# **LEGAL ADVERTISEMENTS**

tory of historic

ties with historic

preservation pro-

grams that have

as determined

by the Secre-

tary of the

Interior; or,

(ii) Directly by the

without

approved

programs.

'Interested Person or

 $Party" \ \ to \ \ include \ \ (1)$ 

the applicant; (2) the

owner(s) of the subject

property; (3) at least one

adult residing in any

residence on the subject

property at the time

the Floodplain Permit

Application is filed; (4)

owners of any adjacent

property; and (5) at

least one adult residing

in any residence on the

adjacent property at the

time the Floodplain Per-

mit Application is filed.

24. Licensed Manufactured

business licensed

to sell manufactured

homes in the State of

West Virginia as set

forth in the West Vir-

25. Licensed Manufactured

A contractor licensed to

install manufactured

homes in the State of

West Virginia as set

forth in the West Vir-

26. Licensed Professional

Any person licensed by

the West Virginia State

Board of Examiners of

Land Surveyors to en-

gage in the practice of

land surveying as de-

fined in the West Vir-

27. Lowest Adjacent Grade

Lowest natural eleva-

tion of the ground sur-

face immediately ad-

jacent to the proposed

development or struc-

ture foundation. The

primary use of the LAG

is to determine whether

the structure is located

hazard area by compar-

The lowest floor of the

lowest enclosed area

(including basement).

An unfinished enclo-

sure constructed with

flood resistant materi-

als as defined in FEMA

Technical Bulletin 2-93

(FIA-TB-2) and usable

solely for parking of ve-

hicles, building access

other than a basement

area is not considered a

building's lowest floor;

closure has proper flood

openings and is not built

so as to render the struc-

ture in violation of the

applicable non-elevation

design requirements of

A structure, transport-

able in one or more sec-

tions, which is built on a

permanent chassis and

is designed for use with

or without a permanent

foundation when con-

nected to the required

Structures for which

the start of construc-

tion as herein defined

commenced on or after

October 12, 2021 and in-

cluding any subsequent

improvements to such

31. One-Hundred (100)

A flood that has one

chance in one-hundred

or a one percent or

greater chance of being

equaled or exceeded in

any given year. (See

Base Flood Elevation

structures.

Year Flood

reational vehicle".

30. New Construction

utilities.

The term

this Ordinance.

29. Manufactured Home

Home Dealer

ginia Code.

Home Installer

ginia Code.

ginia Code.

Surveyor

Secretary of In-

terior in states

been certified

either:

### must be submitted to, and Town of Franklin approved by, the Flood-Floodplain Ordinance plain Administrator prior to any development.

AN ORDINANCE ES- Provision of all other codes, TABLISHING THAT A ordinances, and regula-FLOODPLAIN EXISTS tions shall be applicable AND REQUIRING ALL insofar as they are consist-CONTRACTORS, PERent with the provisions of SONS, PARTNERSHIPS. this Ordinance and the BUSINESSES, AND COR-County's need to minimize PORATIONS TO OBTAIN the hazards and damage A PERMIT FOR DEVEL- resulting from flooding. OPMENT AND THE CONSTRUCTION, SUB-IMPROVE-STANTIAL provided for specifically MENT, OR RELOCATION OF ANY BUILDING OR Where conditions are en-STRUCTURE; PROVID-CERTAIN

**Ordinance 124** 

FOR

PROCEDURES

OF THIS ORDINANCE.

AUTHORITY AND

PURPOSE:

THE NATIONAL FLOOD-

ACT OF 1968 (PUBLIC

LAW 91-152) AMENDED

BY THE CONGRESS OF

THE UNITED STATES

THROUGH THE 15TH OF

FEBRUARY, 1975, WEST

VIRGINIA CODE 8-12-14.

§7-1-3v, 7-1-3n and 7-1-

BE IT ENACTED AND

ORDAINED by the Town

of Franklin Council on the

12th day of October, 2021

ARTICLE 1 - GENERAL

PROGRAM,

INSURANCE

FOR

THIS

SURANCE

PLAIN

as follows:

PROVISIONS

nance is to:

Section 1.1 Intent

A. Promote the

B. Encourage the

general health,

utilization of ap-

mum construction

to prevent or mini-

practices in order

mize flooding

C. Minimize danger

to public health

and safety by pro-

tecting the water

supply and sani-

al in cooperation

with the County

protect natural

D. Assure the County

Assessor obtains

information con-

cerning improve

E. Assure all County

obtained and kept

current to main-

lished emergency

 $response\ dispatch$ 

tain the estab-

F. Reduce financial

burdens imposed

on the residents,

real property own-

ers and its govern-

unwise design and

mental units by

preventing the

construction of

development in

areas subject to

flooding.

<u>Greater Restrictions</u>

any other conflicting provi-

sions which may be in ef-

fect in identified floodplain

areas. However, any other

ordinance provisions shall

remain in full force and

effect to the extent that

those provisions are more

restrictive. If there is any

conflict between any of the

provisions of this Ordi-

nance, the more restrictive

Section 1.3 Applicability

It shall be unlawful for

any contractor, person,

partnership, business, or

ture (including manufac-

tured homes) in the Special

Flood Hazard Area within

the Town of Franklin un-

less a floodplain determi-

nation has been made from

the Floodplain Adminis-

trator, a floodplain per-

mit application has been

completed and a permit

has been obtained from the

Floodplain Administrator.

In addition, where land

is partially or fully in the

Floodplain is to be devel-

oped, subdivided, utilized

for a manufactured home

plan with elevation data

shall apply.

ment of real prop-

erty as required by WV Code §11-3-3a.

drainage.

Sanitarian, and to

tary sewage dispos-

damage

propriate mini-

Section 1.4 Matters not

countered that are not specifically provided for MINIMUM STANDARDS herein, the Floodplain CONSTRUCTION Administrator shall deter-WITHIN THE FLOODmine the applicability of PLAIN AREA AND SETthe provisions of this Or-TING FORTH SPECIAL dinance in accordance with FOR its intent and shall require SUBMISSION AND AP- the applicant to take ap-PROVAL OF PLANS; AND propriate measures pursu-ESTABLISHING PENAL-

TIES FOR ANY PERSON WHO FAILS TO COMPLY ARTICLE II - <u>INTER</u>-WITH THE REQUIRE-PRETATIONS MENTS OR PROVISIONS **DEFINITIONS** 

Section 2.1 Definitions

General

THE PROVISIONS OF Unless specifically defined ORDINANCE below, words and phrases HAVE BEEN PREPARED used in this Ordinance WITH THE INTENTION shall be interpreted so as OF MEETING THE REto give this Ordinance it's QUIREMENTS OF SECmost reasonable applica-TION 60.3 (d) OF THE tion. NATIONAL FLOOD IN-

1. "Adjacent Property"

Adjacent Property includes any surface tract, regardless of whether such surface tract is entirely within the Town of Franklin, so long as a portion of said surface tract is located within the Town of Franklin. which shares an immediate and common boundary up or down stream to the property that is the subject of the application for Floodplain Permit. Adjacent property also includes all other property that may be affected by flood-

2.Advisory Flood Height The intent of this Ordi- The water surface elevation (WSEL), in feet, of the 1% annual chance (100year) flood at a given location, as determined using welfare and safety hydrology and hydraulics (H&H) analysis and the of the Community. best available elevation

> 3. "Adversely Affect Adjacent Properties"

To adversely affect a property the increase in the elevation of the 100-year base flood elevation must be more than 1 foot at any point Stated conversely, if the effect is that the 100year flood base flood elevation rises 1 foot or less the property is not "affected". This standard does not apply to the Floodway. If prior permit(s) has/have been approved in the same area of the Floodplain, the above definition would include the cumulative impact to the base flood elevation.

4. Appurtenant Structure

A secondary structure E-911 adresses are on the same parcel of property as the principal structure, the use of which is incidental and shall not be habitable but shall be used only for storage in association with the principal structure on said property. This does not include a gas or liquid storage tank.

5. Base Flood

Means the flood having a one percent (1%) 11. Critical Facility chance of being equaled or exceeded in any given

6. Base Flood Elevation

Section 1.2 Abrogation and (BFE)

This ordinance supersedes

The water surface elevation of the base flood in relation to the datum specified on the County's Flood Insurance Rate Map. For the purposes of this Ordinance, the one hundred (100) year flood or 1% or greater chance of flooding in any given year.

 $(See \ 100 \ year \ flood \ also)$ 

grade (below ground

7. Basement

Any area of the building having its floor sub

level) on all sides. corporation to undertake 8. Certificate of Compli-

or cause to be undertaken, ance any development, new construction, substantial

A certification that the 12. Development entire development, inimprovement, repair of substantial damage, other cluding the elevation of repairs, or the placement fill or the lowest floor of or relocation of any struca structure is in compliance with all the provi-

sions of this Ordinance.

9. Compensatory storage

An artificially excavated. hydraulically equivalent volume of storage within the special flood hazard area used to balance the loss of natural flood storage when artificial fill or structures are placed within the special flood

park or subdivision or oth-10. Contractor - W.Va. erwise developed, a site Code §21-11-3(c)

hazard area.

capacity for compensation, other than as an The official map on which from, improve, move,  $\begin{tabular}{lll} railroad, & \hline structure & or & (DFIRM). \end{tabular}$ excavation associated with a project, development or improvement or to do any part thereof, including the erection of scaffolding or other structures or works in connection therewith, where the cost of undertaking is two thousand five hundred dollars or more. Contractor includes a construction 16. Floodplain manager who performs management and counseling services on a construction project for a professional fee.

