

LINCOLN COUNTY, NEW MEXICO
FLOOD DAMAGE PREVENTION ORDINANCE NO. 2004-02

AN ORDINANCE OF LINCOLN COUNTY CREATED FOR THE PURPOSE OF ADOPTING THE FLOOD ZONES DESIGNATED BY THE FLOOD INSURANCE RATE MAPS AND THE FLOOD BOUNDARY AND FLOODWAY MAPS; REGULATING FLOOD HAZARD AREA LAND USE AND PRESCRIBING CENTRAL MEASURES, DEFINING CERTAIN TERMS, PROVIDING FOR ADMINISTRATIVE DUTIES AND APPEAL PROCEDURES, REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH, PROVIDING FOR SEVERABILITY, AND FIXING THE EFFECTIVE DATE OF THIS ORDINANCE.

WHEREAS, the flood hazard areas of Lincoln County, New Mexico are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, and extraordinary public expenditures for flood protection and relief, all of which adversely affect the public health, safety, and general welfare; and

WHEREAS, these flood losses are created by the cumulative effect of obstructions in floodplains which cause an increase in flood heights and velocities, and by the occupancy of flood hazard areas by uses vulnerable to floods and hazardous to other lands because they are inadequately elevated, flood-proofed, or otherwise protected from flood damage.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF LINCOLN COUNTY COMMISSIONERS, LINCOLN COUNTY, NEW MEXICO AS FOLLOWS:

Section 1. General Statements.

A. Title. This Ordinance is known as the Lincoln County Flood Damage Prevention Ordinance and is referred to elsewhere herein as “this Ordinance.”

B. Authority. Chapter 3-18-7 NMSA, 1978, as amended, requires that a county or municipality with identified flood or mudslide hazard areas shall enact a flood plain ordinance.

C. Statement of Purpose. It is the purpose of this Ordinance to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

1. protect human life and health;
2. minimize expenditure of public money for costly flood control projects;
3. minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

4. minimize prolonged business interruptions;
5. minimize damage to public facilities and utilities such as water and gas mains, electric telephone and sewer lines, streets and bridges located in floodplains;
6. 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 future flood blight areas; and
7. insure that potential buyers are notified that property is in a flood area.

Section 2. Methods of Reducing Flood Losses.

In order to accomplish its purposes, this Ordinance uses the following methods:

- A. Restrict or prohibit uses that are dangerous to health, safety or property in times of flood, or cause excessive increases in flood heights or velocities;
- B. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- C. Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of flood waters;
- D. Control filling, grading, dredging and other development which may increase flood damage;
- E. Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.

Section 3. Definitions.

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

“Alluvial Fan Flooding” - flooding occurring on the surface of an alluvial fan or similar landform that originates at the apex and is characterized by high-velocity flows; active processes of erosion, sediment transport, and deposition; and unpredictable flow paths.

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

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

“Area of Special Flood Hazard” - the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. The area may be designated as Zone A on the Flood Hazard Boundary Map (FHBM) or Flood Insurance Rate Map (FIRM).

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

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

“Critical Feature” - an integral and readily identifiable part of a flood protection system without which the flood protection provided by the entire system would be compromised.

“Development” - any man-made change to improved or unimproved real estate, including but not limited to building or other structures, mining, dredging, filling, grading, paving, excavation, drilling operations, or storage of equipment or materials located within the area of special flood hazard.

“Elevated Building” - a non-basement building which is

1. built, in the case of a building in Zone A, to have the top of the elevated floor above the ground level by means of pilings, columns (posts and piers), or shear walls parallel to the flow of the water; and

2. adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood.

“Elevated building” also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters.

“Existing Construction” - (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 FIRM’s effective before that date. “Existing construction” may also be referred to as “existing structures.”

“Existing Manufactured Home Park or Subdivision” - a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

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

“Flood” or “Flooding” - a general and temporary condition of partial or complete inundation of normally dry land areas from (1) the overflow of waters or (2) the unusual and rapid accumulation or runoff of surface waters from any source.

“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 hazards and the risk premium zones applicable to the community.

“Flood Insurance Study” - is the official report provided by the Federal Emergency Management Agency. The report contains flood profiles, water surface elevation of the base flood, as well as the Flood Boundary-Floodway Map.

“Floodplain or Flood-prone Area” - any land area susceptible to being inundated by water from any source (see definition of flooding).

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

“Floodplain Management Regulations” - subdivision regulations, building codes, health regulations, special purpose ordinances (such as floodplain ordinances) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

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

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

“Floodway” (Regulatory 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 a designated height.

“Functionally Dependent Use” - a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

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

“Historic Structure” - any structure that is:

1. listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements of 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 in states with historic preservation programs which have been approved by the Secretary of Interior; or
4. individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified by (a) an approved state program as determined by the Secretary of the Interior, or (b) that are approved directly by the Secretary of the Interior in states without approved state programs.

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

“Levee System”- a flood protection system that consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

“Lowest Floor” - the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or storage in an area other than a basement area is not considered a building’s lowest floor; **provided** that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirement of Section 60.3 of the National Flood Insurance Program regulations.

