

# HARRISON COUNTY FLOODPLAIN ORDINANCE

AN ORDINANCE ESTABLISHING A SPECIAL FLOOD HAZARD AREA AND REQUIRING ALL PERSONS TO OBTAIN A PERMIT FOR DEVELOPMENT, SITE DISTURBANCE AND/OR PREPARATION, CONSTRUCTION, REPAIR AND/OR IMPROVEMENT, OR RELOCATION OF ANY BUILDING OR STRUCTURE WITHIN THAT DESIGNATED AREA; PROVIDING CERTAIN MINIMUM STANDARDS FOR CONSTRUCTION WITHIN THE SPECIAL FLOOD HAZARD AREA; SETTING FORTH SPECIAL PROCEDURES FOR SUBMISSION AND APPROVAL OF PLANS; AND ESTABLISHING PENALTIES FOR ANY PERSON WHO FAILS TO COMPLY WITH THE REQUIREMENTS OR PROVISIONS OF THIS ORDINANCE.

BE IT ENACTED AND ORDAINED BY THE HARRISON COUNTY COMMISSION:

## ARTICLE I - GENERAL PROVISIONS

### Section 1.1 Authority

- A. The provisions of this ordinance are intended to meet the requirements of THE NATIONAL FLOOD INSURANCE ACT OF 1968 (42 U.S.C. 4001 et seq.) AS AMENDED BY THE CONGRESS OF THE UNITED STATES THROUGH THE 15<sup>TH</sup> OF FEBRUARY, 1975 (PUBLIC LAW 91-152),
- B. This Ordinance is authorized pursuant to WEST VIRGINIA STATE CODE §7-1-3v and/or §7-1-3kk.

### Section 1.2 Intent

The intent of this ordinance is to:

- A. Promote the general health, welfare, and safety of the citizens of Harrison County.
- B. Require appropriate construction practices in order to prevent or minimize flood damage and preserve natural drainage.
- C. Protect water supply and sanitary sewage disposal systems in cooperation with the County Sanitarian.
- D. Assure the County Assessor obtains information concerning improvement of real property as required by WV State Code §11-3-3A.
- E. Assure County E-911 addresses are obtained to maintain the currency of established emergency response dispatch systems.
- F. Reduce financial burdens imposed on Harrison County, its governmental units, and its residents, by requiring appropriate flood damage reduction measures for development in areas subject to flooding.

This ordinance supersedes the Harrison County Floodplain Management Ordinance currently in effect in flood prone areas. Any public law or regulation, however, shall remain in full force and effect to the extent that its provisions are more restrictive.

Section 1.4 Applicability

The provisions of this ordinance shall apply to all development, site disturbance and/or preparation, construction, repair and/or improvement, or relocation of any building or structure occurring within the Special Flood Hazard Area.

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

Section 1.5 Matters not provided for specifically

The provisions of this ordinance shall be construed to implement the requirements of 44CFR60.3, and shall be interpreted and applied to that end.

Where conditions are encountered that are not specifically provided for herein, the Floodplain Administrator shall determine the applicability of the provisions of this ordinance in accordance with its intent, and shall require appropriate measures pursuant to such determination.

**ARTICLE II - INTERPRETATIONS AND DEFINITIONS**

Section 2.1 Interpretations

- A. For the purpose of this ordinance, the following interpretations shall apply:
1. Words used in the present tense include the future tense
  2. The singular includes the plural.
  3. The plural includes the singular.
  4. The word "person" includes a corporation, unincorporated association or partnership as well as an individual.
  5. The terms "shall" and "will" are always mandatory.
  6. The word "building" or "structure" shall be construed as if followed by the phrase "or part thereof".
  7. The word "ordinance" shall refer to this Floodplain Ordinance.



For the purposes of this ordinance, the following words and terms shall have the meanings indicated below. Words and terms not defined herein shall have their ordinarily accepted meanings such as the context implies.

Adjacent and/or Impacted Property

Any surface tract, regardless of whether such tract is entirely within Harrison County, which shares a immediate and common boundary with the property that is the subject of the application, and/or is so located as to be potentially affected by any change in base flood elevations or flood flows resulting from the proposed development.

Agriculture

The cultivation of plant crops or the raising of livestock. Agriculture is the organized use of land for the production of plant or animal food, fiber or landscape products. Beef and dairy farms, grain farms, orchards, plant nurseries, and tree farms are forms of agriculture

Approved

Approved by the Floodplain Administrator

Appurtenant Structure

A structure on the same parcel of property as the principal structure, the use of which is incidental to the use of the principal structure. This does not include a gas or liquid storage tank.

Bank

Terrain along the bed of a watercourse, which confines and directs the flow of water.

Base Flood

Means the flood having a one percent chance of being equaled or exceeded in any given year.

Base Flood Elevation (BFE)

The water surface elevation of the base flood in relation to the datum specified on Harrison County's Flood Insurance Rate Map. For the purposes of this ordinance, the one hundred (100) year flood or 1% annual chance flood.

Basement

Any area of the building having its floor sub grade (below ground level) on all sides.

Building

See "structure"

Certificate of Compliance

A certification that all development is in compliance with the provisions of this ordinance.

Channel

The physical confines of a watercourse consisting of the bed and banks.

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Compensatory storage

An artificially excavated, hydraulically equivalent volume of storage within the Special Flood Hazard Area used to balance the loss of natural flood storage capacity when artificial fill or structures are placed within the Special Flood Hazard Area.

Contractor

A person licensed pursuant to WV State Code 21-11-3(c)

Development

Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

Development Site

The total land area upon which development, as defined herein, is proposed.

Elevation Certificate

A specific form, prepared by a registered professional surveyor, which documents the elevation of the lowest floor of a structure or the elevation of any particular point on grade in relation to the Base Flood Elevation.

Flood

A general and temporary inundation of normally dry land areas.

Flood Insurance Rate Map (FIRM)

The official map on which the Federal Emergency Management Agency has delineated the Special Flood Hazard Areas and provided relevant information.

Flood Insurance Study

The official report in which the Federal Emergency Management Agency has provided flood profiles, floodway information, and water surface elevations.

Floodplain

- (1) A relatively flat or low land area adjoining a 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.

Floodplain Administrator

The person charged with enforcement of this Ordinance, or a designated representative.

Floodplain Determination

A determination made by the Floodplain Administrator as to the location of a property or structure with respect to the Special Flood Hazard Area.



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Floodway

The channel of a river or other watercourse and the adjacent land area that must be reserved to discharge the base flood without increasing the water surface elevation of that flood more than one foot at any point.

Flood proofing

Any combination of structural and non-structural additions, changes or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

Flood-resistant Material

Any building product capable of withstanding direct and prolonged contact with floodwaters without sustaining significant damage. (See FEMA Technical Bulletin 2.)

Freeboard

A factor of safety usually expressed in feet above a flood level.

Functionally Dependent Use

A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water.

Highest Adjacent Grade (HAG)

The highest natural elevation of the ground surface immediately adjacent to the development or structure foundation.

Historic Structure

Any structure that is:

- (a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district
- (c) Individually listed on the State inventory of historic places.
- (d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
  - (i) By the State; or,
  - (ii) Directly by the Secretary of the Interior.

