

FLOOD DAMAGE PREVENTION ORDINANCE
68.3 (b), 44, X, CFR

ARTICLE 1. Statutory Authorization, Findings of Fact, Purpose, and Objectives

SECTION A. Statutory Authorization

The Legislature of the State of KENTUCKY KY has in
KRS 100 delegated the responsibility to local
 (statutes)
 governmental units to adopt regulations designed to promote the public
 health, safety, and general welfare of its citizenry. Therefore, the
FISCAL COURT of HART COUNTY,
 (governing body) (local unit)
KENTUCKY does ordain as follows:
 (state)

SECTION B. Findings of Fact

- (1) The flood hazard areas of HART COUNTY are subject
 (local unit)
 to periodic inundation which results in loss of life, property,
 health and safety hazards, disruption of commerce and govern-
 mental services, extraordinary public expenditures for flood
 protection and relief, and impairment of the tax base, all of
 which adversely affect the public health, safety and general
 welfare.
- (2) These flood losses are caused by the cumulative effect of
 obstructions in floodplains causing increases in flood heights
 and velocities, and by the occupancy in flood hazard areas by
 uses vulnerable to floods or hazardous to other properties which
 are inadequately elevated, flood-proofed or otherwise protected
 from flood damage.

SECTION C. Statement of Purpose

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

- (1) restrict or prohibit uses which are dangerous to health, safety and property due to water or erosion hazards, which result in damaging increases in erosion or in flood heights or velocities;
- (2) require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (3) control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of flood waters;
- (4) control filling, grading, dredging and other development which may increase erosion or flood damage; and,
- (5) prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.

SECTION D. Objectives

The objectives of this ordinance are:

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

ARTICLE 2. Definitions

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

"Addition (to an existing building)" means any walled and roofed expansion to the perimeter of a building in which the addition is connected by a common load-bearing wall other than a fire wall. Any walled and roofed addition which is connected by a fire wall or is separated by independent perimeter load-bearing walls is new construction.

"Appeal" means a request for a review of the HART COUNTY's (local unit) interpretation of any provision of this ordinance or a request for a variance.

"Area of Special Flood Hazard" is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year.

"Base flood" means the flood having a one percent chance of being equalled or exceeded in any given year.

"Basement" means that portion of a building having its floor subgrade (below ground level) on all sides.

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

"Development" means any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

"Elevated building" means a non-basement building built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, pilings, columns (posts and piers), shear walls, or breakaway walls.

"Flood" or "Flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:

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

"Flood Hazard Boundary Map (FHBM)" means the official map issued by the Federal Emergency Management Agency where the Areas of Special Flood Hazard have been designated as Zone A.

"Flood Insurance Rate Map (FIRM)" means the official map of a community, on which the Federal Emergency Management Agency has delineated both the Areas of Special Flood Hazard and the Risk Premium Zones applicable to the community.

"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 one foot.

"Floor" means the top surface of an enclosed area in a building (including basement), i.e., top of slab in concrete slab construction or top of wood flooring in wood frame construction. The term does not include the floor of a garage used solely for parking vehicles.

"Functionally dependent facility" means a facility which cannot be used for its intended purpose unless it is located or carried out in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, ship repair, or seafood processing facilities. The term does not include long-term storage, manufacture, sales, or service facilities.

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

"Mean Sea Level" means the average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within the floodplain. For purposes of this ordinance, the term is synonymous with National Geodetic Vertical Datum (NGVD).

"New Construction" means structures for which the "start of construction" commenced on or after the effective date of this ordinance.

"Start of Construction" (for other than new construction or substantial improvements under the Coastal Barrier Resources Act (Pub. L-97-348),

includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, or improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of a structure (including a manufactured home) on a site, such as the pouring of slabs or footings, installation of piles, construction of columns, or any work beyond the stage of excavation or the placement of manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

"Structure" means a walled and roofed building that is principally above ground, a manufactured home, a gas or liquid storage tank, or other man-made facilities or infrastructures.

"Substantial Improvement" means any repair, reconstruction, or improvement of a structure the cost of which equals or exceeds 50 percent of the market value of the structure either, (1) before the improvement or repair is started, or (2) if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either (1) any project for improvement of a structure required to comply with existing health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions.

ARTICLE 3. General Provisions

SECTION A. Lands to Which this Ordinance Applies

This ordinance shall apply to all areas of special flood hazard within the jurisdiction of HART COUNTY.
(local unit)

SECTION G. Penalties for Violation

Violation of the provisions of this ordinance or failure to comply with any of its requirements including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$ 500 or imprisoned for not more than 90 days, or both, and in addition shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the HART COUNTY
(local unit) from taking such other lawful action as is necessary to prevent or remedy any violation.

ARTICLE 4. Administration

SECTION A. Establishment of Development Permit

- (1) A Development Permit shall be required in conformance with the provisions of this ordinance.
- (2) Application for a Development Permit shall be made to the HART COUNTY BUILDING INSPECTOR
(local administrator) on forms furnished by him and may include but not be limited to, the following: plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials; drainage facilities; and, the location of the foregoing. Specifically, the following information is required:
 - (a) elevation in relation to Mean Sea Level (MSL) of the lowest floor (including basement) of all proposed structures.
 - (b) elevation in relation to Mean Sea Level to which any non-residential structure will be flood-proofed.
 - (c) certification by a registered professional engineer or architect that the non-residential flood-proofed structure meets the flood-proofing criteria in Article 5, Section B(2).
 - (d) description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

- (e) Provide a flood elevation or flood-proofing certification after the lowest floor is completed. Upon placement of the lowest floor or flood-proofing by whatever construction means, whichever is applicable, it shall be the duty of the permit holder to submit to the BUILDING
(local
INSPECTOR
administrator) a certification of the elevation of the lowest floor or flood-proofed elevation, whichever is applicable, as built, in relation to mean sea level. Said certification shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by same. When flood-proofing is utilized for a particular building, said certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. Any work undertaken prior to submission of the certification shall be at the permit holder's risk. The BUILDING INSPECTOR
(local administrator) shall review the floor elevation survey data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further progressive work being permitted to proceed. Failure to submit the survey or failure to make said corrections required hereby, shall be cause to issue a stop-work order for the project.

