



FLOODPLAIN ORDINANCE 101





AUTHORITY AND PURPOSE

- THIS ORDINANCE HAS BEEN PREPARED TO HELP COMMUNITIES MEET THE REQUIREMENTS OF THE NATIONAL FLOOD INSURANCE PROGRAM. MORE SPECIFICALLY, THIS ORDINANCE CONTAINS ALL THE PROVISIONS NECESSARY TO COMPLY WITH THE REQUIREMENTS OF SECTION 60.3(D) OF THE NATIONAL FLOOD INSURANCE PROGRAM

Article I

- **GENERAL PROVISIONS**

1. Section 1.1 Authority
2. Section 1.2 Intent
3. Section 1.3 Abrogation and Greater Restrictions
4. Section 1.4 Applicability
5. Section 1.5 Matters not provided for specifically



Article I (continued)



- **Section 1.1 Authority**

1. The provisions of this ordinance have been prepared with the intention of meeting the requirements of THE NATIONAL FLOOD INSURANCE ACT OF 1968 (42 U.S.C. 4001 et seq.) AMENDED BY THE CONGRESS OF THE UNITED STATES THROUGH THE 15TH.OF FEBRUARY, 1975 (PUBLIC LAW 91-152),
2. Authority to adopt, administer and enforce this Ordinance is vested in the pursuant to WEST VIRGINIA STATE CODES 8-12-14, 7-1-3n, 7-1-3v and 7-1-3kk and/or WEST VIRGINIA STATE CODE 8A-4-2, 8A-5-7, 8A-7-2



Article I (continued)

- **Section 1.2 Intent**

- Promote the general health, welfare, and safety of the Town, City, or County.
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- Encourage the utilization of appropriate construction practices in order to prevent or minimize flood damage in the future and protect natural drainage.
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- Minimize danger to public health and safety by protecting water supply and sanitary sewage disposal in cooperation with the County Sanitarian.
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- Assure the County Assessor obtains information concerning improvement of real property as required by WV State Code 11-3-3A.
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- Assure County E-911 addresses are obtained to maintain the currency of established emergency response dispatch systems.
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- Reduce financial burdens imposed on the City, Town or County, its governmental units, and its residents, by preventing the unwise design and construction of development in areas subject to flooding.

Article I (continued)

- **Section 1.3 Abrogation and Greater Restrictions**

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

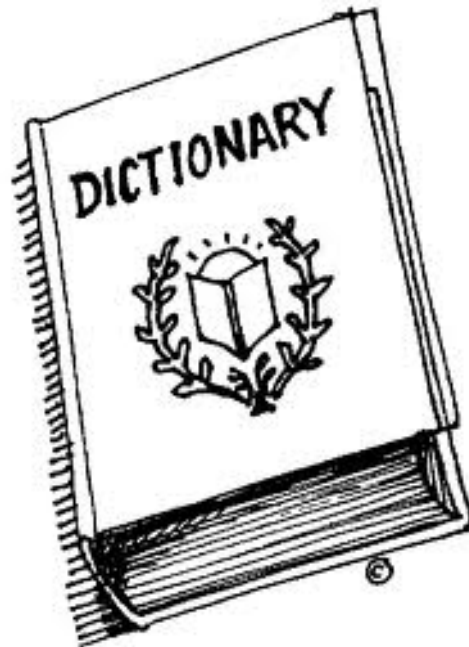
Article I (continued)

- **Section 1.4 Applicability**

1. It shall be unlawful for any contractor, person, partnership, business, or corporation to undertake or cause to be undertaken, any development, new construction, substantial improvement, repair of substantial damage, or the placement or relocation of any structure (including manufactured homes) within City, Town, or County, unless a permit application has been completed and a permit or certificate of compliance has been obtained from the Floodplain Administrator.

Article II

- INTERPRETATIONS AND DEFINITIONS
 1. Section 2.1 Interpretations
 2. Section 2.2 Definitions



Article II (continued)

1. **Section 2.2 Definitions**

- I. **Base Flood Elevation (BFE)** The water surface elevation of the base flood in relation to the datum specified on the City, Town, or County Flood Insurance Rate Map. For the purposes of this ordinance, the one hundred (100) year flood or 1% annual chance flood.
- II. **Critical Facility** Any Facility in which, even a slight chance of flooding is too great a threat. Typical critical facilities include hospitals, fire stations, police stations, storage of critical records, and similar facilities. These should be given special consideration when formulating regulatory alternatives and floodplain management plans. A critical facility should not be located in a special flood hazard area if at all possible. If a critical facility must be located in a special flood hazard area it should be provided a higher level of protection so that it can continue to function and provide services during a flood.
- III. **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.

