

**[INDIANA MODEL]**  
**NEWTON COUNTY ORDINANCE FOR**  
**FLOOD HAZARD AREAS**  
**ORDINANCE 93-8**  
**\*AMENDED\***

Be it ordained by the county Commissioners of Newton County, Indiana, as follows:

**SECTION 1. STATUTORY AUTHORIZATION**

The Indiana Legislature granted the power to local units of government (IC 36-7-4) to control land use within their jurisdictions in order to accomplish the following.

**SECTION 2. STATEMENT OF PURPOSE**

The purpose of this ordinance is to guide development in the flood hazard areas in order to reduce the potential for loss of life and property, reduce the potential for health and safety hazards, and to reduce the potential for extraordinary public expenditures for flood protection and relief. Under the authority granted to local units of government to control land use within their jurisdiction, which includes taking into account the effects of flooding, the Newton County Commissioners hereby adopts the following floodplain management regulations in order to accomplish the following:

- a. To prevent unwise developments from increasing flood or drainage hazards to others;
- b. To protect new buildings and major improvements to buildings from flood damage;
- c. To protect human life and health from the hazards of flooding;
- d. To lessen the burden on taxpayer for flood control projects, repairs to flood-damaged public facilities and utilities, and flood rescue and relief operations;
- e. To maintain property values and a stable tax base by minimizing the potential for creating flood blighted areas; and
- f. To make federally subsidized flood insurance available for structures and their contents in the County by fulfilling the requirements of the National Flood Insurance Program.

**SECTION 3. DEFINITIONS.**

**For the purpose of this ordinance, the following definitions are adopted:**

**Building** – see “Structure”

**Development** –any man-made change to improved or unimproved real estate including but not limited to:

- a. Construction, reconstruction, or placement of a building or any addition to a building;
- b. Installing a manufactured home on a site, preparing a site for a manufactured home or installing recreational vehicle on a site for more than 180 days;
- c. Installing utilities, erection of walls and fences, construction of roads, or similar projects;
- d. Construction of flood control structures such as levees, dikes, dams, channel improvements, etc.
- e. Mining, dredging, filling, grading, excavation, or drilling operations;
- f. Construction and/or reconstruction of bridges or culverts;
- g. Storage of materials; or
- h. Any other activity that might change the direction, height, or velocity of flood or surface waters.

**Existing Manufactured Home Park or Subdivision** – means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

**Expansion to an Existing Manufactured Home Park or Subdivision** – means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

**FBFM** – Flood Boundary and Floodway Map

**FEMA** - Federal Emergency Management Agency

**FHBM** – Flood Hazard Boundary Map

**FIRM** – Flood Insurance Rate Map

**Flood** – A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow, the unusual and rapid accumulation, or the runoff of surface waters from any source.

**Floodplain** – the channel proper and the areas adjoining any wetland, lake, or watercourse which have been or hereafter may be covered by the regulatory flood. The **floodplain** includes both the **floodway** and the **floodway fringe districts**.

**Flood Protection Grade (FPG)** – The elevation of the regulatory flood plus two feet at any given location in the **Specialized Flood Hazard Area (SFHA)**.

**Floodway** – the channel of a river or stream and those portions of the floodplains adjoining the channel which are reasonably required to efficiently carry and discharge the peak flood flow of the regulatory flood of any river or stream.

**Floodway Fringe** – those portions of the floodplain lying outside the floodway.

**Letter of Map Amendment (LOMA)** – An amendment of the currently effective FEMA map that establishes that a property is not located in a Special Flood Hazard Area (SFHA). A LOMA is only issued by FEMA.

**Letter of Map Revision (LOMR)** – An official revision to the currently effective FEMA map. It is issued by FEMA and changes flood zones, delineations and elevations.

