

A Special Session of the Hardy County Commission was begun and held at the Hardy County Court House in Moorefield, WV, on

F R I D A Y , A P R I L 2 4 , 1 9 9 2

In attendance were the Honorable George T. Leatherman, President of the Commission and Roger D. Champ and J. Michael Teets, Commissioners thereof.

The meeting was called to order by President Leatherman and announced that the purpose of the meeting was to review the Flood Plain Ordinance and Building Permit.

The following notice had been posted on the outside doors of the Court House of Prosecuting Attorney, William D. Moomau, at least 48 hours prior to the meeting, as required by law.

NOTICE OF SPECIAL SESSION OF HARDY COUNTY COMMISSION

The Hardy County Commission will hold a special session on April 24, 1992, at the hour of 10:00 a.m. for the purpose of considering the adoption of a Building Permit Ordinance for Hardy County and for readopting the County Flood Plain Ordinance pursuant to West Virginia Code Chapter 7, Article 1, Section 3v. This notice is given in accordance with West Virginia Code Chapter 7, Article 1, Section 2.

s/ George T. Leatherman, III
GEORGT T. LEATHERMAN, III
President, Hardy County Commission

s/ Roger D. Champ
ROGER D. CHAMP, Commissioner

s/ J. Michael Teets
J. MICHAEL TEETS, Commissioner

RE: FLOOD PLAIN ORDINANCE

The first order of business was the discussion of the Flood Plain Ordinance.

Mr. Renick Williams appeared before the Commission to complain about the Flood Plain Elevation determined by FEMA in the area North of Moorefield.

Commissioner Champ moved that the Commission send a letter to Senator Robert Byrd and FEMA advising of the mistake they feel has been made in the elevation, and ask that a representative from FEMA come to meet with the Commission and discuss this problem. Commissioner Teets seconded the motion.

Commissioner Champ made a motion to adopt the present Flood Ordinance. Commissioner Teets seconded this motion.

The Flood Plain Ordinance dated May 6, 1985 and the the Ordinance of November 4, 1990, are recorded as follows:

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The Hardy County Commission this day accepted the proposed ordinance establishing a flood plain district, and ordered the Ordinance be recorded in the minutes of the Hardy County Commission as follows:

W/5
Book 12

ORDINANCE NO. _____

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

BE IT ENACTED AND ORDAINED by the * _____ County Commission
Hardy County, West Virginia as follows:

ARTICLE I - GENERAL PROVISIONS

Section 1.1 Intent

The intent of this Ordinance is to:

- A. Promote the general health, welfare, and safety of the community.
- B. Encourage the utilization of appropriate construction practices in order to prevent or minimize flood damage in the future.
- C. Minimize danger to public health and safety by protecting water supply, sanitary sewage disposal, and natural drainage.
- D. Reduce financial burdens imposed on the community, its governmental units, and its residents, by preventing the unwise design and construction of development in areas subject to flooding.

Section 1.2 Abrogation and Greater Restrictions

This Ordinance supersedes any ordinances currently in effect in flood prone areas. However, any ordinance shall remain in full force and effect to the extent that its provisions are more restrictive.

Section 1.3 Applicability

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

ARTICLE II - DEFINITIONS

Base Flood

The flood which has been selected to serve as the basis upon which the flood plain management provisions of this and other ordinances have been prepared; for purposes of this Ordinance, the one-hundred (100) year flood.

Development

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

Flood

A general and temporary inundation of normally dry land areas.

Flood Plain

(1) a relatively flat or low land area adjoining a river, stream, or watercourse which is subject to partial or complete inundation; (2) an area subject to the unusual and rapid accumulation or runoff of surface waters from any source.

*Name of Community

**Governing Body

Floodproofing

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

Mobile Home

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

Mobile Home Park or Subdivision

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

New Construction

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

One Hundred (100) Year Flood

A flood that has one chance in one-hundred or a one percent chance of being equaled or exceeded in any given year.

Person

Any individual or group of individuals, corporation, partnership, association, or other entity, including State and local governments and agencies.

Principally Above Ground

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

Start of Construction

The first placement of permanent construction of a structure (other than a mobile home on a site, such as the pouring of slabs or footings or any work beyond the stage of excavation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not as part of the main structure. For a structure (other than a mobile home) without a basement or poured footings, the "start of construction" includes the first permanent framing or assembly of the structure or any part thereof on its piling or foundation. For mobile homes not within a mobile home park or mobile home subdivision, "start of construction" means the affixing of facilities for servicing the site on which the mobile home is to be affixed (including at a minimum the construction of streets, either final site grading or the pouring of concrete pads, and installation of utilities) is completed.

