

## **ORDINANCE #5**

### **FLOOD PLAIN MANAGEMENT**

#### **SECTION I - STATUTORY AUTHORITY, FINDINGS OF FACT AND PURPOSE**

A. The Legislature of the State of Iowa has in Chapter 331, Code of Iowa, as amended, delegated the power to Counties to exercise any power and perform any function it deems appropriate to protect and preserve the right, privileges and property of the County or of its residents, and to preserve and improve the peace, safety, health, welfare, comfort and convenience of its residents.

#### **B. Findings of Fact**

1. The flood hazard areas of Carroll County are subject to periodic inundation which can result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base all of which adversely affect the public health, safety and general welfare of the community.

2. These flood losses, hazards and related adverse affects are caused by: (1) the occupancy of flood hazard areas by uses vulnerable to flood damages which create hazardous conditions as a result of being inadequately elevated or otherwise protected from flooding and (2) the cumulative effect of obstructions on the flood plain causing increases in flood heights and velocities.

#### **C. Statement of Purpose**

It is the purpose of the ordinance to protect and preserve the rights, privileges and property of Carroll County and its residents and to preserve and improve the peace, safety, health, welfare, and comfort and convenience of its residents by minimizing those flood losses described in section IB2 with provisions designed to:

1. Restrict or prohibit uses which are dangerous to health, safety or property in times of flood or which cause excessive increases in flood heights or velocities.

2. Require that uses vulnerable to floods, including public facilities which serve such uses, be protected against flood damage at the time of initial construction or substantial improvement.

3. Protect individuals from buying lands which may not be suited for intended purposes because of flood hazard.

4. Assure that eligibility is maintained for property owners in the community to purchase flood insurance through the national flood insurance program.

#### **SECTION II - GENERAL PROVISIONS**

#### **A. Lands to which ordinance apply**

The provisions of this Ordinance shall apply to all areas having special flood hazards within the jurisdiction of Carroll County. For the purpose of this Ordinance, the special flood hazard areas are those areas designated as Zone A on the Flood Insurance Rate Map for the Carroll County, dated 6/17/1986, which is hereby adopted and made a part of this Ordinance.

#### B. Rules for interpretation of flood hazard boundaries

The boundaries of the special flood hazard areas shall be determined by scaling distances on the official flood insurance rate map. When an interpretation is needed as to the exact location of a boundary, the zoning administrator shall make the necessary interpretation. Areas that are subject to this ordinance are all areas in the County that are subject to flooding both the partial area that is identified as a flood plain and also those areas in the County that are subject to flooding but not officially identified.

#### C. Compliance

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

#### D. Abrogation and greater restrictions

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

#### E. Interpretation

In their interpretation and application, the provisions of this ordinance shall be held to the minimum requirements and shall be liberally construed in favor of the governing body and shall not be deemed a limitation or repeal of any other powers granted by state statutes.

#### F. Warning and disclaimer of liability

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

#### G. Severability

If any section, clause, provision or portion of this ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected thereby.

### SECTION III - STANDARDS FOR FLOOD PLAIN DEVELOPMENT

All uses shall meet the following applicable performance standards. Where needed, the Department of Natural Resources shall be contacted to compute 100-year flood elevation and floodway data.

#### A. All development within the special flood hazard areas shall:

1. Be consistent with the need to minimize flood damage.

2. Use construction methods and practices that will minimize flood damages.
3. Use construction materials and utility equipment that are resistant to flood damage.
4. Obtain all other necessary permits from federal, state and local governmental agencies including approval when required from the Iowa Department of Natural Resources.

B. Structures:

1. New or substantially improved residential structures shall have the first floor (to include basement) elevated a minimum of one (1) foot above the 100-year flood level.
2. New or substantially improved non-residential structures shall have the first floor (including basement) elevated a minimum of one (1) foot above the 100-year flood level, or together with attendant utility and sanitary systems, be flood proofed to such a level. When flood proofing is utilized, a professional engineer registered in the State of Iowa shall certify that the flood proofing methods used are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the 100-year flood; and that the structure below the 100-year flood level is watertight with walls substantially impermeable to the passage of water. A record of the certification indicating the specific elevation (in relation to the flood proofed) shall be maintained by the administrator.

3. All new and substantially improved structures:

A. Fully enclosed areas below the "lowest floor" (not including basements) that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or meet or exceed the following minimum criteria:

I) 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,

II) The bottom of all openings shall be no higher than one foot above grade,

III) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

B. New and substantially improved structures must be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.

C. New and substantially improved structures must be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

C. Factory-built homes:

1. Factory-built homes, including those placed in existing factory-built home parks or subdivisions, shall be anchored to resist flotation, collapse, or lateral movement.
2. Factory-built homes, including those placed in existing factory-built home parks or subdivisions, shall be elevated on a permanent foundation such that the lowest floor of the structure is a minimum of one (1) foot above the 100-year flood level.