**Lowest Floor** – Means the following:

1. The top of the lowest floor of a building;
2. The top of the basement floor;
3. The top of the garage floor, if the garage is the lowest level of the building;
4. The top of the first floor of buildings elevated on pilings or constructed on a crawl space with permanent openings; or

5. The top of the floor level of any enclosure below and elevated building where the walls of the enclosure provide any resistance to the flow of flood waters, unless:
  - a. The walls are designed to automatically equalize the hydrostatic flood forces on the walls by allowing for the entry and exit of flood waters, by providing a minimum of two openings (in addition to doorways and windows) having a total area of one (1) square inch for every one (1) square foot of enclosed area subject to flooding. The bottom of all such openings shall be no higher than one (1) foot above grade.
  - b. Such enclosed space shall be usable for the parking of vehicles and building access.

**Manufactured Home** – means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term “manufactured home” does not include a “recreational vehicle.”

**New Manufactured Home Park or Subdivision** – means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of this ordinance.

**Recreational Vehicle** – means a vehicle which is:

- (1) Built on a single chassis
- (2) 400 square feet or less when measured at the largest horizontal projections
- (3) Designed to be self-propelled or permanently towable by light duty truck; and
- (4) Designed primarily not for use as a permanent dwelling, but as quarters for recreational camping, travel, or seasonal use

**Regulatory Flood** – means the flood having a one percent probability of being equaled or exceeded in any given year, as calculated by a method and procedure which is acceptable to and approved by the Indiana elevation at any location is as defined in [Section 5](#) of this ordinance. The “Regulatory Flood” is also known by the term “Base Flood.”

**Special Flood Hazard Area (SFHA)** – means those lands within the jurisdictions of the County that are subject to inundation by the regulatory flood. The SFHAs of the County are generally identified as such on the Flood Insurance Rate Map of the county prepared by the Federal Emergency Management Agency and dated September 1, 1986.

**Structure** – means a structure that is principally above ground and is enclosed by walls and a roof. The term includes a gas or liquid storage tank, a manufactured home, or a prefabricated building. The term also includes recreational vehicles to be installed on a site for more than 180 days.

**Substantial Improvement** - means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure before the “start of construction” of the improvement. This term includes structures that have incurred “substantial damage” regardless of the actual repair work performed. The term does not include improvements of structures to correct existing violations of state or local health, sanitary, or safety code requirements or any alteration of a “historic structure,” provided that the alteration will not preclude the structure’s continued designation as a “historic structure.”

#### SECTION 4. DUTIES OF THE ADMINISTRATOR.

The Building Commissioner shall implement this ordinance and hereafter be referred to as the Floodplain Administrator. The Floodplain Administrator for the County is appointed to review all development and subdivision proposals to ensure compliance with the ordinance, including, but not limited to, the following duties:

- a. Ensure that all development activities within the SFHAs of the jurisdiction of the County meet the requirements of this ordinance.
- b. Provide information and assistance to citizens upon request about permit procedures and floodplain construction techniques.
- c. Ensure that construction authorization has been granted by the Indiana natural Resources Commission for all development projects subject to [Section 7](#) of this ordinance, and maintain a record of such authorization (either a copy of actual permit, letter of recommendation, or floodplain analysis and regulatory assessment).
- d. Maintain a record of the “as-built” elevation of the top of the lowest floor (including basement) of new and/or substantially improved buildings constructed in the SFHA. Inspect before, during, and after construction.
- e. Maintain a record of the engineer’s certificate and the as-built floodproofed elevation of all buildings subject to [Section 8](#) of this ordinance.
- f. Cooperate with state and federal floodplain management agencies to improve base flood and floodway data and to improve the administration of this ordinance. Submit reports as required for the National Flood Insurance Program.
- g. Maintain for public inspection and furnish upon request regulatory flood data, SFHA maps, Letters of Map Amendment (LOMA), Letters of Map Revision (LOMR), copies of DNR permits and floodplain analysis and regulatory assessment, federal permit documents, and “as-built” elevation and floodproofing data for all buildings constructed subject to this ordinance.
- h. Notify adjacent communities and the State Coordinating Office prior to any alteration or relocation of a watercourse, and submit copies of such notifications to FEMA.

