each year, although the flood may occur in any year).
- G. Floodway- The designated area of the floodplain required to carry and discharge flood waters of a given magnitude. For the purposes of this ordinance, the floodway shall be capable of accommodating a flood of the (100)-year magnitude.
- H. Board of Appeals- The board appointed to review appeals made by individuals with regard to decisions of the building inspector in the interpretation of the Virginia Uniform Statewide Building Code.
- I. Flood-Prone Area- Any land area susceptible to being inundated by water from any source.

ARTICLE III - ESTABLISHMENT OF FLOODPLAIN DISTRICTS

Section 3.1 - Description of Districts

The various floodplain districts shall include areas subject to inundation by waters of the one hundred (100)-year flood. The basis for the delineation of these districts shall be the Flood Insurance Study for Russell County prepared by the Federal Emergency Management Agency, Federal Insurance Administration, dated March 16, 1988, as amended.

- A. The Floodway District is delineated, for purposes of this ordinance using the criterion that certain areas within the floodplain must be capable of carrying the waters of one the hundred (100)-year flood without increasing the water surface elevation of that flood more than one (1) foot at any point. The areas included in this District are specifically defined in Table 3 of the above referenced Flood Insurance Study and shown on the accompanying Flood Insurance Rate Map.
- B. The Flood-Fringe District shall be that area of the one hundred (100)-year floodplain not included in the Floodway District. The basis for the outermost boundary of this District shall be the one hundred (100)-year flood elevations contained in the flood profiles of the above-referenced Flood Insurance Study and as shown on the accompanying Flood Insurance Rate Map.

The Approximated Floodplain District shall be that floodplain area for which no detailed flood profiles or elevations are provided, but where a one hundred (100)-year floodplain boundary has been approximated. Such areas are shown as Zone A on the maps accompanying the Flood Insurance Study. For these areas, the one hundred (100)-year flood elevations and floodway information from federal, state, and other acceptable sources shall be used, when available. Where the specific one hundred (100)-year flood elevation cannot be determined for this area using other sources of data, such as the U. S. Army Corps of Engineers Floodplain Information Reports, U. S. Geological Survey Flood-Prone Quadrangles, etc., then the applicant for the proposed use, development and/or activity shall determine this elevation in accordance with hydrologic and hydraulic engineering techniques. Hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently-accepted technical concepts. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough review by the Russell County Board of Supervisors.

Section 3.2 - Official Floodplain Map

The boundaries of the Floodplain Districts are established as shown on the Flood Insurance Rate Map which is declared to be a part of this ordinance and which shall be kept on file at the County offices.

Section 3.3 - District Boundary Changes

The delineation of any of the Floodplain Districts may be revised by the Board of Supervisors where natural or man made changes have occurred and/or where more detailed studies have been conducted or undertaken by the U. S. Army Corps of Engineers or other qualified agency, or an individual documents the need for possibility for such change. However, prior to any such change, approval must be obtained from the Federal Insurance Administration.

Section 3.4 - Interpretation District Boundaries

Initial interpretations of the boundaries of the Floodplain Districts shall be made by the Building Inspector. Should a dispute arise concerning the boundaries of any of the Districts, the Board of Appeals shall make the necessary determination. The person questioning or contesting the location of the district boundary shall be given a reasonable opportunity to present his case to the Board and to submit his own technical evidence if he so desires.

ARTICLE IV - DISTRICT PROVISIONS

All uses, activities, and development occurring within any floodplain district shall be undertaken only upon the issuance of a building permit. Such development shall be undertaken only in strict compliance with provisions of this Ordinance and with all other applicable codes and ordinances, such as the Virginia Uniform Statewide Building Code. Prior to the issuance of any such permit, the Building Inspector shall require all applications to include compliance with all applicable state and federal laws. Under no circumstances shall any use, activity, and/or development adversely affect the capacity of the channels or floodways of any watercourse, drainage ditch, or any other drainage facility or system.

Prior to any proposed alteration or relocation of any channels or of any watercourse, stream, etc., within this municipality, approval shall be obtained from the Division of Soil and Water Conservation (Department of Conservation and Historic Resources). Further notification of the proposal shall be given to all affected adjacent municipalities. Copies of such notifications shall be provided to the Division of Soil and Water Conservation, (Department of Conservation and Historic Resources) and the Federal Insurance Administration.

Section 4.1 - Application

All applications for development in the floodplain district and all building permits issued for the floodplain shall incorporate the following information:

- A. For structures that have been elevated, the elevation of the lowest floor (including basement).
- B. For structures that have been floodproofed (nonresidential only), the elevation to which the structure has been floodproofed.
- C. The elevation of the one hundred (100)-year flood.

Section 4.2 - Floodway District

In the Floodway District, no development shall be permitted except where the effect of such development on flood heights is fully offset by accompanying improvements which have been approved by all appropriate local and/or state authorities, as required above.

Section 4.3 - Flood-Fringe and Approximated Floodplain Districts

In the Flood-Fringe and Approximated Floodplain Districts, the development and/or use of land shall be permitted in accordance with the regulations of this ordinance provided that all such uses, activities, and/or development shall be undertaken in strict compliance with the floodproofing and related provisions contained in the Virginia Uniform Statewide Building Code and all other applicable codes and ordinances.