Hydraulic Structure

A structure submerged or partially submerged in any body of water, which disrupts, diverts, restricts, or otherwise affects the natural flow of water.

Licensed Manufactured Home Retailer

A business licensed to sell Manufactured Homes in the state of WV as set forth in the WV state code.

Licensed Manufactured Home Installer

A contractor licensed to install Manufactured Homes in WV as set forth in the WV State Code.

Licensed Professional Surveyor

Any person licensed by the WV Board of Examiners of Land Surveyors to engage in the practice of land surveying as defined in WV state code, Chapter 30, Article 13A.

Lowest Adjacent Grade (LAG)

The lowest natural elevation of the ground surface immediately adjacent to the proposed development or structure foundation. The primary use of the LAG is to determine whether the structure is located within a special flood hazard area by comparing it to the base flood elevation.

Lowest Floor

The floor of the lowest enclosed area (including basement). An unfinished enclosure constructed with flood resistant materials, and usable solely for parking of vehicles, building access or storage in an area other than a basement area, is not considered a building's lowest floor; provided that such enclosure has proper flood openings and is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.

Major Subdivision

The division of any parcel into five or more parcels.

Manufactured Home

A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

New Construction

Structures for which the Start of Construction as herein defined commenced on or after 07/04/1988, including any subsequent improvements to such structures. Any construction started after the effective date of the first floodplain ordinance adopted by the Harrison County Commission, and before the effective start date of this floodplain management ordinance, is subject to the ordinance in effect at the time the permit was issued, provided the start of construction was within 180 days of permit issuance.

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 thereof.

Principally Above Ground

Where at least 51 percent of the actual cash value of a structure, less land value, is above ground.

Reasonably Safe from Flooding

Constructed, located, and/or elevated such that anticipated conditions of the Base Flood will not cause significant damage to a building or structure, or hazard to its occupants. To be reasonably safe from flooding a structure must be (1) designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, (2) constructed with materials resistant to flood damage, (3) constructed by methods and practices that minimize flood damage, and (4) constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

Recreational Vehicle

A vehicle which is:

- (a) built on a single chassis; (b) 400 square feet or less when measured at the largest horizontal projections; (c) designed to be self-propelled or towable by a motor vehicle; and (d) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Registered Professional Engineer

A person who has been duly registered or licensed as a Registered Professional Engineer by the West Virginia state board of registration for professional engineers as required under WV State Code, Chapter 30, Article 13.

Remedy a Violation

To bring a structure or other development into compliance with the requirements of this ordinance, or, if full compliance is not possible, to reduce the adverse impacts of the non-compliance to the greatest extent feasible.

Special Flood Hazard Area

The land in the floodplain subject to a one percent or greater chance of flooding in any given year. Special flood hazard areas are designated by the Federal Emergency Management Agency in Flood Insurance Studies and on Flood Insurance Rate Maps as Zones A, AE, AO, A1-30, and A99. This term shall also include areas shown on other flood hazard maps that are specifically listed or otherwise described in this ordinance.



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Start of Construction

The date a permit is issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement is within 180 days of the permit date. The actual start means either the first placement of permanent construction on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond initial excavation, or the placement of a manufactured home on a foundation. Although a permit must be obtained prior to beginning, 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 appurtenant structures, such as garages or sheds not occupied as dwelling units or not part of the main structure. For an alteration, the actual start of construction means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building. A detached appurtenant structure shall be considered permanent construction where a permit is issued specifically for construction of such a structure.

State Coordinating Office

The West Virginia Division of Homeland Security and Emergency Management.

Structure

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

Substantial Damage

Damage of any origin sustained by a structure whereby the cost of restoring the structure to it's before damage condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. Substantial damage also means cumulative flood-related damages sustained by a structure on two separate occasions during a 10 year period for which the cost of repairs at the time of each flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred. See "Substantial Improvement."

Substantial Improvement

Any repair, reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the Start of Construction of the improvement.

This term applies to structures, which have incurred "substantial damage", as defined herein regardless of the actual repair work performed. The term does not, however, include any project for improvement of a structure to correct existing violations of state or local health, sanitary or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions.

Historic structures undergoing repair or rehabilitation that would constitute a substantial improvement as defined above, shall comply with all ordinance requirements that do not preclude the structure's continued designation as a



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historic structure. Documentation that a specific ordinance requirement will cause removal of the structure from the National Register of Historic Places or the State Inventory of Historic places must be obtained from the Secretary of the Interior or the State Historic Preservation Officer. Any exemption from ordinance requirements will be the minimum necessary to preserve the historic character and design of the structure.

For the purpose of this definition, 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.

Top of bank

The lines depicted on the Flood Insurance Rate Map delineating each side of a watercourse. Where the top of bank location cannot be discerned from the FIRM due to map scale or other factors, the top of bank shall be the elevation at which water is no longer confined to the channel of a watercourse.

Variance

A grant of relief from the terms of this Floodplain Ordinance.

Violation

The failure of any structure or development to be fully compliant with all the requirements of this ordinance. Any structure or other development lacking the certifications, finished construction elevation certificate or other evidence of compliance required by this ordinance is presumed to be in violation until such time as that documentation is provided.

Watercourse

A flowing body of water, whether natural or man-made, distinguishable by banks and a bed, regardless of their size, through which water flows continually or intermittently, regardless of its volume.

**ARTICLE III - ESTABLISHMENT OF THE SPECIAL FLOOD HAZARD AREA**

Section 3.1 Identification

- A. The identified Special Flood Hazard Area shall be those areas of Harrison County which are subject to the one hundred (100) year flood, as shown on the Flood Insurance Rate Map (FIRM) and described in the Flood Insurance Study (FIS) prepared for Harrison County by the Federal Emergency Management Agency (FEMA) dated 10/02/2012 or the most recent revision thereof including all digital data developed as part of the FIS.
- B. The identified Special Flood Hazard Area shall also include those special flood hazard areas identified by Harrison County by use of historic or other technical data and shown on an officially recognized "Local Flood Hazards Map". These areas shall be designated as appropriate with the level of technical data described below and shall be managed accordingly.



### Section 3.2 Description of Special Flood Hazard Areas

- A. The identified special flood hazard area shall consist of the following four specific areas:
1. The Floodway shall be those areas of AE zones identified as Floodways in the FIS and as shown on the FIRM. The term shall also include any floodway areas delineated by developers in the approximated floodplain and designated as such by the community. In special flood hazard areas for which no regulatory floodway has been designated, the regulatory floodway for single lot development shall be the channel of the stream and the adjacent land area to a distance of one-half the width of the special flood hazard area as measured from the top of the bank nearest the site to the upland limit of the special flood hazard area boundary. In lieu of this method, the applicant may determine the floodway using engineering methods based on equal conveyance reduction.
  2. The Floodway Fringe shall be those areas of AE zones for which specific base flood elevations have been provided in the FIS and which lie beyond the floodway area.
  3. The AE Area Without Floodway shall be those areas identified as an AE zone on the FIRM included in the FIS prepared by FEMA for which base flood elevations have been provided but no Floodway has been delineated.
  4. The Approximated Floodplain shall be those areas identified as an A zone on the FIRM included in the FIS prepared by FEMA and for which no base flood elevations have been provided.