SECTION B. Designation of HART COUNTY BUILDING INSPECTOR
(local administrator)

The HART COUNTY BUILDING INSPECTOR
(local administrator) is hereby appointed to administer and implement this ordinance by granting or denying development permit applications in accordance with its provisions. Duties of the HART COUNTY BUILDING INSPECTOR
(local administrator) shall include, but not be limited to, the following;

(1) Permit Review

- (a) Review all development permits to determine that the permit requirements of this ordinance have been satisfied.
- (b) Advise permittee that additional federal or state permits may be required, and if specific federal or state permits are known, require that copies of such permits be provided and maintained on file with the development permit.

- (c) Review all development permits to determine if proposed development adversely affects the flood-carrying capacity of the floodplain. For purposes of this ordinance, "adversely affects" means damage to adjacent properties because of rises in flood stages attributed to physical changes of the channel and the adjacent overbank areas.
- (i) If it is determined that there is no adverse effect, and the development is not a building, then the permit shall be granted without further consideration.
 - (ii) If it is determined that there is an adverse effect, then technical justification (i.e., a professional engineering analysis) for the proposed development shall be required.
 - (iii) If the proposed development is a building, then the provisions of this ordinance shall apply.

SECTION C. Use of Other Base Flood Data

When base flood elevation data or floodway data has not been provided in accordance with Article 3, Section B, Basis for Establishing the Areas of Special Hazard, then the BUILDING INSPECTOR (local administrator) shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source, in order to administer Article 5, Section B of this ordinance.

SECTION D. Information to be Obtained and Maintained

- (1) Verify and record the actual elevation (in relation to Mean Sea Level) of the lowest floor (including basement of all new or substantially improved structures.
- (2) Verify and record the actual elevation (in relation to Mean Sea Level) to which the new or substantially improved structures have been flood-proofed. Certification of such flood-proofing shall be obtained in accordance with Article 5, Section B(2).
- (3) All records pertaining to the provisions of this ordinance shall be maintained in the office of the BUILDING INSPECTOR (local administrator) and shall be open for public inspection.

SECTION E. Alteration of Watercourses

- (1) Notify adjacent communities and the DIVISION OF WATER
(State Coordinating Agency) prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.
- (2) Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.

SECTION F. Interpretation of FFBM or FIRM Boundaries

Where interpretation is needed as to the exact location of the boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual physical conditions), the BUILDING INSPECTOR
(local administrator) shall make the necessary interpretation.

ARTICLE 5. Provisions for Flood Hazard ReductionSECTION A. General Standards

In all areas of special flood hazard, the following provisions are required:

- (1) Anchoring
 - (a) New construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.
 - (b) Manufactured homes to be placed within Zone A on a community's FFBM or FIRM shall be installed using methods and practices which minimize flood damage. For the purpose of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.
- (2) Construction Materials and Methods
 - (a) New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

(b) New construction or substantial improvements shall be constructed by methods and practices that minimize flood damage.

(c) Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

(3) Utilities

(a) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.

(b) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.

(c) Onsite waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

(4) Subdivision Proposals

(a) Subdivision proposals shall be consistent with the need to minimize flood damage.

(b) Subdivision proposals shall have public utilities facilities such as sewer, gas, electric and water systems located and constructed to minimize flood damage.

(c) Subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards.

(d) Base flood elevation data shall be provided for subdivision proposals and other proposed development which is greater than the lesser of 50 lots or five acres.

(5) Encroachments

The cumulative effect of any proposed development shall not adversely affect the area of special flood hazard. This determination is to be made in accordance with Article 4, Section B (1) (c).

SECTION B. Basis for Establishing the Areas of Special Hazard

The areas of special flood hazard identified by the Federal Insurance Administration in its Flood Hazard Boundary Map (FHM) or ~~Flood Insurance Rate Map (FIRM)~~ _____, dated JULY 8, 1977, and any revision thereto, are adopted by reference and declared to be a part of this ordinance.

SECTION C. Compliance

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

SECTION D. 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 conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

SECTION E. Interpretation

In the interpretation and application of this ordinance, all provisions shall be: (1) considered as minimum requirements, (2) liberally construed in favor of the governing body, and, (3) deemed neither to limit nor repeal any other powers granted under state statutes.

SECTION F. Warning and Disclaimer of Liability

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the HART COUNTY or by any officer or employee thereof for (local unit) any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

SECTION B. Specific Standards

In all areas of special flood hazard where base flood elevation data has been provided as set forth in Article 4, Section C, the following provisions are required:

- (1) Residential Construction - New construction or substantial improvement of any residential structure (including manufactured homes) shall have the lowest floor, including basement, elevated to or above base flood elevation.
- (2) Nonresidential Construction - New construction or substantial improvement of any commercial, industrial or other non-residential structure (including manufactured homes) shall either have the lowest floor, including basement, elevated to the level of the base flood elevation, or, together with attendant utility and sanitary facilities, be flood-proofed so that below the base flood level the structure is water-tight 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. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the official as set forth in Article 4, Section A(2) (c).

Vince Lang
HART COUNTY JUDGE/EXECUTIVE

(signatures of Governing Body)

Tammie Sims

Certify

4-20-89

(Date Adopted by Governing Body)