Contractor does not include:

a. One who merely furnishes materials or supplies without fabricating or consuming them in the construction project;

b. A person who per-

sonally performs construction work on the site of real property which the person owns or leases whether for commercial or residential purposes;

c. A person who is licensed or registered as a professional and who functions under the control of any other licensing or regulatory board, whose primary business is real estate sales. appraisal, development, management and maintenance, who acting in his respective professional capac ity and any employee of such professional, acting in the course of his employment, performs any work which may be considered to be per-

under the provisions of W.Va. Code §19-16A-7(a) to engage in the application of pesticides

forming contracting

d. A pest control op-

erator licensed

for hire, unless the operator also performs structural repairs exceeding one thousand dollars on property treated for insect pests; or

corporation, partnership or sole proprietor shippurpose is to prepare construction plans and specifica tions used by the contractors defined in this section and who employs a full time registered architect licensed to practice in this State or a registered professional engineer licensed to practice in this State. Contractor also does not include employees of

e. A corporation.

limited liability

Any facility in which even a slight chance of flooding is too great a

such corporation,

proprietorship.

partnership or sole

Typical critical facilities include hospitals, fire stations, police stations, storage of critical 22. Historic Structure records, and similar facilities. These should be given special consideration when formulating regulatory alternatives and floodplain management plans. A critical facility should not be located in a special flood hazard area if at all possible. If a critical facility must be located in a special flood hazard area it should be provided a higher level of protection so that it can continue to function and provide services during a flood.

Any man-made change to improved or unimproved real property, including but not limited to buildings or other structure, mining, dredging, filling, grading, paving, excavation or drilling operations, oil/gas well sites, pads, pits, retention ponds or storage of equipment or

13. Flood

A general and temporary inundation of water in an area of normally dry land.

14. Flood Insurance Rate

A person who in any Map(FIRM)

employee of another, the Federal Emergency undertakes, offers to Management Agency has purports delineated both the speto have the capacity to cial flood hazard areas and undertake, or submits the risk premium zones a bid to construct, alter, applicable to the Town of repair, add to, subtract Franklin. A FIRM that has been made available wreck or demolish any digitally is called a Digital building, highway, road, Flood Insurance Rate Map

15. Flood Insurance Study

The official report in the Federal Manage-Emergency ment Agency has provided flood profiles, 23. Interested Person or floodway information, Party and water surface eleva-

a) A relatively flat or low land area adjoining a river, stream, or watercourse which is subject to partial or complete inunda-

b) An area subject to

the unusual and

rapid accumulation or runoff of surface waters from any source. 17. Floodplain Administra-

The Floodplain Administrator shall be a resident of West Virginia and/or a person who has completed within one year of his appointment the State/FEMA sponsored NFIP Class 273 entitled "Managing Floodplain Development" and remain current with State required continuing education training pursuant to W.Va. Code § 15-5-20(a). In the absence of a formally appointed Floodplain Administrator the duties set forth in this Ordinance for the Floodplain Administrator shall be temporarily fulfilled by the President of the County Commission if within the County's jurisdiction or

18. Floodway

the Mayor.

The channel of a river or other watercourse and the adjacent land area that must be reserved to discharge the base flood without increasing the water surface elevation of that flood more than one foot at any point.

19. Flood Proofing (NON-RESIDENTIAL ONLY)

> combination of Any structural and non- 28.  $\underline{Lowest\ Floor}$ additions, structural changes or adjustments to structures which reduce or eliminate flood damage to real property or improved real property, water and sanitary facilities, structures and its contents.

20. Freeboard

A factor of safety usually expressed in feet above a flood level or BFE for purposes of floodplain ment. Freeboard tends to compensate for unknown factors that may contribute uncertainty to flood heights of any given flood and floodway condition, such as wave action, blockage at stream crossings, and increased runoff from urbanization of the wa-

tershed. Highest Adjacent

The highest natural elevation of the ground surface immediately adjacent to the development or structure foundation. This is primarily used for purposes of insurance rating in approximated floodplains.

Grade (HAG)

Any structure that is:

(a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of meeting the requirements for individual listing in the National Register;

district;

(c) Individually listed

on a state inventory

of historic places in

states with historic

preservation pro-

grams which have

been approved by

Interior; or,

(d) Individually listed

on a local inven-

the Secretary of the

(b) Certified or prelimi-32. Person narily determined by the Secretary of

Any individual or group Interior as contriof individuals, corpobuting to the historration, limited liabilical significance of a ity corporation, partregistered historic nership, association or district or a district other entity, including State and Local governpreliminarily determined by the Secrements and agencies tary to qualify as a 33. Practice of Engineering registered historic

tive work, as described in West Virginia Code  $\S30-13-1$  et seq., the adequate performance of which requires engineering education, training and experience in the application of special knowledge of the mathematical, physical, and engineering sci-

ences to such services

or creative work as conplaces in communi-(i) By an approved state program

sultation, investigation, Area evaluation, planning and design of engineering works and systems; planning the use of land and water; teaching of advanced engineering engineering subjects, surveys and studies; and the review of construction for the purpose of assuring compliance with drawings and specifications any of which embraces such services or work, either public or private, in connection with any utilities, structures, buildings, machines, equipment, processes, work systems. projects and industrial or consumer products or equipment of a mechanical, electrical, hydraulic, pneumatic or thermal nature, insofar as they involve safeguarding life, health or property, and including such other professional services as may be necessary to the planning, progress and completion of any

engineering services.

Engineering surveys in-

clude all survey activi-

ties required to support

the sound conception,

planning, design, con-

struction, maintenance

and operation of engi-

neered projects.

Any person who practices any branch of the profession of engineering or who, by verbal claim, sign, advertisement, letterhead, card or in any other way represents himself to be a Registered Professional Engineer, or by using another title implies that he is a Registered Professional Engineer or that he is registered under West Virginia Code, §30-13-1 et seq. or who holds himself out as able to perform, or who performs any engineering service or work or any other service designated by the practitioner which is recognized as engineering, is considered to practice or offer to practice engineering

Code §30-13-1 et seq. 34. Principally Above

within the meaning and

intent of West Virginia

Ground Where at least 51 percent of the Actual Cash Value of a structure, less land value, is above [44 Code of ground. Regulations §59.1] within a special flood 35. Professional

ing it to the base flood

Any "professional" including but not limited to a "contractor", "developer". "engineer", "architect", "hydrologist", "land surveyor", etc., acting in any capacity with respect to this Ordinance, must be licensed by the State of West Virginia, when certification or licensure from the State of West Virginia is so required.

or storage in an area Flooding

Means that during the base flood, or any other known flooding by the Floodplain Administrator, water should not damage structures and any subsurface waters related to the base flood, and should not damage existing or proposed structures. Ways of determining Reasonably Safe from Flooding may be 3 feet above Highest Adjacent Grade, above high water marks from historic flooding, using topographic extrapolation from contour lines or utilizing the advisory flood height data on the

WV Flood Tool. "manufactured home" does not include a "rec- 37. Recreational Vehicle

A vehicle which is:

chassis; b) 400 square feet or less when measured at the largest

a) built on a single

projection; c) Designated 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,

seasonal use.

camping, travel, or

38. Registered Professional

A person who has been duly registered or licensed as a registered professional engineer by the West Virginia State Board of Registration for Professional Engineers as required by W.Va. Code §30-13-13 et seq.

Any service or crea- 39. Remedy a Violation

To bring a structure or other development into compliance with the requirements of this Ordinance, or if full compliance is not possible, to reduce the adverse impact of the non-compliance to the greatest

40. Special Flood Hazard The land in the Flood-

plain Area subject to a one percent or greater chance of flooding in any given year. cial flood hazard areas are designated by the Federal Emergency Management Agency in Flood Insurance Studies and on Flood Insurance Rate Maps as Zones A, AE, AO, A1-30, and A99. The term includes areas shown on other flood hazard maps that are specifically listed or otherwise described in  $this\ Ordinance.$ 

41. Start of Construction

(The definition for start of construction is to be used only when calculate ing the starting time for expiration of a Floodplain Permit.)

The date the Floodplain

Permit was issued, in-

cluding Floodplain Per-

mit for substantial im-

provement or repair of

substantial damage pro-

vided the actual start

of construction, repair

reconstruction, rehabilitation, addition, placement or other improve ment was within 180 days of the Floodplain Permit date. The actual start means either the first placement of permanent construction on a site, such as the pouring of slabs or footings, the installation of piles, the construction of col-48. Top of Bank umns, or any work bevond initial excavation. or the placement of a manufactured home on a foundation. Although a Floodplain Permit must be obtained prior to beginning, 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 49. Variance on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main

42. State Coordinating Of-

structure. For an alter-

ation, the actual start

of construction means

the first alteration of

or other structural part

of a building, whether

or not that alteration

affects the external di-

mensions of the build-

The West Virginia Division of Homeland Security and Emergency Management.

43. Stream As defined in West Virgin-

ia Code §7-1-3u, any watercourse, whether natural or man-made distinguishable by banks and a bed, regardless of its size, through which water flows continually or intermittently, regardless of its volume. 44. Structure

A walled and roofed

building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home.

45. Subdivision

Development that includes a creation of in-dividual land parcels for future sale. It does not include development where rights-of-way or easements are obtained and recorded.

46. Subject Property

"Subject property includes the surface tract(s) upon which the proposed development s planned and for which the Floodplain Permit Application is submit-

47. Substantial Damage

Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damage condition would equal or exceed 50 percent of the fair market value of the structure before the damage occurred.

Substantial Improve-Any repair, reconstruc-

tion, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the fair market value of the structure before the start of construction of the improvement.

structures, which have incurred "substantial damage", as defined herein regardless of the actual repair work Section 3.2 Descriptions performed. The term of Special Flood Hazard does not, however, in- Areas clude any project for improvement of a struc- The identified special flood ture to correct existing hazard area shall consist of

This term includes

or Safety Code Specifications which have been identified by the Local Code Enforcement Official and which are the minimum necessary to assure safe living condi-

Historic structures un-

Local Health, Sanitary areas:

dergoing repair or rehabilitation that would constitute a substantial improvement as defined above, must comply with all Ordinance requirements that do not preclude the structure's  $\,$ continued designation as a historic structure. Documentation that a specific Ordinance requirement will cause removal of the structure from the National Register of Historic Places or the State Inventory of Historic Places must be obtained from the Secretary of the Interior or the State Historic Preservation Officer. exemption from Ordinance requirements will be the minimum necessary to preserve the historic character and

For the purpose of this definition 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 the alteration affects the external dimensions of the structure.

design of the structure.