#### SECTION 5. REGULATORY FLOOD ELEVATION

This ordinance’s protection standard is the regulatory flood. The best available regulatory flood data is listed below. Whenever a party disagrees with the best available data, the party submitting the detailed engineering study needs to replace existing data with better data and submit it to the Department of Natural Resources for review and approval.

- a. The regulatory flood elevation and floodway limits for the SFHAs, which are delineated as “Zone A” on the Flood Insurance Rate Map of the County dated September 1, 1986, shall be according to the best data available as provided by the Department of Natural Resources.

#### SECTION 6. IMPROVEMENT LOCATION PERMIT

- a. No person, firm, corporation, or governmental body not exempted by state law shall commence any “development” in the SFHA without first obtaining an Improvement Location Permit from the Floodplain Administrator. The Floodplain administrator shall not issue an Improvement Location Permit if the proposed “development” does not meet the requirements of this ordinance.

The application for an improvement location permit shall be accompanied by the following:

1. A description of the proposed development.
2. Location of the proposed development sufficient to accurately locate property and structure in relation to existing roads and streams.
3. A legal description of the property site.
4. A site development plan showing existing and proposed development locations and existing and proposed land grades.

5. Elevation of the top of the lowest floor (including basement) of all proposed development. Elevation should be in National Geodetic Vertical Datum of 1929 (NGVD) or North American Vertical Datum (NAVD). In either case, the conversion formula should be included.
- b. Upon receipt of an application for an Improvement Location Permit, the Floodplain Administrator shall determine if the site is located within an identified floodway, floodway fringe or within the floodplain where the limits of the floodway have not yet been determined.
  1. If the site is in an identified floodway the Floodplain Administrator shall require the applicant to forward the application, along with all pertinent plans and specifications, to the Department of Natural Resources and apply for a permit for construction in a floodway. Under the provisions of IC 14-28-1 a permit from the Natural Resources Commission is required prior to the issuance of a local building permit for any excavation, deposit, construction or obstruction activity located in the floodway. This includes land preparation activities such as filling, grading, clearing and paving, etc. undertaken before the actual start of construction of the building.

No action shall be taken by the Floodplain Administrator until a permit has been issued by the Natural Resources Commission granting approval for construction in the floodway. Once a permit has been issued by the Natural Resources Commission, the Floodplain Administrator may issue the local Improvement Location Permit, provided the provisions contained in [Sections 7 and 8](#) of this ordinance have been met. The Improvement Location Permit cannot be less restrictive than the permit issued by the Natural Resources Commission.

2. If the site is located in an identified floodway fringe, then the Floodplain Administrator may issue the local Improvement Location Permit provided the provisions contained in [Sections 7 and 8](#) of this ordinance have been met. The key provision is that the top of the lowest floor of any new or substantially improved structure shall be at or above the Flood Protection Grade (FPG).
3. If the site is in an identified floodplain where the limits of the floodway and floodway fringe have not yet been determined, and the drainage area upstream of the site is greater than one square mile, the Floodplain Administrator shall require the applicant to forward the application, along with all pertinent plans and specifications, to the Department of Natural Resources for review and comment.

No action shall be taken by the Floodplain Administrator until either a permit for construction in the floodway or a floodplain analysis and regulatory assessment citing the 100 year flood elevation and the recommended Flood Protection Grade has been received from the Department of Natural Resources.

Once the Floodplain Administrator has received the proper permit or floodplain analysis and regulatory assessment approving the proposed development, an Improvement Location Permit may be issued provided the conditions of the Improvement Location Permit are not less restrictive than the conditions received from the Department of Natural Resources and the provisions contained in [Sections 7 and 8](#) of this ordinance have been met.

4. If the site is in an identified floodplain where the limits of the floodway and floodway fringe have not yet been determined and the drainage area upstream of the site is less than one square mile, the Floodplain Administrator shall require the applicant to provide an engineering analysis showing the limits of the floodway, floodway fringe and 100-year elevation for the site.