Article II (continued)

- I. **Freeboard** A factor of safety usually expressed in feet above a flood level for purposes of floodplain management. Freeboard tends to compensate for unknown factors that may contribute uncertainty to flood heights of any given flood and floodway condition, such as wave action, blockage at stream crossings, and increased runoff from urbanization of the watershed. Freeboard also tends to lower the cost of flood insurance.
- II. **Highest Adjacent Grade (HAG)** The highest natural elevation of the ground surface immediately adjacent to the development or structure foundation. This is primarily used during insurance rating in approximated floodplains.
- III. **Lowest Adjacent Grade (LAG)** The lowest natural elevation of the ground surface immediately adjacent to the proposed development or structure foundation. The primary use of the LAG is to determine whether the structure is located within a special flood hazard area by comparing it to the base flood elevation.

Article II (continued)

- I. **New Construction** you will find the Regular or Emergency date of joining the NFIP.
- II. **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. Substantial damage also means cumulative flood-related damages sustained by a structure on two separate occasions during a 10 year period for which the cost of repairs at the time of each flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred. See “Substantial Improvement.”
- III. **State Coordinating Office** The West Virginia Division of Homeland Security and Emergency Management

ARTICLE III

1. ESTABLISHMENT OF THE SPECIAL FLOOD HAZARD AREA

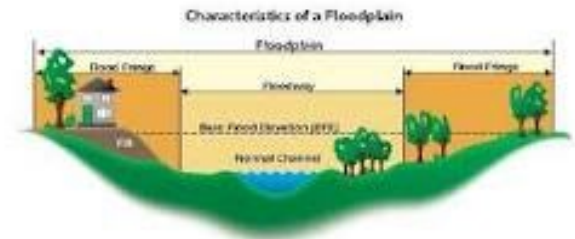
2. Section 3.1 Identification

3. Section 3.2 Descriptions of Special flood hazard areas

4. Section 3.3 Changes in Designation of Area

5. Section 3.4 Boundary Disputes

6. Section 3.5 Elevations Prevail



ARTICLE III (continued)

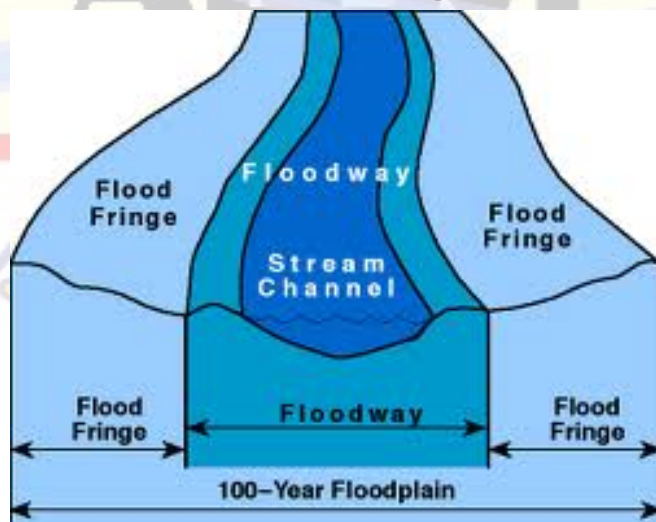
1. Section 3.1 Identification

- I. The identified special flood hazard area shall be those areas of the City of Kingwood 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 City, Town, or County by the Federal Emergency Management Agency (FEMA) dated 06/05/2012 or the most recent revision thereof including all digital data developed as part of the FIS

ARTICLE III (continued)

1. Section 3.2 Descriptions of Special flood hazard areas

The identified special flood hazard area shall consist of the following four specific areas



ARTICLE III (continued)

- The Floodway shall be those areas of AE zone identified as Floodways in the FIS and as shown on the FIRM. The term shall also include any floodway areas delineated by developers in the approximated floodplain and designated as such by the community.
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- The Floodway Fringe shall be those areas of AE zone for which specific one hundred (100) year flood elevations have been provided in the FIS but which lie beyond the floodway area.
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- The AE Area without Floodway shall be those areas identified as an AE zone on the FIRM included in the FIS prepared by FEMA for which 100-year flood elevations have been provided but no Floodway has been delineated.
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- The Approximated floodplain shall be those areas identified as an A zone on the FIRM included in the FIS prepared by FEMA and for which no one hundred (100) year flood elevations have been provided.

