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Mills County Auditor

FLOOD PLAIN MANAGEMENT ORDINANCE

AN ORDINANCE to enact Flood Plain Management standards for unincorporated areas of Mills County, Iowa, providing for permits for building in the controlled areas, providing for penalties for violation of this ordinance, and repealing all other ordinances, rules and regulations, or portions thereof, in conflict herewith.

WHEREAS, the federal government has established a Flood Insurance Program and delineated those areas which are prone to flooding; and

WHEREAS, after study and consideration, the Board of Supervisors feel that it would be in the best interest of the citizens of Mills County to be eligible for this Flood Plain Insurance:

NOW, THEREFORE,
BE IT ORDAINED BY THE BOARD
OF SUPERVISORS OF
MILLS COUNTY, IOWA:

SECTION I - Legal Authority, Findings of Fact and Purpose

A. Legal Authority

Article III, Section 39A of the Constitution of the State of Iowa grants home rule power and authority to counties provided that rules adopted under this authority are not inconsistent with the laws of the general assembly.

B. Findings of Fact

1. The flood hazard areas of Mills County are subject to periodic inundation which can result in loss of life and 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 of the county.
2. These flood losses, hazards, and related adverse effects are caused by: (i) the occupancy of flood hazard areas by uses vulnerably to flood damages which create hazardous conditions as a result of being inadequately elevated or otherwise protected from flooding and (ii) the cumulative effect of obstructions on the flood plain causing increases in flood heights and velocities.
3. This ordinance relies upon engineering methodology for analyzing flood hazards which is consistent with the standards established by the Iowa Natural Resources Council.

C. Statement of Purpose

It is the purpose of this ordinance to protect and preserve the rights, privileges and property of Mills County and its residents and to preserve and improve the peace, safety, health, welfare, and comfort and convenience of

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its residents by minimizing those flood losses described in Section I B. 2. with provisions designed to:

1. Reserve sufficient flood plain areas for the conveyance of flood flows so that flood heights and velocities will not be increased substantially.
2. Restrict or prohibit uses which are dangerous to health, safety or property in times of flood or which cause excessive increases in flood heights or velocities.
3. Require that uses vulnerable to floods, including public utilities which serve such uses, be protected against flood damage at the time of initial construction.
4. Protect individuals from buying lands which are unsuited for intended purposes because of flood hazard.
5. Assure that eligibility is maintained for property owners in the county to purchase flood insurance through the National Flood Insurance Program.

SECTION II - 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.

Development - any man-made change to improve or unimprove real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavating or drilling operations.

Flood - a general and temporary condition of partial or complete inundation of normally dry land areas resulting from the overflow of streams or rivers or from the unusual and rapid runoff of surface waters from any source.

Flood elevation - the elevation flood waters would reach at a particular site during the occurrence of a specific flood. For instance, the 100-year flood elevation is that elevation of floodwaters related to the occurrence of the 100-year flood.

Flood Insurance Rate Map (FIRM) - the official map prepared as part of (but published separately from) the Flood Insurance Study which delineates both the flood hazard areas and the risk premium zones applicable to the county.

Flood Insurance Study - a study initiated, funded, and published by the Federal Emergency Management Agency for the purpose of evaluating in detail the existence and severity of flood hazards; providing the county with the necessary information for adoption a flood plain management program, and establishing actuarial flood insurance rates.

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Flood plain - any land area susceptible to being inundated by water as a result of a flood.

Flood plain management - an overall program of corrective and preventive measures for reducing flood damages and promoting the wise use of flood plains, including but not limited to emergency preparedness plans, flood control works, floodproofing and flood plain management regulations.

Floodproofing - any combination of structural or non-structural additions, changes, or adjustments to structures, including utility and sanitary facilities which will reduce or eliminate flood damage to such structures.

Floodway - the channel of a river or stream and those portions of the flood plain adjoining the channel, which are reasonably required to carry and discharge flood waters or flood flows so that confinement of flood flows to the floodway area will not result in substantially higher flood levels and flow velocities.

Habitable floor - any floor used for living, which includes working, eating, sleeping, cooking, or recreation or combination thereof. A floor used only for storage is not a "habitable floor".