### Section 3.3 Changes in Designation of Area

- A. The delineation of the identified Special Flood Hazard Area may be revised by Harrison County where natural or man-made changes have occurred, and/or more detailed studies, conducted or undertaken by the U.S. Army Corps of Engineers, a River Basin Commission, or other qualified agency or individual, document the necessity for such changes. However, prior to any such change, approval must be obtained from the Federal Emergency Management Agency (FEMA).
- B. Harrison County's base flood elevations may increase or decrease resulting from physical changes affecting flooding conditions. As soon as practicable, but not later than six months after the date such information becomes available, Harrison County shall notify the NFIP Administrator of the changes by submitting technical or scientific data.
- C. Harrison County may identify and regulate new local flood hazard or ponding areas. These areas may be delineated on a "Local Flood Hazard Map" using best available topographic data and locally derived information such as flood of record, historic high water marks or approximate study methodologies.



Should a dispute arise concerning the location of proposed development relative to a Special Flood Hazard Area, an initial determination shall be made by the Floodplain Administrator and any party aggrieved by this decision may appeal to the Harrison County Commission. The burden of proof shall be on the appellant.

Section 3.5 Elevations Prevail

Elevation data certified by a Licensed Professional Surveyor shall be submitted in sufficient detail to allow a thorough review by the Floodplain Administrator.

- A. The proposed development shall be deemed to comply with the flood damage reduction requirements of this ordinance if the natural lowest adjacent grade (LAG) to the proposed development is at or above (1) The Base Flood Elevation (BFE) specified in the flood insurance study, or (2) The reasonably safe from flooding elevation determined in accordance with Section 4.4, including freeboard where the approximate method specified in 4.4A.2.(b) is used.
- B. The proposed development shall be considered to be within the Special Flood Hazard Area if the natural LAG to the proposed development is below either; (1) The Base Flood Elevation specified in the flood insurance study, or (2) The reasonably safe from flooding elevation determined in accordance with Section 4.4, including freeboard where the approximate method specified in 4.4A.2.(b) is used. The proposed development shall then be required to conform to all applicable flood damage reduction provisions of this ordinance.

**ARTICLE IV - UTILIZATION OF THE SPECIAL FLOOD HAZARD AREA**Section 4.1 Floodway

- A. Within any floodway area, no encroachments, including fill, new construction, substantial improvements, or other development shall be permitted unless it has been demonstrated through hydrologic and hydraulic analysis performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels during the occurrence of the base flood discharge. The resultant engineering study shall include a cover letter, signed and sealed by the responsible professional engineer, providing a statement of findings in basic terms. In addition, studies, analyses, computations, etc. shall be submitted in sufficient detail to allow a thorough technical review by the Floodplain Administrator. The following shall apply to proposed development within the regulatory floodway:
  - 1) New development shall not be permitted in the floodway where reasonable alternatives exist elsewhere. The applicant shall demonstrate that there are no reasonable alternatives other than the floodway encroachment before a permit is issued.

- 2) When a floodway encroachment is the only reasonable alternative, the applicant shall demonstrate that the encroachment is the minimum necessary to accomplish the project.
- 3) Encroachments into and/or revisions of the floodway shall only be permitted subject to the applicable notification and approval requirements of §44CFR65.7 and §44CFR65.12.
- 4) New private sewage disposal systems shall not be installed in a floodway.
- 5) All permitted uses, activities, and development shall be undertaken in strict compliance with the flood proofing and related provisions contained herein, and in all other applicable codes, ordinances and regulations.

#### Section 4.2 Floodway Fringe

Within any Floodway Fringe area, 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 elevation, flood-proofing and related provisions contained herein and in all other applicable codes, ordinances and regulations.

#### Section 4.3 AE without Floodway

Within any AE without Floodway area, no new construction or development shall be allowed unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the elevation of the 100-year flood more than one (1) foot at any point. This requirement can be satisfied by utilization of the floodway where determined.

#### Section 4.4 Approximated Floodplain (Zone A)

##### A. Within any Approximated Floodplain

1. The Floodplain Administrator shall use elevation and floodway information from Federal, State, or other acceptable sources when available to determine the elevation above which development will be reasonably safe from flooding.
2. When data from an acceptable source is not available, the Floodplain Administrator shall require the applicant to determine the elevation above which the development will be reasonably safe from flooding using elevation data, hydrologic and hydraulic analyses or other techniques.
  - a) Where hydrologic and hydraulic analyses are performed, they shall only be undertaken by a Registered Professional Engineer who shall certify that the methods used correctly reflect currently accepted



technical concepts. The resultant study shall include a cover letter, signed by the responsible professional, providing a statement of findings in basic terms. In addition, studies, analyses, computations, etc. shall be submitted in sufficient detail to allow a thorough technical review by the Floodplain Administrator.

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- b) The elevation above which development will be considered reasonably safe from flooding may be determined based on the location of the Special Flood Hazard Area boundary as scaled from the Flood Insurance Rate Map. Three points, not less than twenty-five feet (25') apart, and having relative elevations within a one-foot range, shall be located along the scaled floodplain boundary, as near as practicable to the proposed construction site. The elevation of the highest point among the three shall be the approximated Base Flood Elevation, which shall be used in determining the required elevation of proposed structures. The elevation certificate shall state the difference between the elevation at the lowest adjacent grade (LAG) to the proposed structure and the approximated Base Flood Elevation. A Licensed Professional Surveyor shall certify the elevation certificate. Upon request, the Floodplain Administrator shall accompany the Surveyor to the site to resolve discrepancies in the Flood Insurance Rate Map. Where this method is utilized, structures to be constructed, relocated, or substantially improved shall have the lowest floor, including basement, elevated not less than two feet above the approximated Base Flood Elevation. Ductwork, utilities, and building materials that are not flood-resistant shall be located not less than two feet above the approximated Base Flood Elevation. In lieu of elevation, non-residential structures may be flood-proofed to two feet above the approximated base flood elevation.
3. Any development and/or use of land shall be permitted provided that all such uses, activities and/or development shall be undertaken in strict compliance with the flood-proofing and related provisions contained herein and in all other applicable codes, ordinances and regulations.

#### Section 4.5 Alteration or relocation of a watercourse

- A. Whenever any person intends to alter or relocate a watercourse within the Special Flood Hazard Area, such person shall provide written notification of all such intended activities, by certified mail, to the Floodplain Administrator, the State Coordinating Office, adjacent communities, and owners of adjacent and/or impacted properties. Copies of all required notifications shall be submitted to the Federal Emergency Management Agency (FEMA). In addition, prior to issuing the permit, the Floodplain Administrator shall require copies of all necessary permits from those governmental agencies from which federal or state law requires approval.
- B. The developer shall assure the Floodplain Administrator, in writing, that the flood carrying capacity within the altered or relocated portion of the watercourse will be maintained. The Floodplain Administrator shall require the applicant to demonstrate that the altered or relocated portion of the



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watercourse will provide conveyance equal to or greater than that portion prior to the alteration or relocation. The required hydrologic and hydraulic analyses shall only be undertaken by a Registered Professional Engineer, who shall certify that the methods used correctly reflect currently accepted technical concepts. The resultant study shall include a cover letter, signed by the responsible professional, providing a statement of findings in basic terms. In addition, studies, analyses, computations, etc. shall be submitted in sufficient detail to allow a thorough technical review by the Floodplain Administrator.

