

## **FLOODPLAIN RESOLUTION**

Be it ordained by the Governing Body of the County of Buffalo that:

**SECTION 1** – The Floodplain Management Administrator hereby has these added responsibilities and is authorized and directed to enforce all of the provisions of this Resolution and all other Resolutions of the County of Buffalo now in force or hereafter adopted, related to zoning, subdivision or building codes.

**SECTION 2** – The Floodplain Management Administrator shall be appointed to these additional responsibilities by Resolution of the Governing Body and his/her appointment shall continue during good behavior and satisfactory service. During temporary absence or disability of the Floodplain Management Administrator, the Governing Body of the County shall designate an acting enforcement official.

**SECTION 3** – The Governing Body of the County of Buffalo hereby designates the current Flood Insurance Rate Map, and amendments, effective March 1, 1990, together with amendments effective November 26, 2010, as the official map to be used in determining those areas of special flood hazard. When the areas denoted as special flood hazard, differ as delineated in the FIRMs, the map to become effective November 26, 2010 shall control. (Resolution 9-14-10)

**SECTION 4** – That until a floodway has been designated, no development or substantial improvement may be permitted within the identified floodplain unless the applicant has demonstrated that the proposed development or substantial improvement, when combined with all other existing and reasonably anticipated developments or substantial improvements, will not increase the water surface elevation of the 100-year flood more than (1) foot at any location. Permits required: No person, firm or corporation shall erect, construct, enlarge or improve any building or structure or make other developments, as defined in the definitions section of this resolution, in the County, or cause the same to be done without first obtaining a separate development permit for each building or structure.

- A. Within Zone(s) A on the official map, separate development permits are required for all new construction, substantial improvements and other developments, including the placement of manufactured homes.
- B. Application: to obtain a permit, the applicant shall first file an application therefore in writing on a form furnished for that purpose. Every such application shall:
  - 1) Identify and describe the work to be covered by the permit for which application is made.
  - 2) Describe the land on which the proposed work is to be done by lot, block, tract and house and street address, or similar description that will readily identify and definitely locate the proposed building or work.
  - 3) Indicate the use or occupancy for which the proposed work is intended.
  - 4) Be accompanied by plans and specifications for proposed construction.
  - 5) Be signed by the permittee or his authorized agent who may be required to submit evidence to indicate such authority.
  - 6) Within designated flood prone areas, be accompanied by elevations (in relation to a mean sea level) of the lowest floor (including basement) or in the case of flood proofed nonresidential structures, the elevation to which it has been flood

proofed. Documentation or certification of such elevations will be maintained by the Floodplain Management Administrator.

- 7) Give such other information as reasonably may be required by the Floodplain Management Administrator.
- C. Fee for Application: Attached to such application shall be fee established by Buffalo County Board of Supervisors for submittal of such application. (Resolution 2-24-04)
- D. Application review by Floodplain Administration Office: The application and information thereon shall be reviewed as to whether it is in compliance with existing federal, state, and local floodplain construction regulations. If it is in compliance with such floodplain construction regulations, the floodplain administrator shall sign such application allowing construction to proceed. A copy of the issued permit shall be given to applicant and a copy retained in office of floodplain administrator. If such application is disapproved, the floodplain administrator shall give written notice of disapproval to address stated on application with copy of the same kept on record in floodplain administrator's office. (Resolution 2-24-04)
- E. Duration of permit: Whether issued by permission of floodplain administrator or Board of Flood Regulation Variance, construction on the proposed structure shall be completed within two years from date of approval by body giving permission to build. (Resolution 2-24-04)
- F. Certificate of Completion: When construction on application is completed the entity filing such application shall inform the floodplain administrator's office that such structure is completed and available for inspection. In reviewing finalized construction, the floodplain administrator may request, among other items, site elevation studies done at cost of applicant, to prove such structure as built is compliant with floodplain regulations. Should such structure be compliant, the floodplain administrator shall sign permit retaining copy of approval and completed permit and issue copy to applicant. (Resolution 2-24-04)

**SECTION 5** –The Floodplain Management Administrator shall review all development permit applications to determine if the site of the proposed development is reasonably safe from flooding and that all necessary permits have been received as required by Federal or State Law.

**SECTION 6** –The Floodplain Management Administrator, in reviewing all applications for new construction, substantial improvements, prefabricated buildings, placement of manufactured homes and other development(s) (as defined in Section 11 of this Resolution) will:

- A. Obtain, review and reasonably utilize, if available, any regulatory flood elevation data and floodway data available from Federal, State, or other sources, until such other data is provided by the Federal Insurance Administration in a Flood Insurance Study; and require within areas designated as Zone A on the official map that the following performance standards be met:
  - (1) Residential Construction – New construction or substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to 1 (one) foot above the base flood elevation.
  - (2) Nonresidential Construction – New construction or substantial improvements of any commercial, industrial, or other nonresidential structure shall either have the lowest floor, including basement, elevated to 1 (one) foot above the

level of the base flood elevation or together with attendant utility and sanitary facilities, be flood proofed so that below such a 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. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the local enforcement official.

