

## ORDINANCE NO. 6.4

### AN ORDINANCE TO ESTABLISH MANAGEMENT AND CONTROL GUIDELINES FOR FLOOD PLAIN DEVELOPMENT

**Farms and agricultural uses are NOT EXEMPT from this Ordinance per Iowa Code 335.2.**

#### SECTION 1. Statutory Authority, Findings of Fact and Purpose

- A. The Legislature of the State of Iowa has in Chapter 335, Code of Iowa, as amended, delegated the power to counties to enact zoning regulations to secure safety from flood and to promote health and the general welfare.
- B. Findings of Fact
  - 1. The flood hazard areas of Franklin County are subject to periodic inundation which can result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base all of which adversely affect the public health, safety and general welfare of the community.
  - 2. These flood losses, hazards, and related adverse effects are caused by:
    - (i) The occupancy of flood hazard areas by uses vulnerable to flood damages which create hazardous conditions as a result of being inadequately elevated or otherwise protected from flooding and
    - (ii) the cumulative effect of obstructions on the floodplain causing increases in flood heights and velocities.

SECTION 2. Definitions. Unless specifically defined below, words or phrases used in this Ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this Ordinance it's most reasonable application. For use in this ordinance, certain terms or words used herein shall be interpreted or defined as follows:

**BASE FLOOD** – The flood having one (1) percent chance of being equaled or exceeded in any given year. (See 100-year flood).

**BASEMENT** – Any enclosed area of a building which has its floor or lowest level below ground level (subgrade) on all sides. Also see “lowest floor.”

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

**EXISTING CONSTRUCTION** – Any structure from which the “start of construction” commenced before the effective date of the first floodplain management regulations adopted by the county.

**EXISTING FACTORY-BUILT HOME PARK OR SUBDIVISION** –The preparation of additional sites by the construction of facilities for servicing the lots on which the factory-built 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).

**FACTORY-BUILT HOME** – Any structure, designed for residential use which is wholly or in substantial part, made, fabricated, formed, or assembled in manufacturing facilities for installation or assembly and installation, on building site. For the purpose of this Ordinance factory-built homes include factory-built homes, manufactured homes and modular homes and also includes “recreational vehicles” which are placed on a site for greater than 180 consecutive days and not fully licensed for and ready for highway use.

**FACTORY-BUILT HOME PARK** – A parcel or contiguous parcels of land divided into two or more factory-built home lots for sale or lease.

**FLOOD** – A general and temporary condition of partial or complete inundation of normally dry land areas resulting from the overflow of streams or rivers or from the unusual and rapid runoff of surface waters from any source.

**FLOOD ELEVATION** – The elevation floodwaters would reach at a particular site during the occurrence of a specific flood. For instance, the 100-year flood elevation is the elevation of flood waters related to the occurrence of the 100-year flood.

**FLOOD INSURANCE RATE MAP (FIRM)** – The official map prepared as part of (but published separately from) the Flood Insurance Study which delineates both the flood hazard areas and the risk premium zones applicable to the community.

**FLOODPLAIN** – Any land area susceptible to being inundated by water as a result of a flood.

**FLOODPLAIN MANAGEMENT** – An overall program of corrective and preventive measures for reducing flood damages and promoting the rise of floodplains, including but not limited to emergency preparedness plans, flood control works, flood proofing and floodplain management regulations.

**FLOODPROOFING** – Any combination of structural and nonstructural additions, changes, or adjustments to structures, including utility and sanitary facilities, which will reduce or eliminate flood damage to such structures.

**FLOODWAY** – The channel of a river or stream and those portions of the floodplains adjoining the channel, which are reasonably required to carry and discharge flood waters or flood flows so that confinement of flood flows to the floodway area will not cumulatively increase the water surface elevation of the base flood by more than one (1) foot.

**FLOODWAY FRINGE** – Those portions of the floodplain, other than the floodway, which can be filled, leveed, or otherwise obstructed without causing substantially higher flood levels or flow velocities.

**HISTORIC STRUCTURE** – Any structure that is:

- A. Listed individually in the National Register of Historic Places, maintained by the Department of Interior or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing of the National Register; 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 register historic district;
- B. 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,
- C. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified by either (i) an approved state program as determined by the Secretary of the Interior or (ii) directly by the Secretary of the Interior in states without approved programs.

