

AN ORDINANCE TO AMEND THE TOWN OF GREENWOOD
FLOOD PLAIN AREA

WHEREAS, a Public Hearing was held on May 10, 1995, pursuant to statutory notice to consider amending The Town of Greenwood Flood Plain Area Ordinance; and

NOW THEREFORE, BE IT ORDAINED by the Town of Greenwood, that the Flood Plain Area Ordinance, as amended, be and the same is hereby further amended by striking out all of said ARTICLE VI, Section 1, Subsection B and substituting in lieu thereof a new Subsection B to read as follows:

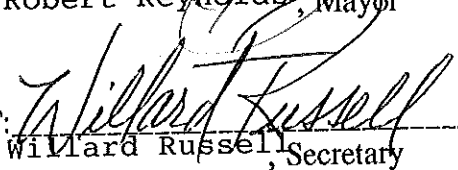
B. Manufactured Home Placement.

- (1) Manufactured homes to be placed or substantially improved within any flood plain area shall:
 - (a) be elevated on a permanent foundation so that the lowest floor of the manufactured home is elevated to or above the Base Flood Elevation; and
 - (b) be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

Approved this 6th day of June, 1995.

LAW OFFICES
TUNNELL & RAYSON, P.A.
GEORGETOWN, DEL.


Robert Reynolds, Mayor

ATTEST:  (SEAL)
Willard Russell, Secretary

ORDINANCE NO. C-3

AN ORDINANCE ESTABLISHING A FLOOD PLAIN AREA,
ESTABLISHING ALL REGULATIONS FOR CONSTRUCTION
IN THE FLOOD PLAIN AREA AND PROVIDING PENALTIES
FOR VIOLATION THEREOF.

BE IT ORDAINED by the Town Council of The Town of
Greenwood, in Council met, in the manner following, to wit:

ARTICLE I

GENERAL PROVISIONS

Section 1. Purpose.

The purpose of this Ordinance is:

- (1) To promote the general health, welfare and safety of the community.
- (2) To encourage the utilization of appropriate construction practices in order to prevent or minimize flood damage in the future.
- (3) To minimize danger to public health and safety by protecting water supply, sanitary sewage disposal, and natural drainage.
- (4) To reduce financial burdens imposed on the community, its governmental units and its residents, by preventing the unwise design and construction of development in areas subject to flooding.

Section 2. Repeal.

Any Ordinance inconsistent with the provisions hereof be and the same is hereby repealed to the extent of any inconsistency.

Section 3. Applicability.

It shall be unlawful for any person, to undertake or cause to be undertaken, any development or the new construction, substantial improvement, the placement or relocation of any structure, including manufactured homes, within the Flood Plain Area, unless a permit has been obtained from the Code Enforcement Officer. In addition, where land is to be subdivided, utilized for a manufactured home park or subdivision or otherwise developed, a site plan must be submitted to, and approved by, the Code Enforcement Officer prior to any development.

ARTICLE II

DEFINITIONS

(1) Base Flood.

The flood which has been selected to serve as the basis upon which the flood plain management provisions of this and other ordinances have been prepared; for purposes of this Ordinance, the one-hundred (100) year flood.

(2) Basement.

Any area of the building having its floor subgrade (below ground level) on all sides.

(3) 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.

(4) Existing Manufactured Home Park or Subdivision.

A manufactured home park or subdivision for which the construction of facilities for servicing the lot on which the manufactured homes are to be affixed, including, at a minimum, the installation of utilities, the construction of streets, and either a final site grading or the pouring of concrete pads, is completed before the effective date of this Ordinance.

(5) Expansion To An Existing Manufactured Home Park or Subdivision.

The preparation of additional sites by the construction of facilities for servicing the lot 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.

(6) Flood.

A general and temporary inundation of normally dry land areas.

(7) **Floodway.**

The channel of a river or other watercourse and the adjacent land area that must be reserved to discharge the base flood without increasing the water surface elevation of that flood more than one (1) foot at any point.