Structure

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

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Substantial Improvement

Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either,

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

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

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

ARTICLE III - ESTABLISHMENT OF THE FLOOD PLAIN DISTRICT

Section 3.1

The Flood Plain District shall include all areas subject to inundation by the waters of the One Hundred (100) Year Flood. The source of this delineation shall be the Flood Hazard Boundary Map for * Hardy County, as prepared by the Federal ~~Insurance Administration~~ Emergency Management Agency dated May 6, 1985.

Section 3.2 - Determination of the Base Flood Elevation

For purposes of this ordinance, the base flood elevation, i.e. the one hundred (100) year flood elevation, shall be used. In determining the elevation the following methods shall be used:

A. When available, the following sources of data:

1. Corps of Engineers - Flood Plain Information Reports
2. U.S. Geological Survey - Flood Prone Quadrangles
3. U.S.D.A. Soil Conservation Service - Flood Hazard Analyses or County Soil Surveys (Alluvial Soils)
4. Known Highwater Marks from Past Floods
5. Other Sources

B. When no base flood data from another source is available, a flood elevation shall be approximated by determining the actual ground elevation at the point on the boundary of the Special Flood Hazard Area nearest to the development site.

Section 3.3 - Changes in Designation of Area(s)

The delineation of any of the identified flood-prone area(s) may be revised by the County Commission** where natural or man-made changes have occurred and/or more detailed studies conducted or undertaken by the U.S. Army Corps of Engineers, River Basin Commission or other qualified agency or individual documents the necessity for such changes. However, prior to any such change, approval must be obtained from the Federal Insurance Administration (FIA).

Section 3.4 - Boundary Disputes

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

ARTICLE IV - UTILIZATION OF THE FLOODPLAIN DISTRICT

In the Floodplain District any development and/or use of land may be permitted provided that all such uses, activities, and/or development shall be undertaken in strict compliance with the floodproofing and related provisions contained herein and in all other applicable codes, ordinances and regulations. For any mobile home park or subdivision an evacuation plan which indicates alternate access routes shall be filed with the *Emergency Services Director and Disaster Preparedness Authorities of Hardy County.

In addition, whenever a developer intends to alter or relocate a watercourse within the Floodplain District, the developer shall notify in writing by certified mail all adjacent communities and the State Coordinating Office of all such intended activities prior to any alteration or relocation of the watercourse, and shall submit copies of such notification to the Federal Insurance Administrator. The developer shall also assure the * in writing, that the flood capacity within the altered or relocated portion of the watercourse in question will be maintained.

ARTICLE V - CRITERIA FOR BUILDING AND SITE PLAN APPROVAL

Section 5.1 - General

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

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

Section 5.2 Basic Format

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

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

Section 5.3 Elevation and Floodproofing Information

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

A. For structures to be elevated to the Base Flood Elevation:

- 1) a plan showing the size of the proposed structure and its relation to the lot where it is to be constructed.
- 2) a determination of elevations of the existing ground, proposed finished ground and lowest floor, certified by a Registered Professional Engineer, Surveyor or Architect.
- 3) plans showing the method of elevating the proposed structure, including details of proposed fills, pile structures, retaining walls, foundations, erosion protection measures, etc. When required by the Permit Officer, these plans shall be prepared by a Registered Professional Engineer or Architect.

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- 4)) plans showing the methods used to protect utilities (including sewer, water, telephone, electric, gas, etc.) from flooding to the Base Flood Elevation at the building site.
- B. For structures to be floodproofed to the Base Flood Elevation (nonresidential structures only):
- 1) plans showing details of all floodproofing measures, prepared by a Registered Professional Engineer or Architect, and showing the size of the proposed structure and its relation to the lot where it is to be constructed.
 - 2) a determination of elevations of existing ground, proposed finish ground, lowest floor, and floodproofing limits; certified by a Registered Professional Engineer, Surveyor, or Architect.
 - 3) a certificate prepared by the Registered Professional Engineer or Architect who prepared the plans in 1) above, that the structure in question, together with attendant utility and sanitary facilities is designed so that:
 - a. below the Base Flood Elevation the structure is watertight with walls substantially impermeable to the passage of water.
 - b. the structure will withstand the hydrostatic, hydrodynamic buoyant, impact, and other forces resulting from the flood depths, velocities, pressures, and other factors associated with the Base Flood.

