



NO. O-10-21

AN ORDINANCE

AMENDING SPARTANBURG COUNTY CODE SECTIONS 38-21 TO 38-125 SO AS TO INCLUDE ADDITIONAL DEFINITIONS, TO REFERENCE AREAS OF SPECIAL FLOOD HAZARD IDENTIFIED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY IN ITS FLOOD INSURANCE STUDY DATED JANUARY 6, 2011, TO IDENTIFY THE SPARTANBURG COUNTY ENGINEER AS THE PARTY RESPONSIBLE TO SUBMIT CERTAIN REPORTS TO THE FEDERAL EMERGENCY MANAGEMENT AGENCY, TO REQUIRE THAT ALL SUBDIVISION PROPOSALS COMPLY WITH THE STANDARDS STATED IN SUCH AMENDED CODE SECTIONS, AND TO MAKE CERTAIN OTHER EDITORIAL CHANGES.

BE IT ORDAINED by the Spartanburg County.

SECTION 1. Chapter 38, Article II, Sections 38-21 to 38-124 of the Spartanburg County Code are hereby amended to read as follows:

"Division 1. General Provisions.

Sec. 38-21 Statutory Authorizations.

The Legislature of the State of South Carolina has in SC Code of Laws, Title 5 and Title 6, and amendments thereto, 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 Spartanburg County Council does ordain as follows:

Sec. 38-22 Findings of Fact.

The flood hazard areas of Spartanburg County, South Carolina (unincorporated - area of jurisdiction) are subject to periodic inundation which results in loss of life, property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures of flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

Furthermore, these flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities, and by the occupancy in flood hazard

areas by uses vulnerable to floods or hazardous to other lands which are inadequately elevated, floodproofed, or otherwise unprotected from flood damages.

Sec. 38-23 Statement of Purpose and Objectives.

It is the purpose of this ordinance, within the areas of jurisdiction, to protect human life and health, minimize property damage, and encourage appropriate construction practices to minimize public and private losses due to flood conditions by requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction. Uses of the floodplain which are dangerous to health, safety, and property due to water or erosion hazards, or which increase flood heights, velocities, or erosion are restricted or prohibited. These provisions attempt to control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters, and control filling, grading, dredging and other development which may increase flood damage or erosion. Additionally, the ordinance prevents or regulates the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.

The objectives of this ordinance are to protect human life and health, to help maintain a stable tax base by providing for the sound use and development of flood-prone areas in such a manner as to minimize flood blight areas, and to insure that potential home buyers are notified that property is in a flood area. The provisions of the ordinance are intended to minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, and sewer lines, streets and bridges located in the floodplain, and prolonged business interruptions. Also, an important floodplain management objective of this ordinance is to minimize expenditure of public money for costly flood control projects and rescue and relief efforts associated with flooding.

Floodplains are an important asset to the community. They perform vital natural functions such as temporary storage of floodwaters, moderation of peak flood flows, maintenance of water quality, groundwater recharge, prevention of erosion, habitat for diverse natural wildlife populations, recreational opportunities, and aesthetic quality. These functions are best served if floodplains are kept in their natural state. Wherever possible, the natural characteristics of floodplains and their associated wetlands and water bodies should be preserved and enhanced. Decisions to alter floodplains, especially floodways and stream channels, should be the result of careful planning processes, which evaluate resource conditions and human needs.

Sec. 38-24 Lands to Which this Ordinance Applies.

This ordinance shall apply to all areas of special flood hazard within the jurisdiction of unincorporated Spartanburg County, South Carolina as identified by the Federal Emergency Management Agency in its Flood Insurance Study, dated January 6, 2011 with accompanying maps and other supporting data, which are hereby adopted by reference and declared to be a part of this ordinance.

Sec. 38-25 Development Permit Requirement.

A County Development Permit (as set-forth in Section 1.14 of the County's Unified Land Management Ordinance) shall be required in conformance with the provisions of this ordinance prior to the commencement of any development activities.

Sec. 38-26 Compliance.

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

Sec. 38-27 Interpretations.

In the interpretation and application of this ordinance all provisions shall be considered as minimum requirements, (Intent: to be construed in favor of the governing body), and deemed neither to limit nor repeal any other powers granted under State law. This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

Sec. 38-28 Partial Invalidity and Severability.

If any part of this Ordinance is declared invalid, the remainder of the Ordinance shall not be affected and shall remain in force.

Sec. 38-29 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 consideration. 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 Spartanburg County or by any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

Sec. 38-30 Penalties for Violation.

Violation of the provisions of this ordinance or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or

special exceptions, shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$500.00 or imprisoned for not more than 30 days, or both. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent Spartanburg County from taking such other lawful action as is necessary to prevent or remedy any violation.

DIVISION II. DEFINITIONS

Sec. 38-41 General.

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

Sec. 38-42 Definitions.

Accessory Structure - structure that is located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. Garages, carports and storage sheds are common urban accessory structures. Pole barns, hay sheds and the like qualify as accessory structures on farms, and may or may not be located on the same parcel as the farm dwelling or shop building.

Addition (to an existing building) - an extension or increase in the floor area or height of a building or structure. Additions to existing buildings shall comply with the requirements for new construction regardless as to whether the addition is a substantial improvement or not. Where a fire wall or load-bearing wall is provided between the addition and the existing building, the addition(s) shall be considered a separate building and must comply with the standards for new construction.

Agricultural structure - a structure used solely for agricultural purposes in which the use is exclusively in connection with the production, harvesting, storage, drying, or raising of agricultural commodities, including the raising of livestock. Agricultural structures are **not** exempt from the provisions of this ordinance.

