

2010-11

FLOOD DAMAGE PREVENTION ORDINANCE

ARTICLE 1. STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND OBJECTIVES

SECTION A. AUTHORIZATION

Article IX, Section H of the Constitution of the State of Georgia and Section 36-1-20(a) of the Official Code of Georgia Annotated have 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 Commissioners of Banks County, GEORGIA, does ordain as follows:

SECTION B. FINDINGS OF FACT

(1) The flood hazard areas of Banks County, Georgia 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 relief and protection, 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 occupancy in flood hazard areas of uses vulnerable to floods, which are inadequately elevated, flood-proofed, or otherwise unprotected from flood damages, and by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities.

SECTION C. 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 in specific areas by provisions designed to:

- (1) require that uses vulnerable to floods, including facilities, which serve such uses, be protected against flood damage at the time of initial construction;
- (2) restrict or prohibit uses which are dangerous to health, safety and property due to water or erosion hazards, or which increase flood heights, velocities, or erosion;
- (3) control filling, grading, dredging and other development which may increase flood damage or erosion, and;

- (4) prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands;
- (5) control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of floodwaters.

SECTION D. OBJECTIVES

The objectives of this ordinance are:

- (1) to protect human life and health;
- (2) to minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains;
- (3) to help maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize flood blight areas;
- (4) to minimize expenditure of public money for costly flood control projects;
- (5) to minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (6) to minimize prolonged business interruptions, and;
- (7) to insure that potential homebuyers are notified that property is in a flood area.

ARTICLE 2. GENERAL PROVISIONS

SECTION A. LANDS TO WHICH THIS ORDINANCE APPLIES

This ordinance shall apply to all Areas of Special Flood Hazard within the jurisdiction of Banks County, Georgia.

SECTION B. BASIS FOR AREA OF SPECIAL FLOOD HAZARD

The Areas of Special Flood Hazard identified by the Federal Emergency Management Agency in its Flood Insurance Study (FIS), dated December 17, 2010, with accompanying maps and other supporting data and any revision thereto, are adopted by reference and declared a part of this ordinance.

For those land areas acquired by a municipality through annexation, the current effective FIS dated December 17, 2010, with accompanying maps and other supporting data and any revision thereto, for Banks County, Georgia are hereby adopted by reference.

Areas of Special Flood Hazard may also include those areas known to have flooded historically or defined through standard engineering analysis by governmental agencies or private parties but not yet incorporated in a FIS. (Banks County, Georgia entirely included in FIS)

The Repository for public inspection of the Flood Insurance Study (FIS), accompanying maps and other supporting data is located:

Banks County GIS Mapping Department
150 Hudson Ridge
Homer, GA 30547

SECTION C. ESTABLISHMENT OF DEVELOPMENT PERMIT

A Development Permit shall be required in conformance with the provisions of this ordinance PRIOR to the commencement of any Development activities.

SECTION D. COMPLIANCE

No structure or land shall hereafter be located, extended, converted or altered without full compliance with the terms of this ordinance and other applicable regulations.

SECTION E. ABROGATION AND GREATER RESTRICTIONS

This ordinance is not intended to repeal, abrogate, or impair any existing ordinance, easements, covenants, or deed restrictions. However, where this ordinance and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

SECTION F. INTERPRETATION

In the interpretation and application 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.

SECTION G. 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; flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the Areas of Special Flood Hazard or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part

of Banks County, Georgia or by any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

SECTION H. PENALTIES FOR VIOLATION

Failure to comply with the provisions of this ordinance or with any of its requirements, including conditions and safeguards established in connection with grants of variance or special exceptions shall constitute a violation. Any person who violates this ordinance or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$1,000 per day or imprisoned for not more than 60 days, or both, and in addition, shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent Banks County, Georgia from taking such other lawful actions as is necessary to prevent or remedy any violation.

ARTICLE 3. ADMINISTRATION

SECTION A. DESIGNATION OF ORDINANCE ADMINISTRATOR

The Flood Plain Administrator of Banks County is hereby appointed to administer and implement the provisions of this ordinance.

SECTION B. PERMIT REQUIRED

No development shall commence within an area regulated by this Article until and unless a development or a building permit, or both if required has been approved by the Floodplain Administrator. No development activity shall be approved unless it conforms with the provisions of this Article prior to the commencement of any development activities. No building or structure shall be constructed within an area regulated by this Article until and unless a development permit or building permit, or both, if required shall have been approved by the Floodplain Administrator. No building or structure shall have been approved unless it conforms with the provisions of this Article prior to the construction of said building or structure.

Prohibition of Development/Construction within any watershed lake flood hazard area --
Any development or construction within any watershed lake flood hazard area is strictly prohibited.

