

FLOOD DAMAGE PREVENTION ORDINANCE (86002)

Article 1. STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE, AND OBJECTIVES

SECTION A. Statutory Authorization

The Legislature of the State of North Carolina has in Part 6, Article 21 of Chapter 143; Parts 3 and 4 of Article 18 of Chapter 153A; and Article 6 of Chapter 153S of the N. C. General Statutes, delegate the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry, therefore, the County of Mitchell, North Carolina does ordain as follows.

SECTION B. Findings of Fact

(1) The flood hazard areas of Mitchell County are subject to periodic inundation which results in loss of life property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

(2) These flood losses are caused by the cumulative effect of obstructions in flood plains causing increases in flood heights and velocities, and by the occupancy in flood hazard areas by uses vulnerable to floods or hazardous to other properties which are inadequately elevated, flood-proofed, or otherwise protected from flood damages.

SECTION C. Statement of Purpose

It is the purpose of this ordinance to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- (1) restrict or prohibit uses which are dangerous to health, safety, and property due to water or erosion in flood heights or velocities:
- (2) require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (3) control the alteration of natural flood plains, stream channels, and natural protective barriers, which are involved in the accommodation of flood waters;
- (4) control filling, grading, dredging, and other development which may increase erosion or flood damage; and,

(5) Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.

SECTION D. Objectives

The objectives of this ordinance are:

- (1) to protect human life and health;
- (2) to minimize expenditure of public money for costly flood control projects;
- (3) to minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) to minimize prolonged business interruptions;
- (5) to minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, and streets and bridges located in flood plains;
- (6) to help maintain a stable tax base by providing the sound use and development of flood-prone areas in such a manner as to minimize future flood light area; and
- (7) to insure that potential home buyers are notified that property is in a flood area.

ARTICLE 2. DEFINITIONS

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application.

“Area of Special Flood Hazard” is the land in the flood plain within a community subject to a one percent or greater chance of flooding in any given year.

“Base flood” means the flood having a one percent chance of being equaled or exceeded in any given year.

“Development” means any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations.

“Flood” or “Flooding” means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) the overflow of inland or tidal water; and,

(2) the unusual and rapid accumulation or runoff of surface water from any source.

“Flood Hazard Boundary Map (FHBM)” means the official Map issued by the Federal Endurance Administration where the Areas of Special Flood Hazard have been designated as Zone A.

“Flood Insurance Rate Map (FIRM)” means the official map of a community, on which the Federal Emergency Management Agency has delineated both the Areas of Special Flood Hazard and the Risk premium zones applicable to the community.

“Floodway” means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

“Lowest Floor” means the lowest floor to 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.

“Mobile home” means a structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. It does not include recreational vehicles or travel trailers.

“Start of Construction” includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, or improvement was within 180 days of the permit date. The actual structure (other than a mobile home) on a site, such as the pouring of slabs or footings or any work beyond the stage of excavation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include 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 as part of the main structure. For a structure (other than a mobile home) without a basement or poured footing, the “accrual start” includes the first permanent framing or assembly of the structure or any part thereof on its piling or foundation. For mobile homes not within a mobile home park or mobile home subdivision, the “actual start” means the affixing of the mobile home to its permanent site. For mobile homes within mobile home parks or mobile home subdivisions the “actual start” means the affixing of the mobile home to its permanent site. For mobile homes within mobile home parks or mobile home subdivisions, the “actual start” is the date on which the construction of facilities for servicing the site on which the mobile home is to be affixed (including at a minimum the construction of streets, either final site grading or the pouring of concrete pads, and installation of utilities) is completed.

“structure” means a walled and roofed building that is principally above ground, as well as mobile home.