Appeal - a request for a review of the local administrator's interpretation of any provision of this ordinance.

Area of shallow flooding - a designated AO or VO Zone on a community's Flood Insurance Rate Map (FIRM) with base flood depths of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

Area of special flood hazard - the land in the floodplain within a community subject to a one percent or greater chance of being equaled or exceeded in any given year.

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

Basement - means any enclosed area of a building, which is below grade on all sides.

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

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.

Elevated building - a non-basement building built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, pilings, columns, piers, or shear walls parallel to the flow of water.

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 manufactured home park or manufactured home 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 May 19, 1982.

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 slabs).

Flood - a general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters, or the unusual and rapid accumulation of runoff of surface waters from any source.

Flood Hazard Boundary Map (FHBM) - an official map of a community, issued by the Federal Emergency Management

Agency, where the boundaries of the areas of special flood hazard have been defined as Zone A.

Flood Insurance Rate Map (FIRM) - an official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

Flood Insurance Study - the official report (dated February 1, 1984) provided by the Federal Emergency Management Agency. The report contains flood profiles, as well as the Flood Boundary Floodway Map and the water surface elevation of the base flood.

Flood proofing - any combination of structural or 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-resistant material - any building material capable of withstanding direct and prolonged contact (minimum 72 hours) with floodwaters without sustaining damage, which requires more than low-cost cosmetic repair. Any material that is water-soluble or is not resistant to alkali or acid in water, including normal adhesives for above-grade use, is not flood-resistant. Pressure-treated lumber or naturally decay-resistant lumber is acceptable flooring materials. Sheet-type flooring coverings which restrict evaporation from below and materials which are impervious, but dimensionally unstable are not acceptable. Materials which absorb or retain water excessively after submergence are not flood-resistant. Please refer to Technical Bulletin 2, Flood Damage-Resistant Materials Requirements, dated 8/08, and available from the Federal Emergency Management Agency. Class 4 and 5 materials, referenced therein, are acceptable flood-resistant materials.

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.

Freeboard - a factor of safety usually expressed in feet above a flood level for purposes of flood plain management. "Freeboard" tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed.

Functionally dependent facility - a facility which cannot be used for its intended purpose unless it is located or carried out in close proximity to water, such as a docking or port facility necessary for

the loading and unloading of cargo or passengers, shipbuilding, ship repair, or seafood processing facilities. The term does not include long-term storage, manufacture, sales, or service facilities.

Highest Adjacent Grade - the highest natural elevation of the ground surface, prior to construction, next to the proposed walls of the structure.

Historic Structure - any structure that is: (1) listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of the Interior (DOI)) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; (2) 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; (3) individually listed on a State inventory of historic places; (4) individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified (a) by an approved State program as determined by the Secretary of Interior, or (b) directly by the Secretary of Interior in states without approved programs. Some structures or districts listed on the State or local inventories MAY NOT be "Historic" as cited above, but have been included on the inventories because it was believed that the structures or districts have the potential for meeting the "Historic" structure criteria of the DOI. In order for these structures to meet NFIP historic structure criteria, it must be demonstrated and evidenced that the South Carolina Department of Archives and History has individually determined that the structure or district meets DOI historic structure criteria.

Increased Cost of Compliance (ICC) – applies to all new and renewed flood insurance policies effective on and after June 1, 1997. The NFIP shall enable the purchase of insurance to cover the cost of compliance with land use and control measures established under Section 1361. It provides coverage for the payment of a claim to help pay for the cost to comply with State or community floodplain management laws or ordinances after a flood event in which a building has been declared substantially or repetitively damaged.

Limited storage - an area used for storage and intended to be limited to incidental items, which can withstand exposure to the elements and have low flood damage potential. Such an area must be of flood resistant or breakaway material, void of utilities except for essential lighting and cannot be temperature controlled. If the area is located below the base flood elevation in an A, AE and A1-A30 zone it must meet the requirements of Section 38-82(5) of this ordinance. If the area is located below the base flood

elevation in an V, VE and V1-V30 zone it must meet the requirements of Section 38.82(9) of this ordinance.

Lowest Adjacent Grade (LAG) - is an elevation of the lowest ground surface that touches any of the exterior walls of a building or proposed building walls.

Lowest Floor - the lowest floor of the lowest enclosed area. Any 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 an enclosure is not built so as to render the structure in violation of other provisions of this ordinance.

Manufactured home - a structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term "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.

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

National Geodetic Vertical Datum (NGVD) - as corrected in 1929, elevation reference points set by National Geodetic Survey based on mean sea level.

North American Vertical Datum (NAVD) - datum point established at Pointe-au-Père on the St. Lawrence River, Quebec Province, Canada, based on the mass or density of the earth. The datum listed as the reference datum on Flood Insurance Rate Maps should be used for Elevation Certificate and floodproofing certificate completion.

New construction - structure for which the start of construction commenced after (the effective date of the first floodplain management code, ordinance, or standard (August 1, 1984) based upon specific technical base flood elevation data which establishes the area of special flood hazard. The term also includes any subsequent improvements to such structure.

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 slabs) is completed on or after August 1, 1984.

Recreational vehicle - a vehicle which is: (1) built on a single chassis; (2) 400 square feet or less when measured at the largest horizontal projection; (3) designed to be self-propelled or permanently towable by a light duty truck; and, (4) designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel, or seasonal use.