(8) **Floodproofing.**

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.

(9) **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 with historic preservation 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 Secretary of the Interior; or,
 - (2) Directly by the Secretary of the Interior in states without approved programs.

(10) **Lowest Floor.**

The lowest floor of the lowest enclosed area, 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 Ordinance.

(11) Manufactured Home.

A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

(12) Manufactured Home Park or Subdivision.

A parcel, or contiguous parcels, of land divided into two or more manufactured home lots for rent or sale.

(13) New Construction.

Structures for which the Start of Construction as herein defined commenced on or after the effective date of this Ordinance and includes and subsequent improvements to such structures.

(14) New Manufacture 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 this Ordinance.

(15) One-Hundred (100) Year Flood.

A flood that has one chance in one-hundred or a one percent chance of being equaled or exceeded in any given year.

(16) Person.

Any natural person or group of natural persons, corporation, partnership, association or other entity, including State and local governments and agencies.

(17) Principally Above Ground.

Where at least 51 percent of the actual cash value of a structure, less land value, is located above ground.

(18) Recreational Vehicle.

A vehicle which is: (a) built on a single chassis; (b) contains 400 square feet or less when measured at the largest horizontal projection; (c) designed to be self-propelled or permanently towable by a light duty truck; and (d) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

(19) Start of Construction.

For other than new construction or substantial improvements under the Coastal Barrier Resources Act, Pub Law 97-348, includes substantial improvements, 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 or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. 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.

(20) **Structure.**

A walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

(21) **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.

(22) **Substantial Improvement.**

Any repair, 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", as defined herein, regardless of the actual repair work performed. The term does not, however, include either:

- (a) Any project for improvement of a structure to correct existing violations of a state or local health, sanitary or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or

- (b) Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure."

ARTICLE III

ESTABLISHMENT OF THE FLOOD PLAIN AREA

Section 1. Identification.

The identified floodplain area shall be those areas of The Town of Greenwood, which are subject to the one hundred (100) year flood, as shown on the Flood Insurance Rate Map (FIRM) and described in the Flood Insurance Study (FIS) prepared for the Town by the Federal Emergency Management Agency (FEMA) dated January 16, 1981, or the most recent revision thereof.

Section 2. Description of Flood Plain Areas.

The identified floodplain areas shall consist of the following two (2) specific areas:

- (1) The AE Area shall be those areas identified as an AE Zone on the FIRM included in the FIS prepared by FEMA and for which one hundred (100) year flood elevations have been provided in the FIS.

- (2) The A Area shall be those areas identified as an A Zone on the FIRM included in the FIS prepared by FEMA and for which no one hundred (100) year flood elevations have been provided. For these areas, elevation and floodway information from Federal, State or other acceptable source shall be used when available. Where other acceptable information is not available, the elevation shall be determined by using the elevation of a point on the boundary of the identified floodplain area which is nearest the construction site. The Code Enforcement Officer may require the applicant to determine the elevation with hydrologic and hydraulic engineering techniques. Hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently accepted technical concepts. Studies, analyses, computations, and other data, shall be submitted in sufficient detail to allow a thorough technical review.

Section 3. Changes in Designation of Area.

The delineation of the identified flood plain area may be revised where natural or man-made changes have occurred or more detailed studies conducted or undertaken by the U.S. Army Corps of Engineers, a River Basin Commission or other qualified agency or individual document the necessity for such changes. However, prior to any such change, approval must be obtained from the Federal Insurance Administration (FIA).

Section 4. Boundary Disputes.

Should a dispute concerning any district boundary arise, an initial determination shall be made by the Code Enforcement Officer and any party aggrieved by this decision may appeal to the Board of Adjustment. The burden of proof shall be on the appellant.

ARTICLE IV

UTILIZATION OF THE FLOODPLAIN AREA

- (1) In the Floodplain Area any development or use of land may be permitted provided that all such uses, activities, or development shall be undertaken in strict compliance with the floodproofing and related provisions contained herein and in all other applicable codes, ordinances and regulations.

