

ORDINANCE NO.9

**REGULATIONS FOR FLOOD
DAMAGE PREVENTION**

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ORDINANCE NO.9

AN ORDINANCE OF MEADE COUNTY PROVIDING REGULATIONS FOR FLOOD DAMAGE PREVENTION. THE GOVERNING BODY OF MEADE COUNTY DOES ORDAIN AS FOLLOWS:
Revised August, 2011

ARTICLE 1

STATUATORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND OBJECTIVES

Section 1 - STATUATORY AUTHORIZATION

The legislature of the State of South Dakota has in SDCL7-18-15 delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the County Commissioners of Meade County, South Dakota does ordain as follows:

Meade County elects to comply with the requirements of the National Flood Insurance Act of 1968 (P.L. 90-488, as amended). The National Flood Insurance Program, established in the aforesaid act, provides that areas of Meade County having a special flood hazard be identified by the Federal Emergency Management Agency and that floodplain management measures be applied in such flood hazard areas. The National Flood Insurance Program was broadened and modified with the passage of the Flood Disaster Protection Act of 1973 and other legislative measures. It was further modified by the National Flood Insurance Reform Act of 1994. The National Flood Insurance Program is administered by the Federal Emergency Management Agency, a component of the U.S. Department of Homeland Security.

Section 2 - FINDINGS OF FACT

1. The flood hazard areas of Meade County are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental 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 areas of special flood hazards which increase flood heights and velocities, and when inadequately anchored, damage uses in other areas. Uses that are inadequately floodproofed, elevated or otherwise protected from damage also contribute to the flood loss.

Section 3 - 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 to specific areas by provisions designed:

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, streets and bridges located in areas of special flood hazard;
6. To help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;
7. To ensure that potential buyers are notified that property is in an area of special flood hazard; and,
8. To ensure that those who occupy the areas of special flood hazards assume responsibility for their actions.

Section 4 - METHODS OF REDUCING FLOOD LOSSES

In order to accomplish its purposes, this ordinance includes methods and provisions for:

1. Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion origin flood heights or velocities;
2. Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
3. Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;
4. Controlling filling, grading, dredging, and other development which may increase flood damage; and,
5. Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas.

ARTICLE II

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 it's most reasonable application.

ALLUVIAL FAN FLOODING - means flooding occurring on the surface of an alluvial fan or similar landform which originates at the apex and is characterized by high-velocity flows; active processes of erosion, sediment transport, and deposition; and unpredictable flow paths.

APPEAL – means a request for a review of the Administrator's interpretation of any provisions of this ordinance or a request for a variance.

APEX - means a point on an alluvial fan or similar landform below which the flow path of the major stream that formed the fan becomes unpredictable and alluvial fan flooding can occur.

AREA OF SHALLOW FLOODING - means a designated AO, AH, or VO zone on a community's Flood Insurance Rate Map (FIRM) with a one percent chance or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

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. The area may be designated as Zone A on the Flood Hazard Boundary Map (FHBM). After detailed ratemaking has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zones A, AE, AH, AO, AI-99, VO, VI-30, VE or V. This includes all engineered floodplains required by Meade County which are designated as Zone A by default.

BASE FLOOD - means the flood having a one percent chance of being equaled or exceeded in any given year.

BFE - Base Flood Elevation is the water surface elevation of the one (1) percent annual chance flood. The height in relation to mean sea level expected to be reached by the waters of the base flood at pertinent points in the floodplains of coastal and riverine areas.

BASEMENT - means any area of the building having its floor subgrade (below ground level) on three or more sides. No basements are permitted in designated, known or suspected flood plain or Special Hazard Flood Areas.

CLOMR-F - Conditional Letter of Map Revision (Based on Fill) - a letter from FEMA stating that a parcel of land or proposed structure that is to be elevated fill would not be inundated by the base flood if fill is placed on the parcel as proposed or the structure is built as proposed.

ADMINISTRATOR: Flood plain Administrator designated to implement and manage the Flood Plain Ordinance No. 9.

CRITICAL FEATURE - means an integral and readily identifiable part of a flood protection system, without which the flood protection provided by the entire system would be compromised.

CRAWL SPACE - a shallow unfinished space beneath the first floor or under the roof of a building especially for access to plumbing or wiring

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 located within the area of special flood hazard.