The lines depicted on the FIRM maps delineating each side of a stream indicate the top of the bank. In the field a professional familiar with fluvial geomorphology should document the top of the bank. When a professional is not employed the top of the bank will be considered to be the top of the first significant slope landward of the water's edge when it is followed by at least 50 feet of relatively flat land.

A grant of relief by a

community from the terms of a floodplain management tion. 50. Violation

any wall, ceiling, floor

The failure of any structure or development to be fully compliant with all requirements of this Ordinance. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required by this Ordinance is presumed to be Section 3.3 Changes in in violation until such Designation of Area time as the documentation is provided. No future improvements or developments can be made to structures found to be in violation

### ARTICLE III - ESTAB-LISHMENT OF THE SPECIAL FLOOD HAZ-ARD AREA

unless the development

is to bring the structure  $\,$ 

into compliance with the

current ordinance.

Section 3.1 Identification a. The identified

special flood hazard area shall be those areas of the Town of Franklin which are subject to a one percent or greater chance of flooding in any given year as shown on the Flood Insurance Rate Map (FIRM) and de scribed in the Flood Insurance Study (FIS) prepared for the Town of Franklin by the Federal Emergency Management Agency (FEMA), the date to be set on the Let-

ter of Final Determination for maps released in 2021 or the most recent revision thereof including all digital data developed as part of the FIS. b. The identified special flood hazard area shall also be those special flood hazard areas which

have been identified as flood hazard areas by the Town of Franklin by use of historicc or other technical data and shown on an officially recognized "FIRM or the West Virginia Flood Hazard Determination Tool Specifically Advisory Flood Height data". These areas shall be designated as appropriate with Section 3.4 Elevations Prethe level of technivail cal data described

managed

accordingly

for which 100-year flood elevations have been provided but no Floodway has been delineated. c. The Approximated

a. The Floodway Area

of AE zone identi-

fied as Floodways

in the FIS and as

FIRM. The term

shall also include

developers in the

floodplain and des

ignated as such by

the community.

b. The AE Area With-

tified as an AE

out Floodway shall

be those areas iden-

Zone on the FIRM

included in the FIS

prepared by FEMA

any floodway areas

shown on the

delineated by

approximated

floodplain\_shall be those areas identified as an A Zone on the FIRM included in the FIS prepared by FEMA and for which no one hundred (100) year flood elevations have been provided

ard Determination Tool. This data may be used (when available) by the Floodplain Administrator to determine if a property is in the Special Flood Hazard Area also to assist to determine the height in which to elevate the structure as a permitting tool. And is acceptable data to FEMA for a Letter of Map Amendment (LOMA).

and in the FIS. These areas are subject to inundation by 1-percentannual-chance shallow flooding where average depths are between one and three feet. In Zones AO and AH, drainage paths shall be established to guide floodwaters around and away from structures on

a. Where natural or man-made changand/or where more detailed studies have been completed by a qualified government agency, private entity, or qualican sufficiently document the necessity for such changes; the process to revise the delineation of the identified special

flood hazard area may be recommended by the floodplain manager and executed by the Town of Frank lin. However, prior to any such change approval must be obtained from the Federal Emergency Management Agency. b. A County's base

may increase or decrease resulting from physical changes affecting flooding conditions As soon as practical but, not later than six months from the date such information becomes available, the County shall notify FEMA of the changes by submitting technical or

scientific data.

c. The Town of Frankflood hazard or ponding areas. flood of record, marks and/or approximate study methodologies.

ral grade adjacent to proposed development is above the

Continued on Page 8 violation(s) of State or the following four specific

November 4, 2021 - The Pendleton Times - Page 7

d. Advisory Flood <u>Heights</u> This information is displayed on the WV Flood Haz-

e. The AO and AH floodplain those areas identified as Zones AO and AH on the FIRM

slopes.

fied individual who

flood elevations

lin may identify and regulate new These areas shall be delineated on a "Local Flood Hazard Map" using best available topographic data and locally derived information such as historic high water

below and shall be a. If the lowest natu-

> Base Flood Elevation, and the fol-Legal Advertisement

# LEGAL ADVERTISEMENTS (continued from page 7)

to the Floodplain Administrator: i. elevation information certified by a Licensed Professional Surveyor or Engineer and a site plan demonstrating that all proposed development will occur above the Base Flood Elevation or,

lowing is provided

- ii. a Letter of Map Amendment (LOMA) from FEMA removing the site from the SHFA then the site shall
- be considered to be outside the Floodplain Area and shall not be required to conform to the provisions of this Ordinance at the discression of the Floodplain Manager
- b. If the lowest natural grade adjacent to proposed development is below the Base Flood Elevation, the site shall be considered to be within the Floodplain Area and the proposed structure shall be required to conform to all appropriate provisions of this Ordinance.

Section 3.5 Boundary Dis-

Should a dispute concerning any Floodplain boundary arise, an initial determination shall be made by the Flood-Administrator plain and any party aggrieved by this decision may appeal to the County Commission sitting as the "Floodplain Appeals Board". The burden of proof shall be on the appellant/applicant.

## ARTICLE IV - <u>UTILIZA-</u> TION OF THE SPECIAL FLOOD HAZARD AREA

Section 4.1 Floodway

- Within any Floodway Area (F1), no encroachments, including fill, new construction, substantial improvements, or other development shall be permitted unless it has been demonstrated through hydrologic and hydraulic analysis performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels during the occurrence of the base flood discharge. The resultant engineer ing study shall include a cover letter, signed and sealed by the responsible professional, providings in basic terms. In addition, studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough technical review by the Floodplain
- Because Floodways present increased risk to human life and property due to their relatively faster and deeper flowing waters Floodways shall be preserved to the greatest

Administrator.

extent possible.

- a. New development shall not be permitted in the Floodway where reasonable alternatives exist elsewhere as determined by Floodplain Manager. In addition to the requirements below the applicant shall demonstrate that there are no reasonable alternatives other than the Floodway encroachment before a permit is issued.
- b. When the Floodway is the only reasonable alternative the applicant shall demonstrate that the Floodway encroachment is the minimum neces sary to accomplish the project.
- c. All permitted uses, activities, and development shall be undertaken in strict compliance with the flood proofing and related provisions contained herein, and in all other applicable Federal and State Law, Ordinances and
- d. When small, single lot development (not incorporating significant amounts of fill) is proposed in a spe cial flood hazard areas for which no regulatory floodway has been

designated, a regu-

Regulations.

plain Manager, be determined to be a width equal to the channel of the stream and the adjacent land areas to a distance of onehalf the width of the special flood hazard area as measured from the top of the bank nearest the site to the upland limit of the 1% annual chance special flood hazard area boundary.

may, at the dis-

cretion of the Flood-

Section 4.2 AE Zone Without Floodway Area

Within any AE Zone Without Floodway Area, no new construction or development shall be allowed unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and an ticipated development, will not increase the elevation of the 100-year flood more than one (1) foot at any

Section 4.3 Approximated Floodplain (Zone A)

Within any Approximated Floodplain Area

- a. The Floodplain Administrator shall use elevation and floodway information from Federal, State, or other acceptable sources when available to determine the elevation above which development will be reasonably safe from flooding.
- logic and hydraulic analyses are required, they shall only be undertaken by a registered b. When data from professional engian acceptable neer, who shall cersource is not available, the Floodtify that the methplain Administraods used correctly reflect currently tor shall review, or accepted technishall cause to be reviewed; all procal concepts. The resulting study posed developshall include a ment to determine cover letter, signed (1) the amount beby the responsible ing invested and professional, pro-(2) the specific flood viding a statement risk at the site. of findings in basic The Floodplain terms. In addition, Administrator shall studies, analyses then require the and computations applicant to detershall be submitted mine the elevation above which the in sufficient detail to allow a thorough development and technical review by adjacent properties the Floodplain including but not limited to existing Administrator.

buildings will be

reasonably safe

the Floodplain

Administrator.

c. Any development

and/or use of land

shall be permitted

provided that all

such uses, activi-

ment shall be un-

dertaken in strict

this floodplain ordi-

compliance with

nance and relat-

ed provisions con-

tained herein and

in all other appli-

cable Federal and

State Laws, Ordi-

d. Within any approxi-

mated Floodplain

Zone (Zone A) with-

out Floodway Area,

tion or development

shall be allowed

unless it is dem-

onstrated that the

cumulative impact

of the proposed de-

velopment, when

combined with all

other existing and

anticipated devel-

opment, will not in-

nances and

Regulations.

ties and/or develop-

from flooding using placement of temhydrologic and hyporary or permadraulic analyses or other techniques. nent culverts. bridges or other When hydrologic stream crossings and hydraulic The Floodplain Adanalyses are reministrator may quired, they shall require the use only be prepared by of certain "best a registered profespractice" techsional engineer niques in the conwho shall certify struction of bridgthat the methods es, culverts or used correctly restream crossings flect currently acto prevent damcepted technical age, loss of stream concepts. The resulting study shall crossings and localized flooding caused by blockage. ter, signed by the These techniques responsible profesmay include, but sional, providing are not limited to a statement of findwing walls, trash ings in basic terms. grates or requiring In addition, studopenings to be of ies, analyses, computations, etc. shall sufficient size to pass debris and/or be submitted in anticipated future sufficient detail to increases in flood allow a thorough heights. technical review by

c. Alteration of a

- d. All new and replacement bridges culverts and other shall adhere to the relevant anchoring requirements contained in this Ordinance. e. The developer is
- required to provide the County a legal agreement detailing all scheduled inspections and maintenance to be performed on altered or relocated watercourses including culverts bridges and other stream crossings. It shall be the responsibility of the applicant to transfer the agreement to the purchaser when the land associated with the watercourse alteration is transferred. A copy of all new agreements shall be provided to the Floodplain Administrator. Failure to transfer the

has occurred, the

submit any maps.

computations or

required by the

cy Management

revise the Flood

Insurance Study

Insurance Rate

when notified by

Maps (FIRM),

(FIS) and/or Flood

Federal Emergen-

Agency (FEMA) to

other material

applicant must

- crease the elevation agreement and proof the 100-year vide a signed copy flood more than one (1) foot at any to the Floodplain Administrator shall point. + subject the violator to the penalties set e. When Advisory forth in Section 8.4 Flood Height Data of this Ordinance. is available, this f. When any watercourse alteration
- data will be utilized to assist in permitting and regulating development within the Special Flood Hazard Area.
- Section 4.4 Alteration or relocation of a stream a. Whenever a de
  - veloper intends to alter or relocate a stream within the special flood hazard area the developer shall no-

the Floodplain Administrator, and must pay any fees or other costs assessed by FEMA for this purpose

ARTICLE V - CRITERIA FOR BUILDING AND

SITE PLAN APPROVAL Section 5.1 General

tify in writing, by

certified mail, the

Town of Franklin's

Floodplain Admin-

istrator, the State

Coordinating Of-

fice, any adjacent

communities and

any adjacent prop-

erty owners of all

such intended ac-

tivities prior to the

alteration or reloca-

tion of the stream.