- (2) Within any floodway area, no encroachments, including fill, new construction, substantial improvements, or other development shall be permitted unless it has been demonstrated through hydrologic and hydraulic analysis performed in accordance with standard engineering practice that the proposed encroachment will not result in any increase in the Base Flood Elevation.
- (3) Within any AE Area, no new construction or development shall be allowed 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 elevation of the one hundred (100) year flood more than one (1) foot at any point. This requirement can be satisfied by utilization of the floodway area where determined.
- (4) Whenever a developer intends to alter or relocate a watercourse within the Floodplain Area, the developer shall notify in writing by certified mail all adjacent communities and the State Coordinating Office of all such intended activities prior to any alteration or relocation of the watercourse, and shall submit copies of such notification to the

Federal Insurance Administrator. The developer shall also assure the Code Enforcement Officer in writing that the flood carrying capacity within the altered or relocated portion of the watercourse in question will be maintained.

ARTICLE V

CRITERIA FOR BUILDING AND SITE PLAN APPROVAL

Section 1. General.

Building Permits are required in order to determine whether new construction or substantial improvements are:

- (1) designed or are to be 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.
- (2) constructed with materials and utility equipment resistant to flood damage.
- (3) constructed by methods and practices that minimize flood damage.
- (4) constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

Section 2. Basic Format.

The basic format of the Building Permit shall include the following:

- (1) Name and address of applicant.
- (2) Name and address of owner of land on which proposed construction is to occur.
- (3) Name and address of contractor.
- (4) Site location.
- (5) Brief description of proposed work and estimated cost.
- (6) A plan of the site showing the exact size and location of the proposed construction as well as any existing buildings or structures.

Section 3. Elevation and Floodproofing Information.

Depending on the type of structure involved, the following information shall also be included in the application for work within the Flood Plan Area:

A. For structures to be elevated to the Base Flood Elevation:

- (1) a plan showing the size of the proposed structure and its relating to the lot where it is to be constructed.

- (2) a determination of elevations of the existing ground, proposed finished ground and lowest floor, certified by a Registered Professional Engineer, Surveyor or Architect.
- (3) plans showing the method of elevating the proposed structure, includes details of proposed fills, pile structures, retaining walls, foundations, erosion protection measures, and other data. When required by the Code Enforcement Officer, these plans shall be prepared by a Registered Professional Engineer or Architect.
- (4) plans showing the methods used to protect utilities, including, sewer, water, telephone, electric, gas, and other utilities, from flooding to the Base Flood Elevation at the building site.

B. For nonresidential structures to be floodproofed to the Base Flood Elevation:

- (1) plans showing details of all floodproofing measures, prepared by a Registered Professional Engineer or Architect, and showing the size of the proposed structure and its relating to the lot where it is to be constructed.

- (2) a determination of elevations of existing ground, proposed finished ground, lowest floor, and floodproofing limits; certified by a Registered Professional Engineer, Surveyor or Architect.
- (3) a certificate prepared by the registered Professional Engineer or Architect who prepared the plans in (1) above, that the structure in question, together with attendant utility and sanitary facilities is designed so that:
 - (a) below the Base Flood Elevation the structure is watertight with walls substantially impermeable to the passage of water.
 - (b) the structure will withstand the hydrostatic, hydrodynamic, buoyant, impact, and other forces resulting from the flood depths, velocities, pressures and other factors associated with the Base Flood.

Section 4. Site Plan Criteria.

The owner or developer of any proposed subdivision, manufactured home park or subdivision or other development shall submit a site plan to the Code Enforcement Officer which includes the following information:

- (1) Name of engineer, surveyor, or other qualified person responsible for providing the information required in this Section.
- (2) A map showing the location of the proposed subdivision or development with respect to the municipality's flood plain areas, proposed lots and sites, fills, flood or erosion protective facilities and areas subject to special deed restriction. In addition, it is required that all subdivision proposals and other proposed new developments greater than fifty (50) lots or five (5) acres, whichever is the lesser, shall include base flood elevation data.
- (3) Where the subdivision or development lies partially or completely in the flood plain areas, the plan map shall include detailed information giving the location and elevation of proposed roads, public utilities and building sites. All such maps shall

also show contours at intervals of two (2) or five (5) feet depending upon the slope of the land and identify accurately the boundaries of the flood plain areas.