ELEVATED BUILDING - means a non-basement building (i) built, in the case of a building in Zones A1-30, AE, A, A99, AO, AH, B, C, X, and D, to have the top of the elevated floor, or in the case of a building in Zones VI-30, yE, or V, to have the bottom of the lowest horizontal structure member of the elevated floor elevated above the ground level by means of pilings, columns (posts and piers), or shear walls parallel to the flow of the water and (ii) adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of Zones A1-30, ikE, A, A99, AO, AH, B, C, X, and D, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters. In the case of Zones V1-30, yE, or V, "elevated building" also includes a building otherwise meeting the definition of "elevated building," even though the

lower area is enclosed by means of breakaway walls if the breakaway walls met the standards of Section 60.3(e)(5) of the National Flood Insurance Program regulations.

ELEVATION CERTIFICATE - This certificate is used only to certify building elevations. This certificate is to ensure that the elevation of the lowest floor (including basement) of all new and substantially improved buildings is one (1) foot above the Base Flood Elevation (BFE). The Certificate establishes the BFE or that the lowest floor elevation is one (1) foot above the BFE.

EXISTING CONSTRUCTION - means for the purposes of determining rates, structures for which the "start of construction" commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date. "Existing construction" may also be referred to as "existing structures."

EXISTING MANUFACTURED HOME PARK OR SUBDIVISION - means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities,

EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION - means the preparation of additional sites by the construction of facilities for servicing the lots on which the 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 - 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/or
2. The unusual and rapid accumulation or runoff of surface waters from any source.

FLOOD HAZARD BOUNDARY MAP (FHBM) - means an official map of a community, issued by the Administrator, where the boundaries of the flood, mudslide (i.e., mudflow) related erosion areas having special hazards have been designated as Zones A, M, and/or E.

FLOOD INSURANCE RATE MAP (FIRM) - means the official map on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk of premium zones applicable to the community.

FLOOD INSURANCE STUDY - means the official report provided by the Federal Emergency Management Agency that includes flood profiles, the Flood Boundary - Floodway Map and the water surface elevation of the base flood.

FLOOD PROTECTION SYSTEM - means those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the areas within a community subject to a "special flood hazard" and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

FLOOD PROOFING - means 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.

FLOOD PROOFING CERTIFICATE - Under the NFIP, non-residential buildings can be flood proofed up to or above the Base Flood Elevation (BFE). A flood proofed building is a building that has been designed and constructed to be watertight (substantially impermeable to floodwaters) below the BFE. Flood Proofing of residential buildings is not permitted under the NFIP unless FEMA has granted the community an exception for residential flood proofed basements. FEMA requires a Flood Proofing Certificate to be completed and filed.

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 (1) foot.

FLOODPLAIN OR FLOOD-PRONE AREA - means any land area susceptible to being inundated by water from any source (see definition of flooding).

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

FLOODPLAIN MANAGEMENT REGULATIONS - means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof.

HISTORIC STRUCTURE means 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 with historic reservation programs which have been approved by the Secretary of the 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.

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

LOMA – Letter of Map Amendment – a letter from FEMA stating that an existing structure or parcel of land that has not been elevated by fill (natural grade) would not be inundated by the base flood.

LOMR -A Letter of Map Revision (LOMR) is FEMA's modification to an effective Flood Insurance Rate Map (FIRM), or Flood Boundary and Floodway Map (FBFM), or both. LOMRs are generally based on the implementation of physical measures that affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective Base Flood Elevations (BFEs), or the Special Flood Hazard Area (SFHA). The LOMR officially revises the Flood Insurance Rate Map (FIRM) or Flood Boundary and Floodway Map (FBFM), and

sometimes the Flood Insurance Study (FIS) report, and when appropriate, includes a description of the modifications. The LOMR is generally accompanied by an annotated copy of the affected portions of the FIRM, FBFM, or FIS report.

LOMR-F – Letter of Map Revision (Based on Fill) – a letter from FEMA stating that an existing structure or parcel of land that has been elevated by fill would not be inundated by the base flood.

LOWEST FLOOR - means the lowest floor of the lowest enclosed area (including basement and crawl space). An unfinished or flood resistant enclosure, usable solely for parking 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 ordinance.