Repetitive Loss - a building covered by a contract for flood insurance that has incurred flood-related damages on 2 occasions during a 10 year period ending on the date of the event for which a second claim is made, in which the cost of repairing the flood damage, on the average, equaled or exceeded 25% of the market value of the building at the time of each such flood event.

Section 1316 of the National Flood insurance Act of 1968 - The act provides that no new flood insurance shall be provided for any property found by the Federal Emergency Management Agency to have been declared by a state or local authority to be in violation of state or local ordinances.

Start of construction - (for other than new construction or substantial improvements under the Coastal Barrier Resources Act (P.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, or improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of a structure (including a manufactured home) on a site, such as the pouring of slabs or footings, installation of piles, construction of columns, or any work beyond the stage of excavation or the placement of 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 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 the building, whether or not that alteration affects the external dimensions of the building.

Structure - a walled and roofed building, a manufactured home, including a gas or liquid storage tank, or other man-made facility or infrastructure that is principally above ground.

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. Please refer to the definition of "substantial improvement".

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, regardless of the actual repair work performed. The term does not, however, include either: (1) any project of improvement to a structure to correct existing violations of 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 (does not include American with Disabilities Act compliance standards); or, (2) any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure. (3) Permits shall be cumulative for a period of five years. If the improvement project is conducted in phases, the total of all costs associated with each phase, beginning with the issuance of the first permit, shall be utilized to determine whether "substantial improvement" will occur.

Substantially improved existing manufactured home park or subdivision - where the repair, reconstruction, rehabilitation or improvement of the streets, utilities and pads equals or exceeds 50 percent of the value of the streets, utilities and pads before the repair, reconstruction, or improvement commenced.

Variance - the grant of relief from a term or terms of this ordinance.

Violation - the failure of a structure or other development to be fully compliant with these regulations.

DIVISION III. ADMINISTRATION.

Sec. 38-61 Designation of Local Administrator.

The Spartanburg County Engineer is hereby appointed to administer and implement the provisions of this ordinance.

Sec. 38-62 Adoption of Letter of Map Revisions (LOMR)

All LOMRs that are issued in the areas identified in Section 38-24 of this ordinance are hereby adopted.

Sec. 38-63 Designation of Party Responsible for Biennial Report

The Spartanburg County Engineer is hereby designated as the party responsible to submit the Biennial Report to FEMA.

Sec. 38-64 Development Permit and Certification Requirements.

Application for a development permit within a 100-year Floodplain located within the unincorporated areas of Spartanburg County shall be made to the County Engineer on forms furnished by him or her prior to any development activities. The development permit may include, but not be limited to, plans in duplicate drawn to scale showing: the nature, location, dimensions, and elevations of the area in question; existing or proposed structures; and the location of fill materials, storage areas, and drainage facilities. Specifically, the following information is required:

(1) - A plot plan that shows the 100-year floodplain contour or a statement that the entire lot is within the floodplain must be provided by the development permit applicant when the lot is within or appears to be within the floodplain as mapped by the Federal Emergency Management Agency or the floodplain identified pursuant to either Section 38-65(10) or Sections 38-83 and 38-84. The plot plan must be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by same.

(2) - The plot plan required by Section 38-64(1) must show the floodway, if any, as identified by the Federal Emergency Management Agency or the floodway identified pursuant to either Section 38-65(10) or Sections 38-83 and 38-84.

(3) - Where base flood elevation data is provided as set forth in Section 38-24 or Section 38-65(10), the application for a development permit within the flood hazard area shall show:

(a) - the elevation (in relation to mean sea level) of the lowest floor of all new and substantially improved structures, and

(b) - if the structure will be floodproofed in accordance with Section 38-82(2), the elevation (in relation to mean sea level) to which the structure will be floodproofed.

(4) - If no base flood elevation data is provided as set forth in Section 38-24 or Section 38-65(10), the application for a development permit must show construction of the lowest floor at least three (3) feet above the highest adjacent grade.

(5) - Where any watercourse will be altered or relocated as a result of proposed development, the application for a development

permit shall include: a description of the extent of watercourse alteration or relocation; an engineering report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and, a map showing the location of the proposed watercourse alteration or relocation.

(6) - When a structure is floodproofed, the applicant shall provide certification from a registered, professional engineer or architect that the non-residential, floodproofed structure meets the floodproofing criteria in Section 38-82(2).

(7) - A floor elevation or floodproofing certification is required after the lowest floor is completed. As soon as possible after completion of the lowest floor and before any further vertical construction commences, or floodproofing by whatever construction means, whichever is applicable, it shall be the duty of the permit holder to submit to the County Engineer a certification of the elevation of the lowest floor, or floodproofed elevation, whichever is applicable, as built, in relation to mean sea level. Said certification shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by same. Any work done prior to submission of the certification shall be at the permit holder's risk. The local administrator shall review the floor elevation survey data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further progressive work being permitted to proceed. Failure to submit the survey or failure to make said corrections required hereby shall be cause to issue a stop-work order for the project.

(8) - Upon completion of the development a registered professional engineer, land surveyor or architect, shall certify that Sections, 38-64(6), 38-64(7) and 38-64(8) are built in accordance with the submitted plans and previous pre-development certifications.

(9) - If the proposed project will impact the configuration of the watercourse, floodway, or base flood elevation for which a detailed Flood Insurance Study has been developed, the applicant shall apply for and must receive approval for a Conditional Letter of Map Revision with the Federal Emergency Management Agency prior to actual construction.

(10) - Within 60 days of completion of an alteration of a watercourse, referenced in Section 38-64(10), the applicant shall submit as-built certification, by a registered professional engineer, to the Federal Emergency Management Agency.