- C. Where alteration of a watercourse includes placement of culverts, bridges or other hydraulic structures, the Floodplain Administrator shall require measures to prevent damage to such structures, loss of watercourse crossings, and/or localized flooding caused by blockage. These measures may include, but are not limited to, wing walls, trash grates, or openings of sufficient size to pass debris and/or anticipated future increases in flood flows.
- D. All new and replacement bridges, culverts and other watercourse crossings shall be designed by a Registered Professional Engineer and shall adhere to the relevant anchoring requirements contained in this ordinance.
- E. The applicant shall submit any maps, computations or other material required by the Federal Emergency Management Agency (FEMA) to revise the Flood Insurance Study and/or Flood Insurance Rate Maps, and shall pay any fees or other costs assessed by FEMA for this purpose.

**ARTICLE V - CRITERIA FOR BUILDING AND SITE PLAN APPROVAL**

**Section 5.1 General**

Permits shall be issued in accordance with the procedures and fees established in the Harrison County Improvement Location Permit Ordinance. Permits shall be required in order to determine whether proposed new construction; repairs, additions, and/or improvements to, or relocation of existing structures; site disturbance and/or preparation; or other development as defined herein will be:

- A. Located in an identified Floodplain, Special Flood Hazard Area, or Floodway.
- B. Designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of structures resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
- C. Constructed using flood-resistant materials.
- D. Constructed by methods and practices that minimize flood damage.
- E. Constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.



- F. In compliance with applicable regulations of the State and the Harrison County Health Department regarding water and sewer facilities, and that such facilities are designed and/or located in compliance with the flood damage reduction requirements of this ordinance.

Section 5.2 Basic Format

The basic format of the permit application for construction or development in the Special Flood Hazard Area shall include the following:

- A. Name and address of applicant.
- B. Name and address of owner of land on which proposed development is to occur.
- C. Names, addresses, and valid WV license numbers of all contractors working at the building site, or affidavits stating that work is being performed by individuals exempt from contractor licensing as set forth in Title 28, Series 2, section 3.9 (b) of the West Virginia Code of state regulations or the most recent revision thereof.
- D. A description of the site location sufficient to locate the project including tax map and parcel number and most recent deed book and page number.
- E. A site plan complying with Section 5.4.
- F. An acknowledgement that the applicant agrees to allow the Floodplain Administrator access to the development for the purpose of inspection.

Section 5.3 Elevation and Flood Proofing Information

Depending on the type of structure(s) involved, the following information shall be included in the application for development within the Special Flood Hazard Area:

- A. For structures to be elevated above the Base Flood Elevation:
  - 1. A determination of the Base Flood Elevation and the elevation at the lowest adjacent grade (LAG) to the foundation of the proposed structure. In A Zones, in lieu of specific elevations, the plan may show the difference between the reasonably safe from flooding elevation, as determined in accordance with Section 4.4, and the elevation at the lowest adjacent grade to the proposed structure. Elevations shall be certified by a Licensed Professional Surveyor.
  - 2. A determination of the elevation of the lowest floor. In A Zones, in lieu of specific elevations, the plan may show the difference between the reasonably safe from flooding elevation, as determined in accordance with Section 4.4, and the elevation of the lowest floor. Elevations shall be certified by a Licensed Professional Surveyor.

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3. Plans showing the method of elevating the proposed structure including details of proposed fills, pile structures, retaining walls, foundations, erosion protection measures, etc. A Registered Professional Engineer or Architect shall prepare these plans.
4. Plans showing the methods used to protect utilities (including sewer, water, telephone, electric, gas, etc.) from flooding.
5. A finished construction elevation certificate shall be prepared by a Licensed Professional Surveyor. The elevation certificate shall confirm that the structure in question, together with attendant utilities is elevated in compliance with permit conditions.

B. For structures to be flood proofed (nonresidential structures only):

1. Elevation determinations as specified in 5.3.A.1 above.
2. Details of flood proofing measures prepared by a Registered Professional Engineer.
3. A Flood proofing Certificate, FEMA 81-65, as revised by FEMA, shall be prepared by a Registered Professional Engineer, stating that the finished structure, together with attendant utility and sanitary facilities is designed so that:
  - (i) The structure is water tight with walls substantially impermeable to the passage of water from the lowest structural element to the Base Flood Elevation (or approximated base flood elevation plus freeboard as applicable).
  - (ii) The structure will withstand the hydrostatic, hydrodynamic, buoyant, impact, and other forces resulting from the flood depths, velocities, pressures, and other factors associated with the Base Flood.

C. For Appurtenant structures located within the Special Flood Hazard Area, used solely for parking of vehicles or limited storage:

1. A site plan prepared by a Licensed Professional Surveyor showing the elevation of the existing ground, proposed finished ground and lowest floor; the size of the proposed structure and its relation to the lot where it is to be constructed; and the location of the Special Flood Hazard Area and floodway boundaries (if a floodway is present).
2. An elevation certificate, based on finished construction, shall be prepared by a Licensed Professional Surveyor. The elevation certificate shall confirm that the structure in question has been constructed such that either:



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- (i) The finished floor is elevated above the Base Flood Elevation (or reasonably safe from flooding elevation determined in accordance with Section 4.4 in A Zones), or
- (ii) Where a variance in accordance with Section 8.2 has been granted permitting a non-elevated finished floor, all utilities and building materials that may be subject to flood damage are elevated above the Base Flood Elevation (or reasonably safe from flooding elevation determined in accordance with Section 4.4 in A Zones), and
- (iii) The opening requirements contained in Section 6.1 (A)(3) are adhered to either for enclosed spaces below the lowest floor where constructed in accordance with (i) above or for exterior walls where constructed in accordance with (ii) above.

#### Section 5.4 Site Plan Criteria

Site plans shall be required for all development, proposed subdivisions, manufactured home parks, new construction, additions, and substantial improvements determined to be located entirely or partially within a Special Flood Hazard Area. These proposals shall be reviewed by the Floodplain Administrator to assure that they are consistent with the need to minimize flood damage.

The owner or developer shall submit a preliminary site plan to the Floodplain Administrator that includes the following information (as applicable):

- A. A map, drawn to scale and prepared by a Licensed professional Surveyor, showing the size and location of the proposed development, adjacent roads, watercourses with direction of flow, existing buildings and structures, the boundary of the Special Flood Hazard Area, the base flood elevation where determined, and the floodway boundary where applicable. The map shall show the size of proposed structures and their location with respect to lot lines, roads, watercourses, and the boundary of the Special Flood Hazard Area. Where the proposed development includes fill, the map shall show the location and area of the proposed fill, and the ground elevations prior to and after placement of the fill.
- B. For a subdivided parcel, a plat prepared by a Licensed Professional Surveyor indicating whether the parcel is completely or partially within a Special Flood Hazard Area. Where a subdivided parcel is partially within a Special Flood Hazard Area, the plat shall identify the boundaries of such area.
- C. For a major subdivision or manufactured home park, 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) feet and identify accurately the boundaries of the Special Flood Hazard Areas. A Licensed Professional Surveyor shall certify the site plan.