MANUFACTURED HOME - means 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. This term also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days.

MANUFACTURED HOME PARK OR SUBDIVISION - means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community. Manufactured homes within a designated or known/suspected floodway must be anchored to resist flotation, collapse, or lateral movement by being tied down per FEMA Guidance Rules & Regulations.

MEAN SEA LEVEL - means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (Ngvd) Of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced. NEW CONSTRUCTION - means, for the purpose 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 structures for which the "start of construction" commenced on or after the effective date of a floodplain management

NEW CONSTRUCTION - means structures for which the "start of construction" commenced on or after the effective date of this ordinance.

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

NGVD – National Geodetic Vertical Datum 1929 (Elevation Benchmark)

NIFP- National Flood Insurance Program

NO IMPACT – no change to the 100-year flood elevation, floodway elevations, or floodway widths at the new cross-sections and at all existing cross-sections anywhere in the standard step-backwater computer model.

NO-RISE CERTIFICATION - Prior to issuing any building, grading or development permits involving activities in a regulatory or known/suspected floodway, the community must obtain a certification stating the proposed development in the floodway will not impact the pre-project base flood elevations, floodway elevations, or floodway widths. The certification should be obtained from the permittee and signed and sealed by a registered Professional Engineer.

The engineering or "no-rise" certification must be supported by technical data. The supporting technical data should typically be based upon the standard step-backwater computer model utilized to develop the 100-year floodway shown on the community's effective Flood Insurance Rate Map (FIRM) or Flood Boundary and Floodway Map (FBFM) and the results tabulated in the community's Flood Insurance Study (FIS).

RECREATIONAL VEHICLE - means 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.

SPECIAL FLOOD HAZARD AREA – One percent annual chance floodplain consisting of the Stream Channel, Floodway and the Flood Fringe

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 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. 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.

STORAGE OF EQUIPMENT AND MATERIALS FOR COMMERCIAL USE is considered floodplain development and should only be done in a manner that prevents flotation, flood damage, and the release of hazardous substances.

STRUCTURE - means a walled and roofed building, including accessory structures, and a gas or liquid storage tank that is principally above ground, as well as a manufactured home, placed and installed per FEMA Guidance Rules & Regulations.

SUSPECTED FLOODWAYS – shall be determined by the Administrator or their designees.

SUBSTANTIAL DAMAGE - means damage of any origin sustained by a structure whereby the cost of restoring the structure to it's before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

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 purpose 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 to comply with existing State or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, or
2. any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

VARIANCE - is a grant of relief to a person from the requirement of this ordinance when specific enforcement would result in unnecessary hardship. A variance, therefore, permits construction or development in a manner otherwise prohibited by this ordinance. (For full requirements see Section 60.6 of the National Flood Insurance Program regulations.)

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

WATER SURFACE ELEVATION - means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

ARTICLE III

GENERAL PROVISIONS

Section 1 - LANDS TO WHICH THIS ORDINANCE APPLIES

This ordinance shall apply to all areas of special flood hazards within the jurisdiction of Meade County, South Dakota.

Section 2 - BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD

The areas of special flood hazard identified by the Federal Emergency Management Agency in a scientific and engineering report entitled, "The Flood Insurance Study for Meade County, South Dakota, including the communities City of Faith, Town of Piedmont, City of Sturgis, City of Summerset and the City of Box Elder will become effective September 16th, 2011, accompanying Flood Insurance Rate Maps (FIRM), dated September 16th, 2011 and any revisions thereto are hereby adopted by reference and declared to be a part of this ordinance.

Section 3 - COMPLIANCE

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

Section 4 - ABROGATION AND GREATER RESTRICTIONS

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

Section 5 - INTERPRETATION

In the interpretation and application of this ordinance, all provision 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 6 - 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 Meade County, any officer or employee thereof, or the Federal Emergency Management Agency for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made there under.