Application for a Development Permit shall be made to the Planning & Zoning Department on forms furnished by Banks County **PRIOR** to any development activities, and may include, but not be limited to the following: plans in duplicate drawn to scale showing the elevations of the area in question and the nature, location, dimensions, of existing or proposed structures, earthen fill placement, storage of materials or equipment, and drainage facilities.

Specifically, the following information is required:

- (1) Application Stage -

- (a) Elevation in relation to mean sea level (or highest adjacent grade) of the lowest floor, including basement, of all proposed structures;
- (b) Elevation in relation to mean sea level to which any non-residential structure will be flood-protected;
- (c) Design certification from a registered professional engineer or architect that any proposed non-residential flood-protected structure will meet the flood-proofing criteria of Article 4, Section B (2);
- (d) Description of the extent to which any watercourse will be altered or relocated as a result of a proposed development, and;

(2) Construction Stage -

For all new construction and substantial improvements, the permit holder shall provide to the Administrator an as-built certification of the regulatory floor elevation or flood-proofing level immediately after the lowest floor or flood proofing is completed. Any lowest floor certification made relative to mean sea level shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by same. When flood proofing is utilized for non-residential structures, said certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same.

Any work undertaken prior to submission of these certifications shall be at the permit holder's risk. The Flood Plain Administrator shall review the above referenced certification data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further progressive work being allowed to proceed. Failure to submit certification or failure to make said corrections required hereby, shall be cause to issue a stop-work order for the project.

SECTION C. DUTIES AND RESPONSIBILITIES OF THE ADMINISTRATOR

Duties of the Flood Plain Administrator shall include, but shall not be limited to:

- (1) Review proposed development to assure that the permit requirements of this ordinance have been satisfied.
- (2) Review proposed development to assure that all necessary permits have been received from governmental agencies from which approval is required by Federal or State law, including section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334. Require that copies of such permits be provided and maintained on file.
- (3) Review all permit applications to determine whether proposed building sites will be reasonably safe from flooding.

(4) When Base Flood Elevation data or floodway data have not been provided in accordance with Article 2 Section B, then the Flood Plain Administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other sources in order to administer the provisions of Article 4.

(5) Review and record the actual elevation in relation to mean sea level (or highest adjacent grade) of the lowest floor, including basement, of all new or substantially improved structures in accordance with Article 3, Section B (2).

(6) Review and record the actual elevation, in relation to mean sea level to which any new or substantially improved structures have been flood-proofed, in accordance with Article 3, Section B (2).

(7) When flood-proofing is utilized for a structure, the Flood Plain Administrator shall obtain certification of design criteria from a registered professional engineer or architect in accordance with Article 3(B)(1)(c) and Article 4(B)(2) or (D)(2).

(8) Make substantial damage determinations following a flood event or any other event that causes damage to structures in flood hazard areas.

(9) Notify adjacent communities and the Georgia Department of Natural Resources prior to any alteration or relocation of a watercourse and submit evidence of such notification to the Federal Emergency Management Agency (FEMA).

(10) For any altered or relocated watercourse, submit engineering data/analysis within six (6) months to the FEMA to ensure accuracy of community flood maps through the Letter of Map Revision process. Assure flood carrying capacity of any altered or relocated watercourse is maintained.

(11) Where interpretation is needed as to the exact location of boundaries of the Areas of Special Flood Hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the Flood Plain Administrator shall make the necessary interpretation. Any person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this Ordinance.

(12) All records pertaining to the provisions of this ordinance shall be maintained in the office of the Flood Plain Administrator and shall be open for public inspection.

ARTICLE 4. PROVISIONS FOR FLOOD HAZARD REDUCTION

SECTION A. GENERAL STANDARDS

In ALL Areas of Special Flood Hazard the following provisions are required:

- (1) New construction and substantial improvements of existing structures shall be anchored to prevent flotation, collapse or lateral movement of the structure;
- (2) New construction and substantial improvements of existing structures shall be constructed with materials and utility equipment resistant to flood damage;
- (3) New construction or substantial improvements of existing structures shall be constructed by methods and practices that minimize flood damage;
- (4) Elevated Buildings - All New construction or substantial improvements of existing structures that include ANY fully enclosed area located below the lowest floor formed by foundation and other exterior walls shall be designed so as to be an unfinished or flood resistant enclosure. The enclosure shall be designed to equalize hydrostatic flood forces on exterior walls by allowing for the automatic entry and exit of floodwater.
 - (a) Designs for complying with this requirement must either be certified by a professional engineer or architect or meet the following minimum criteria:
 - (i) Provide 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;
 - (ii) The bottom of all openings shall be no higher than one foot above grade; and,
 - (iii) Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwater in both direction.
 - (b) So as not to violate the "Lowest Floor" criteria of this ordinance, the unfinished or flood resistant enclosure shall only be used for parking of vehicles, limited storage of maintenance equipment used in connection with the premises, or entry to the elevated area, and
 - (c) The interior portion of such enclosed area shall not be partitioned or finished into separate rooms.
- (5) All heating and air conditioning equipment and components (including ductwork), all electrical, ventilation, plumbing, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

- (6) Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable State requirements for resisting wind forces.
- (7) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- (8) ~~New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters;~~
- (9) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding, and;
- (10) Any alteration, repair, reconstruction or improvement to a structure, which is not compliant with the provisions of this ordinance, shall be undertaken only if the non-conformity is not furthered, extended or replaced.