ARTICLE III (continued)

- **Section 3.4 Boundary Disputes**

Should a dispute concerning the location of proposed development relative to a special flood hazard area arise, an initial determination shall be made by the Floodplain Administrator and any party aggrieved by this decision may appeal to the City of Kingwood. The burden of proof shall be on the appellant/applicant.

ARTICLE III (continued)

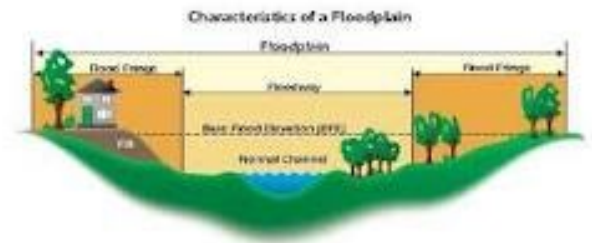
1. **Section 3.5 Elevations Prevail**

- If the lowest natural grade adjacent to proposed development is *above* the Base Flood Elevation, and the following is provided to the Floodplain Administrator:
 - elevation information and a site plan demonstrating that all proposed development will occur above the Base Flood Elevation **or**,
 - a Letter of Map Amendment (LOMA) from FEMA removing the site from the SHFA
- then the site shall be considered to be outside the Floodplain Area and shall not be required to conform to the provisions of this Ordinance.
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- If the lowest natural grade adjacent to proposed development is *below* the Base Flood Elevation, the site shall be considered to be within the Floodplain Area and the proposed structure shall be required to conform to all appropriate provisions of this Ordinance

ARTICLE IV

- **UTILIZATION OF THE SPECIAL FLOOD HAZARD AREA**

1. Section 4.1 Floodway
2. Section 4.2 Floodway Fringe
3. Section 4.3 AE without Floodway
4. Section 4.4 Approximated Floodplain (Zone A)
5. Section 4.5 Alteration or relocation of a stream



ARTICLE IV (continued)

1. Section 4.1 Floodway

- Within any floodway area, no encroachments, including fill, new construction, substantial improvements, or other development shall be permitted unless it has been demonstrated through hydrologic and hydraulic analysis performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels during the occurrence of the base flood discharge. The resultant engineering study shall include a cover letter, signed and sealed by the responsible professional, providing a statement of findings in basic terms. In addition, studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough technical review by Floodplain Administrator.

ARTICLE IV (continued)

1. Section 4.3 AE without Floodway

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

ARTICLE IV (continued)

1. Section 4.4 Approximated Floodplain (Zone A)

- Within any Approximated Floodplain The Floodplain Administrator shall use elevation and floodway information from Federal, State, or other acceptable sources when available to determine the elevation above which development will be reasonably safe from flooding.

ARTICLE IV (continued)

1. Section 4.5 Alteration or relocation of a stream

- Whenever a developer intends to alter or relocate a stream within the special flood hazard area the developer **SHALL** notify in writing, by certified mail, the City, Town, or County The Floodplain Administrator, the State Coordinating Office, any adjacent communities and any adjacent property owners of all such intended activities prior to the alteration or relocation of the stream.

ARTICLE IV (continued)

- Alteration of a stream includes placement of culverts, bridges or other stream crossings. The Floodplain Administrator may require the use of certain “best practice” techniques in the construction of bridges, culverts or stream crossings to prevent damage, loss of stream crossings and localized flooding caused by blockage. These techniques may include, but are not limited to, wing walls, trash grates or requiring openings to be of sufficient size to pass debris and/or anticipated future increases in flood heights.

