

ORDINANCE NO. 1980-1

BOARD OF COMMISSIONERS OF THE COUNTY OF FLOYD

WHEREAS, the Board of Commissioners of the County of Floyd remains deeply concerned over the potential loss of lives and properties that may result from floods occurring within Floyd County, Indiana; and

WHEREAS, the Board of Commissioners of the County of Floyd, for the protection of the life, health, property and convenience of the Citizens of this community, deems it necessary that the alteration of natural or present water courses of all rivers and streams within Floyd County, Indiana should be regulated, supervised and coordinated, and that such portion of the flood plains of rivers and streams, which are the floodways, should not be inhabited and should be kept free and clear of interference or obstructions which will cause any undue restriction of the capacity of the floodways; and

WHEREAS, the State of Indiana, by Acts of 1945, Chapter 318, and Acts of 1975, Public Law 192, has enabled the Board of Commissioners of the County of Floyd to adopt and enact ordinances for the purpose of controlling construction within flood plains located within Floyd County, Indiana; and

WHEREAS, the Board of Commissioners of the County of Floyd has deemed it necessary and appropriate that the now existing zoning, subdivision, and mobile homes ordinances enacted pursuant to the provisions of I.C. 18-7-4 be amended so as to incorporate provisions relating to the use and enjoyment of water courses within the County and to insure the protection of the life, health and property of the Citizens of this community.

NOW THEREFORE, BE IT ORDAINED, that Ordinance No. A67-4, as adopted August 7, 1967, and Ordinance 68-1, adopted August 25, 1968, as heretofore amended and supplemented be further amended in the following particulars:

SECTION I

Section 2.02 of Ordinance No. A67-4, be, and the same hereby is amended by the addition of the following definitions:

63. FLOOD OR FLOOD WATER-means the water of any river, stream or lake in Floyd County, Indiana or upon or adjoining any boundary line of said County, which is above the bank or outside the channel and banks of such river, stream, or lake.

64. FLOOD PLAIN-means the area adjoining a river or stream, which has been or may be covered by flood water, but includes only that area generally subject to flooding during a "regulatory flood." The flood plain includes the floodway and floodway fringe as delineated upon the Firm Map, together with such other areas determined and identified by the Department of Natural Resources.

65. FLOOD HAZARD AREAS-means those flood plains or portions thereof which have not been adequately protected from flood water by means of dikes, levies, reservoirs or other works and includes the flood plain district, floodway area, or floodway fringe area or any combination thereof.

66. FLOOD PROTECTION GRADE—means the elevation of the lowest point around the perimeter of a building at which flood water may enter the interior of that building, or with respect to a commercial or industrial building which has been flood proofed, the water surface elevation for which the building is protected. With respect to a residential structure, the phrase "lowest point around the perimeter of a building" shall mean the lowest floor of a building or structure, and with respect to those buildings or structures having a basement, the lowest floor of such building or structure shall be the basement floor.

67. FLOOD PROOF BUILDING—means a commercial or industrial building designed to exclude flood waters from the interior of that building. All such flood proofing shall be adequate to withstand the flood depth, pressures, velocities, impact and uplift forces and other factors associated with the regulatory flood, and shall be accomplished in accordance with standards for completely flood proof structures contained in Sections 210.2.2 FP2 of the US Army Corps of Engineers Publication entitled "Flood-Proofing Regulations," June 1972 Addition, or applicable provisions of any subsequent additions thereof. In every instance of flood proofing to meet requirements of this Ordinance, such flood proofing shall be properly certified by a registered professional engineer or architect. Residential structures shall not be permitted to utilize flood proofing techniques for the purpose of increasing the flood protection grade of such structure or for the purpose of meeting other requirements of this Code.

68. FLOODWAY AREA—means the channel of a river or stream and those portions of the flood plains adjoining the channel thereof which are reasonably required to efficiently carry and discharge the flood water or flood flow of any such river or stream, and includes that portion of the flood plain as herein defined, which during a 100-year flood is covered by flood waters in significant down stream motion, or an area which is covered by significant volumes of flood waters, as determined by the Department of Natural Resources.

69. FLOODWAY FRINGE AREA—that portion of the flood plains as herein defined, which is peripheral to the flood way, which together with the flood way constitutes the total flood plain.