ARTICLE VI

SPECIAL REQUIREMENTS

Section 1. Design and Construction Standards.

In order to prevent excessive damage to buildings, structures and related utilities and facilities, the following restrictions apply to all development, subdivision proposals, manufactured home parks, new construction and to construction of substantial improvements to existing structures occurring in the Flood Plain Area.

A. Basements and Lowest Floors.

- (1) All new construction and substantial improvements of residential structures must have the ~~the~~ lowest floor, including basements, elevated to or above the Base Flood Elevation.
- (2) All new construction and substantial improvements of nonresidential structures must have the ~~the~~ lowest floor, including basements, elevated to or above the Base Flood Elevation; or, together with attendant utility and

sanitary facilities, be designed so that below the Base Flood Elevation the structure is floodproofed in accordance with Section 3B, ARTICLE V, of this Ordinance.

- (3) For all new construction and substantial improvements, those 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 (2) openings having a total net area of not less than one (1) 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 (1) 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.

B. Manufactured Home Placement.

(1) Manufactured homes to be placed or substantially improved within any floodplain area] on sites (a) outside a manufactured home park or subdivision; (b) in a new manufactured home park or subdivision; (c) in an expansion to an existing manufactured home park or subdivision; or (d) in an existing manufactured home park or subdivision in which a manufactured home has incurred "substantial damage", as defined herein, as the result of a flood] shall:

- Structural Components of*
- (a) be elevated on a permanent foundation so that the lowest floor of the manufactured home is elevated to or above the Base Flood Elevation; and
 - (b) be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

→ (2) Manufactured homes to be placed or substantially improved within any floodplain area in an existing manufactured home park or subdivision and not subject to the provisions of the Paragraph above shall be elevated so that either:

(a) the ~~the~~ lowest floor of the manufactured home is at or above the Base Flood Elevation; or

(b) the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than thirty-six (36) inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement. ←

C. Recreational Vehicle Placement.

(1) Recreational vehicles to be placed within floodplain area shall either: (a) be on the site for fewer than one hundred eighty (180) consecutive days in any calendar year; and (b) be fully licensed and ready for highway use or

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GEORGETOWN, DEL.

meet the provisions of Subsection (1), Section 1B, ARTICLE VI 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 utilities and security devices, and has no permanently attached additions.

D. Fill.

If fill is used to raise the finished surfaces of the lowest floor to the Base Flood Elevation:

(1) Fill shall extend beyond a structure for a sufficient distance to provide acceptable access. For residential structures, fill shall extend laterally fifteen (15) feet beyond the building line from all points. For non-residential structures, fill shall be placed to provide access acceptable for intended use. At-grade access, with fill extending laterally fifteen (15) feet beyond the building line, shall be provided to a minimum of twenty-five percent (25%) of the perimeter of a non-residential structure.

(2) Fill shall consist of soil or rock materials only. Sanitary land fills shall not be permitted.

- (3) Fill materials shall be compacted to provide the necessary stability and resistance to erosion, scouring, or settling.
- (4) Fill slopes shall be no steeper than one (1) vertical or two (2) horizontal, unless substantiating data justifying steeper slopes are submitted to and approved by the Code Enforcement Officer.
- (5) Fill shall be used only to the extent to which it does not adversely affect adjacent properties.

E. Placement of Buildings.

- (1) All buildings and structures shall be constructed and placed on the lot so as to offer the minimum obstruction to the flow of water and shall be designed to have a minimum obstruction effect upon the flow and height of flood water.