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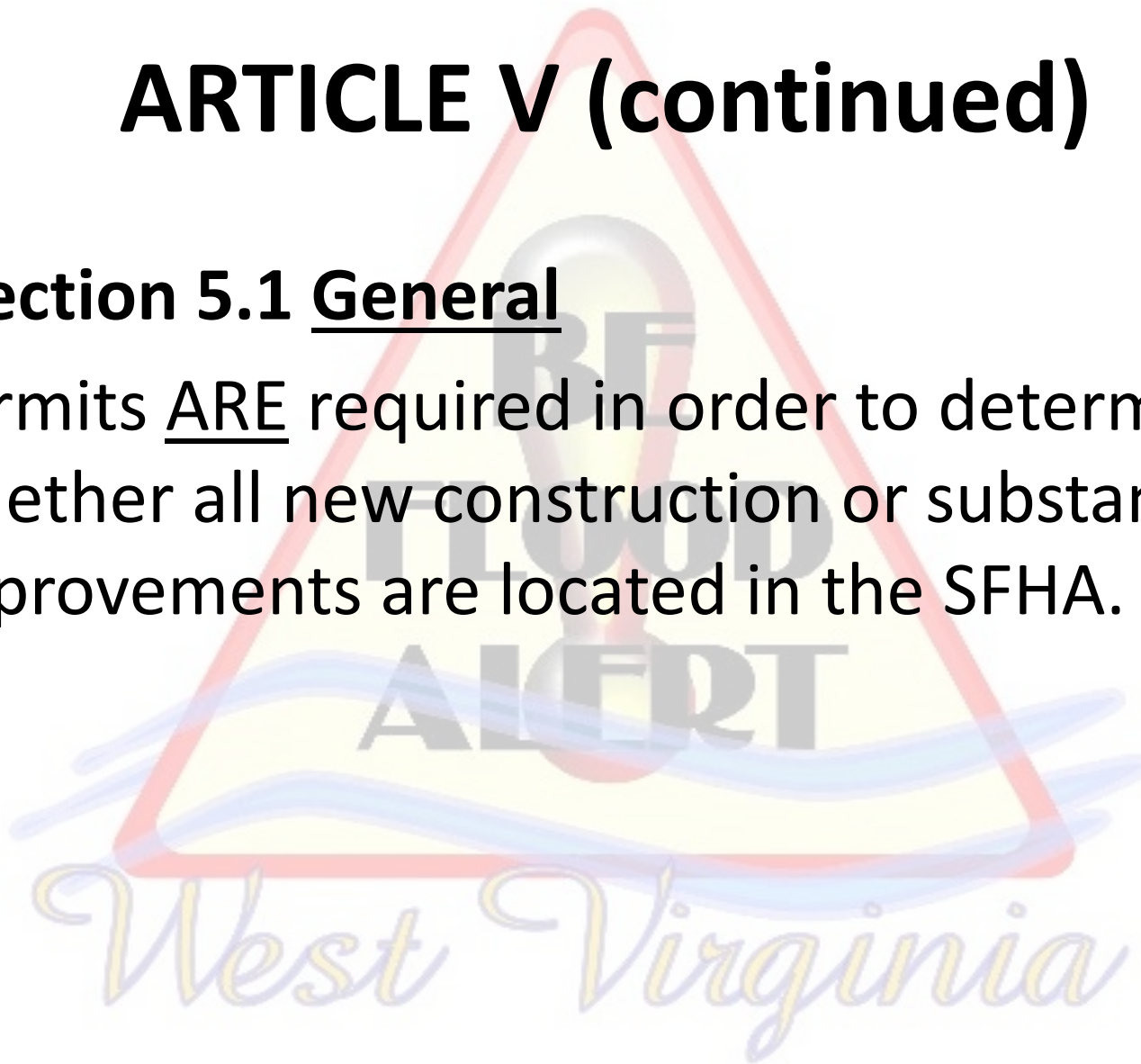
ARTICLE V

- **CRITERIA FOR BUILDING AND SITE PLAN APPROVAL**
 1. Section 5.1 General
 2. Section 5.2 Basic Format
 3. Section 5.3 Elevation and Flood Proofing Information
 4. Section 5.4 Site Plan Criteria
 5. Section 5.5 – Restrictions to Subdivision of land in special flood hazard areas
 6. Section 5.6 – Restrictions to Development in special flood hazard areas.

ARTICLE V (continued)

1. Section 5.1 General

- Permits ARE required in order to determine whether all new construction or substantial improvements are located in the SFHA.



ARTICLE V (continued)

1. **Section 5.4 Site Plan Criteria**

- I. The owner or developer shall submit a preliminary site plan to the Floodplain Administrator.
- II. A map showing the location of the proposed subdivision and/or development with respect to special flood hazard areas, proposed lot sites, and fills.



ARTICLE V (continued)

- All subdivision proposals and other proposed new developments which are proposed to take place either fully or partially within the approximated floodplain and which are greater than ten (10) lots or two (2) acres, whichever is the lesser, shall include base flood elevation data and shall delineate a floodway when directed to do so by the Floodplain Administrator.