Copies of all re-

quired notifica-

submitted to the

cy. In addition,

local permit the

Floodplain Admin

istrator shall re-

quire copies of all

necessary permits

from those gov-

ernmental agen-

cies from which

Federal or State

b. The developer shall

writing that the

flood carrying ca-

pacity within the

portion of the

stream will be

maintained. The

istrator may re-

to demonstrate

stream will pro-

Floodplain Admin-

quire the applicant

that the altered or

relocated portion of

vide equal or great-

er convevance than

the original stream

segment. If hydro-

altered or relocated

Town of Franklin in

also assure the

Law requires

approval

Federal Emergency

Management Agen-

prior to issuing the

tions must be

- A Permit is required in order to determine whether all new construction or substantial improvements are:
  - a. Located in an identified Floodplain, Floodway or other special flood hazard
- b. Designated (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. Constructed with material and utility equipment resistant to flood damage as outlined in FEMA Technical Bulletin 2-93 (FIA-TB-2) or the most recent revision thereof.
- d. Constructed by methods and practices that minimize flood damage
- e. Constructed with electrical, heating, ventilation, plumbing and air conditioning equipservice facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during flooding.
  - f. To comply with West Virginia Code §11-3-3a concerning County Assessor "Building or Real Property Improvement Notice"
- g. Approved by County Health Department for Well, Septic and other permits to assure facilities are designed and located in compliance with the flood damage reduction requirements of this

Section 5.2 Basic Format

The basic format of the permit shall include the

- a. Name and address of applicant.
- b. Name and address of owner of land on which proposed development is to occur.

c. Applicant shall

provide names, ad-

dresses, and valid

West Virginia li-

- cense numbers of all contractors working at the building site, or affidavits stating that work is being per formed by individuals exempt from contractor licensing as set forth in Title 28, Series 2, section 3.9(b) of the West Virginia Code of State Regulations or the most recent revision thereof, if known at the time the Permit Application is submitted. If not known, applicant shall provide the information within 14 days of execution of a contract with its
- d. A description of site location sufficient to locate the proposed development including district, tax map and parcel numbers and most recent deed book and page number

contractor(s) prior

to beginning

construction.

- e. A standard site plan showing size and location of the proposed development as well as any existing buildings or structures The site plan shall also show all adjacent roads and watercourses with direction of flow, the lowest adjacent grade to the proposed foundation and/or toe of fill, the Base Flood Eleva tion and the location of the Flood way boundary when applicable.
- ment that the applicant agrees to pay any and all fees associated with the permitting process cle VII Sections 7.3 and 7.9 of this

f. An acknowledge-

Ordinance. g. An acknowledg-

ment that the applicant agrees to allow The Floodplain Administrator and authorized representatives of floodplain manage ment programs access to the development to inspect for compliance.

h. The contract re-

State Regul-

quired by West

ations, Title 28

Series 4, and all ad-

Virginia Code of

contract(s) shall be presented to the Floodplain Administrator for reteen (14) business days of contract signing. The Flood plain Administrator shall keep copies of all contracts or addendums and shall file "redacted" copies of the contracts and addendums with the Clerk of the County Court in the Applicant's Permit Application File. The Floodplain Administrator shall consult with the applicant to redact proprietary and confidential information from the contracts and addendums that are not otherwise pub

lic informa-

tion. Failure to

present contract(s)

or addendums for

the permit. If a

licensed contractor

is not involved, or

aggregate construc-

tion cost value of

less than ten thou-

sand dollars includ-

ing material and la-

bor, a brief written

posed work and the

description of pro-

estimated value

will suffice.

the work is of an

Section 5.3 Elevation and Flood Proofing Information

All applicants are encouraged to exceed the minimum elevation requirements contained herein. Flood insurance rates can be lowered significantly by increasing the elevation of the lowest floor above the freeboard height required by this Ordinance

Depending on the type of structure involved, the following information shall also be included in the application for work within the Special flood hazard

- A. All structures, ductwork and electrical elevated two feet above the Base Flood Elevation and:
  - a. A plan showing the size of the proposed structure and its relation to the lot where it is to be constructed.
- b. A determination of elevations of the Base Flood, existing ground proposed finished ground and lowest floor, certified by a registered professional engineer or licensed professional surveyor.
- c. Plans showing the methods of elevating the proposed structure including details of proposed fills, pile structures, retaining walls, foundations erosion protection measures, etc. When required by the Floodplain Ad ministrator, a registered professional engineer or architect shall prepare the plans.
- d. Plans showing the methods used to protect utilities (including sewer, water, telephone, electric, gas, etc.) from flooding to two feet above the Base Flood Elevation at the building site.

al surveyor certify-

the lowest floor. If

a mistake in eleva-

tion has been made

this is the best time

to correct the error

f. A finished con-

struction eleva-

tion certificate

must be prepared

by a licensed pro-

fessional surveyor

or others of demon-

ing the height of

- e. During the course of construction, as elements of the lowest floor are in place and before further vertical construction, it is highly recommendthe lowest ed that the applicant check for error by obtaining elevation data Flood completed by a Elevation registered profesii. The structure sional engineer or licensed profession
  - ciated with the Base Flood.

g. A Non-Conversion  $Agreement\ shall$ be signed by the applicant whenever the Floodplain Administrator determines that the area below the first floor could be converted to a non-conforming use (generally applies to enclosed areas below base flood elevation that are 5 ft. high or

more). This agree-

ment shall state:

i. The area be-

strated qualifi-

cation. The el-

evation certificate

must confirm the

structure in ques-

tion together with

attendant utilities

are elevated in

compliance with

permit conditions

low Base Flood Elevation shall not be converted for use other than for parking, building access or for allowable storage as detailed in this Ordinance ii.The applicant agrees to notify

prospective

purchasers of

the existence of

- the Non-Conversion Agreement. It shall be the responsibility of the applicant to transfer the agreement at closing to the purchaser through notarized signature, a copy of all new Non-Conversion Agree ments shall be provided to the Floodplain Administrator. Failure to transfer the Non-Conversion Agreement and provide a signed copy to the Floodplain Administrator
- B. All structures shall be flood proofed to two feet above the Base Flood Elevation (nonresidential structures

shall subject

the violator to

the penalties

Section 8.4 of

this Ordinance.

set forth in

All applicants shall meet or exceed the minimum flood proofing requirements con tained herein. Flood insurance rates can be lowered significantly by increasing the level of flood proofing above the height required by this Ordinance. In order to obtain an "elevation credited" flood insurance rate on dry flood proofed buildings, flood proofing must extend at least one foot above the Base Flood

a. Plans showing details of all flood proofing measures, prepared by a registered professional engineer, showing the size of the proposed structure and its relation to the lot where it is to be constructed.

Elevation.

- b. A determination of elevations of the Base Flood, existing ground, proposed finished ground, lowest floor, and flood proofing limits, certified by a registered professional engineer or licensed professional
- c. A Flood Proofing Certificate, FEMA 81-65, as revised by FEMA, shall be prepared by the registered professional engineer who prepared the plans in (1) above stating the structure in question, together with attendant utility and sanitary facilities are designed so that:
  - i. The structure is water tight with walls sub stantially impermeable to the passage of water from structural element to two feet above the Base
- will withstand the hydrostatic, hydrodynamic, buoyant, impact, and other forces resulting from the flood depths, velocities, pressures, and other factors asso-
- that they are consistent outside of the special flood C. For Appurtenant with the need to minimize hazard area and be served

of flood resistant materials – used solely for parking of vehicles, or limited storage (Appurtenant Structures only)

a. A site plan pre-

pared by a licensed

professional surveyor or others of demonstrated qualifications showing elevation of existing ground, proposed finished ground and lowest floor. The plan shall also show details of proposed flood resistant materials usage and the size of the proposed structure and its relation to the lot where it is to be constructed. The location of the Floodway boundary

shall be repre-

sented on the plan

when a Floodway is

present on the site.

b. An Elevation Certificate, based on finished construction, must be prepared by a licensed professional surveyor or others of demonstrated qual ifications. This certificate or report must confirm that the structure in question, together with attendant utilities is de

signed so that:

- (a) Flood resistant materials as de tailed in FEMA Technical Bulletin 2-93 (FIA-TB-2) are used in the construction of the structure from the lowest structural element to two feet above the Base Flood Elevation and that all utilities are located at least two feet above the Base Flood Elevation.
- by allowing for automatic entry and exit of floodwaters Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following mini-

(b) Hydrostatic

flood forces on

exterior walls

are equalized

i. A minimum of two openings have a total net area of not less than one square inch for everv square foot of enclosed area subject to flooding shall be provided.

mum criteria:

- 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

c. In addition, the ap-

plicant shall sign

a Non-Conversion Agreement and notify prospective purchasers of the existence of the Non-Conversion Agreement. It shall be the responsibility of the applicant to transfer the Non-Conversion Agreement to any purchaser at closing through notarized signature. A signed copy of the transferred Non-Conversion Agreement shall be pro-

vided to the Flood-

plain Adminstration data may not be nector. Failure to essary. In these cases the transfer the Nonsite plan for the proposed Conversion Agreedevelopment must show ment and provide contours at intervals of two (2) or five (5) feet dea signed copy to the Floodplain Adminpending on the slope, and istrator shall subclearly delineate the area ject the violator to to be developed and the the penalties set location of the special flood forth in Section 8.4 hazard boundary as scaled of this Ordinance. from the FEMA map. A registered professional

Section 5.4 Site Plan Criteria

of demonstrated qualifica-Site plans are required for tions must certify the site all development, new construction and substantial Section 5.5 - Restrictions improvements determined to Subdivision of land in to be located in a special special flood hazard areas. flood hazard area and all proposed subdivisions and manufactured home parks. Subdivision of land in the These proposals shall be special flood hazard area shall result in lots that inreviewed by the Floodplain Administrator to assure clude a buildable portion

The owner or developer surfaces at or above the shall submit a preliminary base flood elevation of the site plan to the Floodplain line defining the special

flood damage.

