

**2021 FLOOD DAMAGE PROTECTION ORDINANCE
FOR LINCOLN COUNTY, SOUTH DAKOTA**

1st Reading: June 8, 2021
2nd Reading: June 22, 2021
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ORDINANCE NO. 2106-34

AN ORDINANCE ENACTING THE 2021 FLOOD DAMAGE PROTECTION ORDINANCE FOR LINCOLN COUNTY AND REPEALING THE 2011 FLOODPLAIN MANAGEMENT ORDINANCE AS AMENDED.

WHEREAS, The flood hazard areas of Lincoln County are subject to periodic inundation which results in the loss of life and property, the creation of health and safety hazards, the disruption of commerce and governmental services, and extraordinary public expenditures for flood protection and relief, all of which adversely affect the public health, safety and general welfare.

WHEREAS, these flood losses are created by the cumulative effect of obstructions in floodplains which cause an increase in flood heights and velocities, and by the occupancy of flood hazard areas by uses vulnerable to floods and hazardous to other lands because they are inadequately elevated, flood proofed or otherwise protected from flood damage; and

WHEREAS, the Legislature of the State of South Dakota has in SDCL §§ 11-2-13 delegated the authority to adopt regulations designed to minimize flood losses to local governmental units; and

WHEREAS, the enactment and implementation of floodplain regulations is required for participation in the National Flood Insurance Program;

NOW, THEREFORE, BE IT ORDAINED by the Lincoln County Board of Commissioners that the 2021 Flood Damage Protection Ordinance for Lincoln County is hereby adopted;

BE IT FURTHER ORDAINED that the 2011 Floodplain Management Ordinance, as amended, is hereby repealed;

BE IT FURTHER ORDAINED that copies of the 2021 Flood Damage Protection Ordinance for Lincoln County shall be filed with the County Auditor and Register of Deeds.

The public may inspect the entire 2021 Flood Damage Protection Ordinance at the Office of the Lincoln County Auditor during regular business hours.

ATTEST:



Sheri Lund, Auditor





Tiffani Landeen, Chair
Lincoln County Commissioners

Table of Contents

Table of Contents.....ii

Article 1.00 Title, Authorization, Objectives and Methods1

1.01 Title.....1

1.02 Statutory Authorization1

1.03 Objectives1

1.04 Methods of Reducing Flood Losses1

Article 2.00 General Provisions3

2.01 Areas to Which This Ordinance Applies.....3

2.02 Applicability3

2.03 Establishment of Flood Hazard Areas.....3

2.04 Establishment of Development Permit3

2.05 Abrogation and Greater Restrictions3

2.06 Interpretation.....3

2.07 Warning and Disclaimer of Liability3

2.08 Severability.....3

2.09 Compliance.....4

2.10 Stop Work Order.....4

2.11 Enforcement.....4

2.12 Penalties for Noncompliance.....4

Article 3.00 Administration5

3.01 Designation of the Floodplain Administrator5

3.02 Administrative Authority5

3.03 Delegation of Authority5

3.04 Duties of the Floodplain Administrator.....5

3.05 Requirement to Submit New Technical Data.....6

3.06 Determination of base flood elevations.....6

Article 4.00 Permitting and Certification.....7

4.01 Permit Required.....7

4.02 Permit Application Procedure7

4.03 Validity of Permit.....7

4.04 Expiration8

4.05 Suspension or Revocation8

4.06 Elevation Certificates Required8

4.07 Engineered Certifications8

4.08 Fees.....9

Article 5.00 Development Standards10

5.01 General Standards10

5.02 Structure Standards11

A. Residential Construction 11

B. Nonresidential Construction 11

C. Enclosures 12

D. Crawlspace..... 12

E. Manufactured Homes 13

F. Recreational Vehicles 13

5.03 Subdivision Proposals13

5.04 Buffer Zone.....14

5.05 Substantial Improvement and Substantial Damage14

5.06 Watercourse Alteration.....15

5.07 Floodways15

Article 6.00 Variance Provisions17

6.01 Variance Procedure.....17

6.02 Prerequisites for Granting Variances17

6.03 Variance for Historic Structures17

6.04 Restrictions17

6.05 Considerations.....17

6.06 Appeals18

6.07 Limitations18

6.08 Insurance Implication.....18

6.09 Notification18

Article 7.00. Definitions19

Article 1.00 Title, Authorization, Objectives and Methods**1.01 Title**

These regulations shall be known as the 2021 Flood Damage Protection Ordinance for Lincoln County, South Dakota.

1.02 Statutory Authorization

Lincoln County has elected to comply with the requirements of the National Flood Insurance Act of 1968 (P.L. 90-488, as amended). The National Flood Insurance Program (NFIP) is a voluntary program administered by the Federal Emergency Management Agency (FEMA), a component of the U.S. Department of Homeland Security, and Lincoln County officials have elected to join the program, participate, and enforce this Flood Damage Prevention Ordinance and the requirements and regulations of the NFIP. The National Flood Insurance Program, established in the aforesaid act, provides that areas of the County having a special flood hazard be identified by the Federal Emergency Management Agency and that floodplain management measures be applied in such flood hazard areas. Furthermore, Lincoln County may elect to administer the Flood Damage Prevention Ordinance to areas not identified as Special Flood Hazard Areas (SFHAs) by FEMA on the community's effective Flood Insurance Rate Map (FIRM), if the community has documentation to support that there is an inherent risk of flooding in such areas.

The Legislature of the State of South Dakota has, in SDCL §§ 11-2-13, delegated the authority to adopt regulations designed to minimize flood losses to local governmental units. Therefore, as a basis for adopting such regulations, the Lincoln County Board of Commissioners does hereby make the following legislative findings of fact:

1. The flood hazard areas of Lincoln County are subject to periodic inundation which results in the loss of life and property, the creation of health and safety hazards, the disruption of commerce and governmental services, and extraordinary public expenditures for flood protection and relief, all of which adversely affect the public health, safety and general welfare.
2. These flood losses are created by the cumulative effect of obstructions in floodplains, which cause an increase in flood heights and velocities, and by the occupancy of flood hazard areas by uses vulnerable to floods and hazardous to other lands because they are inadequately elevated, flood proofed or otherwise protected from flood damage, and by uses deemed unsuitable for floodplain areas or that do not account for the increased flood risk.

1.03 Objectives

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

1. Protect human life and health.
2. Minimize damage to public infrastructure, including but not limited to utilities, streets, and bridges that are susceptible to flooding.
3. Minimize prolonged business interruptions caused by flooding.
4. Minimize public expenditures on flood control projects.
5. Minimize the need for rescue and relief efforts associated with flooding and are generally undertaken at the expense of the public.
6. Protect and safeguard the welfare and safety of first responders should an emergency response be needed;
7. Help maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize future flood blight areas; and
8. Promote that potential buyers are notified if properties are in a flood area.

1.04 Methods of Reducing Flood Losses

To accomplish the purposes outlined in Article 1.03 Objectives, this ordinance applies the following methods:

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

2. Require that land uses vulnerable to floods, including facilities that serve such uses, be protected against flood damage at the time of initial construction.
3. Regulate the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of flood waters.
4. Regulate filling, grading, dredging and other developments that may increase flood damage; and
5. Prevent or regulate the construction of flood barriers that will unnaturally divert floodwaters or that may increase flood hazards to other lands.

