

646

ORDINANCE NO. 410

AN ORDINANCE INTRODUCED BY THE GOVERNING BODY CREATING FLOODWAY AND FLOODWAY FRINGE DISTRICTS DEFINING THE SAME AND SETTING FORTH REGULATIONS THEREOF.

SECTION 1.0 STATUTORY AUTHORIZATION, FINDINGS OF FACT AND PURPOSES

1.1 STATUTORY AUTHORIZATION.

Sec. 19-901 <sup>Thru 19-915</sup> Sec. 23-114

The Legislature of the State of Nebraska has in (City, Village) ( County )  
(section of statutes)

delegated the responsibility to local governmental units to adopt zoning regulations designed to protect the health, safety and general welfare.

Therefore, the Village Board of Trustees of Arlington Nebr.  
(governing body) of Arlington Nebr.  
(local unit)

Nebraska ordains as follows:

1.2 FINDINGS OF FACT.

1.21. Flood Losses Resulting From Periodic Inundation.

The flood hazard areas of Arlington Nebr.  
(local unit), Nebraska, are subject to inundation which results 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.

1.22 General Causes of These Flood Losses.

These flood losses are caused by (1) The cumulative effect of obstruction in floodways causing increases in flood heights and velocities, (2) The occupancy of flood hazard areas by uses vulnerable to floods or hazardous to others which are inadequately elevated or otherwise protected from flood damages.

1.23. Methods Used to Analyze Flood Hazards.

This ordinance uses a reasonable method of analyzing flood hazards which consists of a series of interrelated steps.

- (1) Selection of a base flood which is based upon engineering calculations which permit a consideration of such flood factors as its expected frequency of occurrence, the area inundated, and the depth of inundation. The base flood selected for this ordinance is representative of large floods which are reasonably characteristic of what can be expected to occur on the particular streams subject to this ordinance. It is in the general order of a flood which could be expected to have a one percent (1%) chance of occurrence in any one year, as delineated in the official flood plain study, and illustrative materials dated 11-23-1982 as amended.
- (2) Calculation of water surface profiles based upon a hydraulic engineering analysis of the capacity of the stream channel and overbank areas to convey the base flood.
- (3) Computation of the floodway required to convey this flood without increasing flood heights more than 1 foot at any point.
- (4) Delineation of floodway encroachment lines within which no obstruction is permitted which would cause any increase in flood height.
- (5) Delineation of floodway fringe, i.e., that area outside the floodway encroachment lines but which still is subject to inundation by the base flood.

FILED  
1988 JUL 20 PM 1:31  
SHARON L. HARRIS  
WASHINGTON COUNTY CLERK  
BLAIR, NEBR.

Recorded \_\_\_\_\_  
General \_\_\_\_\_  
Numerical \_\_\_\_\_  
Photostat \_\_\_\_\_

-1-

STATE OF NEBRASKA COUNTY OF WASHINGTON) SS 1741  
ENTERED IN NUMERICAL INDEX AND FILED FOR RECORD  
THIS 20 DAY OF July A.D. 1988  
AT 1:31 O'CLOCK PM AND RECORDED IN BOOK  
112 AT PAGE 146-57 Rev.  
COUNTY CLERK Sharon Harris  
DEPUTY Sharon Harris

3-87

1.3 STATEMENT OF PURPOSE

It is the purpose of this ordinance to promote the public health, safety and general welfare and to minimize those losses described in Section 1.21 by applying the provisions of this ordinance to:

- 1.31 Restrict or prohibit uses which are dangerous to health, safety, or property in times of flooding or cause undue increases in flood heights or velocities.
- 1.32 Require that uses vulnerable to floods, including public facilities which serve such uses, be provided with flood protection at the time of initial construction.
- 1.33 Protect individuals from buying lands which are unsuited for intended purposes because of flood hazard.
- 1.34 Assure that eligibility is maintained for property owners in the community to purchase flood insurance in the National Flood Insurance Program when identified by the Federal Insurance Administration as a flood prone community.