ARTICLE IV

ADMINISTRATION

Section 1 - ESTABLISHMENT OF DEVELOPMENT PERMIT

A development permit shall be obtained before construction or development begins within any area of special flood hazard established in Article III, Section 2 or any Engineered Floodplain within the county. Application for a Flood Plain Development Permit shall be made on forms furnished by the Administrator (Meade County) and may include, but not be limited to:

Plans in duplicate drawn to scale, showing the natural location, dimensions, and elevations of the area in question; existing or proposed structures, including the placement of manufactured homes, fill, storage of materials, drainage facilities; and the location of the foregoing. Specifically, the following information is required:

1. Elevation in relation to mean sea level of the lowest floor (including basement) of all structures; Elevation Certificate is required to be completed if in a FEMA designated or known Flood Zone Area.
 - a. A Registered Surveyor must establish an elevation on site before a building permit is issued in a SFHA or Engineered Floodplain Area.
 - b. The Registered Land Surveyor must verify the correct "build to" elevation of the complete foundation before structural framing begins.
 - c. The Registered Land Surveyor must complete the Elevation Certificate and it must be turned in and approved before a Certificate of Occupancy is issued and/or final inspection.
2. Elevation in relation to mean sea level to which any structure has been flood-proofed; Floodproofing Certificate is required to be completed if in a FEMA designated or known Flood Zone Area.

3. Elevation and Floodproofing Certificate must be completed by a registered land surveyor, professional engineer or architect (qualified per FEMA) stating that the flood-proofing methods for any non-residential structure meet the flood-proofing criteria in Article V, Section 2, 2.2, and

4. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development including the placement of fill in the Flood Zone Area, except Approximate A Zone, a No-Rise Certification must be completed by a Registered Professional Engineer along with all supporting technical data, all submitted to the Flood Plain Administrator in the Equalization and Planning Department.

5. Maintain a record of all such information.

6. The Application Fee for the Flood Plain Development Permit shall be set by Resolution of the Meade County Commission.

Approval or denial of a Development Permit by the Floodplain Administrator shall be based on all of the provisions of this ordinance and the following relevant factors:

1. The danger to life and property due to flooding or erosion damage;
2. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
3. The danger that materials may be swept onto other lands to the injury of others;
4. The compatibility of the proposed use with existing and anticipated development;
5. The safety of access to the property in times of flood for ordinary and emergency vehicles;
6. The costs of providing governmental services during and after flood conditions including maintenance and repair of streets and bridges, and public utilities and facilities such as sewer, gas, electrical and water systems;
7. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site;
8. The necessity to the facility of a waterfront location, where applicable;
9. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
10. The relationship of the proposed use to the comprehensive plan for that area.

Section 2 - DESIGNATION OF THE ADMINISTRATOR

The Deputy Planning Director is hereby appointed as the Meade County Floodplain Administrator, to administer and implement the provisions of this ordinance and other appropriate sections of 44 CFR (National Flood Insurance Program Regulations) pertaining to floodplain management.

Section 3 - DUTIES AND RESPONSIBILITIES OF THE ADMINISTRATOR OR DESIGNEES

Duties of the Administrator or designees shall include, but not be limited to:

3.1 Permit Review

1. Review all development permits Elevation Certificates, Floodproofing Certificate and No-Rise Certifications; to determine that the permit or certificate requirements of this ordinance have been satisfied.
2. Review all development permits and certificates to determine that all necessary permits and certificates have been obtained from Federal, State, or local governmental agencies from which prior approval is required.

3. Review all development permits to determine if the proposed development is located in the floodway. If located in the floodway, assure that the encroachment provisions of Article V, Section 3.1 and required completion of all certifications are met.

4. When a regulatory floodway has not been designated, the Floodplain Administrator must require that no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30 and AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

5. Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Program regulations, a community may approve certain development in Zones A1-30, AE, AH, on the community's FIRM which increases the water surface elevation of the base flood by more than one foot, provided that the community **first** applies for a conditional FIRM revision through FEMA (Conditional Letter of Map Revision).

6. Review, approve or deny all applications for development permits required by adoption of this ordinance.

3.2 Use of Other Base Flood Data

When base flood elevation data has not been provided in accordance with Article III, Section 2, BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD, the Administrator or designees shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from any Federal, State, or other source as criteria for requiring that new construction, "substantial improvements", or other development in Zone A or known/suspected Special Flood Hazard Areas are administered in accordance with Article V, Section 2 SPECIFIC STANDARDS.

