

ORDINANCE NO. II

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

BE IT ENACTED AND ORDAINED BY THE County Commission,
Summers 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 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, 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 underlying ordinance shall remain in full force and effect to the extent that those provisions are more restrictive.

Section 1.3 Applicability

Provisions 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

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.

Base Flood Elevation

The 100 year flood elevation. Within the Approximated Flood Plain the Base Flood Elevation shall be established as a point on the boundary of the Approximated Flood Plain which is nearest to the construction site in question.

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.

Flood Plain

(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.

Floodproofing

Any combination of structural and non-structural additions, changes or adjustments to properties and structures which reduce or eliminate flood damage to lands, water and sanitary facilities, structures, and contents of buildings.

Mobile Home

A structure, transportable in one or more sections, which is eight body feet or more in width and is thirty-two body feet or more in length, and which is built on a permanent chassis, and designed to be used with or without permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air-conditioning and electrical systems contained therein.

Mobile Home Park or Subdivision

A parcel (or contiguous parcels) of land divided into two or more mobile home lots for rent or sale for which the construction of facilities for servicing the lot on which the mobile home is to be affixed (including, at a minimum, the installation of utilities, either final site grading or the pouring of concrete pads, and the construction of streets) have been provided.

New Construction

Structures for which the Start of Construction as herein defined commenced on or after the effective date of this Ordinance. This term does not apply to any work on a structure existing before the effective date of this Ordinance.

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.

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.

Start of Construction

The first placement of permanent construction of a 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 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 as part of the main structure. For a structure (other than a mobile home) without a basement or poured footings, the "start of construction" 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, "start of construction" means the affixing of the mobile home to its permanent site. For mobile homes within mobile home parks or mobile home subdivisions "start of construction" 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

A walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a mobile home.

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 either,

- (a) before the improvement or repair is started or
- (b) if the structure has been damaged, and is being restored, before the damage occurred.

For the purposes of this definition "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either,

- (a) any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions or
- (b) any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

ARTICLE III - ESTABLISHMENT OF THE FLOOD PLAIN DISTRICT

Section 3.1

The Flood Plain District shall include all areas subject to inundation by the waters of the One Hundred (100) Year Flood. The source of this delineation shall be the Flood Insurance Study for the Summers County, West Virginia, as prepared by the U. S. Department of Housing and Urban Development, Federal Insurance Administration.

Section 3.2

The Flood Plain District shall be comprised of three (3) subdistricts as follows:

- (a) Floodway (F1) - That portion of the Flood Plain District required to carry and discharge the waters of the One Hundred (100) Year Flood without increasing the water surface elevation at any point more than one (1) foot above existing conditions, as demonstrated in the Flood Insurance Study referenced above.
- (b) Floodway Fringe (F2) - Those portions of land within the Flood Plain District subject to inundation by the One Hundred (100) Year Flood, lying beyond the floodway in areas where detailed study data and profiles are available.
- (c) Approximated Flood Plain (F3) - Those portions of land within the Flood Plain District subject to inundation by the One Hundred (100) Year Flood, where a detailed study has not been performed, but where a One Hundred (100) Year Flood Plain Boundary has been approximated.

Section 3.3

The delineation of the Flood Plain District may be revised, amended and modified by the Summers County Commission in compliance with the National Flood Insurance Program when:

- (a) there are changes through natural or other causes;
- (b) changes are indicated by future detailed hydrologic and hydraulic studies.

All such changes shall be subject to the review and approval of the Federal Insurance Administrator.

Section 3.4 Boundary Dispute

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

ARTICLE IV - UTILIZATION OF THE FLOODPLAIN DISTRICT

Section 4.1 Floodway (F1)

General Requirements

In the Floodway no development shall be permitted which would result in any increase in the Base Flood Elevation during the occurrence of the Base Flood discharge. When a developer proposes to offset the effects of development in the Floodway by construction of stream improvements, he shall submit an engineering study prepared by a Registered Professional Engineer which fully evaluates the effects of such construction. The report shall use the Base Flood as herein defined as the basis of analysis. All adjacent communities and the State Coordinating Office shall be notified by the developer by certified mail of all such intended activities prior to any alteration or relocation of a watercourse and shall submit copies of such notification to the Federal Insurance Administrator. In addition, the developer shall assure, the County, in writing, that the flood carrying capacity within the altered or relocated portion of the watercourse in question will be maintained.

All uses, activities, and other developments shall be undertaken in strict compliance with the floodproofing and related provisions contained herein, and in all other applicable codes, ordinances and regulations.

Mobile Homes

In the Floodway the placement of any mobile homes, except in an existing mobile home park or mobile home subdivision, shall be prohibited. For any existing mobile home park on subdivisions within the Floodway, the owner or operator of the mobile home park or subdivision shall file with the Disaster Preparedness authorities of Summers County and the County Commission an evacuation plan which indicates alternate vehicular access routes and escape routes.