F. Anchoring.

- (1) All buildings and structures shall be firmly anchored in accordance with accepted engineering practices to prevent flotation, collapse, and lateral movement, thus reducing the threat to life and property and decreasing

the possibility of the blockage of bridge openings and other restricted sections of the watercourse.

- (2) All air ducts, large pipes and storage tanks located at or below the Base Flood Elevation shall be firmly anchored to resist flotation.
- (3) All manufactured homes shall be anchored to resist flotation, collapse or lateral movement. Methods of anchoring may include, but not limited to, the over-the-top and frame ties to ground anchors such as the following:
 - (a) over-the-top ties shall be provided at each of the four (4) corners of the manufactured home, with two (2) additional ties per side for manufactured homes less than fifty (50) feet long.
 - (b) frame ties shall be provided at each corner of the home with five (5) additional ties per side at intermediate points, with manufactured homes less than fifty (50) feet long requiring four (4) additional ties per side.

(c) all components of the anchoring system shall be capable of carrying a force of four thousand eight hundred (4,800) pounds.

(d) any additions to a manufactured home shall be similarly anchored.

This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.

G. Storage.

No materials that are buoyant, flammable, explosive, or in times of flooding could be injurious to human, animal or plant life, shall be stored below Base Flood Elevation.

H. Utility and Facility Requirements.

(1) All new or replacement water systems, whether public or private, shall be designed to minimize or eliminate infiltration of flood waters into the systems.

(2) All new or replacement sanitary disposal systems, whether public or private, shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.

(3) All other new or replacement public or private utilities and facilities shall be located and constructed to minimize or eliminate flood damage.

(4) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

I. Drainage.

Adequate drainage shall be provided to reduce exposure to flood hazard.

ARTICLE VII

ADMINISTRATION

Section 1. Building Permits and Site Plan Approvals Required.

It shall be unlawful for any person to undertake or cause to be undertaken, any development or the new construction, substantial improvement, the placement or relocation of any structure, including manufactured homes, within the Flood Plain Area, unless a permit has been obtained from the Code Enforcement Officer. In addition, where land is to be subdivided, utilized for a manufactured home park or subdivision or otherwise developed, a site plan must be submitted to, and approved by, the Code Enforcement Officer prior to any development.

Section 2. Approval of Permits and Plans.

All permits and plans shall be approved only after it has been determined that the proposed work to be undertaken will be in conformance with the requirements and all applicable codes and ordinances of The Town.

The Code Enforcement Officer shall require copies of all necessary permits obtained from governmental agencies from which approval is required by Federal and State Law to be submitted to him.

A copy of all copies shall be kept by the Code Enforcement Officer.

Section 3. Application Procedures.

Application for a building permit and site plan approvals shall be made in writing to the Code Enforcement Officer, and shall include all information required under ARTICLE V of this Ordinance.

Section 4. Changes.

After the issuance of a building permit or site plan approval by the Code Enforcement Officer, no changes of any kind shall be made to the application, permit, or any of the plans, specifications or other documents submitted with the application without the written consent or approval of the Code Enforcement Officer.

Section 5. Placards.

In addition to the building permit, the Code Enforcement Officer shall issue a placard which shall be displayed on the premises during the time construction is in progress. This placard shall show the number of the building permit, the date of its issuance and be signed by the Code Enforcement Officer.

Section 6. Start of Construction.

Work on the proposed construction shall begin within six (6) months after the date of issuance of the building permit or the permit shall expire unless a time extension is granted, in writing, by the Code Enforcement Officer.

Section 7. Inspection and Revocation.

During the construction period, the Code Enforcement Officer or his designated representative may inspect the premises to determine that the work is progressing in compliance with the information provided on the permit application and with all applicable laws and ordinances. In the event the Code Enforcement officer discovers that the work does not comply with the permit application or any applicable laws and ordinances or that there has been false statement or misrepresentation by an applicant, the Code Enforcement officer shall revoke the building permit and report such fact to the Town Council for whatever action is considered necessary.

Section 8. Fees.