SECTION B. SPECIFIC STANDARDS

In ALL Areas of Special Flood Hazard the following provisions are required:

- (1) New construction and/or substantial improvements - Where base flood elevation data are available, new construction and/or substantial improvement of any structure or manufactured home shall have the lowest floor, including basement, elevated no lower than *two feet* above the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with standards of Article 4, Section A (4), "Elevated Buildings".
 - (a) All heating and air conditioning equipment and components (including ductwork), all electrical, ventilation, plumbing, and other service facilities shall be elevated at or above *two feet* above the base flood elevation.
- (2) Non-Residential Construction - New construction and/or the substantial improvement of any structure located in A1-30, AE, or AH zones, may be flood-proofed in lieu of elevation. The structure, together with attendant utility and sanitary facilities, must be designed to be water tight to *one foot* above the base flood elevation, with walls substantially impermeable to the passage of water, and structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the design and methods of construction are

in accordance with accepted standards of practice for meeting the provisions above, and shall provide such certification to the official as set forth above and in Article 3, Section C. (6).

(3) Standards for Manufactured Homes and Recreational Vehicles - Where base flood elevation data are available:

- (a) All manufactured homes placed and/or substantially improved on:
 - (1) individual lots or parcels; (2) in new and/or substantially improved ~~manufactured home parks or subdivisions;~~ (3) ~~in expansions to existing~~ manufactured home parks or subdivisions; or (4) on a site in an existing manufactured home park or subdivision where a manufactured home has incurred "substantial damage" as the result of a flood, must have the lowest floor including basement, elevated no lower than *two feet* above the base flood elevation.
- (b) Manufactured homes placed and/or substantially improved in an existing manufactured home park or subdivision may be elevated so that either:
 - (i) The lowest floor of the manufactured home is elevated no lower than *two feet* above the level of the base flood elevation, or
 - (ii) The manufactured home chassis is elevated and supported by reinforced piers (or other foundation elements of at least an equivalent strength) of no less than 36 inches in height above grade.
- (c) All manufactured homes must be securely anchored to an ~~adequately anchored foundation system to resist flotation, collapse and lateral movement.~~ (Ref. Article 4(A)(6) above)
- (d) All recreational vehicles placed on sites must either:
 - (i) Be on the site for fewer than 180 consecutive days.
 - (ii) Be fully licensed and ready for highway use, (a recreational vehicle is ready for highway use if it is licensed, on its wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached structures or additions), or
 - (iii) The recreational vehicle must meet all the requirements for "New Construction", including the anchoring and elevation requirements of Article 4, Section B (3)(a)(c), above.

(4) Floodway - Located within Areas of Special Flood Hazard established in Article 2, Section B, are areas designated as floodway. A floodway may be an extremely hazardous area due to velocity floodwaters, debris or erosion potential. In addition, the area must remain free of encroachment in order to allow for the discharge of the base flood without increased flood heights. Therefore, the following provisions shall apply:

- (a) Encroachments are prohibited, including earthen fill, new construction, substantial improvements or other development within the regulatory floodway. Development may be permitted however, provided it is demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the encroachment shall not result in any increase in flood levels or floodway widths during a base flood discharge. A registered professional engineer must provide supporting technical data and certification thereof.
- (b) **ONLY** if Article 4 (B)(4)(a) above is satisfied, then any new construction or substantial improvement shall comply with all other applicable flood hazard reduction provisions of Article 4.

SECTION C. BUILDING STANDARDS FOR STREAMS WITHOUT ESTABLISHED BASE FLOOD ELEVATIONS AND/OR FLOODWAY (A-ZONES) -

Located within the Areas of Special Flood Hazard established in Article 2, Section B, where streams exist but no base flood data have been provided (A-Zones), OR where base flood data have been provided but a Floodway has not been delineated, the following provisions apply:

- (1) When base flood elevation data or floodway data have not been provided in accordance with Article 2(B), then the Flood Plain Administrator shall obtain, review, and reasonably utilize any scientific or historic base flood elevation and floodway data available from a Federal, State, or other source, in order to administer the provisions of Article 4. **ONLY** if data are not available from these sources, then the following provisions (2&3) shall apply:
- (2) No encroachments, including structures or fill material, shall be located within an area equal to the width of the stream or twenty feet, whichever is greater, measured from the top of the stream bank, unless certification by a registered professional engineer is provided demonstrating that such encroachment shall not result in any increase in flood levels during the occurrence of the base flood discharge.
- (3) In special flood hazard areas without base flood elevation data, new construction and substantial improvements of existing structures shall have the lowest floor of the lowest enclosed area (including basement) elevated no less

than *three feet* above the highest adjacent grade at the building site. (NOTE: Require the lowest floor to be elevated *one foot* above the estimated base flood elevation in A-Zone areas where a Limited Detail Study has been completed). Openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with standards of Article 4, Section A (4) "Elevated Buildings".

(a) All heating and air conditioning equipment and components (including ductwork), all electrical, ventilation, plumbing, and other service facilities shall be elevated no less than *three feet* above the highest adjacent grade at the building site.

The Flood Plain Administrator shall certify the lowest floor elevation level and the record shall become a permanent part of the permit file.

SECTION D. STANDARDS FOR AREAS OF SPECIAL FLOOD HAZARD (ZONES AE) WITH ESTABLISHED BASE FLOOD ELEVATIONS WITHOUT DESIGNATED FLOODWAYS

Located within the Areas of Special Flood Hazard established in Article 2, Section B, where streams with base flood elevations are provided but no floodways have been designated, (Zones AE) the following provisions apply:

1. No encroachments, including fill material, new structures or substantial improvements shall be located within areas of special flood hazard, unless certification by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than *one foot* at any point within the community. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles.
2. New construction or substantial improvements of buildings shall be elevated or flood-proofed to elevations established in accordance with Article 4, Section B.

SECTION E. STANDARDS FOR AREAS OF SHALLOW FLOODING (AO ZONES).

Areas of Special Flood Hazard established in Article 2, Section B, may include designated "AO" shallow flooding areas. These areas have base flood depths of *one to three feet* above ground, with no clearly defined channel. The following provisions apply:

- (1) All new construction and substantial improvements of residential and non-residential structures shall have the lowest floor, including basement, elevated to the flood depth number specified on the Flood Insurance Rate Map (FIRM),

above the highest adjacent grade. If no flood depth number is specified, the lowest floor, including basement, shall be elevated at least *three feet* above the highest adjacent grade. Openings sufficient to facilitate the unimpeded movements of flood waters shall be provided in accordance with standards of Article 4, Section A (4), "Elevated Buildings".

The Flood Plain Administrator shall certify the lowest floor elevation level and the record shall become a permanent part of the permit file.

(2) ~~New construction or the substantial improvement of a non-residential structure may be flood-proofed in lieu of elevation. The structure, together with attendant utility and sanitary facilities, must be designed to be water tight to the specified FIRM flood level plus *two feet*, above highest adjacent grade, with walls substantially impermeable to the passage of water, and structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions above, and shall provide such certification to the official as set forth above and as required in Articles 3(B)(1)(c) and (3)(B)(2).~~

(3) Drainage paths shall be provided to guide floodwater around and away from any proposed structure.

SECTION F. STANDARDS FOR SUBDIVISIONS

(1) All subdivision and/or development proposals shall be consistent with the need to minimize flood damage;

(2) All subdivision and/or development 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 and/or development proposals shall have adequate drainage provided to reduce exposure to flood hazards, and;

(4) For subdivisions and/or developments greater than *fifty lots or five acres*, whichever is less, base flood elevation data shall be provided for subdivision and all other proposed development, including manufactured home parks and subdivisions. Any changes or revisions to the flood data adopted herein and shown on the FIRM shall be submitted to FEMA for review as a Conditional Letter of Map Revision (CLOMR) or Conditional Letter of Map Amendment (CLOMA), whichever is applicable. Upon completion of the project, the developer is responsible for submitting the "as-built" data to FEMA in order to obtain the final LOMR.

SECTION G. STANDARDS FOR CRITICAL FACILITIES

- (1) Critical facilities shall not be located in the 100-year floodplain or the 500-year floodplain.
- (2) All ingress and egress from any critical facility must be protected to the 500-year flood elevation.

ARTICLE 5. VARIANCE PROCEDURES

- (A) The Banks County Board of Commissioners shall hear and decide requests for appeals or variance from the requirements of this ordinance.
- (B) The board shall hear and decide appeals when it is alleged an error in any requirement, decision, or determination is made by the Flood Plain Administrator in the enforcement or administration of this ordinance.
- (C) Any person aggrieved by the decision of the Banks County Board of Commissioners may appeal such decision to the Superior Court of Banks County, Georgia, as provided in Section 5-4-1 of the Official Code of Georgia Annotated.
- (D) Variances 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 to preserve the historic character and design of the structure.
- (E) Variances may be issued for development necessary for the conduct of a functionally dependent use, provided the criteria of this Article are met, no reasonable alternative exists, and the development is protected by methods that minimize flood damage during the base flood and create no additional threats to public safety.
- (F) Variances shall not be issued within any designated floodway if ANY increase in flood levels during the base flood discharge would result.
- (G) In reviewing such requests, the Banks County Board of Commissioners shall consider all technical evaluations, relevant factors, and all standards specified in this and other sections of this ordinance.
- (H) **Conditions for Variances:**
 - (1) A variance shall be issued **ONLY** when there is:

- (i) a finding of good and sufficient cause,
- (ii) a determination that failure to grant the variance would result in exceptional hardship, and;
- (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud or victimization of the public, or conflict with existing local laws or ordinances.

(2) The provisions of this Ordinance are minimum standards for flood loss reduction; therefore any deviation from the standards must be weighed carefully. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief; and, in the instance of a Historic Structure, a determination that the variance is the minimum necessary so as not to destroy the historic character and design of the building.

(3) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the base flood elevation and the elevation of the proposed lowest floor and stating that the cost of flood insurance will be commensurate with the increased risk to life and property resulting from the reduced lowest floor elevation.

(4) The Flood Plain Administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request.

(1) Upon consideration of the factors listed above and the purposes of this ordinance, the Banks County Board of Commissioners may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.

ARTICLE 6. 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.

“Accessory Structure” means a structure having minimal value and used for parking, storage and other non-habitable uses, such as garages, carports, storage sheds, pole barns, hay sheds and the like.

“Addition (to an existing building)” means any walled and roofed expansion to the perimeter of a building in which the addition is connected by a common load-bearing wall other than a firewall. Any walled and roofed addition, which is connected by a firewall or is separated by an independent perimeter load-bearing wall, shall be considered “New Construction”.

“Appeal” means a request for a review of the Flood Plain Administrator’s interpretation of any provision of this ordinance.

“Area of Shallow Flooding” means a designated AO or AH Zone on a community’s Flood Insurance Rate Map (FIRM) with base flood depths from one to three feet, and/or where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

“Area of Special Flood Hazard” is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. In the absence of official designation by the Federal Emergency Management Agency, Areas of Special Flood Hazard shall be those designated by the local community and referenced in Article 2, Section B.

“Base Flood” means the flood having a one percent chance of being equaled or exceeded in any given year.

“Base Flood Elevation (BFE)” The elevation shown on the Flood Insurance Rate Map for Zones AE, AH, A1-A30, AR, AR/A, AR/AE, AR/A1-A30, AR/AH, AR/AO, V1-V30, and VE that indicates the water surface elevation resulting from a flood that has a one percent chance of equaling or exceeding that level in any given year.

“Basement” means that portion of a building having its floor sub grade (below ground level) on all sides.

“Building” means any structure built for support, shelter, or enclosure for any occupancy or storage.

“Critical Facility” means any public or private facility, which, if flooded, would create an added dimension to the disaster or would increase the hazard to life and health. Critical facilities include:

- (a) structures or facilities that produce, use, or store highly volatile, flammable, explosive, toxic, or water-reactive materials;
- (b) hospitals and nursing homes, and housing for the elderly, which are likely to contain occupants who may not be sufficiently mobile to avoid the loss of life or injury during flood and storm events;
- (c) emergency operation centers or data storage centers which contain records or services that may become lost or inoperative during flood and storm events; and
- (d) generating plants, and other principal points of utility lines.

“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, excavating, drilling operations, and storage of materials or equipment.

“Elevated Building” means a non-basement building built to have the lowest floor of the lowest enclosed area elevated above the ground level by means of fill, solid foundation perimeter walls, pilings, columns, piers, or shear walls adequately anchored so as not to impair the structural integrity of the building during a base flood event.

“Existing Construction” means for the purposes of determining rates, structures for which the start of construction” commenced before December 17, 2010. [the effective date of the initial FIRM for that community].

“Existing Manufactured Home Park or Subdivision” means 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 final site grading or the pouring of concrete pads) is completed before January 13, 1998. [the effective date of the FIRST floodplain management regulations adopted by a community].

“Expansion To An Existing Manufactured Home Park or Subdivision” means the preparation of additional sites by the construction of facilities for servicing the lots 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” or **“Flooding”** means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (a.) the overflow of inland or tidal waters; or
- (b.) the unusual and rapid accumulation or runoff of surface waters from any source.

“Flood Hazard Boundary Map (FHBM)” means an official map of a community, issued by the Federal Insurance Administration, where the boundaries of areas of special flood hazard have been defined as Zone A.

“Flood Insurance Rate Map (FIRM)” means an official map of a community, issued by the Federal Insurance Administration, delineating the areas of special flood hazard and/or risk premium zones applicable to the community.

“Flood Insurance Study” the official report by the Federal Insurance Administration evaluating flood hazards and containing flood profiles and water surface elevations of the base flood.

“Floodplain” means any land area susceptible to flooding.

"Flood Proofing," means 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.

"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.

"Freeboard" means a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. ~~"Freeboard" tends to compensate for the many unknown factors that~~ could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed.

"Highest Adjacent Grade" means the highest natural elevation of the ground surface, prior to construction, adjacent to the proposed foundation of a building.

"Historic Structure" means any structure that is:

- a. Listed individually in the National Register of Historic Places (a listing maintained by the U.S. 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 and determined as eligible by 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 and determined as eligible by communities with historic preservation programs that have been certified either:
 1. By an approved state program as determined by the Secretary of the Interior, or
 2. Directly by the Secretary of the Interior in states without approved programs.

"Lowest Floor" means the lowest floor of the lowest enclosed area, including basement. An unfinished or flood resistant enclosure, used solely for parking of vehicles, building access, or storage, in an area other than a basement, is not considered a building's lowest floor, provided

that such enclosure is not built so as to render the structure in violation of other provisions of this code.

“Manufactured Home” means a building, transportable in one or more sections, built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term also includes park trailers, travel trailers, and similar transportable structures placed on a site for 180 consecutive days or longer and intended to be improved property.

“Manufactured Home Park or Subdivision” means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

“Mean Sea Level” means the average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within the floodplain. For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community’s Flood Insurance Rate Map are referenced.

“National Geodetic Vertical Datum (NGVD)” as corrected in 1929 is a vertical control used as a reference for establishing varying elevations within the floodplain.

“New Construction” means, for the purposes of determining insurance rates, structures for which the “start of construction” commenced after December 17, 2010 [the effective date of the initial FIRM] and includes any subsequent improvements to such structures. For floodplain management purposes, “new construction” means structures for which the “start of construction” commenced after January 13, 1998 [the effective date of the FIRST floodplain management ordinance adopted by the community] and includes any subsequent improvements to such structures.

“New Manufactured Home Park or Subdivision” means 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 after January 13, 1998. [the effective date of the first floodplain management regulations adopted by a community].

“North American Vertical Datum (NAVD)” has replaced the National Geodetic Vertical Datum of 1929 in existing and future FEMA Flood Modernization Maps.

“Recreational Vehicle” means 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” means the date the development permit was issued, provided the actual start of construction, repair, reconstruction, or improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of the structure such as the pouring of slabs or footings, installation of piles, construction of columns, or any work beyond the stage of excavation, and includes the placement of a manufactured home on a foundation. (Permanent construction does not include initial hand 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 buildings appurtenant to the permitted structure, such as garages or sheds not occupied as dwelling units or part of the main structure. (NOTE: accessory structures are NOT exempt from any ordinance requirements) 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” means a walled and roofed building that is principally above ground, a manufactured home, a gas or liquid storage tank.

“Subdivision” the division of a single lot into two or more lots for the purpose of sale or development.

“Substantial Damage” means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred.

“Substantial Improvement” means any reconstruction, rehabilitation, addition, or other improvement of a structure, taking place during a 5-year period, in which the cumulative cost equals or exceeds fifty (50) percent of the market value of the structure prior to the “start of construction” of the improvement. NOTE: *The market value of the structure should be (1) the appraised value of the structure prior to the start of the initial repair or improvement, or (2) in the case of damage, the value of the structure prior to the damage occurring.* This term includes structures, which have incurred “substantial damage”, regardless of the actual amount of repair work performed.

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 building. The term does not, however, include (1) those improvements of a structure required to comply with existing violations of state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions and which have been identified by the Code Enforcement Official, and not solely triggered by an improvement or repair project, or (2) any

alteration of a "historic structure" provided that the alteration will not preclude the structure's continued designation as a "historic structure".

"Substantially Improved Existing Manufactured Home Parks or Subdivisions" is where the repair, reconstruction, rehabilitation or improvement of the streets, utilities and pads equals or exceeds 50 percent of the value of the streets, utilities and pads before the repair, reconstruction or improvement commenced.

"Variance" is a grant of relief from the requirements of this ordinance, which permits ~~construction in a manner otherwise prohibited by this ordinance.~~

"Violation" means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, or other certifications, or other evidence of compliance required by this ordinance is presumed to be in violation until such time as that documentation is provided.

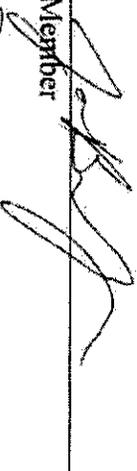
ARTICLE 7. SEVERABILITY

If any section, clause, sentence, or phrase of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way effect the validity of the remaining portions of this Ordinance.

DATE: 7/13/2010

BY:

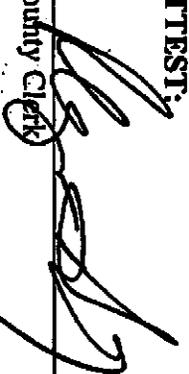

Chairman


Member


Member


Member

ATTEST:


County Clerk

(SEAL)

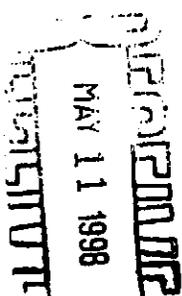


Federal Emergency Management Agency

Washington, D.C. 20472

MAY 7 1998

CERTIFIED MAIL
RETURN RECEIPT REQUESTED



Mr. James C. Dumas
Chairman of the Banks County
Board of Commissioners

P.O. Box 145
144 Yonah/Homer Road
Homer, Georgia 30547

Dear Mr. Dumas:

I am pleased to announce that your community's application to participate in the National Flood Insurance Program (NFIP) is approved. In accordance with Section 1336 of the National Flood Insurance Act of 1968, Banks County is eligible to participate in the Emergency Program effective March 4, 1998. This means that flood insurance will be available to local property owners and can be purchased from any property insurance agent or broker licensed to do business in the State in which the property to be insured is located.

I am taking the liberty of sending you the enclosed news release announcing your community's eligibility to participate in the NFIP. I hope it assists you in your efforts to publicize the availability of this important coverage. Your community's property owners will want to know about this opportunity to obtain insurance protection against losses from future flooding. Coverage for buildings and their contents is available at reasonable rates for building owners, as well as tenants.

There is a 30-day waiting period before any newly purchased flood insurance policy takes effect, or any additional coverage or endorsement which increases policy limits. The waiting period ends and the policy takes effect at 12:01 a.m. on the 31st calendar day after the insurance policy application date and the payment of premium.

There are six exceptions to the 30-day waiting period. First, when the initial purchase of flood insurance is in connection with the making, increasing, extension, or renewal of a loan, there is no waiting period and coverage is effective immediately. Second, when the purchase of the flood insurance is related to the revision or updating of a Flood Hazard Boundary Map (FHBM) or Flood Insurance Rate Map (FIRM), there is a 1-day waiting period. This means flood insurance coverage is effective 12:01 a.m. the day after coverage is purchased for a building where the map is revised and shows the building to be in a Special Flood Hazard Area (SFHA) when it had not been in a SFHA prior to the map revision. This exception is limited to a thirteen month period which starts on the date the revised map is issued. Information concerning the remaining exceptions is detailed in the enclosed "Policy Issuance 8-95" dated December 5, 1995, issued by the NFIP.

Under the Flood Disaster Protection Act of 1973, as amended, flood insurance must be obtained by those seeking any form of Federal financial assistance for construction or acquisition of buildings in the Federal Emergency Management Agency (FEMA) identified SFHAs in your community. Such assistance would include Federal Housing Administration insured and Department of Veterans Affairs and Rural Economic and Community Development Services guaranteed mortgages and direct loans, Federal disaster relief loans and grants, as well as other types of similarly described assistance from Federal agencies.

In addition, all loans obtained from federally-regulated, supervised or insured lending institutions which are secured by improved real estate located in the SFHAs are also conditioned upon the borrower obtaining Flood insurance coverage on the building securing the loan. We strongly encourage everyone having a financial interest in property located in SFHAs to purchase and maintain flood insurance coverage to protect their investment.

Again, we congratulate your community for adopting current floodplain management measures and welcome its entry into the NFIP. This action assures the availability of flood insurance protection for property throughout the community, as well as in the identified SFHAs, and it offers the promise of a safer community in generations to come.

If you need any further assistance, contact our Regional Office staff in Atlanta, Georgia. They can be reached at: FEMA, Mitigation Division, Koger Center-Rutgers Building, 3003 Chamblee Tucker Road, Atlanta, Georgia 30341 or (770) 220-5400.

Sincerely,



Michael J. Armstrong
Associate Director for Mitigation

Enclosures

Sample News Release
"Policy Issuance 8-95"



Federal Emergency Management Agency

Washington, D.C. 20472

NATIONAL FLOOD INSURANCE PROGRAM (NFIP) POLICY ISSUANCE 8-95

DEC 5 1995

Subject: 30-Day Waiting Period

Background: Section 579 of the National Flood Insurance Reform Act of 1994 (NFIRA) mandates a 30-day waiting period before coverage under a new contract for flood insurance or any modification to coverage under an existing flood insurance contract becomes effective, with two exceptions. The express intent of Congress in mandating a 30-day waiting period was to prevent the purchase of flood insurance at times of imminent flood loss. The Conference Committee Report says: "The Committee is concerned by information that arose from the 1993 Midwest flooding that suggests that some homeowners bought flood insurance only when flooding was imminent."

One exception to the required 30-day waiting period involves the initial purchase of flood insurance in connection with the making, increasing, extension, or renewal of a loan. The second involves the initial purchase of flood insurance within one year of a map revision.

Early Implementation: At first, the Federal Insurance Administration (FIA) interpreted the statutory language of "initial purchase" as not including adding coverage to an existing flood insurance policy. This narrow interpretation meant that lenders and borrowers would have to wait 30 days before flood insurance coverage became effective even for situations when the lender required the borrower simply to add more flood coverage to a policy already in force in connection with a loan transaction or as a result of a mortgage loan portfolio review.

National associations representing lenders, flood hazard determination companies, and insurers, as well as individual lending institutions have brought to our attention that this narrow interpretation of the statute's term "initial purchase" creates a number of adverse and inequitable situations.

Adverse Effects Connected with Adding Coverage to an Existing Policy as a Result of Second Mortgages, Home Equity Loans, and Refinancing: First, lenders in conforming with the flood insurance purchase requirements (Section 102) of the Flood Disaster Protection Act of 1973 (the 1973 Act), as amended by the NFIRA must require flood insurance in connection with second mortgage loans, home equity loans, and refinancing of existing loans. When the borrower already has a flood insurance policy, but for an amount of coverage less than the amount required to protect that lender's interest in the property, the lender must require additional flood insurance. Since, under this narrow interpretation, such a purchase of additional flood insurance is not the "initial

insurance due to their personal perception of the flood risk prior to the map change which later triggers a statutory requirement for additional flood insurance. In some cases the latter class of property owners, while having some flood insurance coverage, may not have enough flood insurance to meet the statutory requirement under Section 102 of the 1973 Act, as amended by the NFIRA, that the amount of flood insurance be in an amount equal to the outstanding balance of the loan or the maximum amount of insurance available under the Act, whichever is less. In those cases, the narrow interpretation of "initial purchase" would penalize prudent property owners and prevent them from obtaining the necessary increased protection of flood insurance for an additional 30 days-- protection that benefits them, their lenders, and the Federal taxpayers. The result, again, is that too narrow an interpretation of "initial purchase" of flood insurance would drive the underinsured borrowers and their lenders to foreign markets of flood insurance which would divert funds from the nation's flood insurance fund. These are effects certainly at cross purposes with the intent of Congress for the NFIRA. In the Conference Committee report, two of the listed purposes of the NFIRA are to "provide added income to the insurance fund" and "decrease the financial impact of flooding to the federal government and to citizens who are victims of floods. "

Interpretation: FIA believes that "initial purchase" with respect to the exception to the 30-day waiting period in connection with map revisions means the initial purchase of flood insurance in connection with a particular map revision, i.e., the purchase of the additional amount being required in connection with that map revision.

Potential Adverse Effects Connected with Mortgage Portfolio

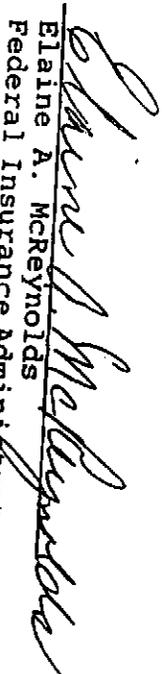
Reviews: Under Section 102(e) of the 1973 Act, as amended by the NFIRA, a lender determining that a loan or loans in its portfolio should be but are not covered by flood insurance must notify the borrower that he or she should buy flood insurance. If the borrower fails to purchase flood insurance within 45 days after notification, the lender is required to purchase the insurance on behalf of the borrower. Congress saw fit to provide express exceptions to the 30-day waiting period in connection with all other lender activities where the mandatory purchase of flood insurance applies. FIA believes Congress did not intend to imply that the requirement for flood insurance is any less urgent when discovered after loan origination, including reviews for compliance by lenders acting in good faith and in compliance with the Section 102(e), than it is at loan origination. If there is no exception to the 30-day waiting period in such cases, borrowers and lenders, and ultimately the Federal taxpayers, are placed in a rather vexing situation: Faced with a statutory mandate for coverage the borrower or the lender must buy flood coverage but then must wait for the benefits of its protection for 30-days. The law in effect would be saying almost two contradictory things to lenders and borrowers

3. The 30-day waiting period will not apply when flood insurance is required as a result of a lender determining that a loan which does not have flood insurance coverage should be protected by flood insurance. The coverage will be effective upon the completion of an application and the presentment of payment of premium.

4. The 30-day waiting period will not apply when an additional amount of insurance is being obtained in connection with the renewal of a policy. The increased amount of coverage will be effective at 12:01 a.m. on the date of policy renewal, before the expiration of the grace period.

Effective Date: Policy Decisions 1, 2, and 3 are effective January 2, 1996. Policy Decision 4 is effective immediately.

12/5/95
DATE


Elaine A. McReynolds
Federal Insurance Administrator