Section 4.2 Floodway Fringe (F2) and Approximated Flood Plain (F3)

In the Floodway Fringe and Approximated Flood Plain 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 floodproofing and related provisions contained herein and in all other applicable codes, ordinances and regulations. For any mobile home park or subdivision within the Floodway Fringe or Approximated Flood Plain, the owner or operator of the mobile home park or subdivision shall file with the Disaster Preparedness authorities of Summers County, and the County Commission an evacuation plan which indicates alternate vehicular access routes.

In addition, whenever a developer intends to alter or relocate a watercourse within the Floodway Fringe or Approximated Flood Plain, 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 the County Commission in writing, that the flood carrying capacity within the altered or relocated portion of the watercourse in question will be maintained.

ARTICLE V - CRITERIA FOR BUILDING SITE PLAN APPROVAL

Section 5.1 Building Permit Criteria

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

- (1) designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement.
- (2) constructed with materials and utility equipment resistant to flood damage.
- (3) constructed by methods and practices that minimize flood damage.

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

- 1) Name and address of applicant.
- 2) Name and address of owner of land on which proposed construction is to occur.
- 3) Name and address of contractor.
- 4) Site location.
- 5) Brief description of proposed work and estimated cost.
- 6) A plan of the site showing the exact size and location of the proposed construction as well as any existing buildings or structures.

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

For structures to be elevated to the Base Flood Elevation:

- 1) a plan showing the size of the proposed structures and its relation to the lot where it is to be constructed.
- 2) a determination of elevations of the existing ground proposed finished ground, lowest floors certified by a Registered Professional Engineer, Surveyor or Architect.
- 3) plans showing the method of elevating the proposed structures, including details of proposed fills, pile structures, retaining walls, foundations, erosion protection measures, etc. When required by the Building Inspector, 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 the Base Flood Elevation at the building site.

For structures to be floodproofed to the Base Flood Elevation (non-residential structures only):

- 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 existing ground, proposed finished ground, lowest floors, and floodproofing limits; certified by a Registered Professional Engineer, Surveyor, or Architect.
- 3) a certificate prepared by the Registered Professional Engineer or Architect who prepared the plans in 1) above, that the structure in question, together with attendant utility and sanitary facilities is designed so that:
 - a. below the Base Flood Elevation the structure is watertight with walls substantially impermeable to the passage of water.
 - 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.

Minimum Floodproofing Standards

In order to prevent excessive damage to buildings and structures, the following restrictions shall apply to all new construction and to construction of substantial improvements to existing structures occurring in the Flood Plain District.

Basements and Lowest Floors

All new construction and substantial improvements of residential structures must have the lowest floor (including basement) elevated to the Base Flood Elevation. All new construction 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 watertight with 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.

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 land fills shall not be permitted.
- 3) Fill material 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 Building Permit Officer.
- 5) Fill shall be used only to the extent to which it does not adversely affect adjacent properties.

Placement of Buildings, Structures, and Mobile Homes

- 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 flood water.
- 2) The following shall not be placed or caused to be placed in the designated Floodway: fences, except two-wire fences, other matter which may impede, retard, or change the direction of the flow of water or that will catch or collect debris carried by such water, or that is placed where the natural flow of the stream or flood waters would carry the same downstream to the damage or detriment of either public or private property adjacent to the flood plain.
- 3) Mobile homes shall be elevated on compacted fill or on pilings so that the lowest floor of each mobile home will be at the Base Flood Elevation.
- 4) Adequate surface drainage and access for a mobile home hauler shall be provided.
- 5) When mobile homes are to be elevated on pilings, lots shall be large enough to permit steps, piles shall be placed in stable soil no more than ten feet apart, and reinforcement shall be provided for pilings more than six feet above the ground level.

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 mobile homes shall be anchored to resist flotation, collapse, or lateral movement by providing over-the-top and frame ties to ground anchors. Specifically:
 - a. over-the-top ties shall be provided at each of the four corners of the mobile home, with two additional ties per side at intermediate locations and mobile homes less than 50 feet long requiring one additional tie per side.
 - b. frame ties shall be provided at each corner of the home with five additional ties per side at intermediate points, with mobile 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 mobile home shall be similarly anchored.

Storage

No new construction which stores 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.

Section 5.2 Site Plan Criteria

The owner or developer of any proposed subdivision, mobile home park or subdivision, or other development shall submit a site plan to the Building Permit Officer which includes the following information:

- 1) Name of engineer, surveyor, or other qualified person responsible for providing the information required in this section.
- 2) A map showing the location of the proposed subdivision and/or development with respect to the municipality's flood-prone areas, proposed lots and sites, fills, flood or erosion protection facilities and areas subject to special deed restriction. In addition, it is required that all subdivision proposals and other proposed new developments greater than 50 lots or five (5) acres, whichever is the lesser, shall include base flood elevation data.
- 3) Where the subdivision and/or development lies partially or completely in the flood-prone 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 (5) feet depending upon the slope of the land and identify accurately the boundaries of the flood-prone areas.

For all new mobile home parks, or expansions to existing mobile home parks, and for existing mobile home parks where the repair, reconstruction, or improvement of the streets, utilities and pads equal or exceeds 50 percent of the value of the streets, utilities and pads before the repair, reconstruction or improvement has commenced, the following requirements shall be met for any construction within the Floodway Fringe or Approximated Flood Plain.