Article 2.00 General Provisions**2.01 Areas to Which This Ordinance Applies**

The provisions of this ordinance shall apply to all proposed development in a flood hazard area identified by FEMA or areas of identified and documented flood risk supported using Best Available Data within the unincorporated area of Lincoln County.

2.02 Applicability

This ordinance provides minimum requirements for development located in flood hazard areas, including but not limited to the subdivision of land, installation and repair of utilities, placement and replacement of manufactured homes, new construction and repair, reconstruction, rehabilitation, or additions to new construction, and substantial improvement of existing building and structures, including restoration after damage, and the placement of fill, debris, equipment, or materials.

2.03 Establishment of Flood Hazard Areas

The areas of special flood hazard identified by FEMA in the current scientific and engineering report entitled "Flood Insurance Study for Lincoln County, South Dakota" (FIS), dated October 25, 2017, together with the accompanying Flood Insurance Rate Map (FIRM) and any revisions thereto are hereby automatically adopted by reference and declared to be a part of this ordinance. The community has elected to adopt Best Available Data to regulate floodplain development in addition to utilizing the effective FIS and FIRM. Where Best Available Data contradicts the FIS or FIRM, the more restrictive data shall be utilized.

2.04 Establishment of Development Permit

A Floodplain Development Permit shall be required to ensure conformance with the provisions of this ordinance.

2.05 Abrogation and Greater Restrictions

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

2.06 Interpretation

In the interpretation and application of this ordinance, all provisions shall be:

1. Considered as minimum requirements.
2. Liberally construed in favor of the governing body, and
3. Deemed neither to limit nor repeal any other powers granted under state statutes.

2.07 Warning and Disclaimer of Liability

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and may occur on rare occasions. Flood heights may be increased by manmade or natural causes, such as ice jams and bridge openings restricted by debris. This ordinance does not imply that land outside of special flood hazard areas or uses permitted within such areas will be free from flooding or flood damage. This ordinance shall not create liability on the part of Lincoln County, any officer or employee thereof, or the Federal Emergency Management Agency for any flood damage that results from reliance on this ordinance or any administrative decision lawfully made hereunder.

2.08 Severability

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

2.09 Compliance

No structures or developments including buildings, recreation vehicles, manufactured homes, or land shall hereafter be located, altered, or have its use changed without full compliance with the terms of this ordinance and other applicable regulations. Nothing herein shall prevent Lincoln County from taking such lawful action as is necessary to prevent or remedy any violations.

2.10 Stop Work Order

- A. *Authority.* Whenever the Floodplain Administrator finds any work or activity regulated by this ordinance being performed in a manner contrary to the provisions of this ordinance, the Floodplain Administrator is authorized to issue a stop work order.
- B. *Unlawful acts.* It shall be unlawful for any person, firm or corporation to erect, construct, alter, extend, repair, move, remove, demolish or occupy any building, structure, facility or equipment regulated by this ordinance, or cause same to be done, in conflict with or in violation of any of the provisions of this ordinance.
- C. *Issuance.* The stop work order shall be in writing and shall be given to the owner of the property involved, or to the owner's agent, or to the person doing the work. Upon receipt of a stop work order, the cited work shall immediately cease. The stop work order shall state the reason for the order, and the conditions under which the cited work will be permitted to resume.
- D. *Unlawful continuance.* Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be subject to penalties as prescribed by law.
- E. *Prosecution of violation.* If the notice of violation is not complied with promptly, the appropriate authorities of Lincoln County, in addition to other remedies, may institute injunction, mandamus or other appropriate action or proceeding to restrain, correct or abate such violation, or to require the removal or termination of the unlawful occupancy of the real estate, structure or facility in violation of the provisions of this ordinance or of the order or direction made pursuant thereto.

2.11 Enforcement

In accordance with Section 59.2(b) of CFR 44, Chapter 1, of the NFIP regulation, to qualify for the sale of federally subsidized flood insurance, a community must adopt floodplain management regulations that meet or exceed the minimum standards of Section 60. "These regulations must include effective enforcement provisions."

In accordance with Section 60.1(b) of CFR 44, Chapter 1, of the NFIP regulations, "These regulations must be legally-enforceable, applied uniformly throughout the community to all privately and publicly owned land within flood-prone (i.e. mudflow) or flood-related erosion areas, and the community must provide that the regulations take precedence over less restrictive conflicting local laws, ordinances or codes."

2.12 Penalties for Noncompliance

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this ordinance and other applicable regulations. Violation of the provisions of this ordinance by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor and shall be punished pursuant to SDCL 7-18A-2. Each and every day of the continued violation may constitute a separate offense. In addition to any fine and imprisonment for each violation, violators shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent Lincoln County from taking such other lawful action as is necessary to prevent or remedy any violation.

Article 3.00 Administration**3.01 Designation of the Floodplain Administrator**

The Lincoln County Geographic Information Services (GIS) Administrator is hereby appointed the Floodplain Administrator to execute the provisions of this ordinance and other appropriate sections of the NFIP Regulations and 44 CFR pertaining to floodplain management.

3.02 Administrative Authority

The Floodplain Administrator shall have the authority to render interpretations of this ordinance and to adopt policies and procedures to clarify the application of its provisions. Such interpretations, policies and procedures shall be in conformance with the intent and purpose of this ordinance. Such policies and procedures shall not have the effect of waiving requirements specifically provided for in this ordinance.

3.03 Delegation of Authority

The Floodplain Administrator shall have the authority to delegate other employees to assist in the enforcement of this ordinance.

3.04 Duties of the Floodplain Administrator

The duties of the Floodplain Administrator shall include, but not be limited to, the following:

- A. Uphold the goals of the community and the NFIP to reduce risk whenever possible and increase the community's resistance to future disasters.
- B. Review and approve or deny all applications for development permits required by this ordinance.
- C. Review permit applications to determine whether proposed building sites, including the placement of manufactured homes, will be reasonably safe from flooding.
- D. In addition to utilizing the effective FIS and FIRMs, all permit reviews will utilize Best Available Data.
- E. Interpret floodplain boundaries where clarification is needed as to the exact location of the boundaries of flood hazard areas (for example, where there appears to be a conflict between a mapped boundary and actual field conditions or risk associated with best available data)
- F. Assure that the flood carrying capacity within an altered or relocated portion of any watercourse is maintained.
- G. Inspect all development at appropriate times during the period of construction to ensure compliance with all provisions of this ordinance, including proper elevation of structures.
- H. Notify, prior to any alteration or relocation of a riverine watercourse: adjacent communities, the State NFIP Coordinating Agency and the Office of Emergency Management and submit evidence of such notification to the Federal Emergency Management Agency
- I. Maintain and hold open for public inspection all records pertaining to the provisions of this ordinance., including inspection reports, notifications, required certifications and supporting data.
- J. Maintain and hold open for public inspection maps that identify and locate the boundaries of the SFHAs or flood hazard areas to which this ordinance applies, including, but not limited to, the FIRM, BLE data, and best available data hydrologic/hydraulic studies.