Section 5.4 Site Plan Criteria

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

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

ARTICLE VI SPECIFIC REQUIREMENTS

6.1 Design and Construction Standards

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

A. Basements and Lowest Floors

All new construction and substantial improvements of residential structures must have the lowest floor (including basement) elevated to the Base Flood Elevation. All new construction and substantial improvements of nonresidential structures must have the lowest floor (including basement) elevated to the Base Flood Elevation; or, together with attendant utility and sanitary facilities, be designed so that below the Base Flood Elevation the structure is floodproofed in accordance with Section 5.3B.

B. Fill

If fill is used to raise the finished surface of the lowest floor to the Base Flood Elevation:

- 1) Fill shall extend beyond a structure for a sufficient distance to provide acceptable access. For residential structures, fill shall extend laterally fifteen (15) feet beyond the building line from all points. For non-residential structures, fill shall be placed to provide access acceptable for intended use. At-grade access, with fill extending laterally fifteen (15) feet beyond the building line, shall be provided to a minimum of twenty-five (25) percent the perimeter of a non-residential structure.
- 2) Fill shall consist of soil or rock materials only. Sanitary land fills shall not be permitted.
- 3) Fill material shall be compacted to provide the necessary stability and resistance to erosion, scouring, or settling.
- 4) Fill slopes shall be no steeper than one (1) vertical on two (2) horizontal, unless substantiating data justifying steeper slopes are submitted to and approved by the Permit Officer.
- 5) Fill shall be used only to the extent to which it does not adversely affect adjacent properties.

C. Placement of Buildings, Structures, and Mobile Homes

- 1) All buildings and structures shall be constructed and placed on the lot so as to offer the minimum obstruction to the flow of water and shall be designed to have a minimum obstruction effect upon the flow and height of flood water.
- 2) Mobile homes shall be elevated on compacted fill or on pilings so that the lowest floor of each mobile home will be at the Base Flood Elevation.
- 3) When mobile homes are to be elevated on pilings, lots shall be large enough to permit steps, piles shall be placed in stable soil no more than ten feet apart, and reinforcement shall be provided for pilings more than six feet above the ground level.

D. Anchoring

- 1) All buildings and structures shall be firmly anchored in accordance with accepted engineering practices to prevent flotation, collapse, and lateral movement, thus reducing the threat to life and property and decreasing the possibility of the blockage of bridge openings and other restricted sections of the watercourse.
- 2) All air ducts, large pipes and storage tanks located at or below the Base Flood Elevation shall be firmly anchored to resist flotation.
- 3) All mobile homes shall be anchored to resist flotation, collapse or lateral movement by providing over-the-top and frame ties to ground anchors. Specifically:
 - a. over-the-top ties shall be provided at each of the four corners of the mobile home, with two additional ties per side at intermediate locations or one additional tie per side for mobile homes less than 50 feet long.
 - b. frame ties shall be provided at each corner of the home with five additional ties per side at intermediate points, with mobile homes less than 50 feet long requiring four additional ties per side.
 - c. all components of the anchoring system shall be capable of carrying a force of 4,800 pounds.
 - d. any additions to a mobile home shall be similarly anchored.

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E. Storage

No materials that are bouyant, flammable, explosive, or in times of flooding could be injurious to human, animal or plant life, shall be stored below Base Flood Elevation.

F. Utility and Facility Requirements

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

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

G. Drainage

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

ARTICLE VI - ADMINISTRATION

Section 6.1 Building Permits and Site Plan Approvals Required

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

Section 6.2 Approval of Permits and Plans

All permits and plans shall be approved only after it has been determined that the proposed work to be undertaken will be in conformance with the requirements of this and all other applicable codes and ordinances.

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

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

Section 6.3 Application Procedures

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

Section 6.4 Changes

After the issuance of a building permit or site plan approval by the Permit Officer, no changes of any kind shall be made to the application, permit, or any of the plans, specifications or other documents submitted with the application without the written consent or approval of the Permit Officer.

Section 6.5 Placards

In addition to the building permit, the Permit Officer shall issue a placard which shall be displayed on the premises during the time construction is in progress. This placard shall show the number of the building permit, the date of its issuance and be signed by the Permit Officer.

Section 6.6 Start of Construction

Work on the proposed construction shall begin within six (6) months after the date of issuance of the building permit or the permit shall expire unless a time extension is granted, in writing, by the Permit Officer.

