

**LINCOLN COUNTY
FLOOD DAMAGE PREVENTION ORDINANCE**

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FLOOD DAMAGE PREVENTION ORDINANCE

SECTION 1.0

STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND OBJECTIVES

1.1 STATUTORY AUTHORIZATION The Legislature of the State of SOUTH DAKOTA has in SDCL 9-36 and SOCL 7-18-14 delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the Board of County Commissioners of Lincoln County, South Dakota does ordain as follows:

1.2 FINDINGS OF FACT

- (1) The flood hazard areas of Lincoln County are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.
- (2) These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazards which increase flood heights and velocities, and when inadequately anchored, damage uses in other areas. Uses that are inadequately flood-proofed, elevated or otherwise protected from flood damage also contribute to the flood loss.

1.3 STATEMENT OF PURPOSE It is the purpose of this ordinance to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions to specific areas by provisions designed:

- (1) To protect human life and health;
- (2) To minimize expenditure of public money for costly flood control projects;
- (3) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) To minimize prolonged business interruptions;
- (5) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of special flood hazard;
- (6) To help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;
- (7) To ensure that potential buyers are notified that property is in an area of special flood hazard; and,
- (8) To ensure that those who occupy the areas of special flood hazards assume responsibility for their actions.

1.4 METHODS OF REDUCING FLOOD LOSSES In order to accomplish its purposes, this ordinance includes methods and provisions for:

- (1) Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- (2) Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (3) Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;
- (4) Controlling filling, grading, dredging, and other development which may increase flood damage; and,
- (5) Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas.

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 its most reasonable application.

"Area of special flood hazard" means the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year.

"Base flood" means the flood having a one percent chance of being equalled or exceeded in any given year.

"Development" means 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 located within the area of special flood hazard.

"COMMUNITY FLOOD HAZARD AREA (CFHA)" means an area regulated by the community which is outside of the SFHA where typical damage from sub-surface flood conditions and flooding events that exceed the base flood elevation are anticipated and reasonably preventable by compliance with specific design requirements.

"Flood" or "flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:

(1) The overflow of inland or tidal waters and/or

(2) The unusual and rapid accumulation or runoff of surface waters from any source

"Flood Insurance Rate Map (FIRM)" means an official map of a community on which the Federal Emergency Management Agency has delineated areas of special flood hazard designated as Zone A. **FLOODPLAIN OR FLOOD-PRONE AREA** means any land area susceptible to being inundated by water from any source (see definition of flooding).

"FLOOD PROTECTION SYSTEM" means those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the areas within a community subject to a "special flood hazard area" and the extent of the depths of associated flooding.

"FLOODPLAIN OR FLOOD-PRONE AREA" means any land area susceptible to being inundated by water from any source (see definition of flooding).

"FLOODPLAIN MANAGEMENT" means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and floodplain management regulations.

"FLOODPLAIN MANAGEMENT REGULATIONS" means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

"FLOODWAY (REGULATORY FLOODWAY)" - means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

"Manufactured home" means 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. This term also includes park trailers, travel trailers and other similar vehicles placed on a site for greater than 180 consecutive days.

"Structure" means a walled and roofed building or manufactured home that is principally above ground.

"Substantial improvement" means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either:

(1) before the improvement or repair is started, or

(2) if the structure has been damaged and is being restored, before the damage occurred. For the purpose of this definition "substantial improvement" is

considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences whether or not that alteration affects the external dimensions of the structure.