- 1) Stands or lots shall be elevated on compacted fill or on pilings so that the lowest floor of each mobile home will be at the Base Flood Elevation.
- 2) Adequate surface drainage and access for a mobile home hauler shall be provided.

- 3) When mobile homes are to be elevated on pilings, lots shall be large enough to permit steps, piles shall be placed in stable soil no more than ten (10) feet apart, and reinforcement shall be provided for pilings more than six (6) feet above ground level.

Utility and Facility Requirements

For all proposed subdivisions, mobile home parks or subdivisions or other development the Building Permit Officer shall require:

- 1) All new or replacement water systems, located in the Flood Plain District, whether public or private, shall be floodproofed to the Base Flood Elevations.
- 2) All new or replacement sanitary disposal systems, located within the Flood Plain District, whether public or private shall be flood-proofed to the Base Flood Elevation.
- 3) All other new or replacement public and/or private utilities and facilities shall be elevated or flood-proofed to the Base Flood Elevation.

Drainage

Adequate drainage shall be provided to reduce exposure of flood hazards.

ARTICLE VI - ADMINISTRATION

Section 6.1 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 the new construction, substantial improvement, or relocation of any structure (including mobile homes) within the Flood Plain District, unless the necessary permits have been obtained from the Building Permit Officer. In addition, where land is to be subdivided, utilized for a mobile home park or subdivision or otherwise developed, a site plan must be submitted to, and approved by, the Building Permit Officer prior to any development.

Section 6.2 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 this and all other applicable codes and ordinances.

The Building Permit Officer shall require copies of all necessary permits from those governmental agencies from which approval is required by Federal or State law.

A record of all information supplied to the Building Permit Officer shall be kept on file by the County Commission.

Section 6.3 Application Procedures

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

Section 6.4 Changes

After the issuance of a building permit or site plan approval by the Building Permit Officer, no changes of any kind shall be made to the application, permit, or any of the plans, specifications or other documents of the Building Permit Officer.

Section 6.5 Placards

In addition to the building permit, the Building Permit Officer shall issue a placard which shall be 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 Building Permit Officer.

Section 6.6 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 Building Permit Officer.

Section 6.7 Inspection and Revocation

During the construction period, the Building Permit Officer 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 the Building Permit Officer discovers 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, the Building Permit Officer shall revoke the building permit and report such fact to the County Commission for whatever action it considers necessary.

Section 6.8 Fees

Applications for a building permit shall be accompanied by a fee, payable to the Sheriff, Summers County, based upon the estimated cost of the proposed construction as determined by the Building Permit Officer at the following rates:

<u>Estimated Cost</u>	<u>Fee</u>
\$ 0.00 to \$200.00	\$ 0.00
201.00 to \$1,000.00	5.00
Each additional \$1,000.00 or part thereof beyond the first \$1,000.00	1.00

ARTICLE VII - APPEALS AND PENALTIES

Section 7.1 Appeals

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

Section 7.2 Appeals Review Criteria

All appeals contesting only the permit fee established by the Building Permit Officer may be handled at the discretion of the County Commission.

All decisions on appeals to all other provisions of this Ordinance not covered in (1) above, shall adhere to the following criteria:

- 1) An affirmative decision shall not be issued by the County Commission within the designated floodway if any increase in flood levels during the base flood discharge would result.
- 2) A decision may be issued by the County Commission for the construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the Base Flood Elevation in conformance with the procedures of paragraphs 3,4,5, and 6 of this section.

- 3) Affirmative decisions shall only be issued by the County Commission 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, and 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.
- 4) Affirmative decisions shall only be issued upon determination that it is the minimum necessary, considering the flood hazard, to afford relief.
- 5) The County Commission shall notify the applicant in writing over the signature of a community 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 increase risks to life and property. Such notification shall be maintained with a record of all decisions as required in paragraph (6) of this section: and
- 6) The County Commission shall (i) maintain a record of all decisions including justification for their issuance, and (ii) report such decisions issued in its annual report submitted to the Federal Insurance Administration.

Section 7.3 Penalties

Any person who fails to comply with any or all of the requirements or provisions of this ordinance or direction of the Building Permit Officer or any other authorized employee of the municipality shall be guilty of an offense and, upon conviction, shall pay a fine to the County of not less than Twenty-five (\$25.00) nor more than Three Hundred Dollars (\$300.00) plus costs of prosecution. In default of such payment such person shall be imprisoned in county prison for a period not to exceed ten (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 or permit it to continue; and all such persons shall be required to correct or remedy such violations or non-compliance 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 to be a public nuisance and abatable as such.

ARTICLE VIII - SEVERABILITY AND MUNICIPAL LIABILITY

Section 8.1 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 8.2 Municipal 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 or by any official or employee thereof of the practicability or safety of the proposed use, and shall create no liability upon the County, its officials or employees.

ARTICLE IX

ENACTED AND ORDAINED THIS 5th DAY OF May, 1980.

President OF THE County Comm
Summers COUNTY West Virginia

SIGNED: Billy Joe Edwards