SECTION 2.0 GENERAL PROVISIONS

2.1 LANDS TO WHICH ORDINANCE APPLIES.

This ordinance shall apply to all lands within the jurisdiction of the Washington (City/County, etc.) of Arlington, Mass. (local unit name) identified on the Flood Insurance Rate Map (FIRM) as numbered and unnumbered A Zones and/or within the Zoning Districts FW and FF established in Section 4.0 of this ordinance. In all areas covered by this ordinance no development shall be permitted except upon a permit to develop granted by the governing body or its duly designated representative under such safeguards and restriction as they may reasonably impose for the promotion and maintenance of the general welfare, health of the inhabitants of the community and where specifically noted in Sections 5.0, 6.0, and 7.0.

2.2 THE ENFORCEMENT OFFICER.

The Chairman Board of Tr. of the Community is hereby designated as the Council's duly designated Enforcement Officer under this Ordinance.

2.3 RULES FOR INTERPRETATION OF DISTRICT BOUNDARIES

The boundaries of the floodway and floodway fringe overlay districts shall be determined by scaling distances on the official zoning map. Where interpretation is needed to the exact location of the boundaries of the districts as shown on the official zoning map, as for example where there appears to be a conflict between a mapped boundary and actual field conditions, the Enforcement Officer shall make the necessary interpretation. In such cases where the interpretation is contested, the Board of Zoning Appeals will resolve the dispute. The base flood elevation for the point in question shall be the governing factor in locating the district boundary on the land. The person contesting the location of the district boundary shall be given a reasonable opportunity to present his case to the Board and to submit his own technical evidence, if he so desires.

2.4 COMPLIANCE

No development located within known flood hazard areas of the community shall be located, extended, converted or structurally altered without full compliance with the terms of this ordinance and other applicable regulations.

2.5 ABROGATION AND GREATER RESTRICTIONS.

It is not intended by this ordinance to repeal, abrogate or impair any existing easements, 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.

2.6 INTERPRETATION

6487

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

2.7 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 or the flood height 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 floodway and floodway fringe district boundaries or land uses permitted within such districts will be free from flooding or flood damages. This ordinance shall not create liability on the part of Board Chairman (name of local unit) or any officer or employee thereof for any flood damages that may result from reliance on this ordinance or any administrative decision lawfully made thereunder.

2.8 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.

2.9 APPLICATION FOR APPEAL

Where a request for a permit to develop or a variance is denied by the Board Chairman (official), the applicant may apply for such permit or variance directly to the Board of Zoning Appeals.

The Board of Zoning Appeals may grant or deny such request by appropriate resolution adopted within the number days after the date of such application to the Board of Zoning Appeals.

SECTION 3.0 DEVELOPMENT PERMIT

3.1 PERMIT REQUIRED.

No person, firm or corporation shall initiate any development or substantial improvement or cause the same to be done without first obtaining a separate permit for development as defined in Section 12.0.

3.2 ADMINISTRATION.

A. The Board Chairman (local Administrator) is hereby appointed to administer and implement the provisions of this ordinance.

B. Duties of the Board Chairman (local Administrator) shall include, but not be limited to:

- (1) Review all development permits to assure that sites are reasonably safe from flooding and that the permit requirements of this ordinance have been satisfied.
- (2) Review permits for proposed development to assure that all necessary permits have been obtained from those Federal, state or local governmental agencies from which prior approval is required.
- (3) Notify adjacent communities and the Nebraska Natural Resources Commission Flood Plain Management Section prior to any alteration or relocation of a watercourse, and shall submit evidence of such notification to the Federal Insurance Administration when participating in the National Flood Insurance Program.
- (4) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

172-646

(5) 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.

(6) Verify and record the actual elevation (in relation to mean sea level) to which the new or substantially improved structures have been flood-proofed.

(7) When floodproofing is utilized for a particular structure, the Boad Chawna (local Administrator) shall be presented certification from a registered professional engineer or architect.

### 3.3 APPLICATION FOR PERMIT

A. To obtain a permit, the applicant shall first file an application in writing on a form furnished for that purpose. Every such application shall:

3.31 Identify and describe the work to be covered by the permit.

3.32 Describe the land on which the proposed work is to be done by lot, block tract and house and street address, or similar description that will readily identify and definitely locate the proposed building or work.