3.3 Information to be Obtained and Maintained

1. Obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement.

a. Elevation Certificate will be required to be completed and sealed by a land surveyor or engineer; see instruction sheet on form or FEMA Regulations for details on completion of form.

b. When building or placing a structure on fill in floodway or Special Flood Hazard Area, except an Approximate A Zone, a No-Rise Certification is required; see instruction sheet on form or FEMA Regulations for details on completion of form.

2. For all new or substantially improved flood-proofed structures:

a. Verify and record the actual elevation (in relation to mean sea-level) to which the structure is flood-proofed, Flood Proofing Certification is required.

b. Maintain the Flood-proofing certifications required in Article IV, Section 1.3.

3. Maintain for public inspection all records pertaining to the provisions of this ordinance.

3.4 Alteration of Watercourses

1. Notify the Meade County Equalization and Planning Office, adjacent communities, the State FEMA office, and the South Dakota DENR prior to any alteration or relocation of a watercourse and submit evidence of such notification to the Federal Emergency Management Agency.
2. Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.

3.5 Interpretation of FIRM Boundaries.

Make interpretations, where needed, as to the exact location of the boundaries of the areas of special flood hazards. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Article IV, Section 4.

Section 4 - VARIANCE PROCEDURE

4.1 Appeal Board

1. The Planning Commission, as established by the Meade County Commissioners shall hear and decide appeals and request for variances from the requirements of this ordinance.
2. The Planning Commission shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Administrator or designees in the enforcement or administration of this ordinance.
3. Those aggrieved by the decision of the Planning Commission, or Meade County property owner, may appeal such decisions to the Governing Board of Commissioners, and then may appeal further to the Circuit Court, as provided in SDCL7-8-27.
4. In passing upon such applications, the Planning Commission shall consider all technical evaluations, all relevant factors, standards specified in other sections of this ordinance, and:
 - a. the danger that materials may be swept onto other lands to the injury of others;
 - b. the danger to life and property due to flooding or erosion damage;
 - c. the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners;
 - d. the importance of the services provided by the proposed facility to the community;
 - e. the necessity to the facility of a waterfront location, where applicable;
 - f. the availability of alternative locations for the proposed use which are not subject to flooding or erosion

damage;

g. the compatibility of the proposed use with the existing and anticipated development;

h. the relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

i. the safety of access to the property in times of flood for ordinary and emergency vehicles;

j. the expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effect of wave action, if applicable, expected at the site; and

k. the costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, streets, and bridges.

5. Upon consideration of the factors of Article IV, Section 4, 4.1, (subpart 4) and the purposes of this ordinance, the Planning Commission may attach such conditions to the granting of variances as deems necessary to further the purposes of this ordinance.

6. The Administrator or designees shall maintain the records of all appeal actions, including technical information, and report any variances to the Federal Emergency Management Agency.

4.2 Conditions for Variances

1. 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 level providing items a - k in Article IV, Section 4, 4.1,(subpart 4) has been fully considered. As the lot size increases beyond one-half acre, the technical justifications required for issuing the variance increases.

2. Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Registry of Historic Places or the State Inventory of Historic Places without regard to the procedures set forth in the remainder of this section.

3. Variances shall not be issued within any designated floodway if any increase in flood discharge would result.

4. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

5. Variances shall only be issued upon:

a. a showing of good and sufficient cause;

b. a determination that failure to grant the variance would result in exceptional hardship to the applicant; and

c. 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 as identified in Article IV, Section 4, 4.1, (subpart 4) or conflict with existing local laws or ordinances.

6. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk from the reduced lowest floor elevation.

4.3 CLOMR required only when;

1. BFE/no floodway (demonstrate <1.0 ft increase)

- a. A project on a stream or river that has been studied through detailed hydrologic and hydraulic analyses and for which Base Flood Elevations (BFEs) have been specified, **but a floodway has not been designated**. If the developer/property owner/community proposes to allow development that would result in more than a 1.0-foot increase in the BFE, a CLOMR must first be obtained;
- b. 44 CFR 60.3 (c)(10): Result in an increase in the base flood water-surface elevation (WSEL) of greater than 1.00 foot for streams with BFEs specified but no regulatory floodway designated.