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- D. Site plans for major subdivisions and manufactured home parks greater than fifty (50) lots or five (5) acres, and site plans for development sites greater than five (5) acres shall include base flood elevation data, and shall delineate a floodway. A Licensed Professional Surveyor shall certify the site plan.
1. When a Flood Insurance Study (FIS) is available from FEMA, the data contained in that study shall be used to substantiate the base flood elevation and floodway location.
  2. If a FEMA Flood Insurance Study is not available the required data may be obtained from an authoritative source, such as the U.S. Army Corps of Engineers, U.S. Geological Survey, Natural Resource Conservation Service or state and local water resource department.
  3. If the required data is not available from other sources the applicant shall develop the technical data using detailed methodologies comparable to those utilized in a Flood Insurance Study. This data shall be prepared and certified by a Registered Professional Engineer, who shall certify that the methods used correctly reflect currently accepted technical concepts.
- E. Where a development site lies partially in a Special Flood Hazard Area designated Zone A (approximated floodplain), and all proposed development including fill will take place on natural grade outside of the flood hazard boundary depicted on the Flood Insurance Rate Map, development of detailed Base Flood Elevation and delineation of the floodway shall not be required. In these cases, the site plan shall show the area to be developed, the location of existing and proposed structures, and the location of the Special Flood Hazard Area boundary as scaled from the Map. A Licensed Professional Surveyor shall certify the site plan. Upon request, the Floodplain Administrator shall accompany the Surveyor to the site to resolve discrepancies in the map.

#### Section 5.5 – Restrictions to Subdivision of land in Special Flood Hazard Areas.

A major subdivision of land that is partially in the Special Flood Hazard Area shall result in lots that include a buildable portion outside of the Special Flood Hazard Area and which shall be served by streets within the proposed subdivision having surfaces not more than one foot below the base flood elevation. All new structures shall be sited on the portion of the subdivided lot that is located outside of the Special Flood Hazard Area.

### **ARTICLE VI - SPECIFIC REQUIREMENTS**

#### Section 6.1 Design and Construction Standards

The following restrictions shall apply to all new construction, additions, substantial improvement and repair, manufactured home placement, and other development in the Special Flood Hazard Area:



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## A. Basements and Lowest Floors

1. Residential Structures - All residential structures undergoing construction, relocation, or substantial improvement, including repair of substantial damage, shall have the lowest floor, including basement, elevated to or above the Base Flood Elevation (or the reasonably safe from flooding elevation determined in accordance with Section 4.4 in A Zones). Ductwork, utilities, and building materials that are not flood-resistant shall not be located below the Base Flood Elevation (or the reasonably safe from flooding elevation determined in accordance with Section 4.4 in A Zones).
2. Non-residential Structures - All non-residential structures undergoing construction, relocation, or substantial improvement, including repair of substantial damage, shall have the lowest floor, including basement, ductwork, utilities, and building materials that are not flood-resistant, elevated to or above the Base Flood Elevation (or the reasonably safe from flooding elevation determined in accordance with Section 4.4 in A Zones); or, together with attendant utility and sanitary facilities, be designed so that the structure is water tight with walls substantially impermeable to the passage of water from the lowest structural element to or above the Base Flood Elevation (or the reasonably safe from flooding elevation determined in accordance with Section 4.4 in A Zones).
3. Openings - For all new construction, relocation, substantial improvements, and repair of substantial damage, those fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for entry and exit of floodwaters. Designs for satisfying this requirement shall either be certified by a Registered Professional Engineer or architect, or shall meet or exceed the following minimum criteria:
  - a) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
  - b) The bottom of all openings shall be no higher than one foot above grade.
  - c) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

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## B. Manufactured Home Placement

1. All manufactured homes to be sited within the Special Flood Hazard Areas of Harrison County shall be installed in accordance with the rules of the West Virginia Board of Manufactured Housing Construction and Safety, WV Code of State Regulations, 42CSR19. The installation shall incorporate a design engineered to withstand flood hazards specific to the particular home site. A copy of the engineered design, signed and sealed by a Registered Professional Engineer, shall be submitted with the permit application. Manufactured homes to be placed or substantially improved within the Special Flood Hazard Areas shall be installed in accordance with the following standards:
  - a. The lowest floor, ductwork, and utilities, including HVAC/heat pump, shall be elevated to or above the Base Flood Elevation (or the reasonably safe from flooding elevation determined in accordance with Section 4.4 in A Zones).
  - b. Elevation shall be on reinforced piers or a perimeter foundation, or shall use foundation elements of at least equivalent strength engineered for use in a flood hazard area. Installation designs incorporating dry stacked block piers shall not be used in Special Flood Hazard Areas.
  - c. All manufactured homes shall be securely anchored to resist flotation, collapse, or lateral movement.
  - d. Permanently attached rigid skirts and/or perimeter wall skirts of brick or block shall have openings to prevent collapse and damage to supporting piers. The opening requirements contained in Section 6.1 (A)(3) are applicable and shall be strictly adhered to.
2. The Registered Professional Engineer who designed the installation shall certify that the manufactured home has been installed to the standards set forth in this ordinance and in accordance with the engineered design. A copy of such certification shall be provided to the Floodplain Administrator and retained on file with the permit documents.

## C. Appurtenant Structures

1. Except as provided in subsection 2 below, appurtenant structures shall be elevated such that the lowest floor, utilities, and building materials that are not flood-resistant are elevated to or above the Base Flood Elevation (or the reasonably safe from flooding elevation determined in accordance with Section 4.4 in A Zones).
2. Where, pursuant to a variance granted in accordance with Section 8.2, a detached appurtenant structure within the Special Flood Hazard Area is not elevated as required above, the following flood damage reduction provisions shall apply:



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- a) Use of the structure shall be restricted to parking or limited storage.
- b) The structure shall be no more than 240 square feet in size and valued at less than \$10,000.00.
- c) The floor shall be at or above grade on at least one side.
- d) The structure shall be located, oriented and constructed to minimize flood damage.
- e) The structure shall be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
- f) Flood resistant materials shall be used to or above the base flood elevation (or the reasonable safe from flooding elevation determined in accordance with Section 4.4 in A Zones).
- g) Machinery, electric devices or appliances, and all utilities shall be located at or above the Base Flood Elevation (or the reasonably safe from flooding elevation determined in accordance with Section 4.4 in A Zones).
- h) The opening requirements contained in Section 6.1 (A)(3) are applicable and shall be strictly adhered to.

D. Agricultural Structures

1) Barns, sheds, livestock pens, and similar buildings or structures used solely for agricultural purposes shall comply with the flood damage reduction requirements applicable to appurtenant structures in Section 6.1C, except that 6.1C(2)(a) and (b) shall not apply.

E. Recreational Vehicle Placement

1. Recreational vehicles to be placed within any special flood hazard area shall either:
- a. Be on site for fewer than 180 consecutive days. Or,
  - b. Be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect utilities and security devices, and has no permanently attached additions. Or,
  - c. Be installed in accordance with the Manufactured Home Placement requirements and all other flood reduction requirements contained in this ordinance.