The term does not however, include either:

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

SECTION 3.0 GENERAL PROVISIONS

- 3.1 LANDS TO WHICH THIS ORDINANCE APPLIES** This ordinance shall apply to all areas of special flood hazards within the jurisdiction of Lincoln County. South Dakota.
- 3.2 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD** The areas of special flood hazard identified by the Federal Emergency Management Agency in a scientific and engineering report entitled, "The Flood Insurance Study for Lincoln County, South Dakota and Incorporated Areas" dated April 2, 2008, with an accompanying Flood Insurance Rate Map (FIRM), is hereby adopted by reference and declared to be a part of this ordinance. The FIRM panel numbers are 125, 127, 129, 133, 134, 137, 141, 142, 150, 152, 153, 154, 156, 157, 158, 159, 161, 162, 166, 167, 175, 176, 177, 178, 200, 225, 250, 275, 286, 287, 291, 300, 325, 350, 375, 400, 414, 425, 450, 475, 500, 525, 527, 550. The Flood Insurance Study and FIRM are on file at the Lincoln County Courthouse, 104 N Main St. Canton South Dakota 57013 (Map Repository).
- 3.3 COMPLIANCE** No structure or land shall hereafter be constructed, located, extended, or altered without full compliance with the terms of this ordinance and other applicable regulations.
- 3.4 ABROGATION AND GREATER RESTRICTIONS** This ordinance is not intended to repeal, abrogate. or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.
- 3.5 INTERPRETATION** In the interpretation of this ordinance, all provisions shall be:
- (1) Considered as minimum requirements;
 - (2) Liberally construed in favor of the governing body; and.
 - (3) Deemed neither to limit nor repeal any other powers granted under State statutes.
- 3.6 WARNING AND DISCLAIMER OF LIABILITY** The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods Can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the area of special flood hazards or uses permitted within such areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of Lincoln County South Dakota, any officer or employee thereof, or the Federal Emergency Management Agency for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

SECTION 4.0 ADMINISTRATION

- 4.1 ESTABLISHMENT OF DEVELOPMENT PERMIT** A development permit shall be obtained before construction or development begins within any area of special flood hazard established in Section 3.2. Application for a development permit shall be made on forms furnished by the Local Administrator and may include, but not be limited to:
- Plans in duplicate drawn to scale showing the nature. location, dimensions, and elevations of the area in question; existing or proposed structures, fill,

storage of materials, drainage facilities; and the location of the foregoing. Specifically, the following information is required:

- (1) Elevation in relation to mean sea level of the lowest floor (including basement) of all structures;
- (2) Elevation in relation to mean sea level to which any structure has been floodproofed;
- (3) Certification by a registered professional engineer or architect that the floodproofing methods for any non-residential structure meet the floodproofing criteria in Section 5.2-2; and,
- (4) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

4.2 DESIGNATION OF THE Lincoln County Geographic Information Services (GIS)

Coordinator as Local Administrator The County GIS Coordinator is hereby appointed to administer and implement this ordinance by granting or denying development permit applications in accordance with its provisions.

4.3 DUTIES AND RESPONSIBILITIES OF THE LOCAL ADMINISTRATOR Duties of the Local Administrator shall include but not be limited to;

4.3-1 Permit Review

- (1) Review all development permits to determine that the permit requirements of this ordinance have been satisfied.
- (2) Review all development permits to determine that all necessary permits have been obtained from those Federal, State or local governmental agencies from which prior approval is required.
- (3) Review all development permits to determine if the proposed development adversely affects the flood carrying capacity of the area of special flood hazard. For the purposes of this ordinance, "adversely affects" means damage to adjacent properties because of rises in flood stages attributed to physical changes of the channel and the adjacent overbank areas.
 - (i) If it is determined that there is no adverse effect and the development is not a building, then the permit shall be granted without further consideration.
 - (ii) If it is determined that there is an adverse effect, then technical justification (i.e., a registered professional engineer's certification) for the proposed development shall be required.
 - (iii) If the proposed development is a building, then the provisions of this ordinance shall apply.

4.3-2 Use of Other Base Flood Data When base flood elevation data has not been provided in accordance with Section 3.2, BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD, the Local Administrator shall obtain review and reasonably utilize any base flood elevation and floodway data available from a Federal, State, or other source as criteria for requiring that new construction, substantial improvements, or other development in Zone A are administered in accordance with Section 5.2, SPECIFIC STANDARDS.