2. BFE/floodway (no-rise)

- a. The second situation requiring a CLOMR is for a project on a stream or river for which detailed analyses have been conducted and BFEs and a floodway have been designated. If the community proposes to allow development totally or partially within the floodway that would result in any (greater than 0.0 foot) increase in the BFE, a CLOMR must be obtained;
- b. 44 CFR 60.3 (d)(3): Result in any base flood WSEL increase from proposed construction within a regulatory floodway.

4.4 LOMRs are required under 44 CFR 65.3;

- a. A community's base flood elevations may increase or decrease resulting from physical changes affecting flooding conditions. As soon as practicable, but not later than six months after the date such information becomes available, a community shall notify the Administrator of the changes by submitting technical or scientific data in accordance with this part. Such a submission is necessary so that upon confirmation of those physical changes affecting flooding conditions, risk premium rates and flood plain management requirements will be based upon current data.

ARTICLE V
PROVISIONS FOR FLOOD HAZARD REDUCTION

Section 1 - GENERAL STANDARDS

In all areas of special flood hazards, the following standards are required:

1.1 Anchoring

1. All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure and capable of resisting the hydrostatic and hydrodynamic loads.
2. All manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement and capable of resisting the hydrostatic and hydrodynamic loads. Methods of anchoring may include but are not 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.

Specific requirements may be:

- a. over-the-top ties be provided at each of the four corners of the manufactured home, with two additional ties per side at intermediate locations, with manufacture homes less than 50 feet long requiring one additional tie per side.
- b. frame ties be provided at each corner of the home with five additional ties per side at intermediate points, with manufactured homes less than 50 feet long requiring four additional ties per side;
- c. all components of the anchoring system be capable of carrying a force of 4,800 pounds and,
- d. any additions to the manufactured home are to be similarly anchored.
- e. Helical Ground Anchors and other requirements must be met per FEMA Guidance Rules and Regulations.

1.2 Construction Materials and Methods

1. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
2. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.
3. All new construction and substantial improvements shall 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.

1.3 Utilities

1. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
2. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters in the systems and discharge from the systems into flood waters; and,
3. On-site waste disposal systems shall be located to avoid impairment to them or contamination during flooding.
4. If applicable, utilities must be anchored or placed according to FEMA Guidance Rules and Regulations.

1.4 Subdivision Proposals

1. All subdivision proposals, including the placement of manufactured home parks and subdivisions, shall be consistent with the need to minimize flood damage;
2. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;
3. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and,
4. Base flood elevation data shall be provided for subdivision proposals and other proposed development which contain at least 4 lots or 5 acres (whichever is less), or which are in a known/suspected Special Flood Hazard Area.

Section 2 - SPECIFIC STANDARDS

In all areas of special flood hazards where base flood elevation data has been provided as set forth in Article III, Section 2, BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD or Article IV, Section 3, 3.2, Use of Other Base Flood Data, the following provisions are required:

2.1 Residential Construction

1. New construction and substantial improvement of any residential structure shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation. A registered professional engineer, architect, or land surveyor shall submit a certification to the Floodplain Administrator that the standards of this ordinance are satisfied.

2.2 Nonresidential Construction

New construction and substantial improvement of any commercial, industrial, or other nonresidential structure shall either have the lowest floor (including basement) elevated to at least one foot above the base flood elevation; or, together with attendant utility and sanitary facilities, shall:

1. be flood-proofed so that below the base flood elevation the structure is watertight with walls substantially

impermeable to the passage of water;

2. have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and

3. be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this paragraph. Such certifications shall be provided to the officials as set forth in Article IV, Section 3, 3.2.

2.3 Enclosures

New construction and substantial improvements, with fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which 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 or meet or exceed the following minimum criteria:

- a) 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.
- b) The bottom of all openings shall be no higher than one foot above grade.
- c) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

2.4. Recreational Vehicles

Require that recreational vehicles placed on sites within Zones A, A1-30, AH, and AE on the community's FIRM either:

- a) be on the site for fewer than 180 consecutive days,
- b) be fully licensed and ready for highway use, or
- c) meet the permit requirements of Article IV, Section C, and the elevation and anchoring requirements for "manufactured homes" of this section. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.

2.5 Manufactured Homes

1. Manufactured homes shall be anchored in accordance with Article V, Section 1, 1.1 and FEMA Guidance Rules and Regulations.