- K. Ensure that all necessary permits have been obtained from those Federal, State or local governmental agencies from which prior approval is required (including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1344 and the Endangered Species Act of 1973).
- L. Where base flood elevation data has not been provided by FEMA, obtain, review and reasonably utilize any base flood elevation data and floodway data available from a Federal, State or other source, including data provided by the applicant, in order to administer the provisions of this ordinance.
- M. Where a regulatory floodway has not been designated, require that no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A and AE on the community's FIRM, unless demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

Exception: A community may approve certain development in Zones A and AE, which increase the water surface elevation of the base flood by more than one foot provided the community first applies for a Conditional Letter of Map Revision through FEMA under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Program regulations.

- N. If a project is determined or reasonably believed to cause an adverse effect on the base flood elevations, floodplain boundaries, or any insurable structures, technical justification for the proposed development shall be submitted and the community may require a CLOMR or LOMR to be submitted prior to permit approval or as a requirement of the permit.
- O. Fill placed within the SFHA shall not result in any net loss of natural floodplain storage or cause an increase in water surface elevations during the base flood. The volume of floodwater storage loss due to filling in the SFHA shall be offset by providing an equal volume of flood storage by excavation or other compensatory measures made between the normal water level and the BFE at or adjacent to the development site.

3.05 Requirement to Submit New Technical Data

- A. The property owner or developer shall notify FEMA by submittal of a LOMR within 6 months of project completion when an applicant had obtained a CLOMR from FEMA or when development altered a watercourse, modified floodplain boundaries, or modified BFE.
- B. The property owner or developer shall be responsible for preparing technical data to support the CLOMR or LOMR application and paying any processing or application fees to FEMA. The property owner or developer is responsible for submitting the CLOMR and LOMR to FEMA and shall provide all necessary data to FEMA if requested during the review process to ensure the CLOMR or LOMR is issued.
- C. The Floodplain Administrator shall be under no obligation to sign the Community Acknowledgement Form, which is part of the CLOMR/LOMR application, until the applicant demonstrates that the project will or has met the requirements of this ordinance and all applicable state federal, and local laws.

3.06 Determination of base flood elevations

If base flood elevations are not specified, the Floodplain Administrator is authorized to require the applicant to obtain, review and reasonably utilize data available from a federal, state or other source; or determine the base flood elevation in accordance with accepted hydrologic and hydraulic engineering techniques. Such analyses shall be undertaken by a professional engineer licensed in this state, who shall certify that the technical methods used, reflect currently accepted engineering practices and standards. Studies, analyses, and computations shall be submitted in sufficient detail to allow thorough review and approval by the Floodplain Administrator. The accuracy of data submitted for such determination shall be the responsibility of the applicant.

Article 4.00 Permitting and Certification**4.01 Permit Required**

Any person who intends to conduct any development in a flood hazard area or buffer zone shall first make application to the Floodplain Administrator and shall obtain approval of the required permit prior to the start of development. Permits are required for all proposed construction and other developments, including the placement of manufactured homes, within Zone A or AE on the community's FIRM, and within 100 feet of distance or 5 feet of elevation (whichever comes first) from a flood hazard area.

4.02 Permit Application Procedure

- A. The applicant shall file an application in writing on a form furnished by the Floodplain Administrator. Such application shall:
1. Identify and describe the development to be covered by the permit.
 2. Describe the land on which the proposed development is to be conducted by legal description, street address or similar description that will readily identify and locate the site.
 3. Indicate the use and occupancy for which the proposed development is intended.
 4. Be accompanied by building plans and elevation certificate based on construction drawings,
 5. Be accompanied by a site plan in accordance with county guidelines, drawn to scale, showing the location, dimensions, and elevation of existing and proposed structures.
 6. Be accompanied by grading plans drawn to scale showing the location, dimensions, and elevation of proposed landscape alterations with computations, construction documentation, and other information deemed appropriate by the Floodplain Administrator.
 7. Describe the extent to which any watercourse or natural drainage will be altered or relocated because of proposed development, if applicable.
 8. Indicate the location of the forgoing in relation to flood hazard areas.
 9. State the valuation of the proposed work when required.
 10. Be signed by the owner or the owner's authorized agent.
- B. Approval or denial of the development permit shall be based on all provisions of this ordinance and the following relevant factors:
1. The danger to life and property due to flooding or erosion damage.
 2. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
 3. The danger that materials may be swept onto other lands to the injury of others.
 4. The safety of access to the property in times of flood for ordinary and emergency vehicles.
 5. The risks and costs of providing emergency services during flood conditions
 6. The costs of providing governmental services during and after flood conditions including maintenance and repair of streets, bridges, public utilities and facilities such as sewer, gas, electrical, and water systems.
 7. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters expected at the site.
 8. The necessity to the facility of a waterfront location, where applicable.
 9. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use.
 10. The relationship of the proposed use to the comprehensive plan for that area.
 11. Volumetric calculations demonstrating compensatory storage for all fill activities in the floodplain.
 12. Volumetric calculations indicating effective detention above BFE for any increased runoff from the development.

4.03 Validity of Permit

The issuance of a permit under this ordinance shall not be construed to be a permit for, or approval of, any violation of this ordinance or any other ordinance of the jurisdiction. The issuance of a permit based on submitted documents and information shall not prevent the Floodplain Administrator from requiring the correction of errors. The Floodplain Administrator is authorized to prevent occupancy or use of a structure or site which is in violation of this ordinance.

4.04 Expiration

A permit shall become invalid if the proposed development is not commenced within one year after its issuance, or if the work authorized is suspended or abandoned for a period of 180 days after the work commences. Extensions shall be requested in writing with justifiable cause demonstrated. The Floodplain Administrator may, except as otherwise provided herein, extend the time for action by the applicant for a period not exceeding 180 days.

4.05 Suspension or Revocation

The Floodplain Administrator is authorized to suspend or revoke a permit issued under this ordinance whenever the permit is issued in error or on the basis of incorrect, inaccurate or incomplete information, or in violation of any ordinance or code of Lincoln County.

4.06 Elevation Certificates Required

The following Elevations Certificates shall be submitted for any new construction or substantial improvements:

- A. An Elevation Certificate based on "Construction Drawings" shall be submitted with the site and building plans as part of the Floodplain Development Permit application.
- B. An Elevation Certificate based on "Building Under Construction" shall be submitted to the Floodplain Administrator or Building Official after placement of the lowest floor level prior to the construction of vertical walls. With prior approval, this EC may be based upon the lowest floor base layer such as after a foundation has been poured or after erection of post style construction, or in certain situations where weather or circumstances require.
- C. An Elevation Certificate based on "Finished Construction" shall be submitted to the Floodplain Administrator and Building Official prior to the final building inspection as required for issuance of building occupancy. As built septic location must also have been verified, and grading completed.

4.07 Engineered Certifications

The following certifications shall be prepared by a registered professional engineer when required by the Floodplain Administrator:

- A. Designed Flood Opening: elevation, design and location of flood openings allowing for the automatic entry and exit of flood waters in fully enclosed areas below the base flood elevation.
- B. Floodproofing: structure floodproofing specifications and elevations in relation to mean sea level, to which a nonresidential structure will be floodproofed.
- C. No-rise: hydraulic/hydrologic computations supporting that proposed development will result in no increase in the base flood elevation in a designated floodway or an increase of no more than 1 ft in a Zone A or AE without floodway.
- D. Fill placement: specification and confirmation of proper compaction and slope protection for fill placed in the floodplain.
- E. Manufactured home foundation: design and confirmation of adequately anchored home and foundation system to resist flotation, collapse, and lateral movement.
- F. TB 10-01 certification: design specifications in accordance with the guidance provided within FEMA's Technical Bulletin 10-01 related to ensuring that structures are reasonably safe from flooding and in accordance with accepted professional practices. (May be prepared by a professional engineer, professional geologist, professional soil scientist, or other qualified design professional)

- G. Compensatory storage: calculations and plans proving the volume of flood storage by excavation or other compensatory measures are equal to the volume of floodwater storage loss due to filling in the flood hazard area. Calculations shall be made between the normal water level and the BFE and be located at or adjacent to the development site.
- H. Detention: calculations of the increased runoff volume from development with grading and drainage plan showing the contributing areas of runoff and storage capacity above the BFE.