70. NATURAL RESOURCES—means the Indiana Natural Resources Commission.

71. REGULATORY FLOOD—means that flood having a peak discharge which can be expected to be equaled or exceeded on the average of once in a 100-year period, as calculated by a method and procedure which is acceptable to and approved by the Indiana Natural Resources Commission. This flood is equivalent to a flood having a probability of occurrence of 1 percent in a given year, and includes the entirety of the flood plain as herein defined.

72. REGULATORY FLOOD PROFILE—means a longitudinal profile along the thread of a stream showing the maximum water surface elevation attained by the regulatory flood.

73. SUBSTANTIAL MODIFICATION—means any alteration, repair enlargement or extension of an existing building. Such substantial modification is considered to occur when the first alteration of any wall, ceiling, floor or other structural element of the building commences. This term does not, however, include (1) any project for improvement of a structure to comply with the existing health, sanitary or safety code specifications or (2) any alteration of a structure listed on the National Register of Historical Places or the Indiana State Survey of Historic, Architectural, Archeological and Cultural Sites, Structures, Districts and Objects.

74. FIRM MAP—a map prepared by the U.S. Department of Housing and Urban Development for certain streams and water courses in Floyd County for the purpose of establishing Flood Insurance Rates, which map, to the extent that a particular stream or water course is delineated thereon, shall be utilized to ascertain the flood plain of such covered streams and water courses.

## SECTION II

Section 2.03 of Ordinance A67-4, be, and the same hereby is, amended by the deletion therefrom of Paragraph 1 and by the substitution therefor of the following Paragraph:

1. The zoning classification for the unincorporated territory of Floyd County will be henceforth agricultural and/or residential. Within such classification, there is established and exists a Flood Plain District, which Flood Plain District shall include that area located within a flood plain, as such term is defined herein.

## SECTION III

Section 2.03 of Ordinance A67-4, be, and the same hereby is, amended by the deletion of Paragraph 2 of said Section, and by the substitution therefor of the following:

2. PERMITTED USES: (a) No building or land shall be used and no building shall be erected, reconstructed or structurally altered, which is arranged, intended or designed to be used for any purpose other than an existing use on which such building or land is located.

(b) Within the Flood Plain District, the following uses shall be permitted by right, provided they do not involve the erection of any structure or obstruction, the opening of any excavation or deposition of any material or substance:

(1) Agricultural uses such as the production of crops, pastures, orchards, plant nurseries, vineyards, and general farming.

(2) Forestry, wild life areas, and nature preserves.

(3) Parks and recreational uses, such as golf courses, driving ranges, and play areas.

#### SECTION IV

Section 2.05 of Ordinance No. A67-4, be, and the same hereby is, amended by the deletion of Paragraph 1 thereof, and by the substitution therefor of the following:

1. USES PERMITTED.- The conditional uses listed in Figure 4 and their accessory buildings and uses, may be permitted by the Board in accordance with the procedures set forth in this section. With respect to an application for a conditional use to be located or maintained within the Flood Plain District, the following stipulations, restrictions and provisions shall apply, which restrictions, stipulations and requirements shall be in addition to those hereinafter set forth in this section:

(a) The following conditional uses to be located and maintained within the floodway fringe may be approved by the Floyd County Plan Commission:

(1) Water management and use facilities, such as dams, docks, dolphins, channel improvements, dikes, jetties, groins, marinas, piers, wharfs, levees, seawalls, floodwalls, weirs, and irrigation facilities.

(2) ~~Transportation facilities, such as streets,~~ bridges, roadways, fords, airports, pipe-lines, railroads, and utility facilities.

(3) Temporary or seasonal flood plain occupancy, such as circus sites, fair sites, carnival sites, boat ramps, camps, roadside stands, and transit amusement facility sites..

(4) Water related urban uses, such as waste water treatment facilities, storm sewers, electric generating and transmission facilities and water treatment facilities.

(5) Other flood tolerant or open space urban uses such as flood proofed buildings, racetracks, tennis courts, park buildings, outdoor theaters, fills, truck freight terminals, radio or TV towers, parking lots and mineral extractions.

(6) Residential structures.

(7) Such other uses as may be deemed appropriate by the Floyd County Plan Commission and not precluded by federal and state legislation.