Mobile home - a building, 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.

Mobile home park - a parcel or contiguous parcels of land divided into two or more mobile home lots for rent or sale.

New construction (new buildings, new mobile home parks) - those structures or developments for which the start of construction commenced on or after the effective date of this ordinance.

One hundred (100) year flood - a flood, the magnitude of which has a one (1) percent chance of being equaled or exceeded at least in any given year or which, on the average, will be equaled or exceeded at least once every one hundred (100) years.

Structure - anything constructed or erected on the ground or attached to the ground, including, but not limited to, buildings, factories, sheds, mobile homes.

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,

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floor or other structural part of the building commences, whether or not the alteration affects the external dimensions of the structure. The term does not, however, include 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.

SECTION III - General Provisions

A. Lands To Which Regulations Apply

These flood plain management regulations shall apply to all lands and uses which have significant flood hazards. The Flood Boundary and Floodway Map and the Flood Insurance Rate Map, dated September 16, 1982 and as amended, which were prepared as part of the Mills County Flood Insurance Study, shall be used to identify such flood hazard areas and all areas shown thereon to be within the boundaries of the 100-year flood shall be considered as having significant flood hazards. Where uncertainty exists with respect to the precise location of the 100-year flood boundary, the location shall be determined on the basis of the 100-year flood elevation at the particular site in question. This Mills County Flood Insurance Study is hereby adopted by reference and is made a part of this ordinance for the purpose of administering flood plain management regulations.

B. Compliance

No structure or land shall hereafter be used and no structure shall be located, extended, converted or structurally altered without full compliance with the terms of this ordinance and other applicable regulations which apply to uses within the jurisdiction of this ordinance.

C. Abrogation and Greater Restrictions

It is not intended by this ordinance to repeal, abrogate or impair any existing easement, covenants, or deed restrictions. However, where this ordinance imposes greater restrictions, the provision of this ordinance shall prevail. All other ordinances inconsistent with this ordinance are hereby repealed to the extent of the inconsistency only.

D. Interpretation

In their interpretation and application, the provisions of this ordinance shall be held to be minimum requirements and shall be literally construed in favor of the governing body and shall not be deemed a limitation or repeal of any other powers granted by State statute.

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E. Warning and Disclaimer of Liability

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on engineering and scientific methods of study. Larger floods may occur on rare occasions. Flood heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This ordinance does not imply that areas outside the regulated areas or that uses permitted within the regulated areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of Mills County or any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

F. Severability

If any section, clause, provision or portion of this ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected thereby.

SECTION IV - Flood Plain Management Standards

A. General Flood Plain Standards

All uses must be consistent with the need to minimize flood damage and shall meet the following applicable performance standards. Where 100-year flood data has not been provided in the Flood Insurance Study, the Iowa Natural Resources Council shall be contacted to compute such data.

1. All structures shall: (i) be adequately anchored to prevent flotation, collapse or lateral movement of the structure, (ii) be constructed with materials and utility equipment resistant to flood damage, and (iii) be constructed by methods and practices that minimize flood damage.
2. Residential buildings - All new or substantially improved residential structures shall have the lowest floor, including basement, elevated a minimum of 1.0 ft. above the 100-year flood level. Construction shall be upon compacted fill which shall, at all points, be no lower than 1.0 ft. above the 100-year flood level and extend at such elevation at least 18 feet beyond the limits of any structure erected thereon. Alternate methods of elevating (such as piers) may be allowed, subject to favorable consideration by the Board of Supervisors and the Iowa Natural Resources Council, where existing topography, street grades, or other factors preclude elevating by fill. In such cases, the methods used must be adequate to support the structure as well as withstand the various forces and hazards associated with flooding.
3. Non-residential buildings - All new or substantially improved non-residential buildings shall have the first floor (including basement) elevated a minimum of 1.0 ft. above the 100-year flood level, or together with attendant utility and sanitary systems, be floodproofed to such a level. When floodproofing is utilized, a professional engineer registered in the State of Iowa shall certify

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that the floodproofing methods used are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the 100-year flood; and that the structure, below the 100-year flood level, is watertight with walls substantially impermeable to the passage of water. A record of the certification indicating the specific elevation (in relation to mean sea level) to which any structures are floodproofed shall be maintained by the Administrator.