“Substantial improvement” means the cost of any repair reconstruction, or improvement for a structure built prior to the enactment of this ordinance which equals or exceeds 50 percent of the market value of the structure, either before the improvement or repair is started, or before the damage occurred if the purposes of this definition, “substantial improvement” is considered to occur when the first alteration on any wall ceiling floor, or other structural part of the building commences, whether or not that alteration effects the external dimensions of the structure. The term does not, however, include either (1) any project for improvement of the structure to comply with existing state or local health, sanitary or safety code inspections which are solely necessary to assure safe living conditions, or (2) any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

ARTICLE 3. GENERAL PROVISIONS

SECTION A. Lands to Which This Ordinance Applies

This ordinance shall apply to all areas of special flood hazard within the jurisdiction of Mitchell County.

SECTION B. Basis for Establishing the Areas of Special Flood Hazard

The areas of special flood hazard identified by the Federal Insurance Administration in its flood Hazard Boundary Map (FHBM) or Flood Insurance Rate Map (FIRM) of Mitchell County, and any revision thereto are adopted by reference and declared to be a part of this ordinance.

SECTION C. Compliance

No structure or land shall hereafter be located, or extended, converted, or structurally altered without full compliance with the terms of this ordinance and other applicable regulations.

SECTION D. Abrogation and Greater Restrictions

This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants or deed restrictions. However, where this ordinance and another conflict or overlap, whichever imposes the more stringent restriction shall prevail.

SECTION E. Interpretation

In the interpretation and application of this ordinance, all provisions shall be: (1) considered as minimum requirements, (2) liberally construed in favor of the governing body, and (3) deemed neither to limit nor repeal any other powers granted under state statutes.

SECTION F. Warning and Disclaimer of Liability

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

SECTION G. Penalties for Violation

Violation of the provisions of this ordinance or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall constitute a misdemeanor as provided by N.C.G.S. 14-4. Any person who violates this upon conviction thereof, be fined not more than \$100 or imprisoned for not more than 30 days, or both, and in addition shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent Mitchell County from taking such other lawful action as is necessary to prevent or remedy a violation.

ARTICLE 4. ADMINISTRATION

Section A. Establishment of Development Permit

(1) A development permit shall be required in conformance with the provisions of this

(2) Application for a Development Permit shall be made to the Building Inspections Office of Mitchell County on forms furnished by him and may include, but not be limited to the following: plans in duplicate drawn scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials; foregoing. Specifically, the following information is required.

- a. elevation in relation to Mean Sea Level (MSL) of the lowest floor (including basement) of all proposed structures;
- b. elevation in relation to Mean Sea Level to which any nonresidential structure will be flood-proofed;
- c. certification by a registered professional engineer or architect that the nonresidential flood-proofed structure meets the flood-proofing criteria in Article 5, Section B(2);

d. description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

c. certification by a registered professional engineer or architect that the nonresidential flood-proofed structure meets the flood-proofing criteria in Article 5, Section B(2);

e. provide a flood elevation or flood-proofing certification after the lowest floor is completed within twenty-one (21) calendar days of establishment of the lowest floor elevation, or whichever is applicable, it shall be the duty of the permit holder to submit to the Building Inspector a certification of the elevation of the lowest floor or flood-proofed elevation, whichever is applicable, as built, in relation to mean sea level. Said certification shall be prepared by or under direct supervision of a registered land surveyor or professional engineer and certified by same. When flood-proofing is utilized for a particular building, said certification shall be professional engineer or architect and certified by same. Any work done within the twenty-one (21) day calendar period and prior to submission of the certification shall be at the permit holder's risk. The Building Inspector shall review the floor elevation survey data submitted. Deficiencies detected by such review shall be prior to further progressive work being permitted to proceed. Failure to submit the survey or failure to make said correction required hereby, shall be caused to issue a stop work order for the project.