Sec. 38-65 Duties and Responsibilities of the Local Administrator (County Engineer).

Duties of the local administrator shall include, but not be limited to:

(1) - Implement a review system in order to assure all development permits meet the requirements of this ordinance.

(2) - Review proposed development to assure that all necessary permits have been received from those governmental agencies from which approval is required by Federal or State law, including section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C 1334.

(3) - Notify adjacent communities and the South Carolina Department of Natural Resources, Land, Water and Conservation Division, State Coordinator for the National Flood Insurance Program, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.

(4) - In addition to the notifications required in Section 38-65(3), written reports of maintenance records must be maintained to show that maintenance has been provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished. This maintenance must consist of a comprehensive program of periodic inspections, and routine channel clearing and dredging, or other related functions. The assurance shall consist of a description of maintenance activities, frequency of performance, and the local official responsible for maintenance performance. Records shall be kept on file for FEMA inspection.

(5) - Prevent encroachments within floodways unless the certification and flood hazard reduction provisions of Division IV are met.

(6) - Obtain and review actual elevation (in relation to mean sea level) of the lowest floor of all new or substantially improved structures.

(7) - Obtain the actual elevation (in relation to mean sea level) to which the new or substantially improved structures have been floodproofed, in accordance with Section 38-64(7).

(8) - When floodproofing is utilized for a particular structure, obtain certifications from a registered professional engineer or architect in accordance with Section 38-82(2).

(9) - Where interpretation is needed as to the exact location of boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary

and actual field conditions), make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this division.

(10) - When base flood elevation data or floodway data has not been provided in accordance with Section 38-24, obtain, review, and reasonably utilize best available base flood elevation data and floodway data available from a federal, State, or other source, including data developed pursuant to Section 430.4, in order to administer the provisions of this ordinance. **Data from preliminary, draft, and final Flood Insurance Studies constitutes best available data** from a federal, state, or other source. If an appeal is pending on the study in accordance with 44 CFR Ch. 1, Part 67.5 and 67.6, the data does not have to be used.

(11) - When the exact location of boundaries of the areas special flood hazards conflict with the current, natural topography information at the site the property owner may apply and be approved for a Letter of Map Amendment (LOMA) by FEMA. A copy of the Letter of Map Amendment issued from FEMA will be maintained by the local administrator in the permit file.

(12) - Make on-site inspections of projects in accordance with Section 38-66.

(13) - Serve notices of violations, issue stop-work orders, revoke permits and take corrective actions in accordance with Section 38-66.

(14) - Maintain all records pertaining to the administration of this ordinance and make these records available for public inspection.

Sec. 38-66 Administrative Procedures.

(1) - Inspections of Work in Progress: As the work pursuant to a permit progresses, the County Engineer shall make as many inspections of the work as may be necessary to ensure that the work is being done according to the provisions of the local ordinance and the terms of the permit. In exercising this power, the administrator has a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction at any reasonable hour for the purposes of inspection or other enforcement action.

(2) - Stop-Work Orders: Whenever a building or part thereof is being constructed, reconstructed, altered, or repaired in violation of this ordinance, the County Engineer may order the work to be immediately stopped. The stop-work order shall be in writing and directed to the person doing the work. The stop-work order shall state the specific work to be stopped, the specific reasons for the

stoppage, and the conditions under which the work may be resumed. Violation of a stop-work order constitutes a misdemeanor.

(3) - Revocation of Permits: The County Engineer may revoke and require the return of the development permit by notifying the permit holder in writing, stating the reason for the revocation. Permits shall be revoked for any substantial departure from the approved application, plans, or specifications; for refusal or failure to comply with the requirements of State or local laws; or for false statements or misrepresentations made in securing the permit. Any permit mistakenly issued in violation of an applicable State or local law may also be revoked.

(4) - Periodic Inspections: The County Engineer and each member of his inspections department shall have a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action.

(5) - Violations to be Corrected: When the County Engineer finds violations of applicable State and local laws, it shall be his duty to notify the owner or occupant of the building of the violation. The owner or occupant shall immediately remedy each of the violations of law on the property he owns.

(6) - Actions in Event of Failure to Take Corrective Action: If the owner of a building or property shall fail to take prompt corrective action, the County Engineer shall give him written notice, by certified or registered mail to his last known address or by personal service, that:

(a) - the building or property is in violation of the Flood Damage Prevention Ordinance;

(b) - a hearing will be held before the County Engineer at a designated place and time, not later than 10 days after the date of the notice, at which time the owner shall be entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter; and,

(c) - following the hearing, the County Engineer may issue such order to alter, vacate, or demolish the building; or to remove fill as appears appropriate.

(7) - Order to Take Corrective Action: If, upon a hearing held pursuant to the notice prescribed above, the County Engineer shall find that the building or development is in violation of the Flood Damage Prevention Ordinance, he shall make an order in writing to the owner, requiring the owner to remedy the violation within such period, not less than 60 days, the administrator may

prescribe; provided that where the County Engineer finds that there is imminent danger to life or other property, he may order that corrective action be taken in such lesser period as may be feasible.

(8) - Appeal: Any owner who has received an order to take corrective action may appeal from the order to the local Board of Appeals by giving notice of appeal in writing to the County Engineer and the clerk within 10 days following issuance of the final order. In the absence of an appeal, the order of the Engineer shall be final. The Board of Appeals shall hear an appeal within a reasonable time and may affirm, modify and affirm, or revoke the order.

(9) - Failure to Comply with Order: If the owner of a building or property fails to comply with an order to take corrective action from which no appeal has been taken, or fails to comply with an order of the Board of Appeals following an appeal action, he shall be guilty of a misdemeanor and shall be punished in the discretion of the court.