2. All manufactured homes or those to be substantially improved shall be elevated on a permanent foundation such that lowest floor of the manufactured home is at least one foot above base flood elevation and is securely anchored to an anchored foundation system. This paragraph applies to manufactured homes to be placed or substantially improved an expansion to an existing manufactured home park or subdivision. This paragraph does not apply to

manufactured homes to be placed or substantially improved in an existing manufactured home park or subdivision except where the repair, reconstruction, or improvement of the streets, utility pads equals or exceeds 50 percent of the value of streets, utilities and pads before the repair, reconstruction improvement has commenced.

2.6 Equipment and Materials for Commercial Use

1. Equipment and materials should be anchored to prevent flotation. The County may require a technical analysis, by a licensed professional engineer, demonstrating that the proposed project would not result in physical damage to any other property. For any storage in a floodway, all permitting requirements outlined in this ordinance including a no-rise analysis for floodway encroachment applies.

Section 3 - FLOODWAYS

Located within areas of special flood hazard established in Article III Section 2, are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

1. Prohibit encroachments, including fill, new construction, substantial improvements, and other development within the adopted regulatory floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood and certifications by a registered professional engineer, land surveyor, or architect are provided and approved by the Administrator and/or designees.
2. If Article V, Section 3, 1 is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Article V, PROVISIONS FOR FLOOD HAZARD REDUCTION.
3. Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Regulations, a community may permit encroachments within the adopted regulatory floodway that would result in an increase in base flood elevations, provided that the community first applies for a conditional FIRM and floodway revision through FEMA.

ARTICLE VI

PENALTIES FOR VIOLATION OF ORDINANCE NO. 9

1. Violation of this ordinance may be punishable by thirty days imprisonment in a county jail or five hundred dollars fine, or both; each day in violation may be deemed a separate offense.
2. The provisions of this ordinance shall be administered and enforced by a County Ordinance Enforcement Officer appointed by the Meade County Board of County Commissioners, who shall have the power to make inspections of buildings or premises necessary to carry out his duties in enforcement of the ordinance;
3. The County Ordinance Enforcement Officer shall have the power to appoint deputies to assist in his duties, such deputies to be approved by the Meade County Board of County Commissioners;

4. The County Ordinance Enforcement Officer, and any deputies appointed, shall have authority to issue an ordinance violation notice which shall specify, in addition to other information as discretion of such officer, the following

- (a) the date of violation;
- (b) the nature of violation;
- (c) the amount of fine associated with the violation;
- (d) the date the individual is required to appear in court unless the designated fine is paid prior thereto; and
- (e) the signature, or noted refusal to sign, of the violator.

5. An ordinance violation notice issues under authority of this ordinance shall be enforced as a civil proceeding before a magistrate court.

6. Violations of this ordinance may also be subject to an action for injunctive relief brought by Meade County.

ARTICLE VII

SEVERABILITY AND SEPARABILITY

Should any Article, Section, Sub-section or Provision of the Flood Ordinance be declared by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of the Flood Ordinance as a whole or any part thereof other than the part so declared to be invalid or unconstitutional.

ARTICLE VIII

EFFECTIVE DATE

Section 1

Whereas, this Ordinance is necessary to promote the public health safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas this Ordinance and the adopted revisions shall be full force and in effect-after the Effective Date, revision adopted on 9/26, 2018.

Revision dated at Sturgis, South Dakota, this 26 day of Sept, 2018;

Chairman Galen Niederwerder: Galen Niederwerder
Meade County Commission

Attested: Lisa Schieffer
Lisa Schieffer Meade County Auditor



SEPTEMBER, 2011 - REVISION OF ORDINANCE NO 9

Date of First Reading: August 2nd, 2011

Date of Second Reading: September 6th, 2011

Adopted: September 6th, 2011

Date of Publication: September 14th & 21st, 2011

Effective Date: October 11th, 2011 **OFFICIAL COPY**

Previous Revision – February, 2009

OCTOBER, 2018 - REVISION OF ORDINANCE NO 9

Public Hearing by Planning Commission – Adopted May 14th by the Planning Commission

Date of First Reading: August 22, 2018

Date of Second Reading: September 26, 2018

Adopted: September 26, 2018

Date of Publication: October 10 & 17, 2018

Effective Date: November 6, 2018 **OFFICIAL COPY**