**LOWEST FLOOR** – The floor of the lowest enclosed area in a building including a basement except when all the following criteria are met:

- A. The enclosed area is designed to flood to equalize hydrostatic pressure during floods with walls or openings that satisfy the provisions of this Ordinance and
- B. The enclosed area is unfinished (not carpeted, drywalled, etc.) and used solely for low damage potential uses such as building access, parking or storage, and
- C. Machinery and service facilities (e.g., hot water heater, furnace, electrical service) contained in the enclosed area are located at least one (1) foot above the 100-year flood level, and
- D. The enclosed area is not a “basement” as defined in this section.

In cases where the lowest enclosed area satisfies criteria A, B, C, and D above, the lowest floor is the floor of the next highest enclosed area that does not satisfy the criteria above.

**MINOR PROJECTS** – Small development activities (except for filling, grading and excavating) valued at less than \$500.

**NEW CONSTRUCTION** – (new buildings, factory-built home parks) – Those structures or development for which the start of construction commenced on or after the effective date of the first floodplain management regulations adopted by the county and includes any subsequent improvements to such structures.

**NEW FACTORY-BUILT HOME PARK OR SUBDIVISION** – A factory-built home park or subdivision for which the construction of facilities for servicing the lots on which the factory-built 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 the effective date of the first floodplain management regulations adopted by the county and includes any subsequent improvements to such structures.

**ONE HUNDRED (100) YEAR FLOOD** – A flood, the magnitude of which has a one (1) percent chance of being equaled or exceeded in any given year or which, on average, will be equaled or exceeded at least once every one hundred (100) years.

**RECREATIONAL VEHICLE** – A vehicle which is:

- A. Built on a single chassis;
- B. Four hundred (440) 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.

**ROUTINE MAINTENANCE OF EXISTING BUILDINGS AND FACILITIES** - Repairs necessary to keep a structure in a safe and habitable condition that do not trigger a building permit, provided they are not associated with a general improvement of the structure or repair of a damaged structure.

Such repairs include:

- a. Normal maintenance of structures such as re-roofing, replacing roofing tiles and replacing siding;
- b. Exterior and interior painting, papering, tiling, carpeting, cabinets, counter tops and similar finish work;
- c. Basement sealing;
- d. Repairing or replacing damaged or broken window panes;
- e. Repairing plumbing systems, electrical systems, heating or air conditioning systems and repairing wells or septic systems.

**SPECIAL FLOOD HAZARD AREA** – The land within a community subject to the “100-year flood”. This land is identified as Zone A on the community’s Flood Insurance Rate Maps.

**START OF CONSTRUCTION** – Includes substantial improvement, and means the date the development 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 or permanent construction of a structure on a site, such as pouring of a slab or footings, the installation of pile, the construction of columns, or any work beyond the stage of excavation; or the placement of a factory-built 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, other structural part of the building, whether or not that alteration affects the external dimensions of the building.

STRUCTURE – Anything constructed or erected on the ground or attached to the ground, including, but not limited to, buildings, factories, sheds, cabins, factory-built homes, storage tanks, and other similar uses.

SUBSTANTIAL DAMAGE – Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damage condition would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT – Any improvement to a structure which satisfies either of the following criteria:

- A. Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure either (i) before the “start of construction” of the improvement, or (ii) if the structure has been “substantially damaged” and is being restored, before the damage occurred.  
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 ensure safe living conditions. The term also does not include any alteration necessary to ensure safe living conditions. The term also does not include any alteration of an “historic structure”, provided the alteration will not preclude the structure’s designation as an “historic structure”.
- B. Any addition which increase the original floor area of a building by 25 percent or more. All additions constructed on or after the first floodplain management regulations adopted by the county shall be added to any proposed addition in determining whether the total increase in original floor space would exceed 25 percent.

VARIANCE – A grant of relief from the terms of the floodplain management regulations.

VIOLATION – The failure of a structure or other development to be fully compliant with the county’s floodplain management regulations.

### SECTION 3. General Provisions.

1. Lands to Which Ordinance applies.  
The provisions of this ordinance shall apply to all lands within the jurisdiction of the County which are located within the boundaries of the Flood Plain District as established in Section 4.
2. Rules for Interpretation of the Flood Plain District Boundaries.  
The boundaries of the Flood Plain District areas shall be determined by scaling distances on the official Flood Insurance Rate Maps. When an interpretation is needed as to the exact location of a boundary, the Planning and Zoning Administrator, in consultation with appropriate agencies, shall make the necessary interpretation. The Board of

Adjustment shall hear and decide appeals when it is alleged that there is an error in any requirement, decision, or determination made by the Planning and Zoning Administrator in the enforcement or administration of this Ordinance.

