

BOONES MILL FLOOD PLAIN MANAGEMENT ORDINANCE  
EFFECTIVE DECEMBER 16, 2008

AN ORDINANCE OF THE TOWN COUNCIL OF BOONES MILL VIRGINIA, ESTABLISHING FLOODPLAIN DISTRICTS, REQUIRING THE ISSUANCE OF PERMITS FOR DEVELOPMENT, PROVIDING FOR CERTAIN MINIMUM STANDARDS FOR DEVELOPMENT, AND PROVIDING FACTORS AND CONDITIONS FOR VARIANCES TO THE TERMS OF THE ORDINANCE.

BE IT ENACTED AND ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF BOONES MILL, VIRGINIA, EFFECTIVE DECEMBER 16, 2008, AS FOLLOWS:

ARTICLE I - GENERAL PROVISIONS

Section 1.1 - Purpose

The purpose of these provisions is to prevent the loss of life and property, the creation of health and safety hazards, the disruption of commerce and governmental services, the extraordinary and unnecessary expenditure of public funds for flood protection and relief, and the impairment of the tax base by:

- A. Regulating uses, activities, and development which, alone or in combination with other existing or future uses, activities, and development, will cause unacceptable increases in flood heights, velocities, and frequencies.
- B. Restricting or prohibiting certain uses, activities, and development from locating within areas subject to flooding.
- C. Requiring all those uses, activities, and developments that do occur in flood-prone areas to be protected and/or flood-proofed against flooding and flood damage.
- D. Protecting individuals from buying lands and structures which are unsuited for intended purposes because of flood hazards.

Section 1.2 - Applicability

These provisions shall apply to all lands within the jurisdiction of the Town of Boones Mill and identified as being in the 100 year floodplain by the Federal Insurance Administration.

Section 1.3 - Compliance and Liability

- A. No land shall hereafter be developed and no structure shall be located, relocated, constructed, reconstructed, enlarged, or structurally altered except in full compliance with the terms and provisions of this ordinance and any other applicable ordinances and regulations which apply to uses within the jurisdiction of this ordinance.
- B. The degree of flood protection sought by the provisions of this ordinance is considered reasonable for regulatory purposes and is based on acceptable engineering methods of study. Larger floods may occur on rare occasions.

Flood heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This ordinance does not imply that areas outside the floodplain districts, or that land uses permitted within such districts will be from flooding or flood damages.

- C. This ordinance shall not create liability on the part of the Town of Boones Mill or any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made there under.

#### Section 1.4 - Abrogation and Greater Restrictions

This ordinance revokes the flood management ordinance adopted January 23, 1989 currently in effect in flood-prone areas.

#### Section 1.5 - 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. The remaining portions shall remain in full force and effect; and for this purpose, the provisions of this ordinance are hereby declared to be severable.

#### Section 1.6 - Penalties

- A. Any person who fails to comply with any of the requirements or provisions of this ordinance or directions of the Building Inspector of Franklin County or any other authorized employee of the Town of Boones Mill shall be guilty of a misdemeanor and subject to a fine not to exceed \$500 per day for each day of such violation.
- B. 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 noncompliance to permit it to continue; and all such persons shall be required to correct or remedy such violations or non-compliances 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 Boones Mill to be a public nuisance and abatable as such. Flood insurance may be withheld from structures constructed in violation of this ordinance.

### ARTICLE II - DEFINITIONS

- A. Base flood - The flood having a one percent chance of being equaled or exceeded in any given Year.
- B. Base flood elevation - The Federal Emergency Management Agency designated one hundred (100) year water surface elevation.

- C. Basement - Any area of building having its floor sub-grade (below ground level) on all sides.
- D. Development - Any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, the placement of manufactured homes streets, and other paving, utilities, filling, grading, excavation, mining, dredging, or drilling operations.
- E. Elevated building - A non-basement building built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, pilings, or columns (posts and piers).
- F. Encroachment - The advance or infringement of uses, plant growth, fill, excavation, buildings, permanent structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain.
- G. Existing manufactured home park or subdivision - 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 flood plain management regulations adopted by a community.
- H. Expansion to an existing manufactured home park or subdivision - 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).
- I. Flood -  
1. A general or temporary condition of partial or complete inundation of normally dry land areas from  
a. the overflow of inland or tidal waters; or,  
b. the unusual and rapid accumulation or runoff of surface waters from any source.
- J. Flood-Prone Area - Any land area susceptible to be inundated by water from any source.
- K. Floodplain - (a) A relatively flat or low land area adjoining a river, stream, or watercourse which is subject to partial or complete inundation; (b) an area subject to the unusual and rapid accumulation or runoff of surface waters from any source.
- L. Floodway - 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.
- M. Freeboard - A factor of safety usually expressed in feet above a flood level for purposes of floodplain management. "Freeboard" tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization in the watershed.