4. Mobile homes which are placed in an existing mobile home park shall be anchored to resist flotation, collapse, or lateral movement by providing over-the-top and frame ties to ground anchors. Specific requirements are that:
 - (i) over-the-top ties be provided at each of the four corners of the mobile home with two (2) additional ties per side at intermediate locations for mobile homes 50 ft. or more in length or one (1) such tie for mobile homes less than 50 ft. in length;
 - (ii) frame ties be provided at each corner of the home with five (5) additional ties per side at intermediate points for mobile homes 50 ft. or more in length or four (4) such ties for homes less than 50 ft. in length;
 - (iii) all components of the anchoring system be capable of carrying a force of 4800 pounds; and
 - (iv) any additions to the mobile home be similarly anchored.
5. Mobile homes not being placed in existing mobile home parks shall be placed on lots or pads elevated by means of compacted fill so that the lowest floor of the mobile home will be a minimum of 1.0 ft. above the 100-year flood level. In addition, the tie down specifications of Section IIIA.4 must be met and adequate surface drainage and access for a hauler must be provided.
6. New mobile home parks, expansions to existing mobile home parks and mobile home parks where the repair, reconstruction or improvement of the streets, utilities, and pads equals or exceeds 50 percent or more of the value of the streets, utilities and pads before the repair, reconstruction or improvement has commenced shall provide:
 - (i) lots or pads that have been elevated by means of compacted fill so that the lowest floor of mobile homes will be a minimum of 1.0 ft. above the 100-year flood level,
 - (ii) ground anchors for mobile homes.
7. Utility and Sanitary Systems
 - a) All new and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system as well as the discharge of effluent into flood waters. Wastewater treatment facilities shall be provided with a level of flood protection equal to or greater than one (1) foot above the 100-year flood elevation.
 - b) On site waste disposal systems shall be located or designed to avoid impairment to the system or contamination from the system during flooding.
 - c) New or replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system. Water supply treatment facilities shall be provided with a level of protection equal to or greater than one (1) foot above the 100-year flood elevation.

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- d) Utilities such as gas and electrical systems shall be located and constructed to minimize or eliminate flood damage to the system and the risk associated with such flood damaged or impaired systems.
8. Storage of materials and equipment that are flammable, explosive or injurious to human, animal or plant life is prohibited unless elevated a minimum of one (1) foot above the 100-year flood level. Other materials and equipment must either be similarly elevated or: (i) not be subject to major flood damage and be anchored to prevent movement due to flood waters or (ii) be readily removable from the area within the time available after flood warning.
 9. Flood control structural works such as levees, flood-walls, etc. shall provide, at a minimum, protection from a 100-year flood with a minimum of 3 ft. of design free-board and shall provide for adequate interior drainage. In addition, structural flood control works shall be approved by the Iowa Natural Resources Council.
 10. No use shall affect the capacity or conveyance of the channel or floodway of any tributary to the main stream, drainage ditch, or other drainage facility or system.
 11. Subdivisions shall be consistent with the need to minimize flood damages and shall have adequate drainage provided to reduce exposure to flood damage. Development associated with subdivision proposals shall meet the applicable performance standards. Subdivision proposals intended for residential development shall provide all lots with a means of vehicular access that will remain dry during occurrence of the 100-year flood.

B. Special Floodway Provisions

In addition to the General Flood Plain Standards, uses within the floodway must meet the following applicable standards. The floodway is that portion of the flood plain which must be protected from developmental encroachment to allow the free flow of flood waters. Where floodway data has been provided in the Flood Insurance Study, such data shall be used to define the floodway limits. Where no floodway data has been provided, the Iowa Natural Resources Council shall be contacted to provide a floodway delineation.

1. No use shall be permitted in the floodway that would result in any increase in the 100-year flood level. Consideration of the effects of any development on flood levels shall be based upon the assumption that an equal degree of development would be allowed for similarly situated lands.
2. All uses within the floodway shall:
 - a) Be consistent with the needs to minimize flood damage.
 - b) Use construction methods and practices that will minimize flood damage.
 - c) Use construction materials and utility equipment that are resistant to flood damage.