3. Compliance.

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

4. Abrogation and Greater Restrictions.

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

5. Interpretation.

In their interpretation of the application, the provisions of this ordinance shall be held to minimum requirements and shall not be deemed a limitation or repeal of any other powers granted by State statutes.

6. Warning and Disclaimer of Liability.

The standards required by this ordinance are considered reasonable for regulatory purposes. This ordinance does not imply that areas outside of the designated special flood hazard areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of Franklin County or any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision made lawfully thereunder.

**SECTION 4. Establishment of Flood Plain District.** The areas within the jurisdiction of Franklin County having special flood hazards are hereby designated as a Flood Plain District and shall be subject to the standards of the Flood Plain District.—The Flood Plain District boundaries shall be designated as Zone A on the Flood Insurance Rate Map for Franklin County and Incorporate Areas, dated December 18, 2012, which is hereby adopted and made a part of this Ordinance.

- **SECTION 5. Standards for Flood Plain District.** All uses must be consistent with the need to minimize flood damage and meet the following applicable performance standards. Where floodway data and 100-year flood elevations have not been provided on the Flood Insurance Rate Map, the Iowa Department of Natural Resources shall be contacted to compute such data.

The applicant will be responsible for providing the Department of Natural Resources with sufficient technical information to make such determination.

1. All development within the Flood Plain District shall:
  - a. Be consistent with the need to minimize flood damage.
  - b. Use construction methods and practices that will minimize flood damage.
  - c. Use construction materials and utility equipment that are resistant to flood damage.

- d. Obtain all other necessary permits from federal, state and local governmental agencies including approval when required from the Iowa Department of Natural Resources.
2. Structures shall be designed and anchored to prevent the floatation, collapse or lateral movement of the structure or portions of the structure due to flooding. Where 100-year flood elevation is available from a Federal, State or other source, the following elevation or floodproofing standards shall be met:
    - a. New or substantially improved residential structures shall have the lowest floor (to include the basement) elevated to one (1) foot above the 100-year flood level.
    - b. New or substantially improved nonresidential structures shall meet the elevation requirements of residential structures or be floodproofed to an elevation one (1) foot above the 100-year flood level. When floodproofing is utilized, a professional engineer registered in the State of Iowa shall certify that the floodproofing methods used are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the substantially impermeable to the passage of water. A record of the certification indicating the specific elevation (in relation to North American Vertical Datum) to which any structures are floodproofed shall be maintained by the Administrator.
    - c. Construction shall be upon compacted fill which shall, at all points, be no lower than 1.0 ft. above the 100-year flood level and extend at such elevation at least 18 feet beyond the limits of any structure erected thereon.
    - d. All new residential structures shall be provided with a means of access which will be passable by wheeled vehicles during the 100-year flood.
    - e. Alternate methods of elevating (such as piers) may be allowed subject to favorable consideration by the County Board of Adjustment, where existing topography, street grades, or other factors preclude elevating by fill. In such cases, the methods used must be adequate to support the structure as well as withstand the various forces and hazards associated with flooding.
    - f. Fully enclosed areas below the "lowest floor" (not including basements) that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or meet or exceed the following minimum criteria:
      - (1) A minimum of two (2) openings having a total net area of not less than one square inch for every square foot enclosed area subject to flooding shall be provided.
      - (2) The bottom of all openings shall be no higher than one foot above grade.
      - (3) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided they permit the automatic entry and exit of floodwaters. Such areas shall be used solely for parking of vehicles, building access and low damage potential storage.
    - g. New and substantially improved structures must be 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.