ARTICLE VI

1. SPECIFIC REQUIREMENTS

Section 6.1 Design and Construction Standards

- I. 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, and the repair of substantial damage, to existing structures occurring in the Special flood hazard area.

ARTICLE VI Continued

- Residential Structures - All new construction, relocation, substantial improvements, including repair of substantial damage, of residential structures shall have the lowest floor, including basement, ductwork and utilities, elevated to two feet above the Base Flood Elevation.
- - Non-residential Structures - All new construction, relocation, substantial improvements, including repair of substantial damage, of nonresidential structures shall have the lowest floor, including basement, ductwork and utilities, elevated to two feet above the Base Flood Elevation; or, together with attendant utility and sanitary facilities, be designed so that the structure is water tight with walls substantially impermeable to the passage of water from the lowest structural element to two feet above the Base Flood Elevation.
 - Openings
 - **A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.**
 - **The bottom of all openings shall be no higher than one foot above grade.**
 - **Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.**

ARTICLE VI (continued)

- Manufactured Home Placement
- Certain unique characteristics of manufactured homes installed in special flood hazard areas pose an elevated risk to safety and substantial damage to property. Therefore;
- All manufactured homes to be sited within the special flood hazard areas of City of Belington shall be installed by a contractor possessing a valid WV Manufactured Home Installer's license. The Licensed Manufactured Home Installer shall use an installation design engineered to withstand flood hazards specific to the particular home site. Manufactured homes to be placed or substantially improved within the special flood hazard areas shall be installed in accordance with the following standards:
 - - The lowest floor, ductwork and utilities including HVAC/heat pump shall be elevated two feet above the Base Flood Elevation
 - - Elevation shall be on reinforced piers on a permanent foundation, or shall use foundation elements of at least equivalent strength engineered for use in a flood hazard area. Installation designs incorporating dry stacked block piers shall not be used in special flood hazard areas.

ARTICLE VI Continued

- . Appurtenant Structures
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- Except as provided in subsection 2 below, appurtenant structures shall be located out of the special flood hazard area or elevated to two feet above the Base Flood Elevation.
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- Where appurtenant structures not connected to the principal structure are to be located on sites below the Base Flood Elevation, the following flood damage reduction provisions apply:
 - - Use of the structure shall be restricted to parking or limited storage.
 - - Structures shall be no more than 300 square feet in size and valued at less than \$7,000.00.
 - - Floors shall be at or above grade on at least one side.
 - - Structures shall be located, oriented and constructed to minimize flood damage.

ARTICLE VI Continued

- A non-conversion agreement shall be signed by the applicant stating that the use of the appurtenant structure or detached or attached garage shall not be changed from the use permitted, acknowledging that the structure may be subject to greater flood risk and that higher flood insurance premiums may be possible, and that a change in use may require full compliance with this ordinance. The applicant agrees to notify prospective buyers of the existence of this agreement. It shall be the responsibility of the applicant to transfer the agreement at closing to the new owner via notarized signature, a copy of all new agreements shall be provided to the Floodplain Administrator. Failure to transfer the agreement and provide a signed copy to the Floodplain Administrator shall subject the violator to the penalties set forth in Section 8.3 of this ordinance.

ARTICLE VI Continued

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

ARTICLE VI Continued

- **Fill shall be used only to the extent to which it does not adversely affect adjacent properties. The City of Belington may require the applicant to demonstrate through engineering reports that proposed fill would not adversely affect adjacent properties.** When required, hydrologic and hydraulic analyses shall be undertaken only by Registered Professional Engineers who shall certify that the technical methods used correctly reflect currently accepted technical concepts. The resultant study shall include a cover letter, signed and sealed by the responsible professional, providing a statement of findings in basic terms. In addition, studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough technical review by the City of Belington. During permit review the City of Belington shall consider the following issues that have the potential to cause adverse impact to adjacent properties:

ARTICLE VI Continued

- Flood Protection Setback
- A Flood Protection Setback equal to twice the width of the watercourse channel measuring from the top of one bank to the top of the opposite bank or 50 feet, whichever is less, shall be maintained from the top of the banks of all watercourses. To reduce erosion, natural vegetation shall be maintained in this area. Where natural vegetation does not exist along the watercourse and conditions for replanting are suitable, high priority shall be given to planting vegetation in the setback area to stabilize banks, enhance flood protection and benefit aquatic resources.
- Necessary public works and temporary construction may be exempted from this subsection.
- The Floodplain Administrator may consider an appeal to the Flood Protection Setback requirement if the applicant demonstrates that it is impossible to allow any development without encroachment into the Flood Protection Setback area. The appeal conditions shall be the minimum necessary and shall be made only after due consideration is given to varying other siting standards, such as side, front and back lot line setbacks.