N. Historic structure - 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 the Interior; or
- 4 - individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either
- 5 - by an approved state program as determined by the Secretary of the Interior; or,
- 6 - directly by the Secretary of the Interior in states without approved programs.

O. Lowest floor - The lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, unable 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; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of Federal Code 44CFR 60.3.

P. Manufactured home - A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term manufactured home also includes park trailers, travel trailers and other similar vehicles placed on a site for greater than 190 consecutive days.

Q. New construction - For the purposes of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial Flood Insurance Rate Map on or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, *new construction* means structures for which *start of construction* commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

R. New manufactured home park or subdivision - 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.

S. Recreational vehicle - A vehicle which is

- 1 - built on a single chassis;
- 2 - 400 square feet or less when measured at the largest horizontal projection;
- 3 - designed to be self-propelled or permanently towable by a light duty truck; and,
- 4 - designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational camping, travel or seasonal use.

T. Shallow flooding area - A special flood hazard area with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

U. Special flood hazard area - The land in the floodplain subject to a one (1%) percent or greater chance of being flooded in any given year as determined in Article 3, Section 3.2 of this ordinance.

V. Start of construction - The date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, substantial improvement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of the structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of the 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.

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

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

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

Y. Town Council - The Town Council of Boones Mill shall review appeals made by individuals with regard to decisions of the Building Inspector of Franklin County in the interpretation of this ordinance.

Z. Watercourse - A lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

### ARTICLE III - ESTABLISHMENT OF FLOODPLAIN DISTRICTS

#### Section 3.1 - Description of Districts

The various floodplain districts shall include areas subject to inundation of waters of the one hundred (100) year flood. The basis for the delineation of these districts shall be the Flood Insurance Study and the Flood Insurance Rate Maps for the Town of Boones Mill prepared by the Federal Emergency Management Agency, Federal Insurance Administration, dated December 16, 2008.

- A. The Floodway District is delineated, for purposes of this ordinance, using the criterion that certain areas within the floodplain must be capable of carrying the water of the one hundred (100) year flood without increasing the water surface elevation of that flood more than one (1) foot at any point. The areas included in this District are specifically defined in Table 2 of the above referenced Flood Insurance Study and shown on the accompanying Flood Insurance Rate Map.
- B. The Flood-Fringe District shall be that area of the one hundred (100) year floodplain not included in the Floodway District. The basis for the outermost boundary of this District shall be the one hundred (100) year flood elevations contained in the flood profiles of the above reference Flood Insurance Study and as shown on the accompanying Flood Insurance Rate Map.
- C. The Approximated Floodplain District shall be that floodplain area for which no detailed flood profiles or elevations are provided, but where a one hundred (100) year floodplain boundary has been approximated. Such areas are shown as Zone A on the maps accompanying the Flood Insurance Study.

For these areas, the one hundred (100) year flood elevations and floodway information from federal, state, and other acceptable sources shall be used, when available. Where the specific one hundred (100) year flood elevation cannot be determined for this area using other sources of data, such as the U.S. Army Corps of Engineers Floodplain Information Reports, U.S. Geological Survey Flood-Prone Quadrangles, etc., then the applicant for the proposed use, development and/or activity shall determine this elevation in accordance with hydrologic and hydraulic engineering techniques.

Hydrologic and hydraulic analyses shall be undertaken only by professional engineers or other of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently accepted technical concepts. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough review by the Town of Boones Mill.

### Section 3.2 - Official Floodplain Map

The boundaries of the Floodplain Districts are established as shown on the Flood Insurance Rate Map, which is declared to be a part of this ordinance and which shall be kept on file at the Town Hall of Boones Mill, Virginia.

### Section 3.3 - District Boundary Changes

The delineation of any of the Floodplain Districts may be revised by the Boones Mill Town Council where natural or man-made changes have occurred and/or where more detailed studies have been conducted or undertaken by the U.S. Army Corps of Engineers or other qualified agency, or an individual documents the need for possibility for such change. However, prior to any such change, approval must be obtained from the Federal Insurance Administration.

### Section 3.4 - Interpretation of District Boundaries

Initial interpretation of the boundaries of the Floodplain Districts shall be made by the Building Inspector of Franklin County. Should a dispute arise concerning the boundaries of any of the Districts, the Town Council shall make the necessary determination.

The person questioning or contesting the location of the district boundary shall be given a reasonable opportunity to present his case to the Town Council and to submit his own technical evidence if he so desires.

## ARTICLE IV - DISTRICT PROVISIONS

All uses, activities, and development occurring within any floodplain district shall be undertaken only upon the issuance of a special permit. Such development shall be undertaken only in strict compliance with the provisions of this Ordinance and with all other applicable codes and ordinances, such as the Virginia Uniform Statewide Building Code.