F. Fill

1. No fill shall be permitted in the floodway except in accordance with Section 4.1 of this ordinance.
2. All fill placed in the special flood hazard area shall meet or exceed the following standards:
  - a. Fill shall be used only to the extent to which it does not adversely affect adjacent properties or existing structures on the same property. Fill for the purpose of elevating low areas to match adjacent ground elevations and contours shall not be deemed to have a potential adverse effect unless the proposed fill would result in one or more of the effects listed in (i) through (v) below. Where fill is used to increase the overall ground elevation at the site, the Floodplain Administrator may require the applicant to demonstrate through engineering reports that proposed fill would not create such adverse effects. When required, hydrologic and hydraulic analyses shall be undertaken only by a Registered Professional Engineer who shall certify that the technical methods used correctly reflect currently accepted technical concepts. The resultant study shall include a cover letter, signed and sealed by the responsible professional, providing a statement of findings in basic terms. In addition, studies, analyses, computations, etc. shall be submitted in sufficient detail to allow a thorough technical review by the Floodplain Administrator. During permit review, the Floodplain Administrator shall consider the following issues that have the potential to cause adverse impact to adjacent properties:
    - i. Unacceptable increases in flood heights.
    - ii. Blocking drainage from adjacent property.
    - iii. Deflection of floodwaters onto existing structures on the same or adjacent properties.
    - iv. Increases to stream velocity initiating or exacerbating erosion.
    - v. Other unique site conditions may be considered when determining whether fill will cause adverse impact to adjacent property including, but not limited to, subsidence areas, Karst topography, stream blockages, and steep topography adjacent to the channel.
  - b. Fill shall be used only to the extent that it does not adversely affect the capacity of channels or floodways of any tributary, drainage ditch, or any other drainage facility or system.
  - c. A filled site shall be contoured to provide positive drainage (avoid ponding).
  - d. Fill shall consist of soil or rock material only. Sanitary landfills shall not be permitted; no trash or woody debris shall be buried on site.
  - e. Fill material shall be compacted to provide the necessary stability and resistance to erosion, scouring or settling. Fill shall be compacted to 95% of the maximum density obtainable with the Standard Proctor Test Method issued by the American Society for Testing and Materials where intended as a fill pad for a residential or commercial structure foundation.

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- f. Fill slopes shall be no steeper than one (1) unit vertical to two (2) units horizontal (50% slope), unless substantiating data justifying steeper slopes are submitted to and approved by the Floodplain Administrator.
- g. Fill site and fill shall be protected from erosion.
  - i. Fill slopes exposed to flood waters with expected velocities of five feet per second or less shall be protected from erosion by vegetation, or by other approved means
  - ii. Fill slopes exposed to flood waters with expected velocities greater than five feet per second shall be protected from erosion by armoring them with stone or rock slope protection.
- h. All applicants placing fill in the Special Flood Hazard Area shall be notified, both verbally and in writing, of the procedures for and benefits of applying for a Letter of Map Revision (LOMR) from FEMA.

#### G. Placement of Structures and other development

1. All structures shall be constructed or placed on the lot so as to offer the minimum obstruction to the flow of water and shall be designed to have a minimum obstruction effect upon the flow and height of floodwater.
  - i Whenever possible, structures and other development shall be constructed with the longitudinal axis parallel to the direction of flood flow and,
  - ii So far as practicable, structures and other development shall be placed approximately on the same flood-flow lines as those of adjoining structures.

#### H. Anchoring

1. All structures and other development including watercourse crossings shall be firmly anchored in accordance with accepted engineering practices to prevent flotation, collapse, and lateral movement.
2. All air ducts, pipes, swimming pools and storage tanks located at or below the Base Flood Elevation shall be firmly anchored to resist flotation and lateral movement.

#### I. Flood Protection Setback

1. For new structures and additions to existing structures within the Special Flood Hazard Area, a flood protection setback equal to twice the width of the watercourse channel measured from the top of one bank to the top of the opposite bank or 50 feet, whichever is less, shall be maintained from the top of the banks of all watercourses. Natural vegetation or other approved measures to reduce erosion shall be provided and maintained in this setback area. This section shall not be construed to permit encroachments into the regulatory floodway.

2. Necessary public works and temporary construction may be exempted from this subsection.
3. The Floodplain Administrator may consider an appeal to the Flood Protection Setback requirement if the applicant demonstrates that it is impossible to allow any development without encroachment into the Flood Protection Setback area. The requested exception shall be the minimum necessary and shall be made only after due consideration is given to varying other siting standards, such as side, front and back lot line setbacks.

J. Storage

1. No materials that are buoyant, flammable, explosive, or in times of flooding could be injurious to human, animal or plant life, shall be stored below Base Flood Elevation.
2. Storage of other material or equipment shall be permitted if not subject to major damage by floods and firmly anchored to prevent flotation or readily removable from the area within the time available after flood warning.

K. Utility and Facility Requirements.

1. All public utilities, such as sewer, gas, electrical and water systems, shall be located and constructed to minimize or eliminate damage during the base flood.
2. All new or replacement water systems whether public or private, shall be designed to minimize or eliminate infiltration of floodwaters into the systems.
3. All new or replacement sanitary disposal systems, whether public or private, shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters. Soil absorption systems shall be permitted within the Special Flood Hazard Area only where suitable soil absorption sites outside of the Special Flood Hazard Area are not available. The soil absorption site shall be located to minimize the effects of inundation under conditions of the base flood. In Special Flood Hazard Areas, tanks shall be anchored to counter buoyant forces during conditions of the base flood. The vent termination and service manhole of the tank shall be above the base flood elevation or fitted with covers designed to prevent the inflow of floodwater or outflow of the contents of the tanks during conditions of the base flood.
4. All other new or replacement public facilities shall be located and constructed to minimize or eliminate flood damage.
5. All piping and conduit shall be constructed and anchored to resist uplift and lateral movement during the base flood.



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L. Drainage

1. Adequate drainage shall be provided to reduce exposure to flood hazard.
2. Adequate drainage paths are required around structures on slopes within zones AH and AO to guide floodwaters around and away from proposed structures.

M. Backflow Preventers

Back flow prevention valves shall be required for all enclosed structures with sewage or drainage facilities located in the Special Flood Hazard Area.

**ARTICLE VII - ADMINISTRATION**

Section 7.1 Designation of Floodplain Administrator:

The Code Enforcement Officer is hereby appointed as Floodplain Administrator and is vested with the responsibility, authority and means to administer and enforce this ordinance. The Floodplain Administrator shall be responsible for submitting all required reports to FEMA concerning Harrison County's participation in the National Flood Insurance Program.

The Floodplain Administrator charged with the enforcement and administration of this ordinance, while acting for the jurisdiction in good faith and without malice in the discharge of the duties required by this ordinance, or other pertinent laws or ordinances, shall not thereby be rendered liable personally and is hereby relieved from personal liability for any damage accruing to persons or property as a result of any act or by reason of an act or omission in the discharge of official duties. Any suit instituted against any officer or employee or agent because of an act performed by that officer or employee or agent in the lawful discharge of duties and under the provisions of this ordinance shall be defended by legal representative of the jurisdiction until the final termination of the proceedings. The Floodplain Administrator or any employee or agent shall not be liable for the cost of any action, suit, or proceeding that is instituted in pursuance of the provisions of this ordinance.