DIVISION IV. PROVISIONS FOR FLOOD HAZARD REDUCTION

Sec. 38-81 General Standards.

Development may not occur in the floodplain where alternative locations exist due to the inherent hazards and risks involved. Before a permit is issued, the applicant shall demonstrate that new structures cannot be located out of the floodplain and that encroachments onto the floodplain are minimized. In all areas of special flood hazard the following provisions are required:

(1) - All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure;

(2) - All new construction and substantial improvements shall be constructed with flood resistant materials and utility equipment resistant to flood damage;

(3) - All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damages;

(4) - Electrical, ventilation, plumbing, heating and air conditioning equipment (including ductwork), and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding. This requirement does not preclude the installation of outdoor faucets for shower heads, sinks, hoses, etc., as long as cut off devices and back flow devices are installed to prevent

contamination to the service components and thereby minimize any flood damages to the building;

(5) - All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system;

(6) - New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters;

(7) - On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding; and,

(8) - Any alteration, repair, reconstruction, or improvement to a structure, which is in compliance with the provisions of this ordinance, shall meet the requirements of "new construction" as contained in this ordinance. This includes post-FIRM development and structures.

(9) - Non-Conforming Buildings or Uses. Non-conforming buildings or uses may not be enlarged, replaced, or rebuilt unless such enlargement or reconstruction is accomplished in conformance with the provisions of this ordinance. Provided, however, nothing in this ordinance shall prevent the repair, reconstruction, or replacement of an existing building or structure located totally or partially within the floodway, provided that the bulk of the building or structure below base flood elevation in the floodway is not increased and provided that such repair, reconstruction, or replacement meets all of the other requirements of this ordinance.

(10) - American with Disabilities Act (ADA). A building must meet the specific standards for floodplain construction outlined in Section 38-82, as well as any applicable ADA requirements. The ADA is not justification for issuing a variance or otherwise waiving these requirements. Also, the cost of improvements required to meet the ADA provisions shall be included in the costs of the improvements for calculating substantial improvement.

Sec. 38-82 Specific Standards.

In all areas of special flood hazard where base flood elevation data has been provided, as set forth in Section 38-24 or Section 38-65(10), the following provisions are required:

(1) - Residential Construction. New construction or substantial improvement of any residential structure (including manufactured homes) shall have the lowest floor elevated no lower than two feet above the base flood elevation. No basements are permitted. Should solid foundation perimeter walls be used to elevate a

structure, openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with Section 38-82(5).

(2) - Non-Residential Construction. New construction or substantial improvement of any commercial, industrial, or non-residential structure (including manufactured homes) shall have the lowest floor elevated no lower than two feet above the level of the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with Section 38-82(5). No basements are permitted. Structures located in A-zones may be floodproofed in lieu of elevation provided that all areas of the structure below the required elevation are watertight with walls substantially impermeable to the passage of water, using structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered, professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certifications shall be provided to the official as set forth in Sections 38-64(7) and 38-64(9). A variance may be considered for wet-floodproofing agricultural structures in accordance with the criteria outlined in Section 38-104 of this ordinance. Agricultural structures not meeting the criteria of Section 38-104 must meet the non-residential construction standards and all other applicable provisions of this ordinance. Structures which are floodproofed are required to have an approved maintenance plan with an annual exercise. The maintenance plan must be approved by the County Engineer and notification of the annual exercise shall be provided to same.

(3) - Manufactured Homes.

(a) - Manufactured homes that are placed or substantially improved on sites outside a manufactured home park or subdivision, in a new manufactured home park or subdivision, in an expansion to an existing manufactured home park or subdivision, or in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as the result of a flood, must be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated no lower than two feet above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

(b) - Manufactured homes that are to be placed or substantially improved on sites in an existing manufactured home park or subdivision that are not subject to the provisions of Section 38-82(3)(a) of this ordinance must be

elevated so that the lowest floor of the manufactured home is elevated no lower than two feet above the base flood elevation, and be securely anchored to an adequately anchored foundation to resist flotation, collapse, and lateral movement.

(c) - Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. For the purpose of this requirement, manufactured homes must be anchored to resist flotation, collapse, or lateral movement in accordance with Section 40-29-10 of the South Carolina Manufactured Housing Board Regulations, as amended. Additionally, when the elevation requirement would be met by an elevation of the chassis at least 36 inches or less above the grade at the sight, the chassis shall be supported by reinforced piers or other foundation elements of at least equivalent strength. When the elevation of the chassis is above 36 inches in height an engineering certification is required.

(d) - An evacuation plan must be developed for evacuation of all residents of all new, substantially improved or substantially damaged manufactured home parks or subdivisions located within flood-prone areas. This plan shall be filed with and approved by the County Engineer and the Emergency Preparedness Director.

(4) - Recreational Vehicles. A recreational vehicle is ready for highway use if it is on wheels or jacking system, is attached to the site only by quick-disconnect type utilities and security devices, and has no permanently attached additions. Recreational vehicles placed on sites shall either be on site for fewer than 180 consecutive days and be fully licensed and ready for highway use, or meet the requirements of Section 38-64 and Sections 38-81 and 38-82(3).

(5) - Elevated Buildings. New construction or substantial improvements of elevated buildings that include fully enclosed areas that are usable solely for the parking of vehicles, building access, or limited storage in an area other than a basement, and which are subject to flooding shall be designed to preclude finished space and be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters.