Section 4.4 - Design Criteria For Utilities and Facilities

A. Sanitary Sewer Facilities

All new or replacement sanitary sewer facilities and private package sewage treatment plants (including all pumping stations and collector systems) shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into the flood waters. In addition, they should be located and constructed to minimize or eliminate flood damage and impairment.

B. Water Facilities

All new or replacement water facilities shall be designed to minimize or eliminate infiltration of flood waters into the systems and be located and constructed to minimize or eliminate flood damages.

C. Drainage Facilities

All storm drainage facilities shall be designed to convey the flow of surface waters without damage to persons or property. The systems shall ensure drainage away from buildings and onsite waste disposal sites. The Board of Supervisors may require a primarily underground system to accommodate frequent floods and a secondary surface system to accommodate larger, less frequent floods. Drainage plans shall be consistent with local and regional drainage plans. The facilities shall be designed to prevent the discharge of excess runoff onto adjacent properties.

D. Utilities

All utilities, such as gas lines, electrical and telephone systems being placed in flood-prone areas should be located, (where possible) and constructed to minimize the chance of impairment during a flooding occurrence.

E. Streets and Sidewalks

Streets and sidewalks should be designed to minimize their potential for increasing and aggravating the levels of flood flow. Drainage openings shall be required to sufficiently discharge flood flows without unduly increasing flood heights.

ARTICLE V - SPECIAL EXCEPTIONS AND VARIANCES: ADDITIONAL FACTORS TO BE CONSIDERED

Note:

Whenever any person is aggrieved by a decision of the Building Inspector with respect to the provisions of this ordinance, it is the right of that person to appeal to the Board of Appeals for a special exception. Such appeal must be filed, in writing, within thirty (30) days after the determination by the Building Inspector. Upon receipt of such an appeal, the Board of Appeals shall set a time and place for the purpose of hearing the appeal, which shall be not less than ten (10) nor more than thirty (30) days from the date of the receipt of the appeal. Notice of the time and place of the hearing of the appeal shall be given to all parties at which time they may appear and be heard. The determination by the Board of Appeals shall be final in all cases.

In passing upon applications for Special Exceptions and Variances, the Board of Appeals shall satisfy all relevant factors and procedures specified in other sections of the management ordinance and consider the following additional factors:

A. The danger to life and property due to increased flood heights or velocities caused by encroachments. No special exception or variance shall be granted for any proposed use, development, or activity within the Floodway District that will cause any increase in flood levels during the one hundred (100)-year flood.

B. The danger that materials may be swept on to other lands or downstream to the injury of others.

C. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.

D. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners.

E. The importance of the services provided by the proposed facility to the community.

F. The requirements of the facility for a waterfront location.

G. The availability of alternative locations not subject to flooding for the proposed use.

H. The comparability of the proposed use with existing development and development anticipated in the foreseeable future.

I. The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.

J. The safety of access by ordinary and emergency vehicles to the property in time of flood.

K. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site.

L. Such other factors which are relevant to the purposes of this ordinance.

The Board of Appeals may refer any application and accompanying documentation pertaining to any request for a special exception or variance to any engineer or other qualified person or agency for technical assistance in evaluating the proposed project in relation to flood heights and velocities, and the adequacy of the plans for flood protection, and other related matters.

Special exceptions and/or variances shall be issued only after the Board of Appeals has determined that the granting of such will not result in (a) unacceptable or prohibited increases in flood heights, (b) additional threats to public safety, (c) extraordinary public expense, and will not (d) create nuisances (e) cause fraud or victimization of the public, or (f) conflict with local laws or ordinances.

Special exceptions and/or variances shall be issued only after the Board of Appeals has determined that the special exception and/or variance will be the minimum required to provide relief from any hardship to the applicant.

The Board of Appeals shall notify the applicant for a special exception and/or variance, in writing, that the issuance of a special exception and/or variance to construct a structure below the one hundred (100)-year flood elevation (a) increases the risks to life and property and (b) will result in increased premium rates for flood insurance.

A record of the above notification as well as all special exceptions and/or variance actions, including justification for their issuance, shall be maintained and any special exceptions and/or variances shall be noted in the annual or biennial report submitted to the Federal Insurance Administrator.

ARTICLE VI - EXISTING STRUCTURES IN FLOODPLAIN DISTRICTS

A structure or use of a structure or premises which lawfully existed before the enactment of these provisions, but which is not in conformity with these provisions, may be continued subject to the following conditions:

- A. Existing structures and/or uses located in the Floodway District shall not be expanded or enlarged (unless the effect of the proposed expansion or enlargement on flood heights is fully offset by accompanying improvements).
- B. Any modification, alteration, repair, reconstruction, or improvement of any kind to a structure and/or use located in any floodplain district to an extent or amount of less than fifty (50) percent of its market value, shall be elevated and/or floodproofed to the greatest extent possible.
- C. The modification, alteration, repair, reconstruction, or improvement of any kind to a structure and/or use, regardless of its location in a floodplain district, to an extent or amount of fifty (50) percent or more of its market value shall be undertaken only in full compliance with the provisions of the Virginia Uniform Statewide Building Code.
- D. Uses or adjuncts thereof which are, or become, nuisances shall not be permitted to continue.

ARTICLE VII - ENACTMENT

ENACTED AND ORDAINED THIS 3RD DAY OF MARCH, 1988. THIS
ORDINANCE SHALL BECOME EFFECTIVE UPON PASSAGE.

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