4.08 Fees

The fees set forth in this section shall be paid at the time of filing an application with the Floodplain Administrator. Such fees shall be payable to the Department of Planning and Zoning. No action shall be taken on any application or appeal until all applicable fees, charges, and expenses have been paid in full. All fees are non-refundable. The schedule of fees, charges, and expenses for matters pertaining to these regulations may be amended by resolution of the Board of County Commissioners.

Lincoln County Flood Damage Protection Ordinance Fee Schedule

Floodplain Development Permit	\$100.00
Permit Extension	\$50.00 (maximum 180 days)
Variances and Appeals	\$250.00

Article 5.00 Development Standards**5.01 General Standards**

In all areas of flood hazards the following provisions are required for new construction or substantial improvements:

- A. All new construction or substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
- B. All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage.
- C. All new construction or substantial improvements below 2ft above base flood elevation shall be constructed with materials resistant to flood damage.
- D. New and replacement electrical equipment, heating, ventilating, air conditioning, plumbing connections, and other service equipment shall be located at least two feet above the base flood elevation. Electrical wiring and outlets, switches, junction boxes, and panels shall be elevated at least two feet above the base flood elevation unless they conform to the provisions of the electrical code for location of such items in wet locations. Duct systems shall not be installed below two feet above the base flood elevation.
- E. New or replaced sewer treatment plants (including all pumping stations and collector systems) and onsite waste disposal systems shall be designed or located to avoid impairment to them or contamination from them during a base flood event.
- F. New or replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems.
- G. New and replacement sanitary sewage systems shall be designed to minimize infiltration of flood waters into the systems and discharges from systems into flood waters.
- H. Storm drainage shall be designed to convey the flow of surface waters to minimize or eliminate damage to persons or property.
- I. All materials or equipment that are flammable, explosive, or injurious to human, animal or plant life are prohibited in a flood hazard area.
- J. Buoyant materials, equipment, or debris located in a flood hazard area shall be anchored to prevent movement due to flood waters.
- K. Fill placed within the SFHA shall result in no net loss of natural floodplain storage or increase in water surface elevations during the base flood. The volume of the loss of floodwater storage due to filling in the SFHA shall be offset by providing an equal volume of flood storage by excavation or other compensatory measures made above the normal water level and below the BFE at or adjacent to the development site.
- L. Detention of increased runoff from the development site shall be provided above the BFE.
- M. A natural or established watercourse requires a development setback of 20 feet on each side of the watercourse or be designed to provide at least an equal conveyance capacity with 40 ft of drainage easement.

- N. New development proposals will be designed and constructed, to the maximum extent practicable, so building sites, walkways, driveways, parking lots, storage areas and roadways are located on land with a natural grade within elevations not less than 1 foot above the BFE and with dry land access.

5.02 Structure Standards

In all areas of flood hazard where base flood elevation data has been provided as set forth in this ordinance, the following provisions are required:

A. Residential Construction

1. New construction and substantial improvement of any residential structure shall have the lowest floor (including basement), elevated to at least two feet above the base flood elevation.
2. A registered professional engineer, architect, or land surveyor shall certify to the Floodplain Administrator that the elevation standard has been satisfied.
3. Properties that have received a Letter of Map Amendment or Letter of Map Revision based upon fill must have the lowest structure opening elevated to two feet above the base flood elevation and conform to the provisions of this section and FEMA Technical Bulletin 10.01.

B. Nonresidential Construction

1. New construction and substantial improvements of any commercial, industrial, or other nonresidential structure shall either have the lowest floor (including basement) elevated to at least two feet above the base flood level; or

Together with attendant utility and sanitary facilities, be designed so that below two feet above the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; or

New construction and substantial improvements of any commercial, industrial, or other non-residential structure including but not limited to detached garages, agricultural buildings, and storage buildings may be allowed to be wet floodproof provided that:

- a. The structure is strictly a nonresidential structure used only for building access, parking or storage.
 - b. The structure is an accessory structure of low value.
 - c. The structure is designed to allow for the automatic entry and exit of flood waters through the use of flood openings.
 - d. The structure is constructed of flood resistant materials.
 - e. The structure is properly anchored to resist flotation, collapse, and lateral movement;
 - f. The structure's mechanical and utility equipment is elevated or floodproofed to at least 2 ft or above the BFE.
 - g. The structure is compliant with the floodway encroachment provisions of the NFIP and this ordinance.
 - h. The structure is designed and built to adhere to FEMA Technical Bulletins 1, 2, and 7
2. A registered professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify the design and methods of construction are in accordance with accepted standards of practice as outlined in this subsection. A record of such certification which includes the specific elevation (in relation to mean sea level) to which such structures are flood proofed shall be maintained by the Floodplain Administrator.
 3. If the use or occupancy of the building changes in the future to residential, then the floodproofing of the structure cannot be used when determining compliance of the structure to the residential construction of this ordinance. As such, the building will not be grandfathered into compliance and will be required to be brought into compliance with the residential construction requirements of this ordinance

4. Properties that have received a Letter of Map Amendment or Letter of Map Revision based upon fill must have the lowest structure opening elevated to two feet above the base flood elevation and conform to the provisions of this section and FEMA/FIA-TB-10.

C. Enclosures

1. New construction or substantial improvements, excluding crawl spaces, with fully enclosed areas below the lowest floor to be used solely for parking of vehicles, building access, or storage, and other than a basement, and subject to flooding, shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the automatic entry and exit of floodwaters. Designs for meeting this requirement must be certified by a registered professional engineer or architect to meet or exceed the following minimum criteria:
 - a. A minimum of two openings shall be provided on no less than two sides having a total net area of not less than one square inch for every square foot of the enclosed area subject to flooding, or be designed by a professional engineer to be of equal capacity.
 - b. The bottom of all openings shall be no higher than one foot above grade;
 - c. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided they permit the automatic entry and exit of floodwaters.
 - d. The bottom of the floor joists of the structure's lowest floor shall be at least two feet above the BFE
2. The development and construction of the structure must conform with the provisions in FEMA/Federal Insurance Administration (FIA)-Technical Bulletins 1 and 2.
3. For any nonresidential construction that has an enclosure, a non-conversion agreement must be completed as part of the permitting process. The non-conversion agreement:
 - a. Acknowledges the risk associated with this building practice.
 - b. Acknowledges that the area was permitted as an enclosure and shall only be used as a nonresidential accessory of low value for the purpose of building access, parking or storage.
 - c. Allows for community, state and/or federal officials to conduct periodic inspections to ensure compliance.