Section 6.7 Inspection and Revocation

During the construction period, the Permit Officer or other authorized official may inspect the premises to determine that the work is progressing in compliance with the information provided on the permit application and with all applicable laws and ordinances. In the event the Permit Officer discovers that the work does not comply with the permit application or any applicable laws and ordinance, or that there has been a false statement/or misrepresentation by any applicant, the Permit Officer shall revoke the building permit and report such fact to the ** County Commission for whatever action it considers necessary.

Section 6.8 Fees

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

ARTICLE VII - APPEALS AND PENALTIES

Section 7.1 Appeals

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

Section 7.2 Appeal Review Criteria

All appeals contesting only the permit fee established by the Permit Officer may be handled at the discretion of the ** County Comm.. All decisions on appeals to all other provisions of this Ordinance shall adhere to the following criteria:

- 1) Affirmative decisions shall only be issued by the ** Co. Commission upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the appeal would result in exceptional hardship to the applicant, and (iii) a determination that the granting of an appeal will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinance.
- 2) An affirmative decision shall be issued only upon determination that it is the minimum necessary, considering the flood hazard, to afford relief.
- 3) The ** County Commission shall notify the applicant in writing over the signature of a community official that (i) the issuance of a decision to allow construction of a structure below the Base Flood Elevation may result in increased premium rates for flood insurance, (ii) such construction below the Base Flood Elevation increases risk to life and property. Such notifications shall be maintained with a record of all decisions as required in paragraph (4) of this section; and
- 4) The ** Co. Commission shall (i) maintain a record of all decisions including justification for their issuance, and (ii) report such decisions issued in its annual report submitted to the Federal Insurance Administration.

Section 7.3 Penalties

Any person who fails to comply with any or all of the requirements or provisions of this ordinance or direction of the Permit Officer or any other authorized employee of the municipality shall be guilty of an offense and, upon conviction, shall pay a fine to the * County of not less than \$100. or more than \$500. dollars plus costs of prosecution. In default of such payment such person shall be imprisoned in county prison for a period not to exceed 10 days. Each day during which any violation of this Ordinance continues shall constitute a separate offense. In addition to the above penalties all other actions are hereby reserved including an action in equity for the proper enforcement of this Ordinance. The imposition of a fine or penalty for any violation of, or non-compliance with, this Ordinance shall not excuse the violation or non-compliance or permit it to continue; and all such persons shall be required to correct or remedy such violations or non-compliances within a reasonable time. Any structure constructed, reconstructed, enlarged, altered, or relocated, in non-compliance with this Ordinance may be declared by the ** County Commission to be a public nuisance and abatable as such.

ARTICLE VII - SEVERABILITY AND MUNICIPAL LIABILITY

Section 8.1 Severability

If any section, subsection, paragraph, sentence, clause, or phrase of this Ordinance shall be declared invalid for any reason whatever, such decision shall not affect the remaining portions of this Ordinance which shall remain in full force and effect, and for this purpose the provisions of this Ordinance are hereby declared to be severable.

Section 8.2 Municipal Liability

The granting of a permit or approval of a subdivision or development plan in an identified flood-prone area, shall not constitute a representation, guarantee, or warranty of any kind by * _____ or by any official or employee thereof of the practicability or safety of the proposed use, and shall create no liability upon the * _____ its officials or employees.

ARTICLE IX - ENACTMENT

ENACTED AND ORDAINED THIS 6th DAY OF May, 1985.

** County Commission OF THE * HARDY

County _____

SIGNED

J. R. Smith

ORDINANCE NO.

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

BE IT ENACTED AND ORDAINED by the * County Commission,
Hardy County, as follows:

ARTICLE I- GENERAL PROVISIONS

Section 1.1 Intent

The intent of this Ordinance is to:

- A. Promote the general health, welfare, and safety of the community.
- B. Encourage the utilization of appropriate construction practices in order to prevent or minimize flood damage in the future.
- C. Minimize danger to public health and safety by protecting water supply, sanitary sewage disposal, and natural drainage.
- D. Reduce financial burdens imposed on the community, its governmental units and its residents, by preventing the unwise design and construction of development in areas subject to flooding.

Section 1.2 Abrogation and Greater Restrictions

This Ordinance supersedes any ordinances currently in effect in flood prone areas. However, any ordinance shall remain in full force and effect to the extent that its provisions are more restrictive.