3.33. Indicate the use or occupancy for which the proposed work is intended.

3.3 Be signed by the permittee or his authorized agent who may be required to submit evidence to indicate such authority.

3.3 Give such other information as reasonably may be required by the Boad Chawna (official).

### SECTION 4.0 ESTABLISHMENT OF ZONING DISTRICTS

The mapped flood plain areas within the jurisdiction of this ordinance are hereby divided into the two following districts: A floodway overlay district (FW) and a floodway fringe overlay district (FF) as identified in the official Flood Plain Study. Within these districts all uses not meeting the standards of this ordinance and those standards of the underlying zoning district shall be prohibited. These zones shall be consistent with the numbered and unnumbered A Zones as identified on the official FIRM when identified in the Flood Insurance Study provided by the Federal Insurance Administration.

### SECTION 5.0 STANDARDS FOR THE FLOODWAY OVERLAY DISTRICT AND THE FLOODWAY FRINGE OVERLAY DISTRICT.

5.1 No Permit for development shall be granted for new construction, substantial improvement and other improvements including the placement of manufactured homes within the identified flood plain unless the conditions of this Section are satisfied.

5.2 All areas identified as unnumbered A Zones by the Federal Insurance Administration are subject to inundation of the 100-year flood; however, the water surface elevation was not provided. The unnumbered A Zones shall be subject to all development provisions of this ordinance. If Flood Insurance Study data is not available, the community shall utilize any base flood elevation data currently available within its area of jurisdiction.

5.3 New construction, subdivision proposals, substantial improvement, prefabricated buildings, placement of manufactured homes and other developments shall require:

5.31 Design or anchorage to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads including the effects of buoyancy.

5.32 New or replacement water supply systems and/or sanitary sewage systems be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, and on-site waste disposal systems be located so as to avoid impairment or contamination.

- 6507
- 5.33 Construction with materials resistant to flood damage, utilizing methods and practices that minimize flood damages, and 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.
- 5.34 All utility and sanitary facilities be elevated or floodproofed one foot above the base flood elevation.
- 5.35 That until a floodway has been designated, no development including landfill, may be permitted within the identified flood plain unless the applicant for the land use has demonstrated that the proposed use, when combined with all other existing and reasonably anticipated uses, will not increase the water surface elevation of the 100-year flood more than one (1) foot on the average cross-section of the reach in which the development or landfill is located as shown in the official flood plain study incorporated by reference; Section 1.23 (1) of this ordinance.
- 5.36 Storage of Material and Equipment
- (1) The storage or processing of materials that are in time of flooding buoyant, flammable, explosive, or could be injurious to human, animal or plant life is prohibited.
  - (2) Storage of other material or equipment may be allowed if not subject to major damage by floods and firmly anchored to provenet flotation or if readily removable from the area within the time available after flood warning.
- 5.37 Subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, be required to assure that (a) all such proposals are consistent with the need to minimize flood damage, (b) all public utilities and facilities, such as sewer, gas, electrical, and water systems are located, elevated and constructed to minimize or eliminate flood damage, (c) adequate drainage is provided so as to reduce exposure to flood hazards, and (d) proposals for development (including proposals for manufactured home parks and subdivisions) of five (5) acres or fifty (50) lots, whichever is lesser, include within such proposals the regulatory flood elevation.

## SECTION 6.0 FLOODWAY FRINGE OVERLAY DISTRICT

### 6.1 PERMITTED USES.

Any use permitted in Section 7.0 shall be permitted in the Floodway Fringe Overlay District. No use shall be permitted in the district unless the standards of Section 5.0 are met.

### 6.2 STANDARDS FOR THE FLOODWAY FRINGE OVERLAY DISTRICT.

- 6.21 Require new construction or substantial improvements of residential structures to have the lowest floor, including basement elevated one foot above the base flood elevation.
- 6.22 Require new construction or substantial improvements of non-residential structures to have the lowest floor, including basement, elevated one foot above the base flood elevation or, together with attendant utility and sanitary facilities, to be floodproofed so that below such a level 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. 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 Section 3.2, B(7).
- 6.23 Require for all new construction and substantial improvements that fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the 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 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. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