D. Crawlspace

1. New construction and substantial improvements built on a crawlspace or sub-grade (below grade) crawlspace may be permitted if the development is designed and meets or exceeds the standards found in FEMA's Technical Bulletins 1, 2, and 11, which include but are not limited to the following:
 - a. The structure must be affixed to a permanent foundation, designed and adequately anchored to resist flotation, collapse, and lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy. Because of hydrodynamic loads, crawlspace construction is not allowed in areas with flood velocities greater than 5 feet per second unless the design is reviewed by a qualified design professional, such as a registered architect or professional engineer.
 - b. The crawlspace is an enclosed area below the BFE and, as such, must have openings that equalize hydrostatic pressures by allowing the automatic entry and exit of floodwaters. The bottom of each flood opening can be no more than 1 foot above the LAG.
 - c. The crawlspace enclosure must have proper openings that allow equalization of hydrostatic pressure by allowing automatic entry and exit of floodwaters. To achieve this, a minimum of 1 square inch of flood opening is required per 1 square foot of the enclosed area subject to flooding. A registered professional engineer must certify the elevation, design and location of flood openings.

- d. Portions of the building below the BFE must be constructed with materials resistant to flood damage. This includes not only the foundation walls of the crawlspace used to elevate the building, but also, insulation, piers, or other materials that extend below 2 foot above the BFE. Floor joists and ductwork must be placed 2 feet above the BFE.
- e. Any building utility systems within the crawlspace must be elevated 2 feet above the BFE or be designed so that floodwaters cannot enter or accumulate within the system components during flood conditions.
- f. The interior grade of a crawlspace below the BFE must not be more than 2 feet below the lowest adjacent exterior grade.
- g. The height of the below-grade crawlspace, measured from the lowest interior grade of the crawlspace floor to the bottom of the floor joist of the next higher floor, cannot exceed 4 feet at any point.
- h. There must be an adequate drainage system that removes floodwaters from the interior area of the crawlspace. The enclosed area should be drained within a reasonable time after a base flood event.
- i. Note: Buildings with below-grade crawlspaces will have higher flood insurance premiums than buildings that have the preferred crawlspace construction, with the interior elevation at or above the LAG.

E. Manufactured Homes

1. Elevation. All new and replacement manufactured homes to be placed or substantially improved in a flood hazard area within a new or an existing manufactured home park, shall be elevated such that the bottom of the lowest floor of the manufactured home is elevated to at least two feet above the base flood elevation.
2. Foundations. All new and replacement manufactured homes, including substantial improvement of existing manufactured homes, shall be placed on a permanent, reinforced foundation (including pile or column foundations) that is adequately anchored to resist flotation, collapse, and lateral movement due to the effects of wind and flood loads acting simultaneously on all building components.

F. Recreational Vehicles

1. Temporary placement. Recreational vehicles in flood hazard areas shall be fully licensed and ready for highway use and shall be placed on a site for less than 180 consecutive days. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.
2. Permanent placement. Recreational vehicles that are not ready for highway use or that are to be placed on a site for more than 180 consecutive days shall meet the requirements of Section 5.02 for Manufactured Homes.

5.03 Subdivision Proposals

- A. The following requirements shall apply in the case of any proposed subdivision, including proposals for manufactured home parks and subdivisions, any portion of which lies within a flood hazard area:
 1. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards.
 2. All subdivision proposals shall have adequate detention provided to mitigate effects of development.
 3. The flood hazard area, including floodways shall be delineated on preliminary and final subdivision plans.
 4. Base flood elevations shall be shown on preliminary and final subdivision plans.
 5. Building lots shall be provided with adequate buildable area outside the floodplain.
 6. In cases where fill is proposed within a flood hazard area, compensatory storage shall be provided.
 7. Where changes to base flood elevations or the delineation of a regulatory floodplain are proposed, a Conditional Letter of Map Revision shall be provided prior to construction activity.

8. Utilities and facilities shall comply with design criteria set forth in this ordinance and other appropriate codes, ordinances and laws and shall be located and constructed to minimize flood damage.
9. Streets and sidewalks shall be designed to minimize potential for increasing or aggravating flood levels.
10. Base flood elevation data shall be generated for subdivision proposals and other proposed development, including the placement of manufactured home parks and subdivisions which are greater than 10 lots or 5 acres, whichever is less.
11. Buildings sites, walkways, driveways, parking lots, storage areas and roadways of subdivision development proposals shall be designed and constructed, to the maximum extent practicable, so they are located on land with a natural grade with elevations not less than 1 foot above the base flood elevation and with dry land access.

5.04 Buffer Zone

For areas located within 100 feet (or 5 feet of increase in elevation, whichever occurs first) of a flood hazard area, the following minimum requirements shall apply to construction of residential and commercial structures:

- A. The minimum setback distance from the edge of a flood hazard area to the nearest wall of a basement shall be 50 feet.
- B. The lowest floor level elevation (including crawlspace and basement) shall be no more than 2 feet below the closest adjacent base flood elevation.
- C. The lowest opening shall be no less than 2 feet above the base flood elevation.
- D. Additional requirements in conformance with the provisions of FEMA/FIA-Technical Bulletin 10-01 may be required to ensure that a structure is reasonably safe from flooding.

5.05 Substantial Improvement and Substantial Damage

For applications located in a flood hazard area involving building permits to improve buildings and structures, including alterations, movement, enlargement, replacement, repair, change of occupancy, additions, rehabilitations, renovations, and any other improvement of or work on such buildings and structures, the Floodplain Administrator, in coordination with applicable community officials and staff, shall:

- A. Estimate the market value by using the county appraised value, or the applicant may obtain an appraisal of the market value prepared by a qualified independent appraiser. The value shall be of the building or structure only, not of the building and land, as it exists before the start of construction of the proposed work. In the case of repair, the market value of the building or structure shall be the market value before the damage occurred and before any repairs are made.
- B. Compare the cost to perform the improvement, the cost to repair a damaged building to its pre-damaged condition, or the combined costs of improvements and repairs, if applicable, to the market value of the building or structure.
- C. Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage. The determination may require evaluation of previous permits issued for improvements and repairs.
- D. Utilize FEMA's Substantial Improvement/Substantial Desk Reference when making any determination on Substantial Improvement and/or Substantial Damage.
- E. The substantial improvement regulations apply to all work that is proposed as the improvement, even if multiple permits are issued. Therefore, the determination of the cost of the improvement should consider all costs of all phases of the work before issuance of the first permit.

- F. Notify the applicant that if it is determined that the work constitutes substantial improvement or repair of substantial damage, that compliance with the floodplain management ordinance is required.