- h. New and substantially improved structures must be 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.
  - i. Detached garages, sheds, and similar structures accessory to residential use are exempt from the 100-year flood elevation requirements where the following criteria are satisfied.
    - 1) The structure shall not be used for human habitation.
    - 2) The structure shall be designed to have low flood damage potential.
    - 3) The structure shall be constructed and placed on the building site so as to offer minimum resistance to the flow of floodwaters.
    - 4) The structure shall be firmly anchored to prevent floatation which may result in damage to other structures.
    - 5) The structure's service facilities such as electrical and heating equipment shall be elevated or floodproofed to at least one foot above the 10-year flood level.
3. All factory-built homes, including those placed in existing factory-built home parks or subdivisions, shall be elevated on a permanent foundation such that the lowest floor of the structure is a minimum of one (1) foot above the 100-year flood level. Factory-built homes shall be anchored to prevent floatation, collapse or lateral movement. Specific anchoring requirements are:
- a. Over-the-top ties shall be provided at each of the four (4) corners of the factory-built home with two (2) additional ties per side at the intermediate locations and factory-built homes less than fifty (50) feet long requiring one (1) additional tie per side.
  - b. Frame ties shall be provided at each corner of the home with five additional ties per side at intermediate points and factory-built homes less than fifty (50) feet long requiring four (4) additional ties per side.
  - c. All components of the anchoring system shall be capable of carrying a force of four thousand eight hundred (4,800) pounds.
  - d. Any additions to factory-built homes shall be similarly anchored.
4. Subdivisions (including factory-built home parks and subdivisions) shall be consistent with the need to minimize flood damage and shall provide adequate drainage to reduce exposure to flood hazards. Development associated with subdivisions (including the installation of public utilities) shall meet the applicable standards of this section. Subdivision proposals intended for residential use shall provide all lots with a means of access which will be passable by wheeled vehicles during the 100-year flood. Proposals for subdivisions greater than five (5) acres or fifty (50) lots (whichever is less) shall include 100-year flood elevation data for those areas located within the Floodplain (Overlay) District.
5. Utility and Sanitary Systems.
- a. All new and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood water into the system as well as the discharge of effluent into flood water.
  - b. On-Site waste disposal systems shall be located or designed to avoid impairment to the system during flooding. Wastewater treatment facilities (other than on-site



- systems) shall be provided with a level of flood protection equal to or great than one (1) foot above the 100-year flood elevation.
- c. New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood water into the system.
  - d. Utilities such as gas and electrical systems shall be located and constructed to minimize or eliminate flood damage to the systems and the risk associated with such flood damaged or impaired systems.
6. Watercourse alterations or relocations must be designed to maintain the flood carrying capacity within the altered or relocated portion. In addition, such alterations or relocations must be approved by the Department of Natural Resources.
  7. Storage of materials and equipment that are flammable, explosive or injurious to human, animal, or plant life is prohibited unless elevated a minimum of one (1) foot above the 100-year flood level. Other material and equipment must either be similarly elevated or (i) not be subject to major flood damage and anchored to prevent movement due to flood waters or (ii) be readily removable from the area within the time available after flood warning.
  8. Flood control structural works such as levees, flood walls, etc. shall provide, at a minimum, protection from a 100-year flood with a minimum of 3 ft. of design freeboard shall provide for adequate interior drainage. In addition, structural flood control works shall be approved by the Department of Natural Resources.
  9. Watercourse alterations or relocations must be designed to maintain the flood carrying capacity within the altered or relocated portion. In addition, such alterations or relocations must be approved by the Department of Natural Resources.
  10. Recreational Vehicles
    - a. Recreational vehicles are exempt from the requirements of Section 5.3 of this Ordinance regarding anchoring and elevation of factory-built homes when the following criteria are satisfied.
      - 1). The recreational vehicle shall be located on the site for less than 180 consecutive days, and,
      - 2). The recreational vehicle must 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 and is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.
    - b. Recreational vehicles that are located on the site for more than 180 consecutive days or are not ready for highway use must satisfy requirements of the section of this Ordinance regarding anchoring and elevation of factory-built homes.
  11. Pipeline river and stream crossings shall be buried in the streambed and banks, or otherwise sufficiently protected to prevent rupture due to channel degradation and meandering.