Administrator that in-flood hazard area limits. cludes the following infor- All new structures shall be sited on the portion of the subdivided lot that is loa. Name of registered cated outside of the special professional engiflood hazard area. neer, licensed professional surveyor

for providing the

location of the pro-

posed subdivision

Floodplain Areas,

proposed lot sites,

vision or manufac-

partially or com-

pletely in the spe-

shall include de-

tailed information

giving the location

utilities and build

ing sites. All such

and elevation of

proposed roads.

maps shall also

show contours at

or five (5) feet de-

pending upon the

slope of the land

and identify accu-

rately the bounda-

ries of the special

flood hazard areas

A registered profes

sional engineer or

al surveyor must

d. All subdivision pro-

posals and other

proposed new de-

velopments which

place either fully

or partially within

the Approximated

(F4) and which are

(10) lots or two (2)

is the lesser, shall

include Base Flood

Elevation data and

shall delineate the

a. When a Flood

Study (FIS) is

available from

contained in

FEMA, the data

that study must

be used to sub-

stantiate the

Base Flood

Flood Insur-

ance Study is

not available

the required

data may be

available from

an authorita-

such as the U.S.

Army Corps of

Engineers, U.S.

Geological Sur-

vey, Natural

Resource Con-

servation Serv-

ice or State and

Local Water

Department.

c. If the required

available from

other sources

the applicant

shall develop

the technical

data using de

odologies com-

contained in

a Flood Insur-

This data shall

and certified by

ance Study.

be prepared

a registered

professional

shall certify

ods used cor-

rectly reflect

currently ac-

cal concepts

Where the subdivision or

other development site

lies partially in the special

flood hazard area and all

proposed development in-

cluding fill will take place

on natural grade a sig-

nificant vertical distance

above the Approximated

Floodplain Area (Zone A)

boundary depicted on the

map, development of de-

tailed Base Flood Eleva-

engineer, licensed profes-

sional surveyor or others

cepted techni-

engineer, who

that the meth-

parable to those

tailed meth-

data is not

Resource

tive source.

Elevation.

b. If a FEMA

Insurance

Floodway.

acres, whichever

Floodplain Area

greater than ten

are proposed to take

licensed profession-

certify the site plan

intervals of two (2)

with respect to

and fill areas.

c. Where the subdi-

information re-

quired in this

### ARTICLE VI - SPECIFor other qualified IC REQUIREMENTS person responsible

Section 6.1 Design and Construction Standards

by streets within the pro-

posed subdivision having

In order to prevent excessive damage to buildings, b. A map showing the structures, and related utilities and facilities, the following restrictions apply and/or development to all development, subdivision proposals, manufactured home parks, new construction and to construction of substantial improvements, and the repair of substantial damage, to existing structures occurtured home park lie ring in the Special flood hazard area.

cial flood hazard ar- A. Basements and Lowest eas, the plan map Floors

> a. Residential Structures - All new construction, relocation, substantial improvements. including repair of substantial dam age, of residential structures must have the lowest floor, including basement, ductwork and utilities. elevated to two feet above the Base Flood Elevation. b. Non-residential

> > Structures - All

new construction,

relocation, substan tial improvements including repair of substantial damage, of non-residential structures must have the lowest floor, including basement, ductwork and utilities, elevated to two fee above the Base Flood Elevation: or, together with attendant utility and sanitary facilities, be designed so that the structure is water tight with walls substantially impermeable to the passage of water from the low est structural element to two feet

above the Base

Flood Elevation.

all new construc-

c. Openings - For

- tion, relocation, substantial improvements, and repair of substantial damage, those fully enclosed areas below the lowest floor that are usable solely for park ing of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic floodforces on exterior walls by allowing for entry and exit of floodwaters Designs for meeting this requirement must either
  - 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

be certified by a

registered profes-

sional engineer or

meet or exceed the

following minimum

- 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
- d. A Non-Conversion Agreement shall be signed by the applicant on all flood proofed structures and any elevated structures when the Floodplain Administrator deter mines that the area below the first floor could be converted to a non-conforming use (generally applies to the enclosed areas below base flood elevation that are 5 ft. high or more). This agreement shall

i. The area below the Base Flood Elevation shall not be converted for use other

state:

Legal Advertisements Continued on Page 9

latory floodway Page 8 - November 4, 2021 - The Pendleton Times

# LEGAL ADVERTISEMENTS (continued from page 8)

ceptable access

For residential

extend laterally

yond the build-

ing line from all

points before the

quired in subsec-

tion 5 below. For

structures, fill shall

be placed to provide

access acceptable

for intended use.

with fill extending

laterally fifteen

(15) feet beyond

the building line

a minimum of

eter of a non

residential

structure.

on site.

shall be provided to

twentyfive (25) per-

cent of the perim-

f. Fill shall consist of

soil or rock materi-

al only. Sanitary

landfills shall not

be permitted; no

g. Fill material shall

be compacted to

provide the neces

sarv stability and

resistance to ero-

sion, scouring or

settling. Fill com-

paction standards

must be appropri-

fill use, particu-

essary when fill

ate to proposed post

lar attention is nec

is being used to el-

evate a structure.

no steeper than one

vertical on two

(2) horizontal, un-

ing data justifying

steeper slopes are

submitted to and

approved by the

Administrator

Floodplain

less substantiat-

h. Fill slopes shall be

trash or woody de-

bris shall be buried

e. At grade access.

non-residential

start of sloping re-

fifteen (15) feet be

structures, fill shall

- than for parking building access or for allowable storage as detailed in this Ordinance.
- ii. The applicant agrees to notify prospective purchasers of the existence of the Non-Conversion Agree ment. It shall sponsibility of the applicant to transfer the Non-Conversion Agreement at closing to the purchaser through notarized signature. A copy of a Non-Conversion Agreement shall be provided to the
- Floodplain Administrator. Failure to

transfer the

Non-Conver-

and provide a

signed copy to

the Floodplain

Placement

Certain unique charac-

homes installed in spe-

cial flood hazard areas

pose an elevated risk of

substantial damage to

required that:

property. Therefore, it is

All manufactured homes

to be installed within the

special flood hazard ar-

eas of the Town of Fran-

klin shall be installed by

a contractor possessing a

Manufactured Home In-

staller's License. The in-

valid West Virginia

staller shall use an

installation design en

gineered to withstand

flood hazards specific to

the particular home site.

Manufactured homes to

be installed or substan-

tially improved within

the special flood hazard

areas shall be installed

in accordance with the

a. The lowest floor,

ties including

Base Flood

Elevation.

ductwork and utili-

HVAC/heat pump

shall be elevated

b. Elevation shall be

on a permanent

foundation ele-

on reinforced piers

foundation or other

engineered for use

in a flood hazard

area. Installation

designs incorpora

ing dry stacked

block piers shall

not be used in spe-

cial flood hazard

c. All manufactured

homes shall be se-

curely anchored to

an adequately an-

chored foundation

system in compli-

ance with the re-

quirements of 42

Code of State Regu-

lations, Series 19,

Sections 10A and

10B as authorized

by West Virginia

Code § 21-9-1 et

seq. The anchoring

shall be adequate

to resist flotation.

collapse, or lateral

movement. Meth

ods of anchoring

may include but

are not limited to

the over-the-top

attached to perma-

nent foundation el-

anchors may not be

adequate to satisfy

quirement is in ad-

dition to applicable

State and Local an-

ments for resisting

tached rigid skirts

and perimeter wall

skirts of brick or

block must have

openings to pre-

damage to sup-

vent collapse and

choring require-

wind forces

d. Permanently at-

ements. Ground

flood specific an-

choring require-ments. This re-

and frame ties,

West Virginia

areas

two feet above the

following standards:

teristics of manufactured

sion Agreement

- Administrator shall subject the violator to the penalties set forth in Section 8.4 of this Ordinance B. Manufactured Home
  - C. Appurtenant Structures
  - A. When possible, appurtenant strucflood hazard area.
  - structures not connected to the principal structure are to be located on sites below the Base Flood Elevation, the following flood damage reduction provi
    - a.Use of the structure shall be restricted to parking or limited storage.
    - shall be no more than 300 square feet in size and valued at less than \$7,000. (Seven thousand dollars).
    - (b) Floors shall be at or
    - shall be located, oriflood damage.
    - modified) and adchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodnamic and hydrostatic loads, in-
    - buoyancy. (e) Flood resistant materials as detailed in FEMA Technical Bulletin
      - 2-93 (FIA-TB-2) shall be used in the construction of the structure from the lowest structural element to two feet above the Base Flood

Elevation.