5.06 Watercourse Alteration

- A. Routine maintenance activities such as vegetation management and sedimentation are not considered watercourse alteration.
- B. Alterations to a channel, river, stream, drainage way, or other watercourse shall not diminish the flood-carrying capacity of that watercourse. The altered or relocated watercourse shall have the same or greater capacity as the original watercourse.
- C. All proposals for a watercourse alteration require submittal of a floodplain development permit application. The applicant shall submit a set of plans and calculations prepared by a registered professional engineer of the proposed alteration and its effect on flows. An applicant shall provide the following information, additional information may be submitted and/or requested:
 - 1. A description of the proposed alteration
 - 2. A topographic map of the project area.
 - 3. A comparison of the existing and proposed channel capacity, including engineering calculations prepared by a registered professional engineer.
 - 4. A detailed plan showing existing and proposed contours showing the extent to which any watercourse or natural drainage will be altered or relocated.
 - 5. Land use of adjacent properties.
 - 6. Description of any obstructions.
 - 7. Dimensions, specifications, and locations of any structures and facilities (bridges, culverts, water crossing, dams, dikes, levees, detention basins, etcetera).
 - 8. Photos of the area.
- D. Prior to approval of the floodplain development permit, the applicant shall:
 - 1. Submit an application and obtain a CLOMR from FEMA.
 - 2. Notify adjacent communities, property owners, the South Dakota Division of Emergency Management, and the Federal Insurance Administrator, prior to any alteration or relocation of a watercourse, within a SFHA, and submit evidence of such notification to the Floodplain Administrator and to FEMA.
 - 3. Provide for maintenance within the altered or relocated portion of the watercourse so that the flood-carrying capacity is not diminished.

5.07 Floodways

Floodways located within SFHAs are extremely hazardous areas due to the velocity of flood waters that carry debris, potential projectiles, and erosion potential, the following provisions shall apply:

- A. Encroachments are prohibited, including fill, new construction, substantial improvements and other development within the adopted regulatory floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase greater than 0.00 feet.
- B. All new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Article 5 in this ordinance.
- C. Buildings shall not be used for human habitation;

- D. Pipeline crossings through a river or stream shall be buried in the river or stream bed and banks, or otherwise sufficiently protected to prevent rupture due to channel degradation, meandering or the action of flood flows;
- E. Storage of material, equipment or debris is prohibited.
- F. A floodway encroachment that increases the level of the base flood may be authorized under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Regulations, if the applicant has received a Conditional Letter of Map Revision (CLOMR) from the Federal Emergency Management Agency.

Article 6.00 Variance Provisions**6.01 Variance Procedure**

- A. The County Board of Commissioners shall hear and render judgment on requests for variances from the requirements of this ordinance only after a floodplain development permit has been denied.
- B. The Board shall hear and render judgement on an appeal only when it is alleged there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the enforcement or administration of this ordinance.
- C. The Floodplain Administrator shall request an opinion letter from the Federal Emergency Management Agency and the state Office of Emergency Management prior to hearing any variance or appeal.
- D. The Floodplain administrator shall maintain a record of all actions involving an appeal and shall report variances to the Federal Emergency Management Agency and the state Office of Emergency Management upon issuing a variance.
- E. Upon consideration of the factors noted above and the intent of this ordinance, the Board may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this ordinance.
- F. Any applicant to whom a variance is granted shall be given written notice of the variance and the conditions thereof that the structure will be permitted to be built with the lowest floor elevation below the base flood elevation, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

6.02 Prerequisites for Granting Variances

- A. A technical justification showing good and sufficient cause that the unique characteristics of the size, configuration, or topography of the site renders the elevation standards inappropriate;
- B. A determination that failure to grant the variance would result in exceptional hardship to the applicant;
- C. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, nor create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances, considers the need of ingress and egress during times of floods, and does not jeopardize first responders' health and welfare; and
- D. A determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

6.03 Variance for Historic Structures

A variance is authorized to be issued for the repair or rehabilitation of a historic structure upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure, and the variance is the minimum necessary to preserve the historic character and design of the structure. The term "substantial improvement" does not include any alteration of a structure or facility listed on the National Register of Historic Places or a State Inventory of Historic Places.

6.04 Restrictions

The Board shall not issue a variance for any proposed development in a designated floodway that would have the effect of waiving requirements set forth in Article 5.07 of this ordinance.

6.05 Considerations

In reviewing applications for variances, the Board shall consider all technical evaluations, all relevant factors, all other portions of this ordinance, and the following:

- A. The danger that materials and debris may be swept onto other lands resulting in further injury or damage;
- B. The danger to life and property due to flooding or erosion damage;
- C. The susceptibility of the proposed development, including contents, to flood damage and the effect of such damage on current and future owners;
- D. The importance of the services to the community which will be provided by the proposed development;
- E. The availability of alternate locations for the proposed development that are not subject to flooding or erosion;
- F. The compatibility of the proposed development with existing and anticipated development;
- G. The relationship of the proposed development to the comprehensive plan and floodplain management program for that area;
- H. The safety of access to the property in times of flood for ordinary and emergency vehicles;
- I. The expected heights, velocity, duration, rise and debris and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and
- J. The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, streets and bridges.

6.06 Appeals

Appeals may be taken to Circuit Court by any person or persons, jointly or severally, aggrieved by any decision of the Board in the manner and form provided by the statutes of the State of South Dakota, in such cases made and provided.

6.07 Limitations

Any order of the Board granting a variance may be declared invalid by the Board unless substantially completed within two (2) years from the date of such order. The Floodplain Administrator shall notify the property owner of record upon invalidation of a variance.

6.08 Insurance Implication

It must be emphasized that variances are granted with respect to floodplain management requirements and do not affect flood insurance rates. The Federal Insurance Administration, by statute, must charge insurance rates commensurate with the risk to which a building is exposed. Insurance rates for buildings constructed under variances are generally higher than rates for a comparable structure that is fully compliant. In some instances the additional costs of insuring these buildings, if they are not elevated or floodproofed in accordance with the NFIP requirements, would approach or even exceed the costs of meeting NFIP elevation or dry floodproofing requirements, and the structure would still be exposed to flood damages.

6.09 Notification

In accordance with the NFIP regulations, communities must notify the applicant in writing that the issuance of a variance will result in increased premium rates for flood insurance and that such construction below the BFE increases risks to life and property.

Article 7.00. Definitions

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted to give them the meaning they have in common usage and to give this ordinance its most reasonable application. Further definition is found in the Code of Federal Regulations 44 CFR 59.1

100-Year Flood means a flood having a 1 percent chance of being equaled or exceeded during any given year (1-percent-annual-chance flood). 100 Hundred Year Flood, 1-percent-annual-chance flood and Base Flood are synonymous. The term does not imply that the flood will happen once every 100 hundred years. Mandatory flood insurance requirements may apply.

100-Year Floodplain means the area susceptible to being inundated by the Base Flood (1-percent-annual-chance flood).

500-Year Flood means a flood having a 0.2-percent chance of being equaled or exceeded during any given year (0.2-percent-annual-chance flood). The term does not imply that the flood will happen once every 500 years. Mandatory flood insurance requirements generally do not apply.

500-Year Floodplain means the area susceptible to being inundated by a 0.2-percent-annual-chance flood.

Accessory Structure is a structure on the same parcel of property as the principal structure and with same ownership. It is a structure of low value used solely for the parking of vehicles and storage of tools, materials, or equipment incidental to the use of the principal structure. No human habitation is allowed within an accessory structure.

Addition is any improvement that expands the enclosed footprint or increases the square footage of an existing structure including lateral additions to the sides, front, or rear of a structure, vertical additions on top of a structure, and enclosures or crawlspaces made underneath a structure.

Approximate Study means flood hazard mapping that is done using approximate rather than detailed study methods that produce an approximate boundary of the base floodplain. An approximate study does not produce a base flood elevation.

Area of Shallow Flooding means a designated AO or AH zone shown on the Flood Insurance Rate Map (FIRM) characterized by ponding (AH Zone) or sheet flow (AO Zone) and having an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident.