(a) - Designs for complying with this requirement must either be certified by a professional engineer or architect or meet the following minimum criteria:

(1) - Provide a minimum of two openings on different walls having a total net area of not less than one

square inch for every square foot of enclosed area subject to flooding. If there are multiple enclosed areas, each area must have openings in its exterior walls.

(2) - The bottom of each opening must be no more than one foot above the higher of the interior or exterior grade immediately under the opening.

Only the portions of openings that are below the base flood elevation (BFE) can be counted towards the required net open area.

(3) - Openings may be equipped with screens, louvers, valves, or other coverings or devices provided they permit the automatic flow of floodwaters in both directions; and,

(4) - Fill placed around foundation walls must be graded so that the grade inside the enclosed area is equal to or higher than the adjacent grade outside the building on at least one side of the building.

(b) - Hazardous Velocities. Hydrodynamic pressure must be considered in the design of any foundation system where velocity waters or the potential for debris flow exists. If flood velocities are excessive (greater than 5 feet per second), foundation systems other than solid foundations walls should be considered so that obstructions to damaging flood flows are minimized.

(c) - Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the living area (stairway or elevator).

(d) - The interior portion of such enclosed area shall not be partitioned or finished into separate rooms, except to enclose a single storage area and must be void of utilities except for essential lighting as required, and cannot be temperature controlled. One wet location switch and/or outlet connected to a ground fault interrupt breaker may be installed below the required lowest floor elevation specified in Sections 38-82(1), 38-82(2) and 38-82(3).

(e) - All construction materials below the required lowest floor elevation specified in Sections 38-82(1), 38-82(2) and 38-82(3) shall be of flood resistant materials.

(6) - Temporary Development. Certain types of structures (e.g. fruit stands, construction site offices, portable toilets, etc.) may be situated temporarily on flood-prone property without having to comply with the elevation or floodproofing criteria of Section 38-82(1) and 38-82(2), respectively, provided that the following criteria are met:

(a) - All applicants must submit to the County Engineer, prior to the issuance of the development permit, a written plan for the removal of any temporary structures or development in the event of a hurricane or flash flood warning notification. The plan shall be reviewed and approved in writing, and must include the following information:

(1) - a specified time period for which the temporary use will be permitted;

(2) - the name, address and phone number of the individual responsible for the removal of temporary structures or development;

(3) - the time frame prior to the event at which any structures will be removed (i.e. minimum of 72 hours before landfall of a hurricane or immediately upon flood warning notification);

(4) - a copy of the contract or other suitable instrument with a trucking company to insure the availability of removal equipment when needed;

(5) - designation, accompanied by documentation, of a location outside the floodplain to which any temporary structure will be moved;

(6) - a determination of permanent structures which would be adversely affected by increased flooding upstream or downstream, and a method for covering this liability, such as a performance bond; and,

(7) - a plan to restore the area to its natural condition once the temporary permit expires or the temporary use is terminated, whichever is first.

(b) - The structure is mobile, or can be made so, and is capable of being removed from the site with a maximum of four (4) hours warning.

(c) - The structure will not remain on the property for more than 180 days.

(7) - Accessory Structures. An accessory structure or garage, the cost of which is greater than \$3000, must comply with the elevated structure requirements of Sections 38-82(2) and 38-82(5). When accessory structures of \$3000 or less are to be placed in the floodplain, the following criteria shall be met:

(a) - Accessory structures shall not be used for human habitation (including work, sleeping, living, cooking or restroom areas);

(b) - Accessory structures shall be designed to have low flood damage potential;

(c) - Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters;

(d) - Accessory structures shall be firmly anchored to prevent flotation, collapse, or lateral movement of the structure;

(e) - Service facilities such as electrical and heating equipment shall be installed in accordance with Section 400.4; and

(f) - Openings to relieve hydrostatic pressure during a flood shall be provided below base flood elevation in conformance with Section 410.5.

(8) - Floodways. Located within areas of special flood hazard established in Section 130, are areas designated as floodways. The floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris and potential projectiles and has erosion potential. The following provisions shall apply within such areas:

(a) - No encroachments, including fill, new construction, substantial improvements, additions, and other developments shall be permitted 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 the flood levels during the occurrence of the base flood. Such certification and technical data shall be presented to the County Engineer.

(b) - If Section 38-82(8)(a) is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Division IV.

(c) - Stream crossings for any purpose (i.e., timber harvesting operations), if temporary, shall be permitted in

accordance with Section 38-82(6). Otherwise, the development shall comply with all applicable flood hazard reduction provisions of Division IV.

(d) - No manufactured homes shall be permitted, except in an existing manufactured home park or subdivision. A replacement manufactured home may be placed on a lot in an existing manufactured home park or subdivision provided the anchoring and the elevation standards of Section 38-82(3) are met.

(e) - Permissible uses within floodways may include: general farming, pasture, outdoor plant nurseries, horticulture, forestry, wildlife sanctuary, game farm, and other similar agricultural, wildlife, and related uses. Also, lawns, gardens, play areas, picnic grounds, and hiking and horseback riding trails are acceptable uses, provided that they do not employ structures or fill. Substantial development of a permissible use may require a no-rise certification. The uses listed in this subsection are permissible only if and to the extent that they do not cause any increase in base flood elevations.