- 6.24 Within AH zones adequate drainage paths around structures on slopes shall be required in order to guide floodwaters around and away from proposed structures.
- 6.25 **Manufactured Homes**
- A. All manufactured homes shall be anchored to resist flotation, collapse, or lateral movement. Manufactured homes must be anchored in accordance with local building codes or FEMA guidelines. In the event that over-the-top frame ties to ground anchors are used, the following specific requirements (or their equivalent) shall be met:
1. Over-the-top ties be provided at each of the four corners of the manufactured home with two additional ties per side at intermediate locations, and manufactured homes less than 50 feet long requiring one additional tie per side.
  2. Frame ties be provided at each corner of the home with five additional ties per side at intermediate points, and manufactured homes less than 50 feet long requiring four additional ties per side.
  3. All components of the anchoring system be capable of carrying a force of 4800 pounds.
  4. Any additions to manufactured homes be similarly anchored.
- B. Require that all manufactured homes to be placed within Zones A1-30, AH, and AE on the community's FIRM, be elevated on a permanent foundation such that the lowest floor of the manufactured home is one foot above the base flood elevation; and be securely anchored to an adequately anchored foundation system in accordance with the provisions of Section 6.25A.
- 6.26 Located within the areas of special flood hazard established in Section 2.1 are areas designed as AO Zones. These areas have special flood hazards associated with base flood depths of 1 to 3 feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate; therefore, the following provisions apply within AO Zones:
- A. All new construction and substantial improvements of residential structures have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as one foot above the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified).
- B. All new construction and substantial improvements of nonresidential structures shall:
1. have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as one foot above the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified), or
  2. together with attendant utility and sanitary facilities be completely floodproofed 1 foot above that level so that any space below that level 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. Such certification shall be provided to the official as set forth in Section 3.2B(7).
- C. Adequate drainage paths around structures on slopes shall be required in order to guide floodwaters around and away from proposed structures.

## SECTION 7.0 FLOODWAY OVERLAY DISTRICT

## 7.1 PERMITTED USES.

Only uses having a low flood-damage potential and not obstructing flood flows shall be permitted within the Floodway District to the extent that they are not prohibited by any other ordinance and provided they do not require structures, fill, or storage of materials or equipment. No use shall increase the flood levels of the base flood elevation. These uses are subject to the standards of Section 5.0 and 6.0.

- 7.11 Agricultural uses such as general farming, pasture, nurseries, forestry.
- 7.12 Residential uses such as lawns, gardens, parking and play areas.
- 7.13 Non-residential areas such as loading areas, parking, airport landing strips.
- 7.14 Public and private recreational uses such as golf courses, archery ranges, picnic grounds, parks, wildlife and nature preserves. New placement of residential structures including manufactured homes is prohibited within the identified floodway (FW) area.
- 7.15 Replacement of manufactured homes in existing manufactured home parks and subdivisions is prohibited unless the conditions of 6.25 and 7.1 are met.
- 7.16 In Zone A unnumbered, obtain, review and reasonably utilize any floodway data available through Federal, State or other sources or Section 5.37(d) of this ordinance, in meeting the standards of this section.

## SECTION 8.0 VARIANCE

- 8.1 The Board of Adjustment (appeal board) as established by Walden Board of Trustees (local unit) shall hear and decide appeals and requests for variances from the requirements of this ordinance.
- 8.2 The Board of Adjustment (appeal board) shall hear and decide appeals when it is alleged that there is an error in any requirement, decision, or determination made by the Leslie Raymond (local administrator) in the enforcement or administration of this ordinance.
- 8.3 Any person aggrieved by the decision of the Board of Adjustment (appeal board) or any taxpayer may appeal such decision to the District Court of Wash. Co. (name of the appropriate court) as provided in \_\_\_\_\_ (statute).
- 8.4 In passing upon such applications, the Board of Adjustment (appeal board) shall consider all technical evaluation, all relevant factors, standards specified in other sections of this ordinance, and:
- 8.41 the danger that materials may be swept onto other lands to the injury of others;
- 8.42 the danger to life and property due to flooding or erosion damage;
- 8.43 the susceptibility of proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- 8.44 the importance of the services provided by the proposed facility to the community;
- 8.45 the necessity to the facility of a waterfront location, where applicable;
- 8.46 the availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;