Authorized Agent is a person who has been legally empowered to act on behalf of another person or an entity. Only a licensed attorney may act as agent for an incorporated municipality.

Base Flood means the flood having a one percent chance of being equaled or exceeded during any given year (1-percent-annual-chance flood). Base flood is also referred to as the 100-year flood.

Base Flood Elevation (BFE) means the water surface elevation of the 1-percent-annual-chance flood event relative to a standard datum. The Lincoln County Flood Insurance Rate Map (FIRM) uses the North American Vertical Datum (NAVD 88)

Basement means any area of a building having its floor sub-grade (below ground level) on all sides. A walkout basement that does not require a step up to grade is not considered a basement.

Benchmark is a monument on the ground which shows the elevation of that monument above sea level relative to a standard datum or design plan.

Best Available Data is existing flood hazard information adopted by a community and reflected on the effective FIRM and FIS report; or draft or preliminary flood hazard information supplied by FEMA or from another source. Other sources may include, but are not limited to, state, other federal agencies, or local studies, the more restrictive of which would be reasonably used by the community.

Buffer Zone (see Flood Hazard Area Buffer Zone).

Building (see Structure)

Channelization means the artificial creation, enlargement, realignment, or alteration of a stream channel's slope, shape, or alignment. Streambank restoration may be deemed as channelization.

Code of Federal Regulations (CFR) is the codification of the general and permanent rules published in the Federal Register by the executive departments and agencies of the Federal Government.

Conditional Letter of Map Revision (CLOMR) is FEMA's comment on a proposed project that would, upon construction, affect the hydrologic and/or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective BFEs, and/or the SFHA. The letter does not revise an effective map; it indicates whether the project, if built as proposed, would be recognized by FEMA. A CLOMR is followed by a LOMR upon completion of the project.

Conditional Letter of Map Revision Based on Fill (CLOMR-F) is FEMA's comment on a proposed structure or property. The letter from FEMA does not revise an effective map; it indicates whether the project, if built as proposed, would be removed from the floodplain.

Crawlspace means an under-floor space that has its interior floor area (finished or not) no more than 4 feet from the bottom floor joist of the next higher floor elevation, designed with proper flood openings to equalize hydrostatic pressures of flood water, and is not used for habitation. Refer to FEMA Technical Bulletin 1 - Crawlspaces

Datum means a common vertical elevation reference usually in relation to sea level such as the National Geodetic Vertical Datum (NGVD 29), North American Vertical Datum (NAVD 88) or other datum.

Deed Restriction refers to a clause in a deed that limits the future use of the property in some respect. Deed restrictions may impose a variety of limitations and conditions. For example, they may limit the density of buildings, dictate the types of structures that can be erected, or prevent buildings or parts of buildings from being used for specific purposes or from being used at all.

Detached Garage is a building that is used solely for storage of materials or vehicle parking for up to four housing occupants. If a detached garage is designed or used for habitation or conducting business, or has multiple stories, then the building is not considered a detached garage under the NFIP.

Detailed Study means flood hazard mapping that is done using detailed data with hydrologic and hydraulic methods that produce base flood elevations, floodways, and other pertinent flood data.

Development means any human-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, demolition, excavation or drilling operations, or storage either temporary or permanent of equipment or materials.

Elevated building means a non-basement building which has its lowest floor raised above ground level by posts, piers, pilings, columns, fill, solid foundation or perimeter walls forming an enclosure.

Enclosure refers to the enclosed walled-in area below the lowest floor of an elevated building. Enclosures below the BFE may only be used for building access, vehicle parking, and storage, and meet the development standards of 502.C of this ordinance.

Erosion means the process of the gradual wearing away of land masses by wind, water, or other natural agents.

Existing Manufactured Home Park or Subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

Existing structures means any buildings and structures for which the start of construction commenced before the October 1, 1986 effective date of the Lincoln County FIRM. Existing structures may also be referred to as existing construction.

Expansion to an Existing Manufactured Home Park or Subdivision means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufacturing homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

Facility means any man-made or man-placed item other than a structure.

FEMA means the Federal Emergency Management Agency.

Fill refers to the placement of materials, such as dirt, sand, or rock to elevate a structure, property, or portion of a property above the natural elevation of the site, regardless of where the material was obtained from. The common practice of removing unsuitable material and replacing with engineered material is not considered fill if the elevations are returned to existing conditions. Any fill placed or used prior to the area being mapped as a flood hazard area is not deemed as fill.

Flood or Flooding means a general and temporary condition of partial or complete inundation of normally dry land from the overflow of inland or tidal waters or the unusual and rapid accumulation or runoff of surface waters from any source.

Flood study means an examination, evaluation, and determination of flood hazards and if appropriate, water surface elevations. A study may contain general watershed hydrologic characteristics or be coupled with the specific hydraulic dimensions of culvert and bridge structures, or channel cross sections.

Flood Fringe means that portion of the floodplain outside of the floodway (often referred to as "floodway fringe")

Flood hazard area means the area subject to a one percent or greater chance of flooding in any given year. Where a discrepancy between Best Available Data and the Flood Insurance Rate Map conflict, the greater of the two areas shall be used.

Flood hazard area buffer zone means an area regulated by the community which is outside of and adjacent to a flood hazard area where residual flood hazards may exist and where typical damage from sub-surface flood conditions and by flooding events that exceed the base flood elevation are anticipated and reasonably preventable by compliance with specific design requirements.

Flood insurance means the insurance coverage provided under the National Flood Insurance Program. Flood insurance coverage is available for all properties in Lincoln County.

Flood Insurance Rate Map (FIRM) means an official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the community. A FIRM that has been made available digitally is called a Digital Flood Insurance Rate Map (DFIRM).

Flood Insurance Study (FIS) is the official report provided in conjunction with the Flood Insurance Rate Map (FIRM) by the Federal Emergency Management Agency (FEMA). The report contains community and study details, flood profiles and water surface elevations of the base flood associated with the Flood Insurance Rate Map

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

Floodplain Management Regulations means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a flood damage protection, drainage, nuisance and erosion control ordinances) and other applications of police power in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

Flood Opening refers to an opening in the wall of an enclosed structure that allows floodwaters to automatically enter and exit the enclosure. Refer to FEMA Technical Bulletin 1.

Flood Protection System means those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the area within a community subject to an SFHA and to reduce the depths of associated flooding. Such a system typically includes dams, reservoirs, levees or dikes. These specialized, flood modifying works are those constructed in conformance with sound engineering standards. FEMA only accredits levees, both private and public, that have been certified by a professional engineer or firm in which the certification shows that the levee have met and continue to meet the minimum regulatory standards cited in Title 44, Chapter 1, Section 65.10 of the Code of Federal Regulations (44 CFR 65.10).

Flood resistant materials means any construction material capable of withstanding direct and prolonged contact with flood waters without sustaining any damage that requires more than low-cost repair (such as painting).

Floodplain or Flood-Prone Area means any land area susceptible to being inundated by water from any source whether or not identified by FEMA (see definition of Flood or Flooding).

Floodplain Development Permit is the community issued authorization for development to occur within an SFHA identified by FEMA or Flood Hazard Area identified by the community. The development permit, together with documentation provided during the application review process verifies compliance with the community's ordinance.

