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Second Reading : September 16, 2008
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Third Reading : October 7, 2008
Effective Date : Immediately

I, Ruth Mayer,
Council Clerk, certify that this
Ordinance was advertised for
Public Hearing on 10-7-08.

ORDINANCE NO. 08-O-23

COUNCIL-ADMINISTRATOR FORM OF GOVERNMENT FOR COLLETON COUNTY

(To Repeal Current Chapter 13.12 - Flood Damage Prevention of Title 13, Buildings and Construction, of the Colleton County Code of Ordinances and to Replace it With a Revised Flood Damage Prevention Chapter.)

WHEREAS:

1. South Carolina Department of Natural Resources on behalf of FEMA conducted an audit of the County's Flood Damage Prevention Ordinance and has required clarification of certain inconsistencies, removal of superfluous sections, and improvement of the administrative mechanisms in it; and
2. Repealing in its entirety the current Chapter 13.12 – Flood Damage Prevention of Title 13, Buildings and Construction, and replacing it with a new Chapter 13.12 is deemed to be the best method for instituting said revisions.

NOW, THEREFORE, BE IT ORDAINED BY COLLETON COUNTY COUNCIL, DULY ASSEMBLED, THAT:

1. Chapter 13.12 – Flood Damage Prevention of the Colleton County Code of Ordinances is hereby repealed in its entirety.
2. Revised Chapter 13.12 – Flood Damage Prevention hereby replaces said repealed Chapter as follows:

Chapter 13.12

FLOOD DAMAGE PREVENTION

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13.12-1. General Provisions

13.12-1.010 Statutory authorization.

The Legislature of the State of South Carolina has in SC Code of Laws, Title 4, Chapters 9 (Article 1), 25, and 27, 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 Colleton County Council (governing body) of Colleton County, Walterboro, South Carolina does ordain as follows:

13.12-1.020 Findings of Fact

The Special Flood Hazard Areas of Colleton County 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, flood-proofed, or otherwise unprotected from flood damages.

13.12-1.030 Statement of Purpose and Objectives.

It is the purpose of this chapter 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 designated to:

- (1) Restrict or prohibit uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- (2) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (3) Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters