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**AN ORDINANCE REGULATING THE
ESTABLISHMENT**

OF A

FLOOD PLAIN

IN HAMPSHIRE COUNTY, WEST VIRGINIA

ADOPTED AUGUST 25, 1987

Amended:

June 3, 1997

October 8, 2002

June 10, 2008

October 14, 2008

AN ORDINANCE REQUIRING ALL PERSONS, PARTNERSHIPS, BUSINESSES, AND CORPORATIONS TO OBTAIN A PERMIT FOR DEVELOPMENT AND THE CONSTRUCTION, SUBSTANTIAL IMPROVEMENT OR RELOCATION OF ANY BUILDING OR STRUCTURE; ESTABLISHING A FLOODPLAIN AREA AND PROVIDING FOR CERTAIN MINIMUM STANDARDS FOR CONSTRUCTION WITHIN THE FLOODPLAIN 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 PROVISIONS OF THIS ORDINANCE.

BE IT ENACTED AND ORDAINED BY THE HAMPSHIRE COUNTY COMMISSION, HAMPSHIRE COUNTY, WEST VIRGINIA AS FOLLOWS:

ARTICLE I GENERAL PROVISIONS

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 use 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, and natural drainage.
- D. Reduce financial burdens imposed on the community, its governmental units and its residents, by preventing the unwise design and construction of development in 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, partnership, business, or corporation to undertake or cause to be undertaken, any development or the new construction, substantial improvement, placement or relocation of any structure (including manufactured homes) within Hampshire 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.

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

ARTICLE II DEFINITIONS

Appurtenant Structure

A structure which is on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure.

Base Flood

The flood, which has been selected to serve as the basis upon which the floodplain management provision 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 sub grade (below ground level) on all sides.

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 or storage of equipment or materials.

Existing Manufactured Home Park or Subdivision

A manufactured home park or subdivision for which the construction of facilities for servicing the lot 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 original Ordinance dated August 25, 1987.

* This definition does not include an enclosed area where one or more sides are "walk outs" or are not sub-grade.

Expansion to an Existing Manufactured Home Park or Subdivision

The preparation of additional sites by the construction of facilities for servicing the lot 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).

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; or (2) an area subject to the unusual and rapid accumulation or runoff of surface waters from any source.

Floodplain Administrator

The Compliance Officer of Hampshire County Planning Commission shall be the Floodplain Administrator.

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.

Flood proofing

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 preliminary 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 Secretary of the Interior; or,
 - 2. Directly by the Secretary of the Interior in states without approved programs

Licensed Manufactured Home Installer

A contractor licensed to install Manufactured Homes in WV as set forth in section 21-9-1 ET SEQ of the WV State Code.

Lowest Floor

The lowest floor of the lowest enclosed area (including basement). An enclosure constructed with flood resistant materials, such as those listed in the FEMA Technical Bulletin 2-93 (FIA-TB-2) and 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 "manufactured home" does not include a "recreational vehicle".

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 the effective date of the original Ordinance dated August 25, 1987 and include any subsequent improvements to such structures.

New Manufactured Home Park or Subdivision

A manufactured 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 on or after the effective date of the original Ordinance dated August 25, 1987.

One-Hundred (100) Year Flood

A flood that has one chance in one hundred or a one percent chance of being equaled or exceeded in any given year.

Pavilion

A pole building whose vertical support columns are placed at least 48" apart on center. Screening and screening support materials may be placed between the support columns so long as nothing greater than a 2" X 2" (plastic or wood member) is used to support the screening material. No solid or rigid walls can be used. A pavilion may have two screened doors for use of entry and exit. The materials used to frame the doors must not exceed 4" in any one direction beyond the actual dimensions of the door. No floor is permitted except on a concrete pad adjacent to grade.

Person

Any 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 which 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 duty truck; and
- D. designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

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 maximum extent practical.

*Start of Construction**

For other than new construction or substantial improvements under the Coastal Barrier Resources Act, (Pub Law 97-348), includes substantial improvements, and means the date the building permit was issued, 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 of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; excavation for a basement, footings, piers, or foundation 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 a substantial improvement, 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 Office of Emergency Services.

* The definition for start of construction is not to imply that a permit need not be obtained prior to any of these activities. This definition is to be used when calculating the starting time of the 6 month expiration of a permit.

Structure

A walled and roofed building, including a gas or liquid storage tank that 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 it's before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial Improvement

Any repair, reconstruction, rehabilitation, addition or other 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 either:

- A. 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 or
- B. Any alteration of a "historic structure," provided that the alteration will not preclude the structures continued designation as a "historic structure."

Violation

The failure of any structure or development to be fully compliant with all requirements of this ordinance.

ARTICLE III ESTABLISHMENT OF THE FLOODPLAIN AREA

Section 3.1 Identification

The identified floodplain area shall be those areas of Hampshire County, which are subject to the one hundred (100) year flood, as shown on the Flood Insurance Rate Map (FIRM) and described on the Flood Insurance Study (FIS) prepared for Hampshire County by the Federal Emergency Management Agency (FEMA) dated November 7, 2002, or the most recent revision thereof.

Section 3.2 Description of Floodplain Areas

The identified floodplain 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 D below. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough technical review by the Floodplain Administrator for floodway areas identified in approximated areas discussed in Section D below.
- B. The Floodway Fringe (F2) area 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. The areas are shown on the floodway map or FIRM.
- C. The AE Area shall be those areas identified as an AE Zone on the FIRM included in the FIS prepared by FEMA and for which 100-year flood elevations have been provided in the FIS. The AE area only occurs when a stream has been studied to determine the Base Flood Elevation but no Floodway has been delineated.
- D. The Approximated area (F3) shall be those areas identified as an A Zone on the floodway map or FIRM 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 elevation shall be determined by using the elevation of a point on the boundary of the identified floodplain area, which is nearest the construction site. The Floodplain Administrator may require the applicant to determine the elevation with hydrologic and hydraulic engineering techniques. Hydrologic and hydraulic analyses shall be undertaken only by a professional engineer or others of demonstrated qualifications, who 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 layman's terms. In addition studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough technical review by the County.

Section 3.3 Changes in Designation of Area

The delineation of the identified floodplain area may be revised by Hampshire 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. New approximated areas may be delineated by the community by using simple methods involving locally

derived information, flood of record and topographic data. 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 the flood plain area is at or above the Base Flood Elevation specified in the Flood Insurance Study, the structure shall not be required to conform with the Design and Construction Standards or Flood-Related Building 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.

If the lowest natural grade adjacent to a proposed building site shown outside of, but adjacent to, the floodplain area is below the Base Flood Elevation specified in the Flood Insurance Study, the site shall be considered to be within the floodplain area and the proposed structure shall be required to conform with the provisions of this Ordinance.

Section 3.5 Boundary Disputes

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

ARTICLE IV UTILIZATION OF THE FLOODPLAIN AREA

Section 4.1 Floodway (F1)

Within any floodway area (F1), no encroachments, including fill, new construction, substantial improvements, 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. All uses, activities, and other developments shall be undertaken in strict compliance with the flood proofing and related provisions contained herein, and in all other applicable codes, ordinances and regulations.

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

Section 4.2 Floodway Fringe (F2) and Approximated Floodplain (F3)

In the Floodway Fringe (F2) and Approximated Floodplain (F3), 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.

Section 4.3 Floodplain Area AE

Within any AE area*, 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 use of the floodway area where determined.

Section 4.4 Alteration or relocation of a watercourse

- A. 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 Permit Officer and Hampshire County.
- B. The developer shall also assure Hampshire County that the carrying capacity of the altered or relocated portion of stream will be maintained. The County may require the applicant to demonstrate that the altered or relocated segment will provide equal or greater conveyance than the original stream segment. 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. The resultant study shall include a cover letter, signed by the responsible professional, providing a statement of findings in layman's terms. In addition studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough technical review by the County.
- C. The developer is required to provide the community a legal agreement detailing all scheduled inspections and maintenance to be performed. It shall be the responsibility of the applicant to have the agreement referenced in and recorded with the deed of the subject property before a permit can be issued.

* AE Areas only occur under the following conditions – When a study has been conducted on a stream to produce Base Flood Elevation data, but no floodway delineation is given. Remember to check the FIRM *and* the Floodway map to see if a floodway has been delineated before applying these conditions.

- D. 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 by the Local Permit Officer, and must pay any fees or other costs assessed by FEMA for this purpose.

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 material and utility equipment resistant to flood damage such as those listed in FEMA Technical Bulletin 2-93 (FIA-TB-2).
- D. Constructed by methods and practices that minimize 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 Format

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

- A. Name and address of applicant.
- B. Name and address of owner of land on which proposed construction is to occur.
- C. Name, address and valid WV license number of contractor.
- D. Site location.
- E. Brief description of proposed work and estimated cost.

- F. A plan of the site showing the exact size and location of the proposed construction as well as any existing buildings or structures.

Section 5.3 Elevation and Flood Proofing Information

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

- A. For structures to be elevated to 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 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, a Registered Professional Engineer or Architect shall prepare these plans.
 - 4. Plans showing the methods used to protect utilities (including sewer, water, telephone, electric, gas, etc.) from flooding to the Base Flood Elevation at the building site.
 - 5. During the course of construction, as soon as the basic elements of the lowest floor are in place and before further vertical construction, the applicant shall submit an Elevation Certificate listing the "as built" height of the lowest floor. This Elevation Certificate shall be completed by a registered professional Engineer, Surveyor or Architect.
- B. For structures to be flood proofed to the Base Flood Elevation (nonresidential structures only):
 - 1. Plans showing details of all flood proofing 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 existing ground, proposed finished ground, lowest floor, and flood proofing 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 that 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 below 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 - that are usable 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 elevations 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. The structure is constructed of flood resistant materials above the Base Flood Elevation and that all utilities are located above the Base Flood Elevation.
 - b. 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 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.

Section 5.4 Site Plan Criteria

The owner or developer of any proposed subdivision, Manufactured Home Park or subdivision or other development shall submit a site plan to the Floodplain Administrator which includes the following information:

- A. Names 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 subdivision and/or development with respect to the county's floodplain areas, proposed lots and sites, fills, flood or erosion protective facilities and areas subject to special deed restriction. In addition, it is required that all subdivision proposals and other proposed new development new developments greater than fifty (50) lots or five (5) acres, whichever is lesser, shall include base flood elevation data. The applicant shall have the Base Flood Elevation(s) certified by a registered professional engineer based on hydrologic and hydraulic studies which included a floodway analysis.

In cases where a proposed new development great than fifty (50) lots or five (5) acres, whichever is lesser, is located on property with a FEMA mapped 100 year floodplain and the proposed development will be located completely outside the FEMA mapped 100 year floodplain, certification of the BFE by a registered professional engineer is not required. The site plan for the proposed development must clearly delineate the location of the 100 year floodplain as depicted on the FEMA map and be certified by a registered professional engineer or land surveyor. All proposed construction and development must be located and shown on the plan as outside the FEMA mapped 100 year floodplain.

- C. Where the subdivision and/or development lies partially or completely in the floodplain 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 floodplain areas.

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, new construction and to construction of substantial improvements to existing structures occurring in the Floodplain Area.

A. Basements and Lowest Floors

1. All new construction, relocation and substantial improvements of residential structures must have the lowest floor (including basement) elevated to one foot above the Base Flood Elevation.
2. All new construction, relocation and substantial improvements of non-residential structures must have the lowest floor (including basement) elevated to the Base Flood Elevation; or, together with attendant utility and sanitary facilities, be designed so that below the Base Flood Elevation the structure is flood proofed in accordance with Section 5.3B.
3. For all new construction, relocation and substantial improvements, 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 architect or meet or exceed the following minimum criteria:
 - a) 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.
 - b) The bottom of all openings shall be no higher than one foot above grade.
 - c) 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 floodplain area shall:

1. When manufactured home is placed or substantially improved by the homeowner without the assistance of a licensed installer.
 - a. Be elevated on reinforced piers or other foundation elements of at least equivalent strength on a permanent foundation so that the lowest floor of the manufactured home is elevated to above the Base Flood Elevation and,

- b. Be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.
2. When a manufactured home is placed or substantially improved by a Licensed Manufactured Home Installer.
 - a. Comply with the requirements of 42 CSR Series 19, Sections 10.1, 10.2 and 10b as authorized by WV Code 21-9-1 ET SEQ. Any one of three methods is authorized for use when installing a Manufactured Home.
 - i. Manufacturer's installation manual - this method may be used only if the Manufacturer's manual explicitly states that the installation design it contains is approved for use in a flood hazard or floodplain area.
 - ii. ANSI 225.1 standard installation method, this standard is for use only outside of flood hazard areas. The specifications explicitly state that an engineer's design is required to install a Manufactured Home in a Floodplain.
 - iii. Installation using a design approved and sealed by a licensed professional engineer for use in a flood hazard area.
 3. Regardless of the method chosen for installation, all Manufactured Homes must be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

C. Appurtenant Structures

1. Where feasible, appurtenant structures and detached and attached garages shall be located out of the floodplain area or elevated above the Base Flood Elevation.
2. Where accessory structures 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.
 - b. Floors shall be at or above grade.
 - 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 such as those listed in FEMA Technical Bulletin 2-93 (FIA-TB-2) shall be used in the construction of the structure to above the Base Flood Elevation.
- f. Machinery, electric devices or appliances and all utilities shall be located above the base flood elevation.
- g. The venting requirements contained in Section 6.1(A) are applicable and shall be strictly adhered to.

D. Recreational Vehicle Placement

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

- 1. be on site for fewer than 180 consecutive days, or
- 2. be fully licensed and ready for highway use or meet the provision of Section 6.1 (B) of this Ordinance. A recreational vehicle is ready for highway
- 3. 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

Hampshire County officially recognizes the natural and beneficial functions of the floodplain thus placement of fill in the floodplain area is discouraged and shall be minimized. In the floodway, no fill shall be permitted unless it meets the requirements of Section 4.1 of this Ordinance. All fill placed in the floodplain area shall meet or exceed the following standards:

- 1. Fill shall be used only to the extent to which it does not adversely affect adjacent properties. The County may require the applicant to show through hydrologic and hydraulic engineering techniques that proposed fill will not adversely affect adjacent properties. 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. The resultant study shall include a cover letter, signed by the responsible professional, providing a statement of findings in layman's terms. In

addition studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough technical review by the County.

2. Fill shall be used only to the extent to which it does not adversely affect the capacity of channels or floodways of any tributary to the main stream, drainage ditch, or any other drainage facility or system to discharge the base flood without an increase in flood levels.
3. 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 nonresidential 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 nonresidential structure.
4. Fill shall consist of soil or rock material only. Sanitary landfills shall not be permitted.
5. Fill material shall be compacted to provide the necessary stability and resistance to erosion, scouring or settling.
6. 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.

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 as authorized by WV Code 21-9-4. This 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 to ground anchors 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.

This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.

H. Storage

1. 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.

I. 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.

J. Drainage

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

ARTICLE VII ADMINISTRATION

Designation of Floodplain Administrator

The Compliance Officer is hereby appointed Floodplain Administrator to administer and implement this local law by granting or denying floodplain development permits in accordance with its provisions.

Section 7.1 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 Hampshire County, unless a permit has been obtained from the Floodplain Administrator. In addition, where land that is either partially or fully in the regulatory floodplain 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 7.2 Approval of Permits and Plans

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.

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

A record of all information supplied to the Floodplain Administrator shall be kept on file by the Hampshire County.

Section 7.3 Application Procedures

Application for a determination of location relative to the regulatory floodplain, a building

permit and/or site plan approvals shall be made, on the forms supplied, to the Floodplain Administrator, and shall include all information stipulated under Article V of this Ordinance.

Section 7.4 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, specification or other documents submitted with the application without the written consent or approval of the Floodplain Administrator.

Section 7.5 Placards

In addition to the building permit, the Floodplain Administrator shall issue a placard which shall be prominently displayed on the premises during the time construction is in progress. This placard shall show the number of the building permit, the date of its issuance and be signed by 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

A. Stop-Work Orders

1. The Floodplain Administrator shall issue, or cause to be issued, a stop work order for any development found ongoing without having filled out a permit application to enable the county to make a determination of the developments location relative to the regulatory floodplain OR without having obtained a building permit. Disregard of a stop work order shall subject the violator to the penalties described in Section 8.3 of this local law.
2. The Floodplain Administrator shall issue, or cause to be issued, a stop work order for any floodplain development found non-compliant with the provisions of this law and/or the conditions of the development permit. Disregard of a stop work order shall subject the violator to the penalties described in Section 8.3 of this local law.

B. Inspections and Revocations

During the construction period, the Floodplain Administrator or other authorized officials 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. If the Floodplain Administrator is apprised that the work does not comply with the permit application or any applicable laws and ordinances or that there has been false statement or misrepresentation by any applicant, the Floodplain Administrator shall revoke the building permit and report such fact to the Hampshire County Commission for whatever action considered necessary.

Section 7.8 Fees

Application for a building permit shall be accompanied by a fee, payable to Hampshire County Commission, based upon the estimated cost of the proposed construction as determined by the Floodplain Administrator at the following rates:

<u>Estimated Cost</u>	<u>Fee</u>
\$0.00 to \$999.99	\$ Free
\$1,000.00 to \$11,999.99	\$ 25.00
\$12,000.00 and up	\$ 2.00 per thousand

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 Hampshire County Commission, which shall be known as the Appeals Authority. Such appeal must be filed, in writing, within thirty (30) days after the determination by the Floodplain Administrator. Upon receipt of such appeal, the Appeals Authority shall set a time and place not less than thirty (30) nor more than Sixty (60) days for the purpose of hearing the appeal. Notice of the time and place of the hearing shall be given to all parties at which time they may appear and be heard.

Section 8.2 Appeal Review Criteria

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:

- A. Affirmative decisions shall only be issued by the Appeals Authority upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the appeal would result in exceptional hardship to the applicant, and (iii) 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.
- B. 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.
- C. An affirmative decision may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- D. The Appeals Authority shall notify the applicant in writing over the signature of a county official that (i) the issuance of a decision to allow construction of a structure below the Base Flood Elevation will result in increased premium rates for flood insurance, (ii) 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 paragraph (E) of this section; and
- E. The Appeals Authority shall (i) maintain a record of all decisions including justification for their issuance, and (ii) report such decisions issued in its biennial report submitted to the Federal Insurance Administration.
- F. An affirmative decision shall not be granted for any construction, development, use or activity within any floodway area that would cause any increase in the Base 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 county shall be guilty of an offense and, upon conviction, shall pay a fine to Hampshire County Commission of not less than fifty dollars (\$50.00) or more than five hundred dollars (\$500.00) plus cost of prosecution. 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 the 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 Hampshire County to be a public nuisance and abatable as such.

ARTICLE IX SEVERABILITY AND COUNTY LIABILITY

Section 9.1 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 9.2 County 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 Hampshire County Commission or by any official or employee thereof of the practicability or safety of the proposed use, and shall create no liability upon Hampshire County. To increase the level of safety from flooding applicants are urged to build "higher up and further back" from any watercourse.

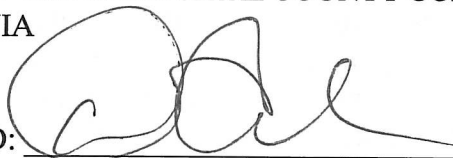
ARTICLE X ENACTMENT

Passed on FIRST READING this the 23rd day of September, 2008.

Passed on SECOND AND FINAL READING this 14th day of October, 2008.

PRESIDENT OF THE HAMPSHIRE COUNTY COMMISSION, HAMPSHIRE COUNTY,
WEST VIRGINIA

SIGNED: _____



ATTEST: _____