Any structure or structures to be erected within a flood plain district shall be constructed on the building site so as to minimize obstruction to the flow of flood waters, and all buildings or additions to existing buildings shall have flood protection grades of at least 2 feet above the regulatory flood profile. Flood proofing of non-residential structures, if proposed, must be in accordance with the definition of a flood proofed building as set forth in this Ordinance, and must be so certified by a professional engineer or a registered architect licensed to practice in Indiana.

On site waste disposal systems must be so located as to avoid impairment of them or contamination from them during the occurrence of the regulatory flood.

The Floyd County Plan Commission is hereby empowered to impose such restrictions upon the use of land and the erection of structures within the floodway fringe as may be reasonable and necessary to insure the protection of life, health and property within such area.

(b) The following conditional uses within a floodway may be permitted by the Floyd County Plan Commission only after a permit for construction in a floodway has been granted by the Department of Natural Resources. All terms and conditions imposed by the Department of Natural Resources shall be incorporated in any permit issued by the Floyd County Plan Commission within a floodway, but the inclusion of such restrictions shall in no way impair the right of the Floyd County Plan Commission to impose additional restrictions upon the requested use:

- (1) Water management and use facilities, such as dams, docks, dolphins, channel improvements, dikes, jetties, groins, marinas, piers, wharfs, levees, seawalls, floodwalls, weirs, and irrigation facilities.
- (2) Transportation facilities, such as streets, bridges, roadways, fords, airports, pipe-lines, railroads, and utility facilities.
- (3) Temporary or seasonal flood plain occupancy, such as circus sites, fair sites, carnival sites, boat ramps, camps, roadside stands, and transit amusement facility sites.
- (4) Water related urban uses, such as waste water treatment facilities, storm sewers, electric generating and transmission facilities and water treatment facilities.
- (5) Other flood tolerant or open space urban uses such as flood proofed buildings, racetracks, tennis courts, park buildings, outdoor theaters, fills, truck freight terminals, radio or TV towers, parking lots and mineral extractions.

All buildings or additions to existing buildings to be located within a floodway shall have flood protection grades at least 2 feet above the regulatory flood profile, and flood proofing of non-residential structures, if proposed, must be in accordance with the definition of a flood proofed building as set forth in this Ordinance and must be so certified by a professional engineer or a registered architect licensed to practice in Indiana. Any structure or structures permitted in a floodway shall be constructed on the building site so as to minimize obstruction to the flow of flood waters.

#### SECTION V

Section 2.06 of Ordinance No. A67-4 be, and the same hereby is amended by the addition thereto of the following Paragraph:

- (7) Any building, structure or other use in a flood plain district which is not in conformance with this Ordinance constitutes a non-conforming use, and with respect to any such building, structure or other use, the following provisions shall apply, which provisions shall be in addition to any other provision of this Ordinance pertaining to non-conforming uses:

(a) In a floodway, no non-conforming use may be expanded or enlarged, nor can a building undergo substantial modification without a permit for construction in a floodway from the Department of Natural Resources.

(b) In the floodway fringe, a building which constitutes a non-conforming use may undergo substantial modification provided that such modification is on a one-time-only basis and further provided that such modification does not increase the value of the building, by more than 40% of its pre-improvement market value, (excluding the value of land) unless such building is permanently changed to a conforming use. With respect to any substantial modification, the provisions of this Ordinance pertaining to new construction in the flood plain district shall be followed.

(c) Any non-conforming use in the flood plain district which is damaged by flood, fire, explosion, act of God, or the public enemy may be restored to its original dimensions and conditions, provided that the damage does not reduce the value of the buildings, excluding the value of the land, by more than 40% of its pre-damaged value.

#### SECTION VI

Section 3.01 of Ordinance No. A67-4 be, and the same hereby is amended by the deletion of Paragraph 1 of said Section and by the substitution therefor of the following:

1. (a) Any person, persons, firms or corporations which shall make application for an improvement location permit shall, at the time of making such application, furnish the building commissioner with a site plan of the real estate upon which said application for an improvement location permit is made at least 5 days prior to the issuance of said improvement location permit, which 5 day period may be waived by the commissioner. Said site plan shall be drawn to scale showing the following items:

- (1) Legal or site description of the real estate involved.
- (2) Location of size of all buildings and structures.
- (3) All adjacent and adjoining roads or highways.