Upon receipt, the Floodplain Administrator may issue the local Improvement Location Permit, provided the provisions contained in [Sections 7 and 8](#) of this ordinance have been met.

## SECTION 7. PREVENTING INCREASED DAMAGES

No development in the SFHA shall create a damaging or potentially damaging increase in flood heights or velocity or threat to public health and safety.

- a. Within the floodway identified in the Floodway Boundary and Floodway Map, the Flood Insurance Rate Map, or engineering analysis as provided in [Section 6.b.4.](#), the following standards shall apply:
  1. No development shall be allowed which acting alone or in combination with existing or future development, will cause any increase in the elevation of the regulatory flood; and
  2. For all projects involving channel modifications or fill (including levees) the County shall submit the data and request that FEMA revise the regulatory flood data.
- b. Within all SFHAs identified as A Zones (No 100 year flood elevation and/or floodway/floodway fringe delineation has been provided) the following standard shall apply:
  1. The total cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the regulatory flood elevation more than one-tenth (0.1) of one foot and will not increase flood damages or potential flood damages.
- c. Public Health Standards in all SFHAs
  1. No development in the SFHA shall include locating or storing chemicals, explosives, buoyant materials, flammable liquids, pollutants, or other hazardous toxic materials below the Flood Protection Grade, unless such materials are stored in a floodproofed storage tank or building constructed according to the requirements of [Section 8](#) of this Ordinance.
  2. New and replacement sanitary sewer lines and on-site waste disposal systems may be permitted providing all manholes or other above ground openings are located above the FPG, or those which are located below the FPG are watertight.

## SECTION 8. PROTECTING BUILDINGS

In addition to the damage prevention requirements of [Section 7](#), all buildings to be located in the SFHA shall be protected from flood damage below the FPG.

- a. This building protection requirement applies to the following situations:
  1. Construction or placement of any new building having a floor area greater than 400 square feet;
  2. Structural alterations made to:
    - a. An existing (previously unaltered) building, the cost of which equals or exceeds 50% of the value of the pre-altered building (excluding the value of the land);
    - b. Any previously altered building;
  3. Reconstruction or repairs made to a damaged building that are valued at or more than 50% of the market value of the building (excluding the value of the land) before damage occurred;
  4. Installing a manufactured home on a new site or a new manufactured home on an existing site. This ordinance does not apply to returning the existing manufactured home to the same site it lawfully occupied before it was removed to avoid flood damage; and



5. Installing a travel trailer or recreational vehicle on a site for more than 180 days.
- b. This building protection requirement may be met by one of the following methods. The Floodplain Administrator shall maintain a record of compliance with these building protection standards as required by [Section 4](#) of this Ordinance.
  1. A residential or nonresidential building may be constructed on a permanent landfill in accordance with the following:
    - a. The fill shall be placed in layers no greater than 1 foot deep before compacting to 95% of the maximum density obtainable with the Standard Proctor Test Method.
    - b. The fill should extend at least ten feet beyond the foundation of the building before sloping below the FPG.
    - c. The fill shall be protected against erosion and scour during flooding by vegetative cover, riprap, or bulkheading. If vegetative cover is used, the slopes shall be no steeper than 3 horizontal to 1 vertical.
    - d. The fill shall not adversely affect the flow of surface drainage from or onto neighboring properties.
    - e. The top of the lowest floor, including basements (see definition of lowest floor in [Section 3. Definitions](#)), shall be at or above the FPG.
  2. A residential or nonresidential building may be elevated in accordance with the following:
    - a. The building or improvements shall be elevated on posts, piers, columns, extended walls, or other types of similar foundation provided:
      - (1) Walls of any enclosure below the elevated floor shall be designed to automatically equalize hydrostatic flood forces on the walls by allowing for the entry and exit of flood waters, through providing a minimum of two openings (in addition to doorways and windows) having a total area of one (1) square inch for every one (1) square foot of enclosed area subject to flooding. The bottom of all such opening shall be no higher than one (1) foot above grade.
      - (2) Any enclosure below the elevated floor is used for storage of vehicles and building access.
    - b. The foundation and supporting members shall be anchored and aligned in relation to flood flows and adjoining structures so as to minimize exposure to known hydrodynamic forces such as buoyancy, current, waves, ice, and floating debris.
    - c. All areas below the FPG shall be constructed of materials resistant to flood damage. The top of the lowest floor (including basement) and all electrical, heating, ventilating, plumbing, and air conditioning equipment and utility meters shall be located at or above the FPG. Water and sewer pipes, electrical and telephone lines, submersible pumps, and other waterproofed service facilities may be located below the FPG.
  3. Manufactured homes and recreational vehicles to be installed or substantially improved on a site for more than 180 days must meet one of the following anchoring requirements:
    - a. The manufactured home shall be elevated on a permanent foundation such that the lowest floor shall be at or above the FPG and securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement. This requirement applies to all manufactured homes to be placed on a site;
      - (1) Outside a manufactured home park or subdivision
      - (2) In a new manufactured home park or subdivision
      - (3) In an expansion to an existing manufactured home park or subdivision; or
      - (4) In an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as a result of a flood.