* Name of Community

Section 1.3 Applicability

It shall be unlawful for any person, partnership, business, or corporation to undertake or cause to be undertaken, any development or the new construction, substantial improvement, the placement or relocation of any structure (including manufactured homes) within the Flood Plain Area, unless a permit has been obtained from the Permit Officer. In addition, where land is to be subdivided, utilized for a manufactured home park or subdivision or otherwise developed, a site plan must be submitted to, and approved by, the Permit Officer prior to any development.

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.

ARTICLE II - DEFINITIONS

Base Flood

The flood which has been selected to serve as the basis upon which the flood plain management provisions of this and other ordinances have been prepared; for purposes of this Ordinance, the one-hundred (100) year flood.

Basement

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

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.

Existing Manufactured Home Park or Subdivision

A manufactured home park or subdivision for which the construction of facilities for servicing the lot on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of this Ordinance.

Expansion To An Existing Manufactured Home Park Or Subdivision

The preparation of additional sites by the construction of facilities for servicing the lot on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

Flood

A general and temporary inundation of normally dry land areas.

Flood Plain

(1) a relatively flat or low land area adjoining a river, stream, or watercourse which is subject to partial or complete inundation; (2) an area subject to the unusual and rapid accumulation or runoff of surface waters from any source.

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.

Floodproofing

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.

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 a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or,
- (d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - [1] By an approved state program as determined by Secretary of the Interior; or,
 - [2] Directly by the Secretary of the Interior in states without approved programs

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. The term "manufactured home" does not include a "recreational vehicle".

Manufactured Home Park or Subdivision

A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Permit Officer

Person or officer appointed by the County Commission to administer and enforce this ordinance.

County

Hardy County, West Virginia

County Commission

County Commission of Hardy County, West Virginia

New Construction

Structures for which the Start of Construction as herein defined commenced on or after the effective date of this Ordinance and includes any subsequent improvements to such structures.

New Manufactured Home Park Or Subdivision

A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of this Ordinance.

One-Hundred (100) Year Flood

A flood that has one chance in one-hundred or a one percent chance of being equaled or exceeded in any given year.

Person

Any individual or group of individuals, corporation, partnership, association or other entity, including State and local governments and agencies.

Principally Above Ground

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

Recreational Vehicle

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

Start of Construction

For other than new construction or substantial improvements under the Coastal Barrier Resources Act, Pub Law 97-348, includes substantial improvements, and means the date the building permit was issued, provided the actual start of

construction, repair, reconstruction, rehabilitation, addition, placement or other improvement was within 180 days of the permit date. The actual start means either 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, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, 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.

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 its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

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 includes structures which have incurred "substantial damage", as defined herein, regardless of the actual repair work performed. The term does not, however, include either:

- (1) 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

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enforcement official and which are the minimum necessary to assure safe living conditions or

- (2) Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure."

ARTICLE III - ESTABLISHMENT OF THE FLOOD PLAIN AREA

Section 3.1 - Identification

The identified floodplain area shall be those areas of the * 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 the * County by the Federal Emergency Management Agency (FEMA) dated Dec. 15, 1990, or the most recent revision thereof.

Section 3.2 - Description of Floodplain Areas

The identified floodplain area shall consist of the following two specific areas:

- a. The AE Area shall be those areas identified as an AE Zone on the FIRM included in the FIS prepared by FEMA and for which one hundred (100) year flood elevations have been provided in the FIS.
- b. The A Area shall be those areas identified as an A Zone on the FIRM included in the FIS prepared by FEMA and for which no one hundred (100) year flood elevations have been provided. For these areas, elevation and floodway information from other Federal, State or other acceptable source shall be used when available. Where other acceptable information is not available, the elevation shall be determined by using the elevation of a point on the boundary of the identified floodplain area which is nearest the construction site. The *County Commission may require the applicant to determine the elevation with hydrologic and hydraulic engineering techniques. Hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently accepted technical concepts. Studies, analyses, computations, etc.,

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shall be submitted in sufficient detail to allow a thorough technical review by the * County Commission.

Section 3.3 - Changes in Designation of Area

The delineation of the identified flood plain area may be revised by the *County Commission 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 Insurance Administration (FIA).

Section 3.4 - Boundary Disputes

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

ARTICLE IV - UTILIZATION OF THE FLOODPLAIN AREA

1. In the Floodplain Area any development and/or use of land may be permitted provided that all such uses, activities, and/or development shall be undertaken in strict compliance with the floodproofing and related provisions contained herein and in all other applicable codes, ordinances and regulations.
2. 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 will not result in any increase in the Base Flood Elevation.
3. Within any AE Area, no new construction or development shall be allowed unless it is demonstrated that the cumulative effect of the proposed development, when combined

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with all other existing and anticipated development, will not increase the elevation of the one hundred (100) year flood more than one (1) foot at any point. This requirement can be satisfied by utilization of the floodway area where determined.