- (3) Require for all new construction and substantial improvements – That fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect to meet or exceed the following minimum criteria: A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Opening may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
- B. Require the use of construction materials that are resistant to flood damage.
  - C. Require the use of construction methods and practices that will minimize flood damage.
  - D. Require that new structures 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.
  - E. New structures be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
  - F. Assure that all manufactured homes shall be anchored to resist flotation, collapse, or lateral movement. Manufactured homes must be anchored in accordance with State laws, local building codes and FEMA guidelines. In the event that over-the-top frame ties to ground anchors are used, the following specific requirements (or their equivalent) shall be met:
    - (1) Over-the-top ties be provided at each of the four corners of the manufactured home with two additional ties per side at the intermediate locations and manufactured homes less than 50 feet long requiring one additional tie per side.
    - (2) Frame ties be provided at each corner of the home with five additional ties per side at intermediate points and manufactured homes less than 50 feet long requiring four additional ties per side.

- (3) All components of the anchoring system be capable of carrying a force of 4800 pounds.
  - (4) Any additions to manufactured home be similarly anchored.
- G. Require that recreational vehicles placed on sites within identified floodplain on the community's FIRM either (i) be on the site for fewer than 180 consecutive days, (ii) be fully licensed and ready for highway use, or (iii) meet the permit requirements and the elevation and anchoring requirements for "manufactured homes" of this ordinance. 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.
- H. Require that all manufactured homes to be placed within "Special Flood Hazard Areas" on the community's FIRM be elevated on a permanent foundation such that the lowest floor of the manufactured home is one (1) foot above the base flood elevation; and be securely anchored to an adequately anchored foundation system in accordance with provisions of Section 6.F.

**SECTION 7**– The Governing Body of the County shall review all subdivision applications and other proposed new developments, including manufactured home parks or subdivisions, and shall make finding of fact and assure that:

- A. All such proposed developments are consistent with the need to minimize flood damage.
- B. Subdivision proposals and other proposed new developments (including proposals for manufactured home parks and subdivisions), greater than five (5) acres or fifty (50) lots, whichever is lesser, include within such proposals regulatory flood elevation data in areas designated Zone A.
- C. Adequate drainage is provided so as to reduce exposure to flood hazards.
- D. All public utilities and facilities are located so as to minimize or eliminate flood damage.

**SECTION 8**– New water and sewer, etc. – New and replacement water and sewer systems shall be constructed to eliminate or minimize infiltration by, or discharge into floodwaters.

Moreover on-site waste disposal systems will be designed to avoid impairment or contamination during flooding.

**SECTION 9**– The Governing Body of the County will insure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained. The County will notify, in riverine situations, adjacent communities and the State Coordinating Office prior to any alteration or relocation of a watercourse, and submit copies of such notifications to the Federal Emergency Management Agency. Moreover, the County will work with appropriate State and Federal agencies in every way possible in complying with the National Flood Insurance Program in accordance with the National Flood Disaster Protection Act of 1973.

**SECTION 10** – This Resolution shall take precedence over conflicting Resolutions or parts of Resolutions. The Governing Body of the County of Buffalo may, from time to time, amend this Resolution to reflect any and all changes in the National Flood Disaster Protection Act of 1973. The regulations of this Resolution are in compliance with the National Flood Insurance Program Regulations as published in Title 44 of the Code of Federal Regulations and with the 1983 Nebraska Floodplain Management Act.

**SECTION 11 – DEFINITIONS** – Unless specifically defined below, words or phrases used in this Resolution shall be interpreted so as to give them the same meaning as they have in common usage and so as to give this Resolutions its most reasonable application.

“Appurtenant Structures” –used exclusively for storage of motor vehicles, and storage of other items readily removable in the event of a flood warning may have their lowest floor below one foot above the base flood elevation provided the structure is capable of withstanding hydrostatic and hydrodynamic forces caused by the base flood and provided that no utilities are installed in the structure except elevated or floodproofed electrical fixtures. If the structure is converted to another use, it must be brought into full compliance with the minimum standards governing such use. (Resolution 2-24-04)

“Base Flood” – the flood having a one percent chance of being equaled or exceeded in any given year.

“Basement” – any area of the building having its floor sub grade (below ground level) on all sides.

“Development” – 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 or storage of equipment or materials.

“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 floodplain management regulations adopted by a community.

“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 manufactured 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).

“Flood” or “Flooding” – (a) A general and temporary condition of partial or incomplete inundation of normally dry land areas from: (1) The overflow of inland or tidal waters. (2) The unusual and rapid accumulation or runoff of surface waters from any source. (3) Mudslides (i.d. mudflows) which are proximately caused by flooding as defined in paragraph (a) (2) of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current. (b) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water,

accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph (a) (1) of this definition.

“Flood Proofing” – any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

“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 one foot.

“Historic Structure” – Any structure that is : (a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; (b) 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; (c) Individually listed on a state inventory of historic places in states within historic preservation programs which have been approved by the Secretary of Interior; or (d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either: (1) By an approved state program as determined by the Secretary of the Interior or (2) Directly by the Secretary of the Interior in states without approved programs.