Prior to the issuance of any such permit, the Building Inspector of Franklin County shall require all applications to include compliance with all applicable state and federal laws. Under no circumstances shall any use, activity, and/or development adversely affect the capacity of the channels or floodways of any watercourse, drainage, ditch, or any other drainage facility or system.

Prior to any proposed alteration or relocation of any channels or of any watercourse, stream, etc., within this municipality, approval shall be obtained from the Federal Insurance Administration. A permit from the U.S. Corps of Engineers and the Marine Resources Commission, and certification from the State Water Control Board may be necessary (a joint permit application is available from any one of these three organizations).

Further notification of the proposal shall be given to all affected adjacent municipalities. Copies of such notifications shall be provided to the Division of Dam Safety and Floodplain Management (Department of Conservation and Recreation).

All applications for development in the floodplain district and all special permits issued for the floodplain shall incorporate the following information:

- A. For structures that have been elevated, the elevation lowest floor (including basement).
- B. For structures that have been flood proofed (nonresidential only), the elevation to which the structure has been flood proofed.
- C. The elevation of the one hundred (100) year flood.

All manufactured homes to be placed or substantially improved within the flood plain district shall be placed on a permanent foundation and elevated and anchored in accordance with the Virginia Uniform Statewide Building Code.

#### Section 4.1 - Floodway District

In the Floodway District, no development shall be permitted except where the effect of such development on flood heights is fully offset by accompanying improvements which have been approved by all appropriate local and/or state authorities, as required above.

The placement of any manufactured home, except in an existing manufactured home park or subdivision, within the Floodway District is specifically prohibited.

#### Section 4.2 - Flood-Fringe and Approximated Floodplain Districts

In the Flood-Fringe and Approximated Floodplain Districts, the development and/or use of land shall be permitted in accordance with the regulations of this ordinance provided that all such uses, activities, and/or development shall be undertaken in strict compliance with the flood proofing and related provisions contained in the Virginia Uniform Statewide Building Code and all other applicable codes and ordinances.

Within the Approximated Floodplain District, the applicant shall also delineate a floodway area based on the requirement that all existing and future development not increase the one hundred (100) year flood elevation more than one foot at any one point. The engineering principle - equal reduction of conveyance - shall be used to make the determination of increased flood heights.

Within the floodway area delineated by the applicant, no development shall be permitted except where the effect of such development on flood heights is fully offset by accompanying improvements which have been approved by all appropriate local and/or state authorities, as required above.

#### Section 4.3 - Design Criteria For Utilities and Facilities

##### A. Sanitary Sewer Facilities

All new or replacement sanitary sewer facilities and private package sewage treatment plants (including all pumping stations and collector systems) shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into the flood waters. In addition, they should be located and constructed to minimize or eliminate flood damage and impairment.



B. Drainage Facilities

All new or replacement water facilities shall be designed to minimize or eliminate infiltration of flood waters into the system and be located and constructed to minimize or eliminate flood damages

C. Drainage Facilities

All storm drainage facilities shall be designed to convey the flow of surface waters without damage to persons or property. The systems shall ensure drainage away from buildings and onsite waste disposal sites.

The Boones Mill Town Council may require a primarily underground system to accommodate larger, less frequent floods. Drainage plans shall be consistent with local and regional drainage plans.

The facilities shall be designed to prevent the discharge of excess runoff onto adjacent properties.

D. Utilities

All utilities, such as gas lines, electrical and telephone systems being placed in flood-prone areas should be located, elevated (where possible) and constructed to minimize the chance of impairment during a flooding occurrence.

E. Streets and Sidewalks

Streets and sidewalks should be designed to minimize their potential for increasing and aggravating the levels of flood flow. Drainage openings shall be required to sufficiently discharge flood flows without unduly increasing flood heights.

Section 4.4 - Standards for Flood-Fringe and Approximated Floodplain

A. When base flood elevation data or floodway data have not been provided, the (Town Manager) shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state or any other source, in order to administer the provisions of Article 4. When such base flood elevation data is utilized, the (Town Manager) shall obtain

1. - the elevation (in relation to the mean sea level) of the lowest floor (including the basement) of all new and substantially improved structures; and,
2. - if the structure has been flood proofed in accordance with the requirements of Article 4, Section 4.3 (B) of this ordinance, the elevation in relation to the mean sea level to which the structure has been flood proofed.

B. When the data is not available from any source as in Article 4, Section 4.4 (A), the lowest floor of the structure shall be elevated to no lower than one foot above the highest adjacent grade.