- 6537
- 8.47 the compatibility of the proposed use with existing and anticipated development;
- 8.48 the relationship of the proposed use to the comprehensive plan and flood plain management program for that area;
- 8.49 the safety of access to the property in times of flood for ordinance and emergency vehicles;
- 8.491 the expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and,
- 8.492 the costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.
- 8.5 Conditions for variances
- 8.51 Generally, variances may be issued for new 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 level, providing items (8.52-8.56 below) have been fully considered. As the lot size increases beyond the one-half acre, the technical jurisdiction required for issuing the variance increases.
- 8.52 Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this section.
- 8.53 Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- 8.54 Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- 8.55 Variances shall only be issued 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 a 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, or conflict with existing local laws or ordinances.
- 8.56 Any applicant to whom a variance is granted shall be given a written notice that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

#### SECTION 9.0 NON-CONFORMING USE

- 9.1 A structure or the use of structure or premises which was lawful before the passage or amendment of the ordinance but which is not in conformity with the provisions of this ordinance may be continued subject to the following conditions:
- 9.11 No such use or substantial improvement of that use shall be expanded, changed, enlarged, or altered in a way which increases its nonconformity.
- 9.12 If such use is discontinued for 12 consecutive months, any future use of the building premises shall conform to this ordinance. The Utility Department shall notify the City Manager (Official) in writing of instances of nonconforming uses where utility services have been discontinued for a period of 12 months.
- 9.13 Uses or adjuncts thereof which are or become nuisances shall not be entitled to continue as nonconforming uses.
- 9.2 If any residential nonconforming use or structure is destroyed by any means, including flood, it shall not be reconstructed if the cost is more than 50 percent of the market value of the structure before the damage occurred within those areas identified as floodway (FW). This limitation does not include the cost of any alteration to comply with existing state or local health, sanitary, building, or safety codes or regulations or the cost of any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.



- 9.3 If any non-residential nonconforming use or structure is destroyed by any means, including flood, it shall not be reconstructed if the cost is more than 50 percent of the market value of the structure before the damage occurred except that if it is reconstructed in conformity with the provisions of this ordinance. This limitation does not include the cost of any alteration to comply with existing state or local health, sanitary, building, or safety codes or regulations or the cost of any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

#### SECTION 10.0 PENALTIES FOR VIOLATION

Violation of the provisions of this ordinance or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or special exceptions) shall constitute a 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, 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 the Village of Arlington  
Board of Trustees  
(local unit) or other appropriate authority from taking such other lawful action as is necessary to prevent or remedy any violation.

#### SECTION 11.0 AMENDMENTS

The regulations, restrictions, and boundaries set forth in this ordinance may from time to time be amended, supplemented, changed, or appealed to reflect any and all changes in the National Flood Disaster Protection Act of 1973, provided, however, that no such action may be taken until after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. At least 15 days notice of the time and place of such hearing shall be published in newspaper of general circulation in the Village of Arlington  
(local unit). The regulations of this ordinance are in compliance with the National Flood Insurance Program Regulations as published in the Federal Register, Volume 41, Number 207, dated October 26, 1976, and the 1967 Nebraska Flood Plains Regulations Act.

#### SECTION 12.0 DEFINITIONS

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

- ACTUARIAL RATES - or "risk premium rates" are those rates established by the Federal Insurance Administrator pursuant to individual community studies and investigations which are undertaken to provide flood insurance in accordance with 42 U.S.C. 4014 and the accepted actuarial principles. Actuarial rates include provisions for operating costs and allowances.
- APPEAL - a request for a review of the Board of Trustees's  
(local administrator) interpretation of any provision of this ordinance or a request for a variance.
- AREA OF SHALLOW FLOODING - a designated AO or AH zone on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.
- AREA OF SPECIAL FLOOD HAZARD - the land in the flood plain within a community subject to one percent or greater chance of flooding in any given year.
- BASE FLOOD ELEVATION - Elevation indicated in the official flood plain study as the elevation of the 100-year flood.
- BASE FLOOD PROTECTION ELEVATION - An elevation one foot higher than the water surface elevation of the base flood.