(b) The building commissioner shall review all applications for improvement location permits for the purpose of determining whether the proposed construction, other improvements, and development is located in or proposed for the flood plain district and whether said proposal shall be submitted to the Department of Natural Resources for review and/or permits. In the event that upon such review the building commissioner determines that the proposal is located within a floodway area of the flood plain, or in the event that the building commissioner is unable to determine that such proposal is not located within a floodway area of the flood plain, he shall require the issuance of a permit by the Department of Natural Resources or forward the application to such department for its

review, consideration and determination. At such time as the floodway area of the flood plain has been determined in its entirety for the unincorporated area of Floyd County, Indiana, by the Department of Natural Resources, the U.S. Department of Housing and Urban Development, or other acceptable manner, only those proposals located within the floodway area shall require submission to the Department of Natural Resources, except as otherwise specifically directed by the Floyd County Plan Commission.

(c) Any feature of a proposed development (including principal buildings and other structures, accessory buildings, landscaping, etc.) shall be designed and constructed so as to be reasonably safe from flooding. All construction, other improvements and developments shall be so constructed as to prevent flotation, collapse or lateral movement of the structure.

(d) Prior to any alteration or relocation of a river water course in connection with a proposed development, notification shall be tendered to the Indiana Department of Natural Resources and a copy of such notification shall be submitted to the U.S. Department of Housing and Urban Development's Flood Insurance Administrator. The flood carrying capacity within any altered or relocated portion of a river water course shall be maintained.

(e) The Plan Commission shall keep and maintain all records, including all lowest floor elevations, certificates, plans and other materials associated with any permit, or variance issued within the flood plain district.

#### SECTION VII

Section 3.01 of Ordinance A67-4 be, and the same hereby is, amended by the deletion therefrom of Paragraph No. 14.

#### SECTION VIII

Section 3.02 of Ordinance No. A67-4 be, and the same hereby is, amended by the addition of the following to Paragraph 8 of said Section:

(e) The Board of Zoning Appeals may consider issuing a variance to the terms and provisions of this Ordinance applicable to the flood plain district, provided the applicant offers that:

(1) There exists a good and sufficient cause for the requested variance;

(2) The strict application of the terms of this Ordinance pertaining to the flood plain district shall constitute an exceptional hardship to the applicant; and

(3) The grant of the requested variance will not increase flood heights, create additional threats to public safety, cause additional public expense, create nuisances, cause fraud or victimization of the public or conflict with existing laws or Ordinances.

(f) The power of the Board of Zoning Appeals to issue a variance to the terms and provisions of this Ordinance pertaining to the flood plain district shall be subject to the following standards and conditions:

1. No variance or exception for a residential use in a floodway area may be granted;
2. Any variance or exception granted in a floodway area shall require a permit from the Department of Natural Resources;
3. Variances or exceptions to the flood protection grade requirements in a floodway fringe area may be granted only when a new structure is to be located on a lot of 1½ acre or less in size, contiguous to and surrounded by lots with existing structures constructed below the flood protection elevation;
4. Any variance or exception granted in the flood plain district will require a permit or letter of recommendation from the Department of Natural Resources.
5. Variance or exception may be granted for the reconstruction or restoration of any structure listed on the National Register of Historic Places or the Indiana State Survey of Historic, Architectural, Archeological and Cultural Sites, Structures, Districts and Objects;
6. All variances shall give the minimum relief necessary, and be such that the maximum practical flood protection will be given to the proposed construction; and
7. The Board of Zoning Appeals shall issue a written notice to the recipient of a variance or exception that the proposed constructions will be subject to increased risk to life and property and could require the payment of excessive flood insurance premiums.

#### SECTION IX

Section 3.05 of Ordinance No. A67-4, be, and the same hereby is, amended by the addition to said Section of the following Paragraph:

3. The building commissioner shall review all applications for improvement locations permit for new construction or additions to existing construction. If the proposed construction or addition is found to lie in a flood hazard area, the building commissioner may require such modifications to the design and materials as the building commissioner may deem appropriate to prevent flotation, collapse or lateral movement of the structure and minimize potential future flood damage. Any action undertaken by the building commissioner pursuant to the terms and provisions of this Paragraph shall be subject to the review of the Floyd County Board of Zoning Appeals upon appropriate request by the applicant for an improvement location permit.