(9) - Fill. Fill is discouraged because storage capacity is removed from floodplains. Elevating buildings by other methods must be considered. An applicant shall demonstrate that fill is the only alternative to raising the building to at least one foot above the base flood elevation, and that the amount of fill used will not affect the flood storage capacity or adversely affect adjacent properties. The following provisions shall apply to all fill placed in the special flood hazard area:

(a) - Fill may not be placed in the floodway unless it is in accordance with Section 38-82(8)(a);

(b) - Fill may not be placed in tidal or nontidal wetlands without the required State and federal permits;

(c) - Fill must consist of soil and rock materials only. Dredged material may be used as fill only upon certification of suitability by a registered professional geotechnical engineer. Landfills, rubble fills, dumps, and sanitary fills are not permitted in the floodplain;

(d) - Fill used to support structures must comply with ASTM Standard D-698, and its suitability to support structures certified by a registered, professional engineer;

(e) - Fill slopes shall be no greater than two horizontal to one vertical. Flatter slopes may be required where velocities may result in erosion; and,

(f) - The use of fill shall not increase flooding or cause drainage problems on neighboring properties.

Sec. 38-83 Standards for Streams Without Established Base Flood Elevations And/Or Floodways.

Located within the areas of special flood hazard established in Section 38-24, are small streams where no base flood data has been provided or where no floodways have been identified. The following provisions apply within such areas:

(1) - No encroachments, including fill, new construction, substantial improvements or new development shall be permitted within 100 feet of the stream bank unless certification with supporting technical data by a registered, professional engineer is provided demonstrating that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

(2) - If Section 38-83(1) is satisfied and base flood elevation data is available from other sources, all new construction and substantial improvements within such areas shall comply with all applicable flood hazard ordinance provisions of Division IV and shall be elevated or floodproofed in accordance with elevations established in accordance with Section 38-65(10). Data from preliminary, draft, and final Flood Insurance Studies constitutes best available data. If an appeal is pending on the study in accordance with 44 CFR Ch. 1, Part 67.5 and 67.6, the data does not have to be used. When base flood elevation data is not available from a federal, State, or other source, the lowest floor shall be elevated at least three (3) feet above the highest adjacent grade and approved by the County Engineer.

Sec. 38-84 Standards for Subdivision Proposals.

All subdivision proposals shall be consistent with the need to minimize flood damage and are subject to all applicable standards in these regulations.

(a) - All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage. An access road at or above the base flood elevation shall be provided to allow emergency access during flood conditions;

(b) - All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards; and,

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

floodway data will be required should the applicant wish to appeal the setbacks requirements of Section 38-83(1).

Sec. 38-85 Standards for Areas of Shallow Flooding (AO Zones).

Located within the areas of special flood hazard established in Section 38-24, are areas designated as shallow flooding. The following provisions shall apply within such areas:

(1) - All new construction and substantial improvements of residential structures shall have the lowest floor elevated to the depth number specified on the Flood Insurance Rate Map, in feet, above the highest adjacent grade. If no depth number is specified, the lowest floor shall be elevated at least three (3) feet above the highest adjacent grade.

(2) - All new construction and substantial improvements of non-residential structures shall:

(a) - have the lowest floor elevated to the depth number specified on the Flood Insurance Rate Map, in feet, above the highest adjacent grade. If no depth number is specified, the lowest floor shall be elevated at least three (3) feet above the highest adjacent grade; or,

(b) - be completely floodproofed together with attendant utility and sanitary facilities to or above that level so that any space below that level 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.

Secs. 38-86 – 38-100 Reserved.

DIVISION V. VARIANCE PROCEDURES

Sec. 38-101 Establishment of Appeal Board.

The Spartanburg County Land Use Board of Appeals as established by Spartanburg County Council in Ordinance #01 shall hear and decide requests for variances from the requirements of this ordinance.

Sec. 38-102 Right to Appeal.

Any person aggrieved by the decision of the appeal board or any party of interest may appeal such decision to the Circuit Court.

Sec. 38-103 Historic Structures.

Variances may be issued for the repair or rehabilitation of historic structures upon the 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.

Sec. 38-104 Agricultural Structures.

Variances may be issued to wet floodproof an agricultural structure in accordance with Technical Bulletin 7-93, Wet Floodproofing Requirements for Structures Located in Special Flood Hazard Areas in accordance with the National Flood Insurance Program, document number FIA-TB-7, dated 12/93, and available from the Federal Emergency Management Agency. In order to minimize flood damages during the base flood and the threat to public health and safety, the structure must meet all of the conditions and considerations of Section 38-108(4), this section, and the following standards:

(1) - use of the structure must be limited to agricultural purposes as listed below:

(a) - pole frame buildings with open or closed sides used exclusively for the storage of farm machinery and equipment;

(b) - steel grain bins and steel frame corn cribs;

(c) - general-purpose barns for the temporary feeding of livestock, which are open on at least one side;

(d) - for livestock confinement buildings, poultry houses, dairy operations, and similar livestock operations, variances may not be issued for structures, which were substantially damaged. New construction or substantial improvement of such structures must meet the elevation requirements of Section 38-82(2) of this ordinance; and,

(e) - detached garages and storage sheds solely used for parking and limited storage in connection with agricultural uses only, which are no greater than 400 square feet in area.