4.3-3 Information to be Obtained and Maintained

- (1) Obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures and whether or not the structure contains a basement.
- (2) For all new or substantially improved floodproofed structures:
 - (i) Verify and record the actual elevation (in relation to mean sea level) to which the structure has been floodproofed.
 - (ii) Maintain the floodproofing certifications required in Section 4.1(3).
- (3) Maintain for public inspection all records pertaining to the provisions of this ordinance.

4.3-4 Alteration of Watercourses

- (1) Notify adjacent communities and the South Dakota Division of Emergency Management prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.
- (2) Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

4.3-5 Interpretation of FIRM Boundaries Make interpretations, where needed, as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions).

**SECTION 5.0
PROVISIONS FOR FLOOD HAZARD REDUCTION**

5.1 GENERAL STANDARDS

In all areas of special flood hazards, the following standards are required:

5.1-1 Anchoring

- (1) All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure and capable of resisting the hydrostatic and hydrodynamic loads.
- (2) All manufactured homes must be elevated and anchored to resist flotation, collapse or lateral movement and capable of resisting the hydrostatic and hydrodynamic loads. Methods of anchoring may include but are not limited to use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces. Specific requirements may be:
 - (i) over-the-top ties be provided at each of the four corners of the manufactured home, with two additional ties per side at intermediate locations, with manufactured homes less than 50 feet long requiring one additional tie per side.
 - (ii) frame ties 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;
 - (iii) all components of the anchoring system be capable of carrying a force of 4,800 pounds; and.
 - (iv) any additions to the manufactured home be similarly anchored.

5.1-2 Construction Materials and Methods

- (1) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- (2) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.
- (3) All new construction and substantial improvements shall 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.

5.1-3 Utilities

- (1) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- (2) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters; and,
- (3) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

5.1-4 Subdivision Proposals

- (1) All subdivision proposals shall be consistent with the need to minimize flood damage;
- (2) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;
- (3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and,
- (4) Base flood elevation data shall be provided for subdivision proposals and other proposed development which contain at least 50 lots or 5 acres (whichever is less)

5.1-5 Encroachments

Encroachments, including fill, new construction, substantial improvements, and other development shall be prohibited in any floodway unless a technical

evaluation demonstrates that the encroachments will not result in any increase in flood levels during the occurrence of the base flood discharge.

5.2 SPECIFIC STANDARDS In all areas of special flood hazards where base flood elevation data has been provided as set forth in Section 4.3-2, Use of Other Base Flood Data, the following standards are required:

5.2-1 Residential Construction New construction and substantial improvement of any residential structure shall have the lowest floor (including basement) elevated one foot above the base flood elevation. Properties that have received a Letter of Map Amendment or Letter of Map Revision based upon fill must still have their lowest structure opening elevated to one foot above the base flood elevation and comply with TB 10-01 guidelines.

5.2-2 Nonresidential Construction New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor (including basement) elevated to the level of the base flood elevation; or, together with attendant utility and sanitary facilities, shall:

- (1) be floodproofed so that below the base flood elevation the structure is watertight with walls substantially impermeable to the passage of water;
- (2) have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
- (3) be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this paragraph. Such certifications shall be provided to the official as set forth in Section 4.3-3(2).

5.3 FLOODWAYS Located within areas of special flood hazard established in Section 3.2 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

- (1) Prohibit encroachments, including fill, new construction, substantial improvements, and other development unless certification by a registered professional engineer or architect is provided demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.
- (2) If Section 5.3(1) is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Section 5.0, PROVISIONS FOR FLOOD HAZARD REDUCTION

5.4 COMMUNITY FLOOD HAZARD AREA Located adjacent to the areas of special flood hazard established in Section 3.2 is an area where damage from subsurface flood conditions and flooding events that exceed the base flood elevation typically occur. The regulations for the CFHA apply for up to 100ft of distance or 8ft increase in elevation from the closest adjacent SFHA (whichever occurs first) with the following requirements:

- (1) The lowest level elevation (including basement) shall be no more than 5 ft below the closest adjacent BFE
- (2) The lowest structure opening shall be no less than 1 ft above the base flood elevation.
- (3) FEMA technical bulletin 10-01 shall be utilized.

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