Application for a building permit shall be accompanied by a fee, established from time to time by the Town Council and based on the estimated cost of construction as determined by the Code Enforcement Officer.

ARTICLE VIII

APPEALS AND PENALTIES

Section 1. Appeals.

Whenever any person is aggrieved by a decision of the Code Enforcement Office with respect to the provision of this Ordinance, it is the right of that person to appeal to the Board of Adjustment. Such appeal must be filed, in writing, within thirty (30) days after the determination by the Code Enforcement officer. Upon receipt of such appeal, the Appeals Authority shall set a time and place not less than ten (10) nor more than thirty (30) days for the purpose of hearing the appeal. Notice of the time and place of the hearing shall be given to all parties at which time they may appear and be heard. The determination by the Appeals Authority shall be final in all cases.

Section 2. Appeal Review Criteria.

All decisions on appeals shall comply to the following criteria:

- (1) No decision of a Code Enforcement Officer shall be overturned by the Board of Adjustment unless the Appellant shows (i) a good and sufficient cause, (ii) a determination that failure to grant the appeal would result in unnecessary hardship to the applicant; and (iii) a determination that the granting of an appeal 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 ordinance.
- (2) Any decision shall be issued only upon determination that it is the minimum necessary, considering the flood hazard, to afford relief.
- (3) Any decision shall 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.

- (4) The Board of Adjustment shall notify the applicant in writing that (i) the issuance of a decision to allow construction of a structure below the Base Flood Elevation will result in increased premium rates for flood insurance, (ii) such construction below the Base Flood Elevation increases risk to life and property. Such notifications shall be maintained with a record of all decisions as required in Paragraph 4 of this Section; and
- (5) The Board of Adjustment shall (i) maintain a record of all decisions including justification for their issuance, and (ii) report such decisions issued in its biennial report submitted to the Federal Insurance Administration.
- (6) No decision shall be granted for any construction, development, use or activity within any floodway area that would cause any increase in the Base Flood Elevation.

Section 3. Penalties.

Any person who fails to comply with any or all of the requirements or provisions of this Ordinance shall be deemed guilty of a misdemeanor and, upon conviction, shall pay a

fine of not less than Fifty Dollars (\$50.00) nor more than Two Hundred Dollars (\$200.00), and shall pay the costs of prosecution. Each day during which any violation of this Ordinance continues shall constitute a separate offense. In addition to the above penalties, all other actions are hereby reserved including an action in equity for the proper enforcement of this Ordinance. The imposition of a fine or penalty for any violation of, or non-compliance with, this Ordinance shall not excuse the violation or non-compliance with this Ordinance or permit it to continue; and all such persons shall be required to correct or remedy such violations or non-compliances. Any structure constructed, reconstructed, enlarged, altered or relocated in non-compliance with this Ordinance are hereby declared to be a public nuisance.

ARTICLE IX

SEVERABILITY AND MUNICIPAL LIABILITY

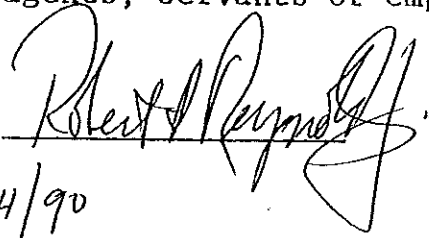
Section 1. Severability.

If any Section, Subsection, Paragraph, sentence, clause, or phrase of this Ordinance shall be declared invalid for any reason whatever, such decision shall not affect the remaining portions of this Ordinance which shall remain in full force and effect, and for this purpose the provisions of this Ordinance are hereby declared to be severable.

Section 2. Municipal Liability.

The granting of a permit or approval of a subdivision or development plan in an identified flood-prone area, shall not constitute a representation, guarantee, or warranty of any kind by The Town of Greenwood or by an official or employee thereof of the practicability or safety of the proposed use, and shall create no liability upon Town nor upon its officers, agents, servants or employees.

Adopted:


12/4/90

LAW OFFICES

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