- b. This requirement applies to all manufactured homes to be placed on a site in an existing manufactured home park or subdivision that has not been substantially damaged by a flood.

The manufactured home shall be elevated so that the lowest floor of the manufactured home chassis is supported by reinforced piers or other foundation elements that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

- 4. Recreational vehicles placed on a site shall either:
  - a. Be on the site for less than 180 consecutive days, and;
  - b. Be fully licensed and ready for highway use (defined as being on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions); or
  - c. Meet the requirements for “manufactured homes” in [paragraph 3](#) of this section.
- 5. A non-residential building may be floodproofed to the FPG (in lieu of elevating) if done in accordance with the following:
  - a. A Registered Professional Engineer shall certify that the building has been designed so that below the FPG, the structure and attendant utility facilities are watertight and capable of resisting the effects of the regulatory flood. The building design shall take into account flood velocities, duration, rate of rise, hydrostatic pressures, and impacts from debris or ice.
  - b. Floodproofing measures shall be operable without human intervention and without an outside source of electricity.

## SECTION 9. OTHER DEVELOPMENT REQUIREMENTS

- a. The floodplain Administrator shall review all proposed subdivisions to determine whether the subdivision lies in a flood hazard area as defined elsewhere by ordinance. If the Floodplain Administrator finds the subdivision to be so located, the Floodplain Administrator shall forward plans and materials to the Indiana Department of Natural Resources for review and comment. The Floodplain Administrator shall require appropriate changes and modifications in order to assure that:
  - 1. It is consistent with the need to minimize flood damages;
  - 2. All public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage;
  - 3. Adequate drainage is provided so as to reduce exposure to flood hazards;
  - 4. Onsite waste disposal systems, if provided, will be so located and designed to avoid impairment of them or contamination from them during the occurrence of the regulatory flood.
- b. Developers shall record the 100 year flood elevation on all subdivision plats containing lands ([identified elsewhere in this ordinance](#)) within a flood hazard area prior to submitting the plats for approval by the Plan Commission.
- c. All owners of manufactured home parks or subdivisions located within the SFHA identified as Zone A on the community’s FHBM or FIRM shall develop an evacuation plan for those lots located in the SFHA and file it with the local Plan Commission and have it filed with and approved by the appropriate community emergency management authorities.

## SECTION 10. VARIANCES.

- a. The Board of Zoning Appeals may consider issuing a variance to the terms and provisions of this ordinance provided the applicant demonstrates that:
  - 1. There exists a good and sufficient cause of the requested variance;



2. The strict application of the terms of this ordinance will constitute an exceptional hardship to the applicant, and,

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

b. The Board of Zoning Appeals may issue a variance to the terms and provisions of this ordinance subject to the following standards