- (f) Machinery, electric devices or appliances, and all utilities shall be located at least two feet above the Base Flood Elevation.
- porting piers. The openings must be (g) Opening redesigned to autoquirements: matically equalize Hvdrostatic hydrostatic flood flood forces forces by allowon exterior ing for entry and walls are exit of floodwaters equalized by Designs for meetallowing for automatic ing this requirement must either entry and be certified by a exit of floodregistered profeswaters. Desional engineer or signs for meet or exceed the meeting this following minimum requirement
- i. A minimum of two openings having a total net area of not less than one square inch for every square area subject to

flooding shall be criteria: provided. (i) A miniii. The bottom of mum of all openings two openings have higher than one a total foot above net area grade. of not less than one e. Openings may be square equipped with inch for screens, louvers everyvalves, or other square foot of encoverings or devices closed permit the autoarea submatic entry and ject to exit of floodwaters. flooding shall be provided

(ii)The bot-

tom of all

openings

no higher

than one

foot above

ings may

be equip-

ped with

screens,

louvers,

valves or

other cov

erings or

provided

that they

permit

the auto

matic en-

try and

flood-

b. In addition,

a Non-Con-

version Agree

ment shall be

signed by the

stating that

the use of the

appurtenant

structure or

detached or

rage shall

permitted,

attached gar-

from the use

acknowledg-

ing that the

be subject to

greater flood

risk and that

insurance pre-

higher flood

miums may

be possible,

and that a

change in use

may require

full compli-

ance with

this Ordi-

nance. The

agrees to no-

tify prospec-

tive purchas-

ers of the ex-

istence of the

Non-Conver-

ment. It shall

be the respon

sibility of the

applicant to

transfer the

Non-Conver-

sion Agree-

chaser

ment at clos-

ing to the pur-

through nota-

sion Agree-

applicant

structure may

not be changed

applicant

waters.

devices

grade. (iii) Open-

shall be

- f. Any additions to a manufactured home shall be similarly anchored and vented.
- g. Flexible Skirting and rigid skirting not attached to frame or foundation of a manufactured home are not required to have openings.
- h. The licensed West Virginia manufactured home installer installing the unit shall perform a site inspection and certify in writing that the manufactured home has been inards set forth in this Ordinance
- tures shall be located out of the special
- B. Where appurtenant sions apply:

(a) Structures

- above grade on at least
- (c) Structures constructed to minimize (d) Structures

shall be de-

- rized signasigned (or ture. A copy of the Non-Conversion Agree ment shall be equately anprovided to the Floodplain Administrator. Failure to transfer the Non-Conversion Agreement and prvide a signed copy to the Floodplain Administrator shall subject the violator to cluding the effects of the penalties set forth in
  - D. Recreational Vehicle Placement
    - Recreational vehicles to be placed within any special flood hazard area shall either:

this

Section 8.4 of

Ordinance.

- a) Be on site for fewer than 180 consecutive days and,
- b) Be fully licensed and ready for highway use. A recreational vehicle is ready for highway its wheels or jacking system, is attached to the site only by quick disconnected utilities security devices and has no permanently at
  - c) Be installed in accordance with the manufactured home placement requirements and all other flood reduction requirements contained in this Ordinance.

tached addi-

tions. Or,

# E. Fill

must either

be certified

by a regis-

tered profes-

sional engi-

neer or ar-

chitect or

ceed the

following

minimum

meet or ex-

The Town of Franklin officially recognizes the beneficial functions the Floodplain Area serves in storage and transportation of water during floods. Placement of fill in the special flood hazand should be minimized. Placement of fill in other areas of the special flood hazard area shall be restricted to functional purposes such as elevating a structure. Fill shall only be permitted in the same permit with the related structure or other functional purpose. Placement of fill to dispose of spoil from excavation or to elevate yards, parking lots, or fields will not generally be considered a functional purpose. The Floodplain Administrator may require the developer to provide compensatory storage before permitting fill.

No fill shall be permitted in the Floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with currently accepted technical standards that the proposed fill will not result in any increase in the Base Flood Elevation.

All fill placed in the special flood hazard area shall meet or exceed the following standards:

a. Fill shall be used

only to the extent to

which it does not

- adversely affect the subject property and adjacent properties. The Floodplain Administrator may require the applicant to demonstrate through engineering reports that proposed fill would not adversely affect the subject property and adjacent properties When required, hydrologic and hydraulic analyses shall be undertaken only by a professional engineer who shall certify that the technical methods used correctly reflect currently accepted technical concepts The resulting study shall include a cover letter, signed and sealed by the responsible profes sional, providing a statement of findings in basic terms. In addition, studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough technical replain Administrator. During permit review the Flood-
- a. Unacceptable

plain Administra-

tor shall consider

that have the po-

subject property

the following issues

tential to cause ad-

verse impact to the

and adjacent prop-

- increases in flood heights Blocking drainage from the subject property and adjacent properties. c. Deflection of floodwaters onto adjacent exist-
- ing structures. d. Increases to stream velocity initiating or exacerbating erosion problems.

e. Other unique

site conditions may be considered when determining whether fill will cause adverse impact to the subject property and adjacent properties including, but not limited to, subsidence areas, karst topography, stream blockages, and steep topography ad-

jacent to the

channel.

- b. Fill shall be used only to the extent to which it does not adversely affect the capacity of channels or floodways of any tributary to the main stream, drainage ditch, or any other drainage facility or system.
- c. A Fill Site must be contoured to drain properly (avoid ponding) consistent with pre-construction conditions. This provision does not apply to properly constructed impoundments which comply with the remainder of this Ordinance and which are properly permitted by the West Virginia

Department

Protection.

of Environmental

- d. Fill shall extend and other development beyond a structure
  - All structures and other development shall be con-

structed and placed on the property so as to offer the minimum obstruction to the flow of water and shall be designed to have a minimum obstruction effect upon the flow and height of floodwater.

structures and other development nal axis parallel to the direction of flood flow and,

## G. Anchoring

other development including stream crossings shall be firmly anchored in accordance with accepted engineering practices to prevent flotation, collapse, and lateral movement, thus reducing the threat to life and property and decreasing the possibility of the

a) All structures and

- b) All air ducts, large pipes, swimming pools, above ground gas and storage tanks located at or below the Base Flood Elevation shall be firmly anchored to resist flotation or lateral movement.
- i. Fill site and fill must be protected
- a. Fill slopes exposed to flood waters with expected velocities during the occurrence of the base flood of five feet per sec ond or less will be protected  $\,$ from erosion by covering them with grass, vines, weeds, or similar
- vegetative undergrowth. b. Fill slopes exposed to flood waters with expected velocities during the occurrence of the base flood of greater than five feet per second will be protected from erosion by armoring them with stone or rock slope

protection

j. All applicants plac-

- ing fill in a special flood hazard area shall obtain a Conditional Letter of Map Revision (CLOMR-F) from FEMA when directed to do so by the Floodplain Administrator before a permit can be issued. After fill is finished the applicant shall convert the CLOMR-F to a Letter of Map Revision based on Fill
- (LOMR-F) before a Certificate of Compliance/Occupancy can be issued. The Floodplain Administrator is hereby appointed as the designated official to approve a re-(CLOMR-F) or (LOMR-F), and shall cooperate with the applicant with respect to any requirements of FEMA for re-
  - (LOMR-F), which includes, but is not necessarily limited
- to, approving said request and execut ing Form 1, "Overview & Concurrence Form" or other form as may be required by FEMA.

questing a

(CLOMR-F) or

- k. The applicant shall submit any maps, computations or other material required by the Federal Emergency Management Agency (FEMA) to revise the Flood Insurance Study (FIS) and/or Flood Insurance Rate Maps (FIRM). when notified by the Floodplain Administrator, and
- F. Placement of Structures

this purpose.

shall pay any fees

sessed by FEMA for

or other costs as-

- a) Whenever possible, shall be constructed with the longitudi-
- b) In so far as practicable, structures and other development shall be placed approximately on the same flood-flow lines as those of adjoining structures or development.

blockage of bridge

openings and other

restricted sections

of the watercourse

- H. Flood Protection Set-
- a) A Flood Protection Setback equal to twice the width of the watercourse channel measuring from the top of one bank to the top of the opposite bank of 50 feet, whichever is less, shall be maintained from the top of the banks of all watercourses.
  - Specifically, as for oil and gas wells and well pads, no well pad may be prepared or well drilled within 100 feet from any perennial stream, natural or artificial lake, pond, reservoir or wetland. [See W.Va. Code §22-6A-12(b)]. To reduce erosion. natural vegetation shall be maintained in this area. Where natural vegetation does not exist along
  - planting vegetation in the setback area to stabilize banks and enhance aquatic resources. b) Necessary public works and tempo rary construction may be exempted from this subsection at the discre

tion of the

Floodplain

Administrator.

the watercourse

and conditions for

replanting are suit-

able, high priority

shall be given to

c) At the discretion of the Floodplain Administrator the Flood Protection Setback requirement can be waived in whole or part if the applicant demonstrates that it is impossible to allow any development without encroachment into the Flood Protection Setback Area. The conditions shall be the minimum necessary and shall be made only after due considera-

tion is given to

varying other siting

side, front and back

standards, such as

lot line setbacks.

a) No materials that

- are buoyant, flammable, explosive, or in times of flooding could be injurious to human, animal or plant life, shall be stored be low Base Flood Elevation except for mineral storage properly and wholly within the ground in compliance with other State environmental agency(ies) requirements.
- b) Storage of other material or equipment may be allowed if not subject to substantial damage by floods and firmly anchored to prevent flotation or readily removable from the area within the time avail-
- c) Due to the poten-

warning

able after flood

the natural elevation and making it more difficult to enforce this Ordinance, material that resembles "fill' material shall not be considered "stor age" material for purposes of this subsection.

tial of masking

- J. Utility and Facility Requirements
  - a) All new or replacement water systems whether public or private shall be designed to minimize or eliminate infiltration of floodwaters into the systems. b) All new or replace-
  - ment sanitary disposal systems, whether public or private, shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters.
  - c) All other new or replacement public or private utili ties and facilities shall be located and constructed to minimize or eliminate flood damage. d) Onsite waste dis-
  - posal systems shall be located to avoid impairment to the system or contamination from the sys tem during flooding.

## K. Drainage

Adequate drainage shall be provided to reduce exposure to flood hazard areas as well as around structures on slopes within zones AH and AO to guide floodwaters around and away from proposed structures L. Backflow Preventers

Back flow prevention valves should be used for all enclosed structures with sewage or drainage facilities located in the special flood hazard area Floodplain Area.