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

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

“Mean Sea Level” - for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum to which base flood elevations shown on a community’s Flood Insurance Rate Map are referenced.

“New Construction” - for the purpose of determining insurance rates, structures for which the “start of construction” commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, “new construction” means structures for which the “start of construction” commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

“New Manufactured Home Park or Subdivision” - a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, final site grading or the pouring of concrete pads, and the construction of streets) is completed on or after the effective date of floodplain management regulations adopted by a community.

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

“Start of Construction” - (for other than new construction or substantial improvements under the Coastal Barrier Resources Act, Pub. L. 97-348) the first placement of permanent construction of a structure on a site, such as the pouring of slabs or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation such as clearing, grading, and filling, the installation of streets and/or walkways, excavation for a basement, footings, piers, or foundations or the erection of temporary forms, or the installation on the property of accessory buildings such as garages or sheds not occupied as dwelling units or not as part of the main structure. “Start of Construction” includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, or other improvement was within 180 days of the permit date. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

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

“Substantial Damage” - damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

“Substantial Improvement” - any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before “start of construction” of the improvement. This includes structures that have incurred “substantial damage,” regardless of the actual repair work performed. The term does not include (1) projects for improvement of 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 conditions or (2) alterations of an “historic structure,” provided that the alteration will not preclude the structure’s continued designation as an “historic structure.”

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

“Violation” - the failure of a structure or other development to be fully compliant with the community’s flood plain management regulations.

“Water Surface Elevation” - the height, in relation to the National Geodetic Vertical datum (NGVD) of 1929 (or other datum, where specified), of floods of various magnitudes and frequencies in the flood plains of riverine areas.

Section 4. General Provision.

Land to Which This Ordinance Applies. This Ordinance shall apply to all areas of special flood hazard within the jurisdiction of Lincoln County, New Mexico.

Section 5. Basis For Establishing The Areas of Special Flood Hazard.

The areas of special flood hazard identified by the Federal Emergency Management Agency in a Flood Hazard Boundary Map (FHBM)," dated 1978, for Lincoln County, and any revisions thereto are hereby adopted by reference and declared to be a part of this Ordinance.

Section 6. Establishment of Development Permit.

A development permit shall be required to ensure conformance with the provisions of this Ordinance.

Section 7. Compliance.

No structure or land shall hereafter be located, altered, or have its use changed without full compliance with the terms of this Ordinance and other applicable regulations.

Section 8. Abrogation and Greater Restrictions.

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

Section 9. Interpretation.

In the interpretation and application of this Ordinance, all provisions shall be: (1) considered as minimum requirements; (2) liberally construed in favor of the governing body; and (3) deemed neither to limit nor repeal any other powers granted under State statutes.

Section 10. Warning And Disclaimer of Liability.

The degree of flood protection required by this Ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. On rare occasions, greater floods can and will occur and 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 damage. This Ordinance shall not create liability on the part of the County of Lincoln, any official or employee thereof, or the Federal Emergency Management Agency for any flood damages that result from reliance on this Ordinance or any administrative decision lawfully made thereunder.

Section 11. Administration.

A. **Designation of the Floodplain Administrator.** The County locally appointed Floodplain Manager is hereby appointed the Floodplain Administrator to administer and implement the provisions of this Ordinance and other appropriate sections of 44 CFR (National Flood Insurance Program Regulations) pertaining to floodplain management.

B. **Duties and Responsibilities.** Duties of the Floodplain Manager shall include, but not be limited to:

1. Maintain and hold open for public inspection all records pertaining to the provisions of this Ordinance.
2. Review permit application to determine whether proposed building site, including the placement of manufactured homes, will be reasonably safe from flooding.
3. Review, approve or deny all applications for development permits required by adoption of this Ordinance.
4. Review permits for proposed development to assure that all necessary permits have been obtained from those Federal, State or local governmental agencies (including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334) from which prior approval is required.
5. Where interpretation is needed as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict

between a mapped boundary and actual field conditions) the Floodplain Administrator shall make the necessary interpretation.

6. Notify, in riverine situations, adjacent communities and the State Coordinating Agency which is the New Mexico Department of Public Safety, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.
7. Assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.
8. When base flood elevation data has not been provided in accordance with Section 5, the Floodplain Administrator shall obtain, review and reasonably utilize any base flood elevation data and floodway data available from a Federal, State or other source, in order to administer the provisions of Section 14.

Section 12. Permit Procedures.

Application for a Development Permit shall be presented to the Floodplain Administrator on forms furnished by him/her and may include, but not be limited to, plans in duplicate drawn to scale showing the location, dimensions, and elevation of proposed landscape alterations, existing and proposed structures, including the placement of manufactured homes, and the location of the foregoing in relation to areas of special flood hazard. Additionally, the following information is required:

- A. Elevation (in relation to mean sea level), of the lowest floor (including basement) of all new and substantially improved structures;
- B. Elevation in relation to mean sea level to which any nonresidential structure shall be floodproofed;
- C. A certificate from a registered professional engineer or architect that the nonresidential floodproofed structure shall meet the floodproofing criteria of Section 14, paragraph B (2);
- D. Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development.
- E. Maintain a record of all such information in accordance with Section 11, paragraph B (1).