4. Whenever a developer intends to alter or relocate a watercourse within the Floodplain Area, the developer shall notify in writing by certified mail all adjacent communities and the State Coordinating Office of all such intended activities prior to any alteration or relocation of the watercourse, and shall submit copies of such notification to the Federal Insurance Administrator. The developer shall also assure *County Commission in writing that the flood carrying capacity within the altered or relocated portion of the watercourse in question will be maintained.

ARTICLE V - CRITERIA FOR BUILDING AND SITE PLAN APPROVAL

Section 5.1 - General

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

- (1) designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
- (2) constructed with materials and utility equipment resistant to flood damage.
- (3) constructed by methods and practices that minimize flood damage.
- (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.

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Section 5.2 Basic Format

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

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

Section 5.3 Elevation and Floodproofing Information

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

A. For structures to be elevated to the Base Flood Elevation:

- (1) a plan showing the size of the proposed structure and its relation to the lot where it is to be constructed.
- (2) a determination of elevations of the existing ground, proposed finished ground and lowest floor, certified by a Registered Professional Engineer, Surveyor or Architect.
- (3) plans showing the method of elevating the proposed structure, includes details of proposed fills, pile structures, retaining walls, foundations, erosion protection measures, etc. When required by the Permit Officer, these plans shall be prepared by a Registered Professional Engineer or Architect.

- (4) plans showing the methods used to protect utilities (including sewer, water, telephone, electric, gas, etc.) from flooding to the Base Flood Elevation at the building site.
- B. For structures to be floodproofed to the Base Flood Elevation (nonresidential structures only):
- 1) plans showing details of all floodproofing measures, prepared by a Registered Profession Engineer or Architect, and showing the size of the proposed structure and its relation to the lot where it is to be constructed.
 - 2) a determination of elevations of existing ground, proposed finished ground, lowest floor, and floodproofing limits; certified by a Registered Professional Engineer, Surveyor, or Architect.
 - 3) a certificate prepared by the registered Professional Engineer or Architect who prepared the plans in 1) above, that the structure in question, together with attendant utility and sanitary facilities is designed so that:
 - a. below the Base Flood Elevation the structure is watertight with walls substantially impermeable to the passage of water.
 - b. the structure will withstand the hydrostatic, hydrodynamic, buoyant, impact, and other forces resulting from the flood depths, velocities, pressures, and other factors associated with the Base Flood.

Section 5.4 Site Plan Criteria

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

- 1) Name of engineer, surveyor, or other qualified person responsible for providing the information required in this section.

- 2) A map showing the location of the proposed subdivision and/or development with respect to the municipality's flood plain areas, proposed lots and sites, fills, flood or erosion protective facilities and areas subject to special deed restriction; In addition, it is required that all subdivision proposals and other proposed new developments greater than 50 lots or five (5) acres, whichever is the lesser, shall include base flood elevation data.
- 3) Where the subdivision and/or development lies partially or completely in the flood plain areas, the plan map shall include detailed information giving the location and elevation of proposed roads, public utilities and building sites. All such maps shall also show contours at intervals of two (2) or five (5) feet depending upon the slope of the land and identify accurately the boundaries of the flood plain areas.

ARTICLE VI - SPECIFIC REQUIREMENTS

6.1 Design and Construction Standards

In order to prevent excessive damage to buildings, structures and related utilities and facilities, the following restrictions apply to all development, subdivision proposals, manufactured home parks, new construction and to construction of substantial improvements to existing structures occurring in the Flood Plain Area.

A. Basements and Lowest Floors

- 1) All new construction and substantial improvements of residential structures must have the lowest floor (including basement) elevated to or above the Base Flood Elevation.
- 2) All new construction and substantial improvements of non-residential structures must have the lowest floor (including basement) elevated to or above the Base Flood Elevation; or, together with attendant utility and sanitary facilities, be designed so that below the Base Flood Elevation the structure is floodproofed in accordance with Section 5.3B.

3) For all new construction and substantial improvements, 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 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.) 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.