## ARTICLE VII - ADMIN-<u>ISTRATION</u>

Section 7.1 Designation of Floodplain Administrator

The (Title of Appointee) is hereby appointed as Floodplain Administrator and is vested with the responsibility. authority and means to implement the commitments made. Upon appointment of a new Floodplain Administrator, the meeting minutes with the applicable Floodplain Ordinance shall be provided to The State Coordinating Office and FEMA. Within one year his appointment the

- new Floodplain Manager must attend the State/FEMA sponsored NFIP Class 273 entitled "Managing Floodplain Development" and remain current State required continuing education annual training. (See W.Va. Code §15-5-20a) In the absence of a formally appointed Floodplain Administrator the duties set forth in this Ordinance for the Floodplain Administrator shall be temporarily fulfilled by the President of the County
- Commission. The Floodplain Administrator shall administer and implement this Ordinance by granting or denying floodplain development permits in accordance with its provisions. The Floodplain Administrator shall also be responsible for submitting all required reports to FEMA concerning participation in the National Flood Insurance Program.
- Section 7.2 Development Permits and Site Plan Approvals Required It shall be unlawful for

any contractor, person, partnership, business, limited liability corporation or corporation to undertake or cause to be undertaken, any development or the new construction, substantial improvement, repair of substantial damage, the placement or relocation of any structure (including manufactured homes) within the Town of Franklin unless a permit application and standard site plan has been completed, and a permit has been obtained from the Flood-Administrator plain In addition, where land that is either partially or fully in the special flood hazard area is to be subdivided, utilized for a manufactured home park or subdivision or otherwise de veloped, a detailed site plan must be submitted to, and approved by, the

Floodplain Administrator prior to any develop-

Section 7.3 Approval of Permits and Plans

a. The Floodplain

position of said

Application and

give due consid-

before granting

or denying said

USE OBJEC-

TIONS TO LE

 $GALLY\,DENY\,A$ 

HAS TO BE BE-

CAUSE THE AP-

PLICANT DOES

NOT MEET THE

STANDARDS

THE

 $OUTLINED\ IN$ 

ORDINANCE.)

b. All permits and

plans shall be ap-

mined that the pro-

has been deter-

posed work to be

undertaken will

be in conformance

with the require-

ments of this Or-

dinance, State and

Federal Laws, Or-

dinances and

c. The Floodplain Ad-

ministrator shall

not issue a permit

to any person who

does not possess a

valid contractor's

tractor's license is

required by West

Administrator, be-

permit, shall re-

fore issuance of the

quire the applicant

to furnish satisfac-

tory proof that such

censed as a contrac-

tor under the pro-

Code. If the appli-

cant is not licensed.

If the applicant is

not licensed under

West Virginia Code

§21-11-6 a written

affidavit that such

person is not sub-

ject to licensure as

a contractor or sub-

contractor as de-

fined in  $\S 21-11-6$ 

shall be filed with

the County Clerk,

date/time stamped

and filed in the of-

Permit Application

ficial Floodplain

e. The Floodplain Ad-

 $ministrator\ shall$ 

require and keep

on file copies of

any documentation

other governmental

agencies. Whether

Federal or State or

Local, that requires

site approval, this

shall be submitted

to the County

Clerk, date/time

plain Permit Ap-

said permit and

stamped and filed

in the official Flood-

plication File prior

to final issuance of

prior to the start of

construction. This

information shall

be maintained for

the life span of the

development.

f. The Floodplain

Administrator

of all permits to

the County Asses

sor as required by

§11-3-3a. and pro-

vide a copy of all

E-911 Addressing

After the filing of an

Application for a Flood-

plain Permit and re-

ceiving a properly and

timely filed objection to

the issuance of a Flood-

plain Permit Applica-

tion, but prior to the

Floodplain Administra-

tor's decision to grant

or deny the same, the

Floodplain Adminis-

trator may, in his sole

discretion, hold a public

meeting wherein evi-

dence can be taken or

given by interested per-

sons or parties. Said

meeting shall have a

court reporter present

to record all testimony

and receive all exhib-

its and evidence. Said

meeting notice shall be

mailed by certified mail

to the County

Coordinator

West Virginia Code

shall provide a copy

pertaining to the

permit from any

File.

visions of West

Virginia State

person is duly li-

Virginia Code

§21-11-7.

d. The Floodplain

Regulations.

 $\operatorname{Permit}-(NOTE$ 

YOU CAN NOT

Administrator shall

review, or shall dar days from official cause to be reannouncement. viewed, all permit meeting transcript and exhibits presented shall applications and plans within 90 be filed in the official days (from the Per-Floodplain Application mit Application Permit File. submission date in order to determine Section 7.4 Application whether the pro-Procedures posed development Application for a peris reasonably safe from flooding. Furmit and/or site plan ther, the Floodplain approvals shall be filed, Administrator shall in writing, in duplicate, review all objecon the forms supplied tions, comments, by the Town of Franprotest letters and klin Council and shall other writings include all information submitted in op stipulated under Arti-

cant and the objecting

person or entity and

placed upon the agenda

of a regularly scheduled

Town of Franklin Coun-

cil meeting announc-

ing the date, time and

place of said meeting

not prior to 10 calen-

Floodplain Permit Section 7.5 Changes

cle V of this Ordinance.

eration to the same After the issuance of a Floodplain Permit or site plan approval by the Floodplain Administrator or Floodplain Appeals Board no changes of any kind shall be made to the PERMIT -DENIAL application, permit, or any of the plans, specification or other documents submitted with the application without the written consent and approval of the Floodplain Administrator.

> Section 7.6 Permit Placards

proved only after it The Floodplain Administrator shall issue a permit placard, which shall be prominently displayed on the subject property during the time development is in progress. This placard shall show the number of the permit, the date of its issuance and be signed by the Floodplain Administrator or the County Commissioners sitting as the Floodplain Appeals

Section 7.7 Start of license when a con-Construction

Work on the proposed

development shall be-

gin within 180 days after the date of issuance of the Floodplain Permit or the Floodplain Permit shall expire unless a time extension request made in writing to the Floodplain Administrator and filed in the official Floodplain Application Permit File by the Floodplain Manager is granted, in writing, by the Floodplain Administrator after a showing by the applicant of "justifiable delay" not caused by the negligence or lack of due diligence of the applicant. Any extension of the 180 day Start of Construction timeframe shall only be granted if the permit holder can demonstrate compliance with this Floodplain Ordinance, FIRM and/or FIS in effect at the time the extension is granted. All work on the proposed development must be completed within 18 months of permit issuance, at which time the permit shall expire, unless a time extension made in writing to the Floodplain Administrator and filed in the official Floodplain Permit File by the Floodplain Manager is granted in

> following criteria: a) Has the applicant diligently pursued the completion of the proposed development during

writing by the Flood-

plain Administrator.

The request for a time

extension shall be in

writing and shall state

the reasons for the ex-

tension. When consid-

ering an extension, the

Floodplain Administra-

tor shall consider the

the 18 months? b) Will the granting of the extension be detrimental to public safety, health, or welfare or injurious to other property?

Section 7.8 Stop Work Or-Floodplain Permits ders, Inspections and Revfor new structures

A. Stop-Work Orders

a) The Floodplain

Administrator shall issue, or cause to be issued, a "Stop Work Order Notice for any development found ongoing without having ob tained a Floodplain Permit. Disregard of a Stop Work Order Notice shall subject the violator to the penalties

b) The Floodplain Administrator shall issue, or cause to be issued, a "Stop Work Order No tice" for any devel-

described in

Ordinance.

Section 8.4 of this

Advertisements

Legal

return receipt requested to the Permit Appli- Continued on Page 10 November 04, 2021 - The Pendleton Times - Page 9

# LEGAL ADVERTISEMENTS (continued from page 9)

opment found noncompliant with the provisions of this Ordinance and/or the conditions of the Flood plain Permit. Disregard of a Stop Work Order notice shall subject the violator to the penalties described in Section 8.4 of this Ordinance

- c) In the event that the Floodplain Administrator issues a Stop Work Order Notice, the Floodplain Permit shall be stayed pending a determination of whether a violation actually abatement of the alleged violation whichever occurs
- d) In the event of an Appeal on a Floodplain Permit, the Floodplain Administrator shall im mediately issue a Stop Work Order Notice that shall remain in effect until a resolution of said Appeal.

### B. Inspections and Revocations

a) During the development period, the Floodplain Administrator or other authorized County State or Federal Government Officials may inspect the premises to determine that the work is progress ing in compliance with the information provided on the Floodplain Permit Application, this Ordinance and with all applicable Federal, State and County laws, Regulations and Ordinances.

b) If the Floodplain

- Administrator discovers that the work does not comply with the Floodplain Permit Application, this Ordinance or that there has been a false statement(s) or misrepresentation(s) by any applicant in the permitting process, the Floodplain Administrator shall issue a "Stop Work Order Notice", revoke the permit and request a temporary injunction in the Circuit or Magistrate Court of Pendleton County. The Flood plain Administrator shall notify any appropriate agency or authority if the Floodplain Administrator finds a violation of any non-Floodplain Law. Regulation or Ordinance.
- c) The Floodplain Administrator or other authorized County, State or Federal Government Officials may inspect any development covered by this or previous Floodplain Ordinances to determine whether any portion of the develop ment has been altered to be noncompliant with the requirements of this or other Ordinances.

## Section 7.9 Certificate of Compliance

a) In the special flood hazard area it shall be unlawful to occupy, or to permit the occupancy, of any building or premises, or both, or part thereof hereafter created erected, installed, changed, converted or wholly or partly altered or enlarged in its use or structure until a Certifiate of Compliance has been issued by the Floodplain Administrator stating that the building or land conforms to the requirements

of this Ordinance.

a building or

Occupying or using

premises in violation of this section shall subject the violator to the pen alties described in Section 8.4 of this Ordinance

b) In the special flood hazard area it shall be unlawful to inspect and approve a permanent utility connection to any building or premises, or both, or part thereof hereafter created, erected, installed or rebuilt until the utility inspector is in possession of a copy of the Certificate of Compliance issued by the Floodplain Administrator stat ing that the particular development being inspected conforms to the requirements of this Ordinance. Inspection and approval of utilities in violation of this section shall subject the violator to the penalties described in Section 8.4 of this

### c) In the special flood hazard area it shall be unlawful to install a permanent utility connection to any building or

Ordinance

- premises, or both, or part thereof hereafter created. erected, installed or rebuilt until a Certificate of Compliance has been issued by the Floodplain Administrtor stating that the development conforms to the requirements of this Ordinance. Installation of utilities in violation of this section shall subiect the violator to the penalties described in Section 8.4 of this Ordinance.
- d) A Certificate of Compliance shall be issued by the Floodplain Administrator upon satisfactory completion of all development in the special flood hazard. e) Issuance of the pliance shall be
- Certificate of Combased upon the inspection conducted as prescribed in this Ordinance and any finished construction elevation certificate, hydraulic data, flood proofing certificate, or encroachment analyses which may have been required as a condition of the Floodplain Permit approval

Section 7.10 Fees

process.