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

- A. The danger to life and property due to flooding or erosion damage;
- B. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- C. The danger that materials may be swept onto other lands to the injury of others;
- D. The compatibility of the proposed use with existing and anticipated development;
- E. The safety of access to the property in times of flood for ordinary and emergency vehicles;
- F. The costs of providing governmental services during and after flood conditions including maintenance and repair of streets and bridges, and public utilities and facilities such as sewer, gas, electrical and water systems;
- G. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site;
- H. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;

- I. The relationship of the proposed use to the comprehensive plan for that area.

Section 13. Variance Procedures.

- A. The Lincoln County Commissioners shall hear and render judgment on requests for variances from the requirements of this Ordinance.
- B. The Lincoln County Commissioners shall hear and render judgment only when it is alleged there is an error in any requirement, decision or determination made by the Floodplain Administrator in the enforcement or administration of this Ordinance.
- C. Any person or person aggrieved by the decision of the Lincoln County Commissioners may appeal such decision in the courts of competent jurisdiction.
- D. The Floodplain Administrator shall maintain a record of all actions involving an appeal and shall report variances to the Federal Emergency Management Agency upon request.
- E. Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this Ordinance.
- F. Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level providing items in Section 12 of this Ordinance have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
- G. Upon consideration of the factors noted above and the intent of this Ordinance, the County Commission may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives in Section 1, C, of this Ordinance.
- H. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- I. Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as an historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- J. Prerequisites for granting variances:
 - 1. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
 - 2. Variances shall only be issued upon:
 - a. showing a good and sufficient cause;
 - b. a determination that failure to grant the variance would result in exceptional hardship to the applicant; and
 - c. a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
 - 3. Any application to whom a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the base flood elevation, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

- K. Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:
1. the criteria outlined in Section 13, paragraphs A - I, are met; and
 2. the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

Section 14. Provisions for Flood Hazard Reductions.

- A. **General Standards.** In all areas of special flood hazards the following provisions are required for all new construction and substantial improvements:
1. All new construction or substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
 2. All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;
 3. All new construction or substantial improvements shall be constructed with materials resistant to flood damage;
 4. All new construction or substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;
 5. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
 6. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from the systems into flood waters; and,
 7. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
- B. **Specific Standards.** In all designated flood hazard areas where base flood elevation has been provided, as set forth in (i) Section 5; (ii) Section 11, paragraph B (8); or (iii) Section 15, paragraph C, the following provisions are required:
1. **Residential Construction** - new construction and substantial improvement of any residential structure shall have the lowest floor (including basement) elevated to or above the base flood elevation. A registered professional engineer, architect, or land surveyor shall submit a certification to the Floodplain Administrator that the standard of this subsection as proposed in Section 12, paragraph A, is satisfied.
 2. **Nonresidential Construction** - new construction and substantial improvements of any commercial, industrial or other nonresidential structure shall either have the lowest floor (including basement) elevated to or above the base flood level or together with attendant utility and sanitary facilities, be designed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered

professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice as outlined in this subsection. A record of such certification which includes the specific elevation (in relation to mean sea level) to which such structures are floodproofed shall be maintained by the Floodplain Administrator.

3. **Manufactured Homes** - Require that all manufactured homes to be placed within Zone A on a community's FHBM or FIRM shall be installed using methods and practices that minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.

Section 15. **Standards for Subdivision Proposals.**

- A. All subdivision proposals including the placement of manufactured home parks and subdivisions shall be consistent with this Ordinance.
- B. All proposals for the development of subdivisions including the placement of manufactured home parks and subdivisions shall meet Development Permit requirements of Section 6 and Section 12 of this Ordinance.
- C. Base flood elevation data shall be generated for subdivision proposals and other proposed development including the placement of manufactured home parks and subdivisions which are greater than 50 lots or 5 acres, whichever is lesser, if not otherwise provided pursuant to Section 5, or Section 11, paragraph B (8), of this Ordinance.
- D. All subdivision proposals including the placement of manufactured home parks and subdivisions shall have adequate drainage provided to reduce exposure to flood hazards.
- E. All subdivision proposals including the placement of manufactured home parks and subdivisions shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.

Section 16. **Severability.**

If any section, paragraph, clause, or provision of this Ordinance shall be held for any reason to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause, or provision shall not affect any other part of this Ordinance.

Section 17. **Certification.**

It is hereby found and declared by the Board of Lincoln County Commissioners that severe flooding has occurred in the past within its jurisdiction and may occur within the future and that flooding is likely to result in infliction of serious personal injury or death, and is likely to result in substantial injury or destruction of property within its jurisdiction. In order to effectively comply with minimum standards for coverage under

the National Flood Insurance Program to effectively remedy the situation described herein, it is necessary that this Ordinance become effective immediately.

Therefore, an emergency is hereby declared to exist, and this Ordinance, being necessary for the immediate preservation of the public peace, health, and safety, shall be in full force and effect from and after its passage and approval.

APPROVED, PASSED, and ADOPTED, this 16th day of March, 2004.

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