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3. No use shall affect the capacity or conveyance of the channel or floodway or any tributary to the main stream, drainage ditch, or any other drainage facility or system.
4. Structures, buildings and sanitary and utility systems, if permitted, shall meet the applicable General Flood Plain standards and shall be constructed or aligned to present the minimum possible resistance to flood flows.
5. Buildings, if permitted, shall have a low flood damage potential and shall not be for human habitation.
6. Storage of materials or equipment that are buoyant, flammable, explosive or injurious to human, animal or plant life is prohibited. Storage of other materials may be allowed if readily removable from the floodway within the time available after flood warning.
7. Watercourse alterations or relocations (channel changes and modifications) must be designed to maintain the flood carrying capacity within the altered or relocated portion. In addition, such alterations or relocations must be approved by the Iowa Natural Resources Council.
8. Any fill allowed in floodway must be shown to have some beneficial purpose and shall be limited to the minimum amount necessary.
9. Pipeline river or stream crossing shall be buried in the streambed and banks or otherwise sufficiently protected to prevent rupture due to channel degradation and meandering or due to the action of flood flows.
10. No mobile homes shall be permitted except in existing mobile home parks. Tie-down standards of Section III A. shall be met in such cases.

SECTION V - Administration

A. Appointment, Duties and Responsibilities of Administrator

1. The Mills County Flood Plain Management Administrator shall administer and enforce the provisions of this ordinance and will herein be referred to as the Administrator.
2. Duties and Responsibilities of the Administrator shall include, but not necessarily be limited to, the following:
 - a) Review all flood plain development permit applications to ensure that the provisions of this ordinance will be satisfied.
 - b) Review all flood plain development permit applications to ensure that all necessary permits have been obtained from federal, state and local governmental agencies.

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- c) Record and maintain a record of: (i) the elevation (in relation to mean sea level) of the lowest habitable floor of all new or substantially improved buildings or (ii) the elevation to which new or substantially improved structures have been floodproofed. Elevations shall be certified by a licensed land surveyor contracted and financed by the permit applicant.
- d) Notify adjacent communities and/or counties and the Iowa Natural Resources Council prior to any proposed alteration or relocation of a watercourse.
- e) Keep a record of all permits, appeals, variances and such other transactions and correspondence pertaining to the administration of this ordinance.
- f) Collect a \$10.00 fee for each flood plain development permit issued and submit all fees collected each month to the County Auditor by the first Wednesday of the next month.

B. Flood Plain Development Permit Required

1. Permit Required - A Flood Plain Development Permit issued by the Administrator shall be secured prior to initiation of any flood plain development (any man-made change to improve or unimprove real estate, including but not limited to buildings or other structures, mining, filling, grading, paving, excavation or drilling operations) including the placement of mobile homes.
2. Application for Permit - Application for a Flood Plain Development Permit shall be submitted on forms supplied by the Administrator accompanied by a \$10.00 permit fee and shall include the following information:
 - a) Description of the work to be covered by the permit for which application is to be made.
 - b) Description of the land on which the proposed work is to be done (i.e. - lot, block, tract, street address or similar description) that will readily identify and locate the work to be done.
 - c) Indication of the use or occupancy for which the proposed work is intended.
 - d) The elevation of the 100 year flood.
 - e) Elevation (in relation to mean sea level) of the lowest habitable floor (including basement) of buildings, or of the level to which a building is to be floodproofed. Floodproofing measures are to be certified by a professional engineer registered in the State of Iowa. Engineer shall be contracted and financed by permit applicant.