## SECTION 6. Administration.

1. Appointment, Duties and Responsibilities of Flood Plain Zoning Administrator:

- a. The Franklin County Zoning Administrator is hereby appointed to implement and administer the provisions of this ordinance and will herein be referred to as the Administrator.
  - b. Duties of the Administrator shall include, but not necessarily limited to, the following:
    - (1) Review all flood plain development permit applications to assure that the provisions of this ordinance will be satisfied.
    - (2) Review flood plain development permit applications to assure that all necessary permits have been obtained from Federal, State or local governmental agencies including approval from the Iowa Department of Natural Resources for flood plain construction.
    - (3) Record and maintain a record of the elevation (in relation to North American Vertical Datum) of the lowest floor (including basement) of all new or substantially improved structures in the Flood Plain District.
    - (4) Record and maintain a record of the elevation (in relation to North American Vertical Datum) to which all new or substantially improved structures have been floodproofed.
    - (5) Notify adjacent communities/counties and the Iowa Department of Natural Resources prior to any proposed alteration or relocation of a watercourse and submit evidence of such notifications to the Federal Insurance Administrator.
    - (6) Keep a record of all permits, appeals and other such transactions and correspondence pertaining to the administration of this ordinance.
2. Flood Plain Development Permit.
- a. Permit Required.

A Flood Plain Development Permit issued by the administrator shall be secured prior to any flood plain development (any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, filling, grading, paving, excavation or drilling operations), including placement of factory-built homes.
  - b. Application for Permit.

Application shall be made on forms furnished by the Administrator and shall include the following:

    - (1) Description of the work to be covered by the permit for which application is made.
    - (2) Description of the land on which the proposed work is to be done that will readily identify and locate the work to be done. (i.e., lot, block, track, street address and legal description)
    - (3) Identification of the use or occupancy for which the proposed work is to be intended.
    - (4) Elevation (in relation to North American Vertical Datum) of the lowest floor (including basement) of buildings or of the level to which a building is to be floodproofed
    - (5) For buildings being improved or rebuilt, the estimated cost of the improvements and market value of the building prior to the improvements.

- (6) The elevation of the 100-year flood.
- (7) Such other information as the Administrator deems necessary for the purpose of this ordinance.
- c. Procedure for Acting on Permit.

The Administrator shall make a determination as to whether the flood plain development, as proposed, meets the applicable standards of this ordinance and shall approve or disapprove the application. In reviewing proposed development, the Administrator shall obtain, review and reasonably utilize any available flood plain information from Federal, State or other sources. For disapprovals, the applicant shall be informed, in writing, of the specific reason therefore. The Administrator shall not issue permits for variances except as directed by the County Board of Adjustment.
- d. Construction and Use to be as provided in Application and Plans  
Floodplain Development Permits based on the basis of approved plans and applications authorize only the use, arrangement, and construction set forth in such approved plans and applications and no other use, arrangement or construction. Any use, arrangement, or construction at variance with the authorized shall be deemed a violation of this Ordinance. The applicant shall be required to submit certification by professional engineer or land surveyor, as appropriate, registered in the State of Iowa, that the finished accomplished in compliance with the provisions of this Ordinance, prior to the use of occupancy of any structure.
- e. Variance
  - a. The Board of Adjustment may authorize upon request in specific cases such variances from the terms of this Ordinance that will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this Ordinance will result in unnecessary hardship. Variances granted must meet the following applicable standards.
    - i. Variances shall only be granted upon: A) a showing of good and sufficient cause, B) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and C) a determination that the granting of the variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local codes or ordinances.
    - ii. Variances shall only be granted upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
    - iii. In cases where the variance involves a lower level of flood protection for buildings than what is ordinarily required by this Ordinance, the applicant shall be notified in writing over the signature of the Administrator that: A) the issuance of a variance will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage and B) such construction increase risks to life and property.
  - b. Factors Upon Which the Decision of the Board of Adjustment Shall be Based – In passing upon applications for Variances, the Board shall consider all relevant factors specified in other sections of this Ordinance and:

- i. The danger to life and property due to increased flood heights or velocities caused by encroachments.
  - ii. The danger that materials may be swept on to other land or downstream to the injury of others.
  - iii. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination and unsanitary conditions.
  - iv. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
  - v. The importance of the services provided by the proposed facility to the County.
  - vi. The requirements of the facility for a floodplain location.
  - vii. The availability of alternative locations not subject to flooding for the proposed use.
  - viii. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
  - ix. The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.
  - x. The safety of access to the property in times of flood for ordinary and emergency vehicles.
  - xi. The expected heights, velocity, duration, rate of rise and sediment transport of the flood water expected at the site.
  - xii. The cost of providing governmental services during and after flood conditions, including maintenance and repair of public utilities (sewer, gas, electrical, and water systems), facilities, streets, and bridges.
  - xiii. Such other factors which are relevant to the purpose of this Ordinance.
- c. Conditions Attached to Variances – Upon consideration of the factors listed above, the Board of Adjustment may attach such conditions to the granting of variances as it deems necessary to further the purpose of this Ordinance. Such conditions may include, but not necessarily be limited to:
- i. Modifications of waste disposal and water supply facilities.
  - ii. Limitation of periods of use and operation.
  - iii. Imposition of operational controls, sureties, and deed restrictions.
  - iv. Requirements for construction of channel modifications, dikes, levees, and other protective measures, provided such are approved by the Department of Natural Resources and are deemed the only practical alternative to achieving the purpose of this Ordinance.
  - v. Floodproofing measures.
- 4) Nonconforming Uses.
- i. A structure or the use of a structure or premises which was lawful before the passage or amendment of this Ordinance, but which is not in conformity with the provisions of this Ordinance, may be continued subject to the following conditions:
    - a. If such use is discontinued for (6) consecutive months, any future use of the building premises shall conform to this Ordinance.

- b. Uses or adjuncts thereof that are or become nuisances shall not be entitled to continue as nonconforming uses.
  - ii. If any nonconforming use or structure is destroyed by any means, including flood, it shall not be reconstructed if the cost is more than fifty (50) percent of the market value of the structure before the damage occurred, unless it is reconstructed in conformity with the provisions of the Ordinance. This limitation does not include the cost of any alteration to comply with existing state or local health, sanitary, building or safety codes or regulations or the cost of any alteration of a structure listed on the National Register of Historic Places, provided that the alteration shall not preclude its continued designation.
- 3. Subdivision Review.

The administrator shall review all subdivision proposals within the Flood Plain District to assure that such proposals are consistent with the purpose and spirit of this ordinance and shall advise the Board of Supervisors of potential conflicts. Flood plain development in connection with a subdivision shall require a Flood Plain Development Permit as provided in Section 6(2a). For proposals greater than fifty (50) lots, the subdivider shall be responsible for providing flood elevation data.

SECTION 7. Permit Fee. Each application for a Flood Plain Development Permit shall be accompanied by a fee according to the Fee Schedule most recently approved by the Board of Supervisors.

SECTION 8. Special Account – Use of Account. All fees, fines and monies available or paid to the County under the provisions of this ordinance shall be placed in the County general fund and credited to a special agency account to be designated as Flood Plain Management Account. This fund shall be available to the Board of Supervisors by appropriation and shall be expended for the administration and enforcement of this ordinance and for any other expenses incurred by the County directly or indirectly due to the provisions set forth by this ordinance. Any unencumbered and any unexpended balance of this account remaining at the end of any fiscal year shall not lapse but shall be carried forward for the purposes of this ordinance until expended or until appropriated by subsequent Board action.

SECTION 9. Violation – Penalty. Any person, firm, co-partnership, corporation or other association of persons, whether acting directly or through employees or agents, that violates, disobeys, omits or neglects the provisions of this title shall be given a NOTICE OF VIOLATION either by personally giving, certified mail or served by law enforcement. This NOTICE OF VIOLATION shall identify the action required to correct the violation and give 20 days to correct it.

If said violation is not corrected then a COUNTY CITATION shall be filed either by personally giving, certified mail or served by law enforcement with fines of \$750 for the first offense, \$1000 for the second and subsequent offences.

A NOTICE OF VIOLATION may be in the form of a STOP WORK ORDER which shall instruct the violator to cease any activity until said violation is corrected. Situations where a STOP WORK ORDER may be used include but are not limited to incidences where construction has begun without a BUILDING PERMIT or where proper documentation has not been filed. Each day the violation is permitted to exist shall constitute a separate offense.

The Zoning Administrator shall keep a record of violations in his office. If any person, firm, co-partnership, corporation or other association of persons, whether acting directly or through employees or agents violates, disobeys, omits or neglects the provisions of this title three (3) or more times in a three (3) year period they shall be deemed a chronic offender. Chronic Offenders shall be issued a COUNTY CITATION when the Zoning Administrator becomes aware of a violation. A NOTICE OF VIOLATION with a 20 day notice shall not be required in the case of chronic offenders. In case of a violation of any provision of this title, the proper authorities of the County, in addition to other remedies, may institute any appropriate action or proceedings to prevent or abate the illegal act.

SECTION 10. Repealer. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 11. Severability Clause. If any section, provision or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.