- a) Floodplain Determination fee shall proposed development. This shall be a flat fee approved by the Town of Franklin Council
- b) Proposed development determined to be occurring in a special flood hazard area regulated by this ordinance shall be assessed an additional fee, payable to the Town of Franklin based upon a set schedule approved by the Town of Franklin Council using the estimated value of

the proposed construction as determined by the Floodplain

Administrator.

c) In addition, the applicant shall be responsible for reimbursing the Town of Franklin for any additional costs for services necessary for review and/or inspection of proposed development. Services include, but are not limited to, professional en-

gineering and sur-

veying. The Flood-

plain Administra-

tor may require a

deposit towards

these additional costs. Additional costs may include reimbursement for contracted services.

Due to the increased

cost of processing, when any work for which a permit is required by this ordinance is started or proceeded with prior to obtaining a permit the fees above specified shall be doubled. The additional fee is intended to partially reimburse the Town of Franklin for the additional cost of processing permits for work already underway. To more fully recover this cost the fees above shall be tripled for every subsequent occurrence by the same person. Payment of the increased fee shall not relieve any person from complying fully with the requirements of this ordinance in the execution of the work or from other penalties prescribed

## ARTICLE VIII -APPEALS AND PENAL-

Section 8.1 Appeals

Whenever a person or entity is aggrieved by a decision of the Floodplain Administrator with respect to the provisions of this Ordinance, it is the right of that person or entity to appeal to the Town of Franklin Council sitting as the Floodplain Appeals Board. appeal must be filed with the Appeals Board or Floodplain Manager in writing, within thirty (30) days after notification of the decision of the Floodplain Administrator as announced at a regularly scheduled Town of Franklin Council Meeting. Said Appeal shall be served by the aggrieved person by regular mail on all interested parties on the date that said Appeal is filed. Upon receipt of such appeal, the Floodplain Appeals Board shall set a time. date and place not less than ten (10) nor more than sixty (60) calendar days for the purpose of hearing the appeal. Notice of the time, date and place of the hearing shall be given to all interested parties by placing an announcement of said hearing date, time and place on the agenda of the next regularly scheduled Town of Franklin Council meeting notice and to announce the date, time and place of the appeal hearing not sooner than 10 calendar days from said date, announcement at which time all may appear and be heard. The determination by the Floodplain Appeals

In the event an Appeal is filed wherein a Floodplain Permit grant has been ruled by the Floodplain Administrator, the Floodplain Administrator shall immediately issue a Stop Work Order Notice that shall remain in effect until a resolution of said appeal.

Board shall be final in

all cases, subject to any

Appeal to the Circuit

or Magistrate Court

of Pendleton County,

West Virginia or any

other Court of compe-

tent jurisdiction.

Section 8.2 Appeal Review Criteria

All appeals contesting only the permit fee, the cumulative substantial damage requirement, the flood protection setback requirement, or the freeboard requirements, may be handled at the discretion of the Floodplain

Appeals Board.

Section 8.3 Variances

If compliance with any of the requirements of this Ordinance would result in an exceptional hardship to a prospective builder, developer or landowner, the [Name of Municipality] may, upon request, grant relief from the strict application of the

requirements Considerations for the issuance of Variances to this Ordinance shall adhere to the following

- a. A decision granting or denying the vari ance request shall only be issued by the Floodplain Appeals Board upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the permit would result in exceptional hardship to the applicant, and (iii) a determination that granting the permit 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 laws, regulations or
- b. An affirmative decision granting a variance shall be is sued only upon determination that it is the minimum necessary, considering the Special Flood Hazard Area to afford relief. Financial hardship, used as sole crite ria, shall not be considered sufficient justification

ordinances.

- to grant a variance c. An affirmative decision grantinga Floodplain variance shall 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 struc ture and the variance is the minimum necessary to preserve the historic character and design of the structure. d. The Floodplain Appeals Board shall
- notify the applicant in writing and signed by a majority of the Floodplain Appeals Board that (i) the issuance of a decision to allow construction of a structure below the Base Flood Elevation will result in increased premium rates for flood insurance, and (ii) such construction below the Base Flood Elevation increases risk to life and property. Such notification shall be maintained with a record of all decisions as required in this Ordinance; and
- e. The Floodplain Appeals Board shall (i) maintain a record of all decisions including justification for the decisions, and (ii) report such decisions issued in its biannual report to the Federal Emergency Management Agency.
- f. An affirmative decision shall not be granted for issuance of a Floodplain variance for any construction, development use or activity within any Floodway Area that would cause any increase in the Base Flood Elevation.

Section 8.4 Penalties

Any person, who fails to comply with any or all of the requirements or provisions of this Ordinance or direction or Order of the Floodplain Administrator, or any other authorized employee of, shall be unlawful and shall be referred to the Prosecuting Attorney who expeditiously prosecute all such vio-

lators. A violator shall. upon conviction, pay a fine to the Town of Franklin Council of not less than fifty dollars (\$50.00) or more than five hundred dollars (\$500.00) plus cost of prosecution. Each day during which any violation of this Ordinance continues shall constitute a separate offense. In addition to the above penalties, all other actions are hereby reserved including an action in equity for the proper enforcement of this Ordinance. The imposition of a fine or penalty for any violation of, or noncompliance with, this Ordinance shall not excuse the violation or non-compliance with the Ordinance or permit it to continue; and all such persons shall be required to correct Governmental Entities or remedy such violations or non-compliance within a reasonable time. Any structure constructed. reconstructed, enlarged, altered or relocated in non-compliance with this Ordinance may be declared by the Town of Franklin Council to be

## ARTICLE IX - GOVERN-MENT ACTIONS

and exhaustion of ap-

Section 9.1 Annexation

pellate rights.

A. The Town of Franklin Floodplain Ordinance in effect on the date of annexation shall remain in effect and shall be enforced by the Floodplain Administrator for all annexed areas until the municipality adopts and enforces a Floodplain Ordinance which meets or exceeds the requirements for participation in the National Flood Insurance Program.

- B. Municipalities with existing Floodplain Ordinances shall pass a resolution acknowledging and accepting responsibility for enforcing Floodplain Ordinance Standards prior to annexation of any area containing identified Floodplain Areas.
- C. All plats or maps of annexation shall show the Floodplain boundaries, Base Flood Elevation and loca tion of the Floodway where determined.
- D. In accordance with the Code of Federal Regulations, Title 44 Subpart (B) Section 59.22(a)(9) (v) all Federal Emergency Management Agency participating governments must notify the State Coordinating Office and Federal Insurance Adminiswhenever the boundaries of the governments have been modified by annexation or the governments has otherwise assumed or no longer has
  - authority to adopt As the Floodplain Ordiand enforce floodnance OF THE Town of plain management Franklin Council for the regulations for a County of Pendleton Counparticular area. In ty. All previously enacted order that all Flood Floodplain Ordinances are Insurance Rate Maps accurately hereby null and void and

represent the government's boundaries, a copy of a map of the government boundaries suitable for reproduction, clearly delineating the new boundaries or new area for which the government has assumed or relinquished floodplain manage

authority must be Town Office Mondayincluded with the Friday 8:00am-4:30pm. notification. Interested parties may E. NFIP participating appear at the meeting governments must and be heard with respect to the proposed notify the State Coordinating Office ordinance. in writing when-

ment regulatory

ever the boundaries of the governments have been modified by annexation or the government has otherwise as sumed or no longer has authority to adopt and enforce floodplain manage ment regulations for a particular area. A copy of a map of the govern ment boundaries suitable for repro duction, clearly de lineating the new boundaries or new area for which the government has assumed or relinquished floodplain management regu latory authority must be included with the notification

Section 9.2 Permits for

exempted by law, all

public utilities and Mu-

Unless

specifically

nicipal, County, State and Federal entities are required to comply with this Ordinance and obtain all necessary permits. Any entity claiming to be exempt a public nuisance and from the requirements of this Ordinance must abated as such subject provide a written stateto other applicable laws ment setting forth the rationale for exemption and file the same with FEMA. In addition the entity claiming exemption shall provide copies of all relevant legal documentation demonstrating the exemption.

## ARTICLE X - SEVER-ABILITY AND MUNICI-PAL LIABILITY

Section 10.1 Severability

If any section, subsection, paragraph, sentence, clause, or phrase of this Ordinance shall be declared invalid for any reason whatever, such decision shall not affect the remaining portions of this Ordinance which shall remain in full force and effect and for this purpose the provisions of this Ordinance are severable.

Section 10.2 Liability

The granting of a permit or approval of a subdivision, development plan in an identified Special Flood hazard Area, shall not constitute a representation, guarantee, or warranty of any kind by the Town of Franklin Council or the Town of Franklin or by any official or employee thereof of the practicability or safety of the proposed use, and shall create no liability upon the Town of Franklin Council or the Town of Franklin. This Ordinance does not create a private cause of action. All applicants proposing construction in or near a Floodplain Area are urged to locate construction as far away from, and as

## sources as possible. ARTICLE XI - ENACT-**MENT**

high above, all flooding

Passed on First Reading this 12th day of October, 2021

Scheduled to be passed on Second and Final Reading this 9th day of November, 2021

vacated as replaced by this Ordinance. This Ordinance is in effect on the date signed by the Mayor of the Town of Franklin Council. The above ordinance will come before the Town Council of the Municipality of Franklin on November 9, 2021 at 6:00pm at the Town Hall for a final vote. Copies of the Ordinance can be requested at the