Section 7.2 Development Permits and Approvals Required

Within the Special Flood Hazard Area, it shall be unlawful for any person to undertake, or cause to be undertaken, any construction, improvement, repair, placement or relocation of any structure (including manufactured homes); or any other development as defined herein, unless a permit application has been submitted, and a permit has been obtained from the Floodplain Administrator. In addition, where land that is either partially or fully in the Special Flood Hazard Area is to be subdivided, utilized for a manufactured home park or subdivision, or otherwise developed, a detailed site plan shall be submitted to, and approved by, the Floodplain Administrator prior to any development. Such plan shall indicate the boundaries of the Special Flood Hazard Area.



No person shall make connections from a utility, source of energy, fuel or power to any building or system that is regulated by this ordinance until approved by the Floodplain Administrator. No public utilities or facilities shall be installed within the Special Flood Hazard Area until approved by the Floodplain Administrator.

Within any Special Flood Hazard Area, no person shall install or cause to be installed any water well or private sewage disposal system, unless approved by the Floodplain Administrator. No agency shall approve and/or issue a permit for installation of a water well or private sewage disposal system within the Special Flood Hazard Area until plans for such well have been submitted and approved by the Floodplain Administrator.

### Section 7.3 Approval of Permits and Plans

- A. The Floodplain Administrator shall review, or shall cause to be reviewed, all permit applications and plans in order to determine whether proposed buildings and other development will be reasonably safe from flooding.
- B. The Floodplain Administrator or a representative shall visit the site of the proposed development prior to approval of any permit within the Special Flood Hazard Area.
- C. All permits and plans shall be approved only after it has been determined that the proposed construction and/or development will be in conformance with the requirements of this ordinance and all other applicable laws, codes and ordinances.
- D. The permit applicant(s) shall be informed, both verbally and in writing, that exceeding the minimum requirements of this ordinance will reduce risk to life and property, and may result in reduced flood insurance premiums.
- E. The Floodplain Administrator shall not issue a permit to any person who does not possess a valid contractor's license where a contractor's license is required by West Virginia State Code §21-11-10. The applicant shall provide satisfactory proof that such person is duly licensed as a contractor under the provisions of the West Virginia State Code. If the applicant is not licensed, a written affidavit that such person is not subject to licensure as a contractor or subcontractor as defined in §21-11-3 shall be provided to the Floodplain Administrator and placed in the permit file.
- F. The applicant shall provide copies of all permits required by other governmental agencies.
- G. The Floodplain Administrator shall provide a copy of all permits to the County Assessor as required by West Virginia State Code 11-3-3A.
- H. The Floodplain Administrator shall provide a copy of all permits for new structures to the County E-911 addressing coordinator.
- I. The County E-911 addressing coordinator shall provide a copy of all requests for addresses for new structures to the County Floodplain Administrator.

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- J. Harrison County shall provide sufficient space to allow the Floodplain Administrator to keep on file in perpetuity, in a location safe from natural hazards, all information collected during the course of the administration of this ordinance.

#### Section 7.4 Application Procedures

Permit applications shall be made in writing, on forms supplied by Harrison County, and shall include all information stipulated under Article V of this ordinance.

#### Section 7.5 Changes

After the issuance of a permit by the Floodplain Administrator, no changes of any kind shall be made to the application, permit, plans, specifications, or other documents submitted with the application without the written approval of the Floodplain Administrator.

#### Section 7.6 Permit Placards

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

#### Section 7.7 Start of Construction

Work on the proposed development shall begin within 180 days after the date of issuance of the permit or the permit shall expire unless a time extension is granted, in writing, by the Floodplain Administrator. All work on the proposed development shall be completed within 18 months of permit issuance, at which time the permit shall expire, unless a time extension is granted in writing by the Floodplain Administrator. The request for a time extension shall be in writing and shall state the reasons for the extension. When considering an extension, the Floodplain Administrator shall consider the following criteria:

- A. Has the developer diligently pursued the completion of the proposed development during the 18 months?
- B. Will the granting of the extension be detrimental to public safety, health, or welfare or injurious to other property?

#### Section 7.8 Inspections, Notices of Violation/Cease and Desist Orders, Suspension or Revocation of Permits.

##### A. Inspections

- a. The Floodplain Administrator or a designated representative shall perform inspections as necessary to determine compliance with the provisions of this ordinance and the conditions of the permit. The Floodplain Administrator shall carry proper identification when inspecting structures or premises in the performance of duties under this ordinance.

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- b. Where it is necessary to make an inspection to enforce the provisions of this ordinance, or where the Floodplain Administrator has reasonable cause to believe that there exists in a structure or upon a premises a condition which is contrary to or in violation of this ordinance, the Floodplain Administrator is authorized to enter the structure or premises at reasonable times to inspect or to perform the duties imposed by this ordinance.

B. Notice of Violation/Cease and Desist Orders

The Floodplain Administrator shall issue, or cause to be issued, a notice of violation and/or cease and desist order for any construction or development where the required permit has not been issued, or where construction or development is found to be proceeding in violation of the provisions of this ordinance, the conditions of the permit, or any applicable law or regulation.

The notice of violation and/or cease and desist order shall be in writing and shall be delivered to the owner of the property involved, or to the owner's agent, or to the person doing the work. Upon issuance of a cease and desist order, the cited work shall immediately cease. The notice of violation and/or cease and desist order shall state the reason for the order, and the conditions under which the cited work will be permitted to resume.

Any person who fails to comply with a notice of violation, or who continues any work after having been served with a cease and desist order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be subject to penalties as prescribed in Section 8.3 of this ordinance.

C. Suspension or Revocation of Permit

- 1. The Floodplain Administrator shall suspend or revoke any permit that has been issued in error or on the basis of incorrect, inaccurate or incomplete information, or in violation of any ordinance or regulation or any of the provisions of this ordinance.

D. Unlawful Continuance

Failure to comply with a notice of violation and/or cease and desist order, or continuance of construction or development following suspension or revocation of a permit, shall be cause for the Planning Commission to declare the subject property in violation. Upon such declaration, the Planning Commission shall request the assistance of the County Prosecuting Attorney in order to:



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- a ) Seek an injunction in the Circuit Court of Harrison County to restrain the responsible person from continuing the violation cited and/or seek an injunction requiring removal of structures or land uses from the property involved; or
- b ) Obtain a warrant for the arrest of the person responsible for the violation(s) and seek conviction in the Magistrate Court of Harrison County; or both a ) and b ).