(2) - the agricultural structure must be built or rebuilt, in the case of an existing building, which is substantially damaged, with flood-resistant materials for the exterior and interior building components and elements below the base flood elevation;

(3) - the agricultural structure must be adequately anchored to prevent flotation, collapse, or lateral movement. All of the structure's components must be capable of resisting specific flood-related forces including hydrostatic, buoyancy, hydrodynamic, and debris impact forces. Where flood velocities exceed 5 feet per second, fast-flowing floodwaters can exert

considerable pressure on the building's enclosure walls or foundation walls;

(4) - the agricultural structure must meet the venting requirement of Section 38-82(5)(a) of this ordinance;

(5) - any mechanical, electrical, or other utility equipment must be located above the base flood elevation so that they are contained within a watertight, floodproofed enclosure, which is capable of resisting damage during flood conditions. The structure must comply with Section 38-81(4) of this ordinance;

(6) - the agricultural structure must comply with the floodway encroachment provisions of Section 38-82(8) of this ordinance; and,

(7) - major equipment, machinery, or other contents must be protected. Such protection may include protective watertight floodproofed areas within the building, the use of equipment hoists for readily elevating contents, permanently elevating contents on pedestals or shelves above the base flood elevation, or determining that property owners can safely remove contents without risk to lives and that the contents will be located to a specified site out of the floodplain in accordance with the temporary development provisions of Section 38-82(6).

Sec. 38-105 Considerations.

In passing upon such applications, the Board of Appeals shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this ordinance, and:

(1) - the danger that materials may be swept onto other lands to the injury of others;

(2) - the danger to life and property due to flooding or erosion damage, and the safety of access to the property in times of flood for ordinary and emergency vehicles;

(3) - the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

(4) - the importance of the services provided by the proposed facility to the community;

(5) - the necessity to the facility of a waterfront location, where applicable;

(6) - the availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;

(7) - the compatibility of the proposed use with existing and anticipated development, and the relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

(8) - the expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site;

(9) - 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; and,

(10) - agricultural structures must be located in wide, expansive floodplain areas, where no other alternative location for the agricultural structure exists. The applicant must demonstrate that the entire farm acreage, consisting of a contiguous parcel of land on which the structure is to be located, must be in the Special Flood Hazard Area and no other alternative locations for the structure are available.

Sec. 38-106 Findings.

Findings listed above shall be submitted to the appeal board, in writing, and included in the application for a variance. Additionally, comments from the Department of Natural Resources, Land Resources and Conservation Districts Division, State Coordinator's Office, must be taken into account and included in the permit file.

Sec. 38-107 Floodways.

Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

Sec. 38-108 Conditions.

Upon consideration of the factors listed above and the purposes of this ordinance, the appeal board may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance. The following conditions shall apply to all variances:

(1) - Variances may not be issued when the variance will make the structure in violation of other federal, State, or local laws, regulations, or ordinances.

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

(3) - Variances shall only be issued upon a showing of good and sufficient cause, a determination that failure to grant the variance would result in exceptional hardship, and a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

(4) - Any applicant to whom a variance is granted shall be given written notice specifying the difference between the base flood elevation and the elevation to which the structure is to be built and a written statement that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation. Such notification shall be maintained with a record of all variance actions.

(5) - The County Engineer shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request.

(6) - Variances shall not be issued for unpermitted development or other development that is not in compliance with the provisions of this ordinance. Violations must be corrected in accordance with Section 38-66(5) of this ordinance.

DIVISION VI. LEGAL STATUS PROVISIONS

Sec. 38-121 Effect on Rights and Liabilities under the Existing Flood Damage Prevention Ordinance.

This Ordinance in part comes forward by re-enactment of some of the provisions of the Spartanburg County Flood Damage Prevention Ordinance, No. 365 (May, 1984), and subsequent amendments thereto. And Section 2.03 of County Ordinance #0-99-015 (December 31, 1999), as amended, and it is not the intention to repeal but rather to re-enact and continue to enforce without interruption of such existing provisions, so that all rights and liabilities that have accrued hereunder are reserved and may be enforced. The enactment of this ordinance shall not affect any action, suit or proceeding instituted or pending. All provisions of the flood damage prevention portions of Ordinance #0-99-015, Section 2.03 of Spartanburg County enacted on December 31, 1999, as amended, which are not reenacted herein are repealed.

Sec. 38-122 Effect upon Outstanding Building Permits.

Nothing herein contained shall require any change in the plans, construction, size or designated use of any building, structure or part thereof for which a building permit has been granted by the Chief Building Inspector or his authorized agents before the time of passage of this ordinance; provided, however, that when construction is not begun under such outstanding permit within a

period of sixty (60) days subsequent to passage of this ordinance, construction or use shall be in conformity with the provisions of this ordinance.

Sec. 38-123 Effective Date. This ordinance shall become effective upon adoption.

Sec. 38-124 Enforcement.

(a) - All enforcement procedures, remedies, legal and equitable, processes, and penalties, provided in enabling statutes for local government ordinance violations, including ordinance summons, injunctions, mandamus, stop orders and warrants, and other applicable provisions of Section 56-7-80, et seq. and Section 6-29-950(a), et seq., Code of Laws of South Carolina, 1976, as amended, are hereby adopted and incorporated by reference as if fully set forth herein. In addition to any applicable civil penalties, any person who violates any provision of this Ordinance shall be guilty of a misdemeanor and, upon conviction, shall be sentenced to the criminal penalties within the jurisdiction of the Magistrate Court which includes monetary penalties and incarceration. Each day a violation exists shall constitute a new and separate offense.

(b) - The County Administrator is authorized to prescribe and approve such administrative policies and procedures, including forms, as he may deem appropriate for the proper administration and enforcement of this ordinance."

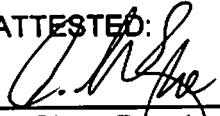
SECTION 2. This Ordinance shall take effect upon third reading approval.

SPARTANBURG COUNTY COUNCIL



JEFFREY A. HORTON, Chairman

ATTESTED:



D. Glenn Breed
County Administrator

First Reading: 08/16/10
Second Reading: 10/18/10
Third Reading: 11/15/10
Public Hearing: 10/18/10