- CHANNEL - A natural or artificial watercourse of perceptible extent, with a definite bed and banks to confine and conduct continuously or periodically flowing water. Channel flow, thus, is that water which is flowing within the limits of a defined channel.
- COMMUNITY - Any state or area or political subdivision thereof which has authority to adopt and enforce flood plain management regulations for the areas within its jurisdiction.
- 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.
- EXISTING CONSTRUCTION - (for the purposes of determining rates) structures for which the "start of construction" commenced before the effective date of the FIRM or before January 1, 1975, for FIRM's effective before that date. "Existing Construction" may also be referred to as "existing structures."
- FLOOD OR FLOODING - a general and temporary condition of partial or complete inundation of normally dry land areas from:
  - (1) the overflow of inland or tidal waters.
  - (2) the unusual and rapid accumulation of runoff of surface waters from any source.
- FLOOD INSURANCE RATE MAP (FIRM) - an official map of a community, on which the Flood Insurance Study has delineated the Flood Hazard Boundaries and the zones establishing insurance rates applicable to the community.
- FLOOD INSURANCE STUDY - The official report provided by the Federal Emergency Management Agency. The report contains flood profiles, as well as the Flood Boundary Floodway Map and the water surface elevation of the base flood.
- FLOOD PLAIN MANAGEMENT - The operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plan, flood control works, and flood plain management regulations.
- FLOOD PROTECTION SYSTEM - Those physical structural works constructed specifically to modify flooding in order to reduce the extent of the area within a community subject to a "special flood hazard." Such a system typically includes levees or dikes. These specialized modifying works are those constructed in conformance with sound engineering standards.
- FLOOD PROOFING - Any combination of structural and non-structural additions, changes or adjustments to structures, including utility and sanitary facilities, which would preclude the entry of water. Structural components shall have the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy.
- FLOODWAY (FW) - The channel of a river or other watercourse and the adjacent portion of the flood plain that must be reserved in order to discharge the 100-year flood without cumulatively increasing the water surface elevation more than one foot at any point assuming equal conveyance reduction outside the channel from the two sides of the flood plain.
- FLOODWAY FRINGE (FF) - That area of the flood plain, outside of the floodway, that on an average is likely to be flooded once every 100 years (i.e.: that has a one percent chance of flood occurrence in any one year).
- FREEBOARD - a factor of safety usually expressed in feet above a flood level for purposes of flood plain management. "Freeboard" tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, clogged bridge openings, and the hydrological effect of urbanization of the watershed.

- HIGHEST ADJACENT GRADE - The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
- LOWEST FLOOR - The lowest floor of 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.
- 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. For flood plain management purposes the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days. For insurance purposes the term "manufactured home" does not include park trailers, travel trailers, and other similar vehicles.
- 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 or substantial improvement" is commenced on or after the effective date of the FIRM.
- OVERLAY DISTRICT - A district which acts in conjunction with the underlying zoning district or districts.
- START OF CONSTRUCTION - (for other than new construction or substantial improvements under the Coastal Barrier Resources Act (Pub. L. 97-348) includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, or other improvement was within 180 days of the permit date. The actual start or other improvement was within 180 days of the permit date. The actual start means 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; nor does it include excavation for a basement, footings, or foundations or the erection of temporary forms; nor does it include the installation of the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.
- STRUCTURE - A walled and roofed building that is principally above ground, as well as a manufactured home, and a gas or liquid storage tank that is principally above ground.
- 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, (1) before the improvement or repair is started, or (2) if the structure has been damaged and is being restored, before the damage occurred. For the purpose 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 (1) 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 (2) any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

657

VARIANCE

- A grant of relief to a person from the requirements of this ordinance which permits construction in a manner otherwise prohibited by this ordinance where specific enforcement would result in unnecessary hardship.

100-YEAR FLOOD

- The base flood having a one percent chance of annual occurrence.

ADOPTED AND APPROVED by the Governing Body of Wilmington, N.C.,  
this 9<sup>th</sup> day of May, 19 88.

(Seal)



Wayne H. Royak  
(MAYOR/CHAIRMAN)

ATTEST: Mary Ann Smith  
(CLERK)

657