SECTION B. designation of Person or Office to Administer This Ordinance

The Building Inspector is here by appointed to administer and implement this ordinance by granting or denying development permit applications in accordance with its provisions. Duties of the Building Inspector shall include, but not be limited to, the following:

(1) Permit Review

a. Review all development permits to determine that the permit requirements of this ordinance have been satisfied.

b. Advise permittee that additional federal or state permits may be required, and if specific federal or state permits are know, require that copies of such permits be provided and maintained on file with the development permit.

c. Review all development permits to determine if proposed development adversely affect the flood-carrying capacity of the flood plain. For purposes of this ordinance, "adversely affects" means damage to adjacent properties because of rises in flood stages attributed to physical changes of the channel and the adjacent overbank areas.

-1) If it is determined that there is no adverse effect, and the development is not a building, then the permit shall be granted without further consideration.

- 2) if it is determined that there is an adverse effect, then technical justification (i.e., a registered professional engineering analysis) for the proposed development shall be required.
- 3) If the proposed development is a building, then the provisions of this ordinance shall apply.

SECTION C. Use of other Base Flood Data

When base flood elevation data has not been provided in accordance with Article 3, Section B, Basis for Establishing the Areas of Special Hazard, then the Building Inspector shall obtain, review, and reasonably utilize and base flood elevation data available from a federal, state, or other source, in order to administer Article 5, Section B of this ordinance.

SECTION D. Information to be Obtained and Maintained

- (1) Verify and record the actual elevation (in relation to Mean Sea Level) of the lowest floor (including basement) of all new or substantially improved structures.
- (2) Verify and record the actual elevation (in relation to Mean Sea Level) to which the new or substantially improved structures have been flood-proofed. Certification of such flood-proofing shall be obtained in accordance with Article 5, Section B(2).
- (3) All records pertaining to the provisions of this ordinance shall be maintained in the office of the Building Inspector and shall be open for public inspection.

SECTION E. Alteration of Watercourses

- (1) Notify adjacent communities and the N.C. Department of Natural Resources and Community Development, Division relocation of a watercourse, and shall submit evidence of such notification to the Federal Insurance Administration.
- (2) Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.

SECTION F. Interpretation of FHBM or FIRM Boundaries

Where interpretation is needed as to the exact location of the boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual physical conditions), the Building Inspector shall make the necessary interpretation.

ARTICLE 5. PROVISIONS FOR FLOOD HAZARD REDUCTION

SECTION A. General Standards

In all areas of special flood hazard, the following provisions are required:

(1) Anchoring

a. All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.

b. All mobile homes to be placed within Zone A on a community's FHBM or FIRM shall be installed using methods and practices which minimize flood damage. For the purpose of this requirement, mobile homes must be elevated and anchored to resist flotation, anchoring many include but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.

(2) Construction Materials and Methods

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

b. All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage.

(3) Utilities

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

b. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood water into the systems and discharges from the systems into flood waters.

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

(4) Subdivision Proposals

a. All subdivision proposals shall be consistent with the need to minimize flood damage.

b. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electric and water systems located and constructed to minimize flood damage.

c. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards.

d. Base flood elevation data shall be provided for subdivision proposals and other proposed development which is greater than the lesser of 50 lots or 5 acres.

(5) Encroachments

The cumulative effect of any proposed development shall not adversely affect the area of special flood hazard. This determination is to be made in accordance with Article 4, Section (B) (c).

SECTION B. Specific Standards

In all areas of special flood hazard where base flood elevation data has been provided as set forth in Article 4, Section C, the following provisions are required:

(1) Residential Construction – New construction or substantial improvement of any residential structure (including mobile homes) shall have the lowest floor, including basement, elevated to or above base flood elevation.

(2) Nonresidential Construction – New construction or substantial improvement of any commercial, industrial or other nonresidential structure (including mobile homes) shall either have the lowest floor including basement, elevated to the level of the base flood elevation or, together with attendant utility and sanitary facilities, be flood proofed so that below the walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the official as set forth in Article 4, Section A (2) (c).

BOARD OF COUNTY COMMISSIONERS

Ray Bryant, Chairman
Bobby Jenkins, Vice Chairman
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Guss McKinney, Member
Bill Slagle, Member

ATTEST: Judy Young, Clerk to the Board

Date: 8-25-86