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- f) For buildings being improved or rebuilt, the estimated cost of improvements and market value of the building prior to the improvements.
 - g) Such other information as the Administrator deems reasonably necessary for the purpose of this ordinance.
3. Action on Permit Application - The Administrator shall, within a reasonable time, make a determination as to whether the proposed flood plain development meets the applicable standards of this ordinance and shall approve or disapprove the application. For disapproval, the applicant shall be informed, in writing, of the specific reasons therefore. The Administrator shall not issue permits for variances except as directed by the Board of Supervisors.
4. Construction and Use to be as Provided in Application and Plans - Flood Plain Development Permits issued on the basis of approved plans and applications authorize only the use, arrangement, and construction set forth in such approved plans and applications and no other use, arrangement or construction. Any use, arrangement, or construction at variance with that authorized shall be deemed a violation of the ordinance. The applicant shall be required to submit certification by a professional engineer or land surveyor, as appropriate, registered in the State of Iowa, that the finished fill, building flood elevations, flood-proofing, or other flood protection measures were accomplished in compliance with the provisions of this ordinance, prior to the use or occupancy of any structure.

C. Variance

1. The Board of Supervisors may authorize upon request in specific cases such variances from the terms of this ordinance that will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this ordinance will result in unnecessary hardship. Variances granted must meet the following applicable standards:
- a) No variance shall be granted for any development within the floodway which would result in any increase in floods during the occurrence of the 100-year flood.
 - b) Variances shall only be granted upon: (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of the variance 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.

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- c) Variances shall only be granted upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
 - d) In cases where the variance involves a lower level of flood protection for buildings than what is ordinarily required by this ordinance, the applicant shall be notified in writing over the signature of the Administrator that: (i) the issuance of a variance will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage and (ii) such construction increases risks to life and property.
 - e) All variances granted shall have the concurrence or approval of the Iowa Natural Resources Council.
2. Factors Upon Which the Decision of the Board Shall be Based - In passing upon applications for Variances, the Board shall consider all relevant factors specified in other sections of this ordinance and:
- a) The danger of life and property due to increased flood heights or to the injury of others.
 - b) The danger that materials may be swept on to other lands or downstream to the injury of others.
 - c) The proposed water supply and sanitation system and the ability of these systems to prevent disease, contamination, and unsanitary conditions.
 - d) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
 - e) The importance of the services provided by the proposed facility to the county.
 - f) The requirements of the facility for a flood plain location.
 - g) The availability of alternative locations not subject to flooding for the proposed use.
 - h) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
 - i) The relationship of the proposed use to the comprehensive plan and flood plain management program for the area.
 - j) The safety of access to the property in times of flood for ordinary and emergency vehicles.
 - k) The expected heights, velocity, duration, rate of rise and sediment transport of the flood water expected at the site.

- 1) Such other factors which are relevant to the purpose of this ordinance.
- 3. Conditions Attached to Variances - Upon consideration of the factors listed above, the Board may attach such conditions to the granting of variances as it deems necessary to further the purpose of this ordinance. Such conditions may include, but not necessarily be limited to:
 - a) Modification of waste disposal and water supply facilities.
 - b) Limitation on periods of use and operation.
 - c) Imposition of operational controls, sureties, and deed restrictions.
 - d) Requirements for construction of channel modifications, dikes, levees, and other protective measures, provided such are approved by the Iowa Natural Resources Council and are deemed the only practical alternative to achieving the purpose of this ordinance.
 - e) Floodproofing measures.

SECTION VI - Penalties for Violation

Violation of the provisions of this ordinance or failure to comply with any of its requirements shall constitute a simple misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$100.00 or imprisoned for not more than 30 days. Each day that the violation of this ordinance persists, shall constitute a separate and distinct offense. Nothing herein contained shall prevent Mills County from taking such other lawful action as is necessary to prevent or remedy any violation.

SECTION VII - Amendments

The regulations and standards set forth in this ordinance may from time to time be amended, supplemented, changed, or repealed. No amendment, supplement, change, or modification shall be undertaken without prior approval of the Iowa Natural Resources Council.

Passed and Approved on this 7th day of September, 1982.

THE MILLS COUNTY BOARD OF SUPERVISORS,

Creighton Miller
CREIGHTON MILLER, CHAIRMAN

VIRGIL CURTIS, MEMBER

Wayne Keith
WAYNE KEITH, MEMBER



ATTESTED:

Margaret L. Delavan
 MARGARET L. DELAVAN
 COUNTY AUDITOR

First Reading: August 23, 1982
 Second Reading: August 31, 1982
 Public Hearing: August 31, 1982
 Third Reading: September 4, 1982