B. Manufactured Home Placement

1) Manufactured homes to be placed or substantially improved within any floodplain area on sites (a) outside of a manufactured home park or subdivision, (b) in a new manufactured home park or subdivision, (c) in an expansion to an existing manufactured home park or subdivision or (d) in an existing manufactured home park or subdivision in which a manufactured home has incurred "substantial damage", as defined herein, as the result of a flood shall:

- A) be elevated on a permanent foundation so that the lowest floor of the manufactured home is elevated to or above the Base Flood Elevation and,
- B) be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement

2) Manufactured homes to be placed or substantially improved within any floodplain area in an existing manufactured home park or subdivision and not subject to the provisions of the paragraph above shall be elevated so that either:

- A) the lowest floor of the manufactured home is at or above the Base Flood Elevation, or
- B) the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement

C. Recreational Vehicle Placement

- 1) Recreational vehicles to be placed within any floodplain area shall either: (a) be on the site for fewer than 180 consecutive days and (b) be fully licensed and ready for highway use or meet the provisions of Section 6.1 B.1) of this Ordinance. 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.

D. Fill

If fill is used to raise the finished surface of the lowest floor to the Base Flood Elevation:

- 1) Fill shall extend beyond a structure for a sufficient distance to provide acceptable access. For residential structures, fill shall extend laterally fifteen (15) feet beyond the building line from all points. For non-residential structures, fill shall be placed to provide access acceptable for intended use. At-grade access, with fill extending laterally fifteen (15) feet beyond the building line, shall be provided to a minimum of twenty-five (25) percent of the perimeter of a non-residential structure.
- 2) Fill shall consist of soil or rock materials only. Sanitary land fills shall not be permitted.
- 3) Fill materials shall be compacted to provide the necessary stability and resistance to erosion, scouring, or settling.

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- 4) Fill slopes shall be no steeper than one (1) vertical on two (2) horizontal, unless substantiating data justifying steeper slopes are submitted to and approved by the Permit Officer.
 - 5) Fill shall be used only to the extent to which it does not adversely affect adjacent properties.

E. Placement of Buildings

- 1) All buildings and structures shall be constructed and placed on the lot so as to offer the minimum obstruction to the flow of water and shall be designed to have a minimum obstruction effect upon the flow and height of flood water.

F. Anchoring

1. All buildings and structures shall be firmly anchored in accordance with accepted engineering practices to prevent flotation, collapse, and lateral movement, thus reducing the threat to life and property and decreasing the possibility of the blockage of bridge openings and other restricted sections of the watercourse.
2. All air ducts, large pipes and storage tanks located at or below the Base Flood Elevation shall be firmly anchored to resist flotation.
3. All manufactured homes shall be anchored to resist flotation, collapse or lateral movement. Methods of anchoring may include but are not limited to the over-the-top and frame ties to ground anchors such as the following:
 - a. over-the-top ties shall be provided at each of the four corners of the manufactured home, with two additional ties per side for manufactured homes less than 50 feet long.
 - b. frame ties shall be provided at each corner of the home with five additional ties per side at intermediate points, with manufactured homes less than 50 feet long requiring four additional ties per side.
 - c. all components of the anchoring system shall be capable of carrying a force of 4,800 pounds.

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- d. any additions to a manufactured home shall be similarly anchored.

This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.

G. Storage

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.

H. Utility and Facility Requirements

- 1) All new or replacement water systems whether public or private, shall be designed to minimize or eliminate infiltration of flood waters into the systems.
- 2) All new or replacement sanitary disposal systems, whether public or private, shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.
- 3) All other new or replacement public and/or private utilities and facilities shall be located and constructed to minimize or eliminate flood damage.
- 4) Onsite waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

I. Drainage

Adequate drainage shall be provided to reduce exposure to flood hazard.

ARTICLE VII - ADMINISTRATION

Section 7.1 Building Permits and Site Plan Approvals Required

It shall be unlawful for any person, partnership, business, or corporation to undertake or cause to be undertaken, any development or the new construction, substantial improvement, the placement or relocation of any structure (including manufactured homes) within the Flood Plain Area, unless a

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permit has been obtained from the Permit Officer. In addition, where land is to be subdivided, utilized for a manufactured home park or subdivision or otherwise developed, a site plan must be submitted to, and approved by, the Permit Officer prior to any development.

Section 7.2 Approval of Permits and Plans

All permits and plans shall be approved only after it has been determined that the proposed work to be undertaken will be in conformance with the requirements of the State and all other applicable codes and ordinances.