ARTICLE VII

- **ADMINISTRATION**

1. Section 7.1 Designation of Floodplain Administrator
2. Section 7.2 Development Permits and Site Plan Approvals Required
3. Section 7.3 Approval of Permits and Plans
4. Section 7.4 Application Procedures
5. Section 7.5 Changes

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ARTICLE VII (continued)

1. Section 7.6 Permit Placards
2. Section 7.7 Start of Construction
3. Section 7.8 Inspections, Stop-Work Orders, Violation Notice and Revocations
4. Section 7.9 Certificate of Compliance
5. Section 7.10 Fees

ARTICLE VII (continued)

1. **Section 7.1 Designation of Floodplain Administrator** The **OFFICIAL TITLE OF WHO IS THE FPM** is hereby appointed as Floodplain Administrator and is vested with the responsibility, authority and means to implement the commitments made in our agreement with the Federal Government to administer and implement this local law by granting or denying floodplain development permits in accordance with its provisions.
2. **Section 7.2 Development Permits and Site Plan Approvals Required** It shall be unlawful for any contractor, person, partnership, business, or corporation to undertake or cause to be undertaken, any development or the new construction, substantial improvement, repair of substantial damage, the placement or relocation of any structure (including manufactured homes) within City, Town, or County, unless a permit application and standard site plan has been completed, and a permit has been obtained from the Floodplain Administrator.

ARTICLE VIII

- **APPEALS AND PENALTIES**

1. Section 8.1 Appeals
2. Section 8.2 Appeal Review Criteria
3. Section 8.3 Penalties



ARTICLE VIII (continued)

1. **Section 8.1 Appeals** Whenever any person is aggrieved by a decision of the Floodplain Administrator with respect to the provision of this ordinance, it is the right of that person to appeal to the Council of the City, Town, or County which shall be known as the Appeals Board.
2. **Section 8.2 Appeal Review Criteria** All appeals contesting only the permit fee, the cumulative substantial damage requirement, the flood protection setback requirement, or the freeboard requirements, may be handled at the discretion of the Appeals Board.
3. **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 Floodplain Administrator, or any other authorized employee of the City, Town, or County shall be unlawful and shall be referred to the prosecuting attorney who shall expeditiously prosecute all such violators.

ARTICLE IX

- **GOVERNMENT ACTIONS**

1. **Section 9.1 – Jurisdictional Boundary changes** In accordance with the Code of Federal Regulations, Title 44 Subpart (B) Section 59.22 (a) (9) (v) all NFIP participating communities will notify the Federal Emergency Management Agency (FEMA) and the State Coordinating Office in writing whenever the boundaries of the City, Town, or County have been modified by annexation or has otherwise assumed or no longer has authority to adopt and enforce flood plain management regulations for a particular area.
2. **Section 9.2 – Permits for Government Entities** Unless specifically exempted by law, **ALL PUBLIC** utilities and Municipal, County, State and Federal entities are required to comply with this ordinance and obtain all necessary permits.

ARTICLE X

- **SEVERABILITY AND MUNICIPAL LIABILITY**

1. **Section 10.1 Severability** If any section, subsection, paragraph, sentence, clause, or phrase of this ordinance shall be declared invalid for any reason whatever, such decision shall not affect the remaining portions of this ordinance which shall remain in full force and effect and for this purpose the provisions of this ordinance are hereby declared to be severable.
2. **Section 10.2 Liability** The granting of a permit or approval of a subdivision or development plan in an identified flood-prone area, shall not constitute a representation, guarantee, or warranty of any kind by the City, Town, or County or by any official or employee thereof of the practicability or safety of the proposed use, and shall create no liability upon the City, Town, or County .

ARTICLE XI

1. **ENACTMENT** The Ordinance **MUST** have two readings with at least two weeks between the readings.

Passed on FIRST READING this the _____ day of _____, 20____.

Passed on SECOND AND FINAL READING this _____ day of _____, 20____.

_____(elected body)_____ OF THE _____(community name)_____

_____(County name)_____ County, West Virginia

Signed: (Mayor or County Commission President)

Attest: (typically the Town Recorder or County Clerk?)