Floodplain Development Permit Application is the community document used to compile applicant, agent, site and development details for any project or development proposed within an SFHA identified by FEMA or Flood Hazard Area identified by the community. The application for permit initiates review of the proposed development, outlines general requirements, terms, and conditions of a permit and endorses applicant consent, to ensure compliance with the community's ordinance.

Floodplain or flood-prone area means any land area susceptible to being inundated by water from any source (see definition of flooding).

Floodproofing means any combination of structural and non-structural additions, changes, or adjustments to structures that reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures, and their contents. Floodproofing can either be accomplished in the form of dry floodproofing in which the structure is watertight below the levels that need flood protection, or wet floodproofing in permanent or contingent measures applied to a structure that prevent or provide resistance to damage from flooding, while allowing floodwaters to enter the structure or area.

Floodway—see Regulatory Floodway.

Freeboard means a factor of safety expressed in feet above base flood level for purposes of flood plain management. “Freeboard” compensates for many unknown factors that can contribute to flood heights greater than calculated or expected, such as bridge or culvert openings, the hydrological effect of urbanization on the watershed and increases of flood frequency and duration.

Future-conditions flood hazard area means the area that would be inundated by the 1-percent-annual-chance (100-year) flood based on future-conditions hydrology.

Future-conditions hydrology means the flood discharges associated with projected land-use conditions based on a community's zoning maps and/or comprehensive land-use plans and without consideration of projected future construction of flood detention structures or projected future hydraulic modifications within a stream or other waterway, such as bridge and culvert construction, detention, fill, and excavation.

Highest Adjacent Grade (HAG) means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Historic Structure means any structure that is:

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

Letter of Map Amendment (LOMA) means an official amendment to an effective FIRM by letter from FEMA. A LOMA establishes a property's location in relation to the SFHA. It is usually issued because a property or structure has been inadvertently mapped as being in the floodplain when the property or structure is actually on natural high ground above the BFE.

Letter of Map Revision (LOMR) means FEMA's modification or revision to the effective FIRM. LOMRs are generally based on the implementation of physical measures that affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective BFEs, or the SFHA.

Letter of Map Revision Based on Fill (LOMR-F) means an official amendment to an effective FIRM by letter from FEMA where fill was brought in or used to elevate a property, portion of property or structure above the BFE.

Levee means a man-made structure usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water to provide protection from temporary flooding.

Levee System means a flood protection system that consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

Lowest Adjacent Grade (LAG) means the lowest natural elevation of the ground surface prior to construction next to the proposed walls of a structure. For an existing structure, it means the lowest point where the structure and ground touch, including but not limited to attached garages, decks, stairs, and basement windows.

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

Manufactured home means a structure that is transportable in one or more sections, is built on a permanent chassis, and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle" however, a manufactured home may be used for both residential and non-residential use.

Manufactured home park or subdivision means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Mean sea level means, for purposes of this ordinance, the North American Vertical Datum (NAVD) of 1988, to which base flood elevations shown on Lincoln County's Flood Insurance Rate Map are referenced.

NAVD means North American Vertical Datum of 1988

New Construction means structures for which the start of construction commenced on or after the effective date of Lincoln County's floodplain management regulations adopted February 28, 1989 and includes any subsequent improvements to such structures. For the purposes of determining insurance rates, structures for which the "start of construction" commenced on or after the October 1, 1986 effective date of Lincoln County's initial FIRM and includes any subsequent improvements to such structures.

New manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.

NGVD means National Geodetic Vertical Datum of 1929

No-Rise Certification is a formal certification signed and stamped by a professional engineer licensed to practice in the state, demonstrating through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that a proposed development will not result in any increase (0.00 feet) in flood levels within the community during the occurrence of a base flood event.

Recreational vehicle means a vehicle that is built on a single chassis, 400 square feet or less when measured at the largest horizontal projection, designed to be self-propelled or permanently towable by a light duty truck, and designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use. A recreational vehicle is ready for highway use if it is fully licensed on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.

Regulatory Floodway means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. The Lincoln County FIS uses the minimum Federal standard limitation of 1 foot, with provision that hazardous velocities are not produced.

Residual flood hazard means risks associated with subsurface flood conditions and flooding from events that exceed the base flood in areas near to flood hazard areas.

Riverine means relating to, formed by, or resembling a river (including tributaries), stream, brook, creek, etcetera, which can be intermittent or perennial.

Section 1316 refers to the section of the National Flood Insurance Act of 1968, as amended, which provides for the denial of flood insurance coverage for any property that the Administrator finds has been declared by a duly constituted State or local authority to be in violation of State or local floodplain management regulations. Section 1316 is issued for a property, not a property owner, and remains with the property even after a change of ownership

Shallow Flooding means flooding characterized by ponding or sheet flow where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. The Flood Insurance Rate Map (FIRM) designates Areas of Shallow Flooding as zone AO or AH.

Special Flood Hazard Area (SFHA) is the land in the floodplain subject to a one percent or greater chance of flooding in any given year designated as Zone A or AE on the Lincoln County Flood Insurance Rate Map.

Start of construction means, for purposes of this ordinance, the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start of construction means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Structure means any walled and/or roofed building, manufactured home, culvert, bridge, dam, or a gas or liquid storage tank which is principally above ground, as well as a manufactured home.

Substantial damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to its pre-damaged condition would equal or exceed 50 percent of the market value of the structure only before the damage occurred. This term also applies to structures which have incurred any damage that equals or exceeds 50 percent of the structure's market value regardless of the actual repair work performed. Substantial damage also means flood-related damage sustained by a structure on two separate occasions during a ten-year period for which the average cost of repairs at the time of each such flood event equals or exceeds 25 percent of the market value of the structure before the damage occurred.

Substantial improvement means any repair, reconstruction, rehabilitation, addition, or improvement of a building or structure, the cost of which equals or exceeds 50 percent of the market value of the structure before "start of construction" of the improvement. This includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include:

1. Any project for improvement of a structure to correct existing violations of state or local health, sanitary or safety code specifications that have been identified by the building official and that are the minimum necessary to assure safe living conditions; or
2. Any alteration of a "historic structure" if the alteration will not preclude the structure's continued designation as a "historic structure".

Variance means a grant of relief from the requirements of this ordinance which permits construction in a manner otherwise prohibited by this ordinance where strict enforcement would result in unnecessary hardship.

Violation means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance in Sections 44 CFR 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided.

Water surface elevation means the height, in relation to the North American Vertical Datum (NAVD) of 1988, (or other datum, when specified) of floods of various magnitudes and frequencies, such as the 1-percent-annual-chance flood event, in the flood plains of coastal or riverine areas.

Watercourse means the channel and banks of an identifiable water in a creek, brook, stream, river, ditch or other similar feature.

Zone A is a high risk special flood hazard area shown on the Lincoln County Flood Insurance Rate Map developed using approximate study methods and therefore no base flood elevations are provided.

Zone AE is a high risk special flood hazard area shown on the Lincoln County Flood Insurance Rate Map developed using detailed study methods and includes base flood elevations.

Zone X is an area of minimal flood hazard depicted on the Lincoln County Flood Insurance Rate Map as all areas outside of the A Zones. Zone X may still have flooding that does not meet the criteria to be mapped as a special flood hazard area, especially ponding and local drainage problems. Zone X replaces zone C shown on previous FIRMs