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

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

Section 7.3 Application Procedures

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

Section 7.4 Changes

After the issuance of a building permit or site plan approval by the Permit Officer, no changes of any kind shall be made to the application, permit, or any of the plans, specifications or other documents submitted with the application without the written consent or approval of the Permit Officer.

Section 7.5 Placards

In addition to the building permit, the Permit Officer shall issue a placard which shall be displayed on the premises during the time construction is in progress. This placard

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shall show the number of the building permit, the date of its issuance and be signed by the Permit Officer.

Section 7.6 Start of Construction

Work on the proposed construction shall begin within six (6) months after the date of issuance of the building permit or the permit shall expire unless a time extension is granted, in writing, by the Permit Officer.

Section 7.7 Inspection and Revocation

During the construction period, the Permit Officer or other authorized official may inspect the premises to determine that the work is progressing in compliance with the information provided on the permit application and with all applicable laws and ordinances. In the event of Permit Officer discovers that the work does not comply with the permit application or any applicable laws and ordinances or that there has been a false statement or misrepresentation by any applicant, the Permit Officer shall revoke the building permit and report such fact to the * County Commission for whatever action it considers necessary.

Section 7.8 Fees

Application for a building permit shall be accompanied by a fee, payable to the * County Commission, based upon the estimated cost of the proposed construction as determined by the Permit Officer in accordance with the improvement location fee schedule heretofore adopted for the County.

- * Name of Community
- ** Name of Appeals Authority

ARTICLE VIII - APPEALS AND PENALTIES

Section 8.1 Appeals

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

Section 8.2 Appeal Review Criteria

All appeals contesting only the permit fee established by the Permit Officer may be handled at the discretion of the Appeals Authority. All decisions on appeals to all other provisions of this Ordinance shall adhere to the following criteria:

- 1) Affirmative decisions shall only be issued by the Appeals Authority upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the appeal would result in exceptional hardship to the applicant, and (iii) a determination that the granting of an appeal will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinance.
- 2) An affirmative decision shall be issued only upon determination that it is the minimum necessary, considering the flood hazard, to afford relief.
- 3) An affirmative decision 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) The Appeals Authority shall notify the applicant in writing over the signature of a community official that (i) the issuance of a decision to allow construction of a structure below the Base Flood Elevation will result in increased premium rates for flood insurance, (ii) such construction below the Base Flood Elevation increases risk to life and property. Such notifications shall be maintained with a record of all decisions as required in paragraph (4) of this section; and
- 5) The Appeals Authority shall (i) maintain a record of all decisions including justification for their issuance, and (ii) report such decisions issued in its biennial report submitted to the Federal Insurance Administration.
- 6) An affirmative decision shall not be granted for any construction, development, use or activity within any floodway area that would cause any increase in the Base Flood Elevation.

Section 8.3 Penalties

Any person who fails to comply with any or all of the requirements or provisions of this ordinance or direction of the Permit Officer or any other authorized employee of the community shall be guilty of an offense and, upon conviction, shall pay a fine to the * County of not less than fifty dollars (\$50.00) or more than five hundred dollars (\$500.00) plus cost of prosecution. In default of such payment such person shall be imprisoned in county prison for a period not to exceed 10 days. Each day during which any violation of this Ordinance continues shall constitute a separate offense. In addition to the above penalties all other actions are hereby reserved including an action in equity for the proper enforcement of this Ordinance. The imposition of a fine or penalty for any violation of, or non-compliance with, this Ordinance shall not excuse the violation or non-compliance with this Ordinance or permit it to continue; and all such persons shall be

* Name of Community

required to correct or remedy such violations or non-compliances within a reasonable time. Any structure constructed, reconstructed, enlarged, altered or relocated in non-compliance with this Ordinance may be declared by the *County Commission to be a public nuisance and abatable as such.

ARTICLE IX - SEVERABILITY AND COUNTY LIABILITY

Section 9.1 - 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 9.2 - County Liability

The granting of a permit or approval of a subdivision or development plan in an identified flood-prone area, shall not constitute a representation, guarantee, or warranty of any kind by the *County Commission or by any official or employee thereof of the practicability or safety of the proposed use, and shall create no liability upon the *County Commission.

ARTICLE X - ENACTMENT

Passed on FIRST READING this the 4th day of November, 1990.

Passed on SECOND AND FINAL READING this 6th day of December, 1990.

President OF THE County Commission of
Hardy County West Virginia

SIGNED: Robert A. Keller

ATTEST:
Luc K. Halterman, Clerk