## SECTION X

Section 3 of Ordinance 68-1, be and the same hereby is, amended by the addition of the following Paragraph:

### F. FLOOD PRONE AREAS

1. The Floyd County Plan Commission shall review all proposed subdivisions to determine whether the subdivision lies in a flood hazard area as defined elsewhere by this Ordinance. If the Plan Commission finds the subdivision to be so located, the Plan Commission shall forward pertinent plans and materials to the Indiana Department of Natural Resources for review and comment. Plan Commission may require appropriate changes and modifications in order to assure that it is consistent with the need to minimize flood damages; all public utilities and facilities, such as sewer, gas, electrical and water system are located and constructed to minimize or eliminate flood damage; adequate drainage is provided so as to reduce exposure to flood hazard; and, that on-site waste disposal systems, if provided, will be so located as to avoid impairment of them or contamination from them during the occurrence of the regulatory flood.
2. All subdivision plats containing land identified elsewhere by this Ordinance as being in flood hazard areas shall have the elevation of the 100-year flood listed and shown thereon.

## SECTION XI

Section 2.02 of the Amendment to Ordinance A67-4 dated February 21, 1970 and entitled The Floyd County, Indiana Mobile Home Ordinance, be and the same hereby is, amended by the addition thereto of the following definition:

11 MOBILE HOME TIE DOWNS; SHCHEDULE A-means sufficient anchorage to resist flotation, collapse or lateral movement of any mobile home. As a minimum, such anchorage shall consist of (1) Over-the-top ties provided at each of the 4 corners of the mobile home, with 2 additional ties per side at intermediate locations, with mobile homes less than 50 feet long requiring only 1 additional tie per side; (2) Frame ties provided at each corner of the home with 5 additional ties per side at intermediate points and mobile homes less than 50 feet long requiring 4 additional ties per side; (3) All components of the anchoring system be capable of carrying a force of 4,800 pounds; (4) Any additions to the mobile home be similiarly anchored; and (5) adequate drainage and access for a hauler shall be provided.

## SECTION XII

Title 2 of the Amendment to Ordinance A67-4 dated February 21, 1970, said Amendment being entitled The Floyd County, Indiana Mobile Home Ordinance is hereby amended by the addition of the following section:

### Section 2.06 FLOOD PRONE AREAS

- (1) With respect to any mobile home located or to be located in the flood plain district, the Plan Commission

shall not issue any permit, license or variance for the location or occupancy thereof until such time as proper notice, to be included within the lease, deed or purchase contract, is given to the owner or purchaser of such mobile home disclosing the fact that such structure is located within a flood hazard area.

(2) No improvement location permit shall be issued with respect to a mobile home to be located within a flood hazard area unless such mobile home is provided with a concrete pad at or above the elevation of the regulatory flood, and unless such mobile home is provided with ground anchors meeting the requirements of this Ordinance.

#### SECTION XIII

Ordinance No. A67-4, dated August 7, 1967, as thereafter amended, to include the amendment thereof dated February 21, 1970, said amendment entitled The Floyd County, Indiana Mobile Home Ordinance, together with Ordinance 68-1, being entitled The Subdivision Control Ordinance of Floyd County, Indiana, be and each of them is hereby amended by the addition of the following provision:

In connection with the flood plain district established herein, the degree of flood protection established by this Ordinance is considered reasonable for regulatory purposes and is based on engineering and scientific considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes such as ice or debris jams. This Ordinance does not imply that areas outside flood hazard districts as defined herein, will be free of flooding or flood damage. This Ordinance does not create any liability on the part of the County of Floyd, Indiana, the Floyd County Plan Commission, the Indiana Department of Natural Resources, the State of Indiana, or any other elected or appointed official or employee thereof for any flood damages that may result from reliance on this Ordinance or any administrative decision lawfully made hereunder.

Duly adopted this 7 day of April, 1980.

BOARD OF COMMISSIONERS OF THE  
COUNTY OF FLOYD, INDIANA

Gary Loftus  
Gary Loftus, President

Vincent H. Freiburger  
Vincent Freiburger, Member

Raymond Libs  
Raymond Libs, Member

ATTEST:

Betty J. Hammond  
FLOYD COUNTY AUDITOR