D. Subdivisions (including factory-built home parks and subdivisions) shall be consistent with the need to minimize flood damage and shall provide adequate drainage to reduce exposure to flood hazards. Development associated with subdivisions shall meet the applicable standards of this section.

#### E. Utility and sanitary systems

1. All new and replacement sanitary sewage systems shall be designed to minimize and eliminate infiltration of floodwaters into the system as well as the discharge of effluent into floodwaters.
2. On-site waste disposal systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
3. New and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
4. Utilities such as gas and electrical systems shall be located and constructed to minimize or eliminate flood damage to the systems and the risk associated with such flood damaged or impaired systems.

F. Watercourse alterations or relocation's must be designed to maintain the flood carrying capacity within the altered or relocated portion.

G. Storage of materials and equipment that are flammable, explosive or injurious to human, animal or plant life is prohibited unless elevated a minimum of one (1) foot above the 100-year flood level. Other material and equipment must either be similarly elevated or:

1. Not be subject to major flood damage and be anchored to prevent movement due to flood waters, or
2. Be readily removable after flood warning.

### SECTION IV - ADMINISTRATION

#### A. Appointment, duties, and responsibilities of flood plain administrator

1. The zoning administrator is hereby appointed to implement and administer the provisions of this ordinance and will herein be referred to as the administrator.
2. Duties of the administrator shall include, but not necessarily be limited to the following:
  - A. Review all flood plain development permit applications to assure that the provisions of this ordinance will be satisfied.
  - B. Review flood plain development applications to assure that all necessary permits have been obtained from federal, state and local governmental agencies

including approval when required from the Department of Natural Resources for flood plain construction.

C. Record and maintain a record of the elevation (in relation to national geodetic vertical datum) of the lowest floor (including basement) of all new or substantially improved structures in the special flood hazard area.

D. Record and maintain a record of the elevation (in relation to national geodetic vertical datum) to which all new or substantially improved structures have been flood proofed.

E. Notify adjacent communities/counties and the Department of Natural Resources prior to any proposed alteration or relocation of a watercourse and submit evidence of such notifications to the federal emergency management agency.

F. Keep a record of all permits, appeals and such other transactions and correspondence pertaining to the administration of this ordinance.

#### B. Flood plain development permit

1. Permit required - a flood plain development permit issued by the administrator shall be secured prior to any flood plain development (any man-made change to improved and unimproved real estate, including but not limited to buildings or other structures, mining, filling, grading, paving, excavation or drilling operations), including the placement of factory-built homes.

2. Application for permit - application shall be made on forms furnished by the administrator and shall include the following:

A. Description of the work to be covered by the permit for which application is to be made.

B. Description of the land on which the proposed work is to be done (i.e., lot, block, track, street address or similar description that will readily identify and locate the work to be done.

C. Indication of the use or occupancy for which the proposed work is intended.

D. Elevation (in relation to national geodetic vertical datum) of the lowest floor (including basement) of buildings.

E. For buildings being improved or rebuilt, the estimated cost of improvements and market value of the building prior to the improvements.

F. For developments involving more than 5 acres, the elevation of the 100-year flood.

G. Such other information as the administrator deems necessary for the purpose of the ordinance.

3. Procedure for acting on permit - the administrator shall make a determination as to whether the flood plain development, as proposed, meets the applicable provisions of Section III and shall approve or disapprove the application. In reviewing the proposed

development, the administrator shall obtain, review and reasonably utilize any available flood plain information or data from federal, state or other sources.

#### C. Subdivision review

The administrator shall review all subdivision proposals within the special flood hazard areas to assure that such proposals are consistent with the purpose and spirit of this ordinance and shall advise the Board of Supervisors of potential conflicts. Flood plain development in connection with a subdivision (including installation of public utilities) shall require a flood plain development permit as provided in Section IV B1. Proposals for subdivisions greater than five (5) acres or fifty (50) lots (whichever is less) shall include 100-year flood elevation data for those areas located within the Special Flood Hazard Area

#### D. Variance

1. The Board of Adjustment may authorize upon request in specific cases such variances from the terms of this Ordinance that will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this Ordinance will result in unnecessary hardship. Variances granted must meet the following applicable standards.
  - a. Variances shall only be granted upon: (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of the variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local codes or ordinances.
  - b. Variances shall only be granted upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
  - c. In cases where the variance involves a lower level of flood protection for buildings than what is ordinarily required by this Ordinance, the applicant shall be notified in writing over the signature of the Administrator that: (i) the issuance of a variance will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage and (ii) such construction increases risks to life and property.
2. Factors Upon Which the Decision of the Board of Adjustment shall be based - In passing upon applications for Variances, the Board shall consider all relevant factors specified in other sections of this Ordinance and:
  - a. The danger to life and property due to increased flood heights or velocities caused by encroachments.
  - b. The danger that materials may be swept on to other land or downstream to the injury of others.
  - c. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination and unsanitary conditions.