### Section 4.5 - Standards for Manufactured Homes and Recreational Vehicles

1. All manufactured homes placed, or substantially improved, on individual lots or parcels, in expansions to existing manufactured home parks or subdivisions, in a new manufactured home park or subdivision or in an existing manufactured home park or subdivision on which a manufactured home has incurred substantial damage as the result of a flood, must meet all the requirements for new construction, including the elevation and anchoring requirements.
2. All manufactured homes placed or substantially improved in an existing manufactured home park or subdivision in which a manufactured home has not incurred substantial damage as the result of a flood shall be elevated so that either
  - a. the lowest floor of the manufactured home is elevated no lower than one foot above the base flood elevation; or,
  - b. the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade
  - c. and be securely anchored to the adequately anchored foundation system to resist flotation, collapse and lateral movement.
3. All recreational vehicles placed on sites must either
  - a. be on the site for fewer than 180 consecutive days;
  - b. be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is on it wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions); or,
  - c. meet all the requirements for manufactured homes in Article 4, section 4.3 (D).

### ARTICLE V - VARIANCES: FACTORS TO BE CONSIDERED

#### Note:

Whenever any person is aggrieved by a decision of the Building Inspector of Franklin County with respect to the provisions of this ordinance, it is the right of that person to appeal to the Town Council for a variance.

Such appeal must be filed, in writing, within thirty (30) days after the determination by the Building Inspector of Franklin County.

Upon receipt of such an appeal, the Town Council shall set a time and place for the purpose of hearing the appeal, which shall be not less than ten (10) nor more than thirty (30) days from the date of the receipt of the appeal.

Notice of the time and place of the hearing of the appeal shall be given to all parties at which time they may appear and be heard. The determination by the Town Council shall be final in all cases.

In passing upon applications for variances, the Town Council shall satisfy all relevant factors and procedures specified in other sections of the management ordinance and consider the following additional factors:

- A. The danger to life and property due to increased flood heights or velocities caused by encroachments. No variance shall be granted for any proposed use, development, or activity within the Floodway District that will cause any increase in flood levels during the one hundred (100) year flood.
- B. The danger that materials may be swept on to other lands or downstream to the injury of others.
- C. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.
- D. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual.
- E. The importance of the services provided by the proposed facility to the community.
- F. The requirements of the facility for a waterfront location.
- G. The availability of alternative locations not subject to flooding for the proposed use.
- H. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
- I. The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.
- J. The safety of access by ordinary and emergency vehicles to the property in time of flood.
- K. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site.
- L. The repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- M. Such other factors which are relevant to the purposes of this ordinance.

The Town Council may refer any application and accompanying documentation pertaining to any request for variance to any engineer or other qualified person or agency for technical assistance in evaluating the proposed project in relation to flood heights and velocities, and the adequacy of the plans or flood protection, and other related matters.

Variances shall be issued only after the Town Council has determined that the granting of such will not result in (a) unacceptable or prohibited increases in flood heights, (b) additional threats to public safety, (c) extraordinary public expense, and will not (d) create nuisances, (e) cause fraud or victimization of the public, or (f) conflict with local laws or ordinances.

Variations shall be issued only after the Town Council has determined that the variance will be the minimum required to provide relief from hardship to the applicant.

The Town Council shall notify the applicant for variance, in writing, that the issuance of a variance to construct a structure below the one hundred (100) year flood elevation (a) increases the risks to life and property and (b) will result in increased premium rates for flood insurance.

A record of the above notification as well as all variance actions, including justification for their issuance, shall be maintained and any variances shall be noted in the annual or biennial report submitted to the Federal Insurance Administrator.

ARTICLE VI - EXISTING STRUCTURES IN FLOOD PLAIN DISTRICTS

A structure or use of a structure or premises which lawfully existed before the enactment of these provisions, but which is not in conformity with these provisions, may be continued subject to the following conditions:

- A. Existing structures and/or uses located in the Floodway District shall not be expanded or enlarged (unless the effect of the proposed expansion or enlargement on flood heights is fully offset by accompanying improvements).
- B. Any modification, alteration, repair, reconstruction, or improvement of any kind to a structure and/or use located in any floodplain district to an extent or amount of less than fifty (50) percent of its market value, shall be elevated and/or flood proofed to the greatest extent possible.
- C. The modification, alteration, repair, reconstruction, or improvement of any kind to a structure and/or use, regardless of its location in the floodplain district, to an extent or amount of fifty (50) percent or more of its market value shall be undertaken only in full compliance with the provisions of the Virginia Uniform Statewide Building Code.
- D. Uses or adjuncts thereof which are, or become, nuisances shall not be permitted to continue.

ARTICLE VII - ENACTMENT

ENACTED AND ORDAINED THIS 9th DAY OF December, 2008

This ordinance shall become effective DECEMBER 16, 2008

On motion of councilmember DOUG PARSONS to adopt the ordinance and carried by the following recorded vote:

Ayes 5

Nays 1

TOWN OF BOONES MILL

Attested:

Brian Jones  
Mayor

Jean P. Campbell  
Clerk