“Lowest Floor” – the lowest floor of the lowest enclosed areas (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; Provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this resolution.

“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 attached to the required utilities. The term “manufactured home” does not include a “recreational vehicle”.

“Manufactured Home Park or Subdivision” – a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

“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 FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, “new construction” means structure for which the “start of construction” commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvement to such structures.

“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 the floodplain management regulations adopted by a community.

“Principally Above Ground” – At least 51 percent of the actual cash value of the structure, less land value, is above ground.

“Recreational vehicle” – a vehicle which is (i) built on a single chassis; (ii) 400 square feet or less when measured at the largest horizontal projections; (iii) designed to be self-propelled or permanently towable by a light duty truck; and (iv) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational camping, travel, or seasonal use.

“Regulatory Flood Elevation” – The water surface elevation of the 100-year flood.

“Special Flood Hazard Area” – The land within a community, subject to a one percent or greater chance of flooding in any given year. This land is identified as Zone A on the official map.

“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, rehabilitation, addition, placement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a 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 of streets and/or walkways; nor does it include excavation for a basement, footing, piers, or foundation or the erection of temporary forms; nor does it include the installation on the property of accessory building, 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 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” – A walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home. “Structure” for insurance coverage purposes, means a walled and roofed building, other than a gas or liquid storage tank, that is principally above ground and affixed to a permanent site, as well as a manufactured home on a permanent foundation. For the latter purpose, the term includes a building while in the course of construction, alteration or repair, but does not include building materials or supplies intended for use in such construction, alteration or repair, unless such materials or supplies are within an enclosed building on the premises.

“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.

“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 specification 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”.

“100-Year Flood” – The condition of flooding having a one percent chance of annual occurrence.

**SECTION 12 – VARIANCE PROCEDURES –**

- 12.1 The County Board of Floodplain Regulation Variance as established by Buffalo County Board of Supervisors shall hear and decide appeals and requests for variances from the requirements of this resolution. Such Board shall be comprised of five (5) members and one alternate all appointed by the County Board each having a 3-year staggered term. (Resolution 2-24-04)
- 12.2 The County Board of Floodplain Regulation Variance shall hear and decide appeals when it is alleged that there is an error in any requirement, decision, or determination made by the Floodplain Management Administrator in the enforcement or administration of this resolution. (Resolution 2-24-04)
- 12.3 Any person aggrieved by the decision of the County Board of Floodplain Regulation Variance or any taxpayer may appeal such decision to District Court as provided in Section 23-168.04, R.R.S. (Resolution 2-24-04 & 10-25-05)
- 12.4 In passing upon such application, the County Board of Floodplain Regulation Variance shall consider all technical evaluation, all relevant factors, standards specified in other sections of this resolution, (Resolution 2-24-04) and:
  - 12.41 the danger that materials may be swept onto other lands to the injury of others;
  - 12.42 the danger of life and property due to the flooding or erosion damage;
  - 12.43 the susceptibility of proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
  - 12.44 the importance of the services provided by the proposed facility to the community;
  - 12.45 the necessity to the facility of a waterfront location, where applicable;
  - 12.46 the availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
  - 12.47 the compatibility of the proposed use to the comprehensive plan and floodplain management program for that area;



- 12.48 the relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
- 12.491 the expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and,
- 12.492 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, and streets and bridges.

## 12.5 CONDITIONS AND VARIANCES

- 12.51 Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (12.52-12.55 below) have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
- 12.52 Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- 12.53 Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- 12.54 Variances shall only be issued upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances/resolutions.
- 12.55 Any applicant to whom a variance is granted shall be given a written notice that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

**SECTION 13 – PENALTIES FOR VIOLATION** – Violation of the provisions of this resolution or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or special exceptions) shall constitute a misdemeanor.

Any person who violates this resolution or fails to comply with any of its requirements shall upon conviction thereof be guilty of a Class III misdemeanor as provided by Nebraska Laws, Chapter 28, and in addition, shall pay all costs and expenses involved in the case. Each day such

violation continues shall be considered a separate and distinct offense. (Resolution 2-24-04 & 10-25-05)

Nothing herein contained shall prevent the County Board of Supervisors or other appropriate authority from taking such other lawful action as is necessary to prevent or remedy any violation.

Authority: Neb. Rev. Stat. Sec 23-114.05; 23-174; 23-174.10

#### AMENDMENTS TO NOVEMBER 3, 1992 FLOODPLAIN RESOLUTION

<b>Resolution Number</b>	<b>Resolution date</b>	<b>Section Affected</b>
2004-05	2/24/04	Section 4-C, D, E, F Section 12.1 Section 12.2 Section 12.3 Section 12.4 Definitions added: Appurtenant Structures Section 13 – fine \$50.00 fee for floodplain permit
2005-31	10/25/05	Section 12.3 Section 13
2010-57	9/14/10	Section 3 and adopted new FIRM maps for Buffalo County
2010-60	9/28/10	Adopted Flood Insurance Study for Buffalo County