Section 7.9 Certificate of Compliance

- A. In Special Flood Hazard Areas, it shall be unlawful for any person to use or occupy, or to permit the use and occupancy of any building or structure hereafter constructed, located, altered, enlarged, or converted in use; or any premises upon which development has occurred until a certificate of compliance has been issued by the Floodplain Administrator stating that the building or land conforms to the requirements of this ordinance. Occupancy or use of a building or premises in violation of this section shall subject the violator to the penalties described in Section 8.3 of this ordinance.
- B. A certificate of compliance shall be issued by the Floodplain Administrator upon satisfactory completion of all development in Special Flood Hazard Areas.
- C. Issuance of the certificate shall be based upon the inspections conducted as prescribed in this ordinance and adopted administrative procedures. All required documents including, but not limited to, elevation certificates, hydraulic data, flood proofing certificates, and encroachment analyses, shall be retained by Harrison County and filed with the permit application and a copy of the Certificate of Compliance.

Section 7.10 Fees

- A. Permit fees shall be as prescribed in the Harrison County Improvement Location Permit Ordinance.
- B. Where any work for which a permit is required by this ordinance is commenced prior to obtaining a permit, the fees above specified shall be doubled. Payment of the increased fee shall not relieve any person from complying fully with the requirements of this ordinance in the execution of the work, or from other penalties prescribed herein.

**ARTICLE VIII – APPEALS, VARIANCES, AND PENALTIES**

Section 8.1 Appeals

Whenever any person is aggrieved by a decision of the Floodplain Administrator with respect to interpretation of the provisions of this ordinance, it shall be the right of that person to appeal to the Harrison County Commission. Such appeal shall specify the

grounds thereof and shall be filed within thirty (30) days after the date of the order, decision or determination from which the appeal is taken. The decision of the County Commission shall be maintained with a record of all decisions as required in paragraph 8 of Section 8.2 (C).

Section 8.2 Variance

- BK0001 P60035
- A. A request for a variance from any order, requirement, decision or determination made by the Floodplain Administrator pertaining to this Ordinance shall be filed in writing with the Harrison County Commission. The request for variance shall specify the grounds thereof and shall be filed within thirty (30) days after the date of the order, decision or determination from which a variance is sought. The County Commission shall set a time and place for hearing the variance request not less than ten (10) nor more than sixty (60) days from the date of receipt of the request. Notice of the time and place of the hearing shall be given to all parties, at which time and place such persons may appear and be heard.
  - B. The Floodplain Administrator shall, upon request of the County Commission, transmit to the County Commission all documents, plans and papers constituting the record of the action from which a variance request is taken.
  - C. The County Commission, when considering a request for variance shall adhere to the following criteria:
    - 1. An variance 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 variance may be issued by the County Commission for 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 1, 5, 6, 7, and 8 of this section.
    - 3. A variance may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
    - 4. A variance may be issued for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:
      - a) The criteria of 1, 2, 5, 6, 7 and 8 of this section are met, and
      - b) The structure or other development is protected by methods that minimize flood damages during the Base Flood and create no additional threats to public safety.



5. A variance shall be issued by the County Commission only 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.
  6. A variance shall be issued only upon determination that it is the minimum necessary, considering the flood hazard, to afford relief.
  7. The 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 an increased premium rates for Flood Insurance (ii) such construction below the Base Flood Elevation increases risks to life and property. Such notification shall be maintained with a record of all decisions as required in paragraph 8 of this section; and
  8. The Floodplain Administrator shall (i) maintain a record of all decisions including justification for their issuance, and (ii) report such decisions issued in its annual or biennial report submitted to the Federal Emergency Management Agency (FEMA).
- D. An Appeal taken from any order, requirement, decision, or determination made by the County Commission shall be filed with the 15<sup>th</sup> Judicial Circuit Court.

### Section 8.3 Penalties

Any person who violates any provision of this Ordinance shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than fifty (50) dollars nor more than five hundred (500) dollars. Each day during which any violation of this Ordinance continues shall constitute a separate offense.

## ARTICLE IX – GOVERNMENT ACTIONS

### Section 9.1 Jurisdictional Boundary changes

- A. The Harrison County floodplain ordinance in effect on the date of annexation shall remain in effect and shall be enforced by the municipality for all annexed areas until the municipality adopts and enforces an ordinance which meets or exceeds the requirements for participation in the National Flood Insurance Program
- B. A municipality with an existing floodplain ordinance shall pass a resolution acknowledging and accepting responsibility for enforcing floodplain ordinance standards prior to annexation of any area containing identified flood hazards.

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- C. All plats or maps of annexation shall show the Special Flood Hazard Area boundaries, Base Flood Elevation and location of floodway where determined.
- D. The Federal Emergency Management Agency and the State Coordinating Office shall be notified, in writing, whenever the boundaries of Harrison County have been modified by annexation, or Harrison County has otherwise assumed or no longer has authority to adopt and enforce floodplain management regulations for a particular area. A map, suitable for reproduction and clearly delineating the new corporate limits or new area for which Harrison County has assumed or relinquished floodplain management regulatory authority, shall be included with the notification.

Section 9.2 Permits for Government Entities.

Unless specifically exempted by law, all public utilities and Municipal, County, State and Federal entities are required to comply with this ordinance and obtain all necessary permits. Any entity claiming to be exempt from the requirements of this ordinance shall provide a written statement setting forth the rationale for exemption. In addition the entity claiming exemption shall provide copies of all relevant legal documentation demonstrating the exemption.

**ARTICLE X - SEVERABILITY AND COUNTY LIABILITY**

Section 10.1 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 10.2 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 Harrison County, or by any official or employee thereof of the practicability or safety of the proposed use, and shall create no liability upon Harrison County.



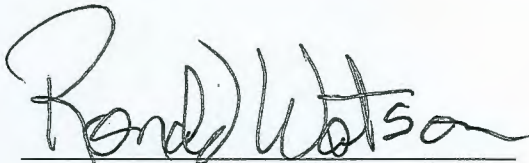
Signature and Approval Page

Ordinance considered for adoption and approval on first reading the 20<sup>th</sup> day of MARCH, 2014.

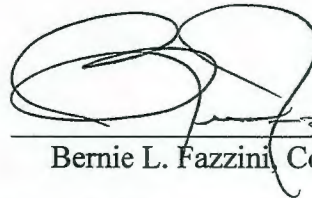
Ordinance considered for adoption and approval on second reading the 27<sup>th</sup> day of MARCH, 2014.

Ordinance considered for adoption and final approval on third reading the 3<sup>rd</sup> day of APRIL, 2014.

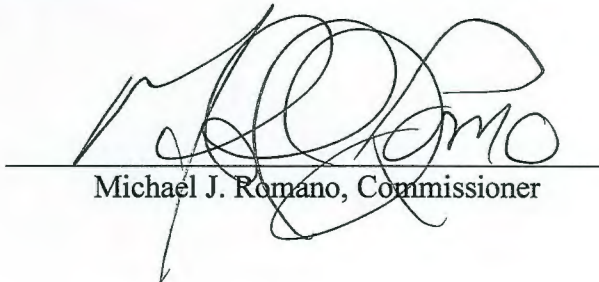
Effective Date: Thirty (30) days from final approval on third reading



Ronald R. Watson, President



Bernie L. Fazzini, Commissioner



Michael J. Romano, Commissioner

Attest:

SEAL:



Susan J. Thomas, Clerk of the County Commission

00001 P0038

HARRISON COUNTY COMMISSION

BK0001 PG0006

Susan J Thomas  
HARRISON County 10:17:33 AM  
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