- d. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
- e. The importance of the services provided by the proposed facility to the County.
- f. The requirements of the facility for a floodplain location.
- g. The availability of alternative locations not subject to flooding for the proposed use.
- h. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
- i. The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.
- j. The safety of access to the property in times of flood for ordinary and emergency vehicles.
- k. The expected heights, velocity, duration, rate of rise and sediment transport of the flood water expected at the site.
- l. The cost of providing governmental services during and after flood conditions, including maintenance and repair of public utilities (sewer, gas, electrical and water systems), facilities, streets and bridges.
- m. Such other factors which are relevant to the purpose of this Ordinance.

3. Conditions Attached to Variances - Upon consideration of the factors listed above, the Board of Adjustment may attach such conditions to the granting of variances as it deems necessary to further the purpose of this Ordinance. Such conditions may include, but not necessarily be limited to:

- a. Modification of waste disposal and water supply facilities.
- b. Limitation of periods of use and operation.
- c. Imposition of operational controls, sureties, and deed restrictions.
- d. Requirements for construction of channel modifications, dikes, levees and other protective measures, provided such are approved by the Department of Natural Resources and are deemed the only practical alternative to achieving the purpose of this Ordinance.
- e. Flood-proofing measures.

#### E. Penalties for Violation

Violations of the provisions of this Ordinance or failure to comply with any of the requirements shall constitute a misdemeanor. Nothing herein contained shall prevent Carroll County from taking such other lawful action as is necessary to prevent or remedy violation.

#### SECTION V - DEFINITIONS

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the same meaning as they have in common usage and so to give this ordinance its most reasonable application.

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

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

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

**FACTORY-BUILT:** Any structure, designed for residential use, which is wholly or in home substantial part, made, fabricated, formed or assembled in manufacturing facilities for installation or assembly and installation, on a building site. For the purpose of this ordinance, factory-built homes include mobile homes, manufactured homes, modular homes and also include park trailers, travel trailers and other similar vehicles placed on a site for greater than 180 consecutive days.

**FACTORY-BUILT SUBDIVISION:** A parcel (or contiguous parcels) of land divided into two or more home park or factory-built home lots for sale or rent.

**FLOOD:** A temporary rise in stream's flow or stage that results in water overflowing its banks and inundating areas adjacent to the channel or an unusual and rapid accumulation of runoff or surface waters from any source.

**FLOOD PROOFING:** Any combination of structural and non-structural additions, changes, or adjustments to structures, including utility and sanitary facilities, which would preclude the entry of water. Structural components shall have the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy.

**FLOODWAY:** The channel of a river or stream and those portions of the flood plain adjoining the channel, which are reasonably required to carry and discharge flood waters or flood flows so that confinement of flood flows to the floodway area will not result in substantially higher flood levels and flow velocities.

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

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

- a. Listed individually in the National Register of Historic Places, maintained by the Department of Interior, or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing of the National Register;
- b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- c. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or,
- d. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified by either (i) an approved state program as determined by the Secretary of the Interior or (ii) directly by the Secretary of the Interior in states without approved programs.

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

- A) The enclosed area is designed to flood to equalize hydrostatic pressure during floods with walls or openings that satisfy the provisions of Section III B3.A and
- B. The enclosed area is unfinished (not carpeted, drywalled, etc.) and used solely for low damage potential uses such as building access, parking or storage, and
- C. Machinery and service facilities (e.g., hot water heater, furnace, electrical service) contained in the enclosed area are located at least 1.0 ft. above the 100-year flood level, and
- D. The enclosed area is not a "basement" as defined in this section.

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

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

**RECREATIONAL:** Recreational vehicle means a vehicle which is: (a) built on a vehicle 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 a temporary living quarters for recreational, camping, travel or seasonal use.

**SPECIAL FLOOD:** The land within a community subject to a one percent or greater hazard area chance of flooding in any given year. This land is identified as Zone A on the flood insurance rate map. Areas that are subject to this ordinance are all areas in the County that are subject to flooding both the partial area that is identified as a flood plain and also those areas in the County that are subject to flooding but not officially identified.

**START OF CONSTRUCTION -** Includes substantial improvement, and means the date the development permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement, was within 180 days of the permit date. The actual start means either the first placement or permanent construction of a structure on a site, such as pouring of a slab or footings, the installation of pile, the construction of columns, or any work beyond the stage of excavation; or the placement of a factory-built home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of the building, whether or not that alteration affects the external dimensions of the building.

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

**SUBSTANTIAL DAMAGE:** Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred.

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

A) Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage" regardless of the actual repair work performed. The term does not, however, include either (1) any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement officer and which are the minimum necessary to assure safe living conditions or (2) any alteration will not preclude the structure's continued designation as a "historic structure".

B) Any addition which increases the original floor area of a building by 25% or more. All additions constructed after June 17, 1986 shall be added to any proposed addition in determining whether the total increase in original floor space would exceed 25 percent.

**VARIANCE** - A grant of relief by a community from the terms of the floodplain management regulations.

**VIOLATION** - The failure of a structure or other development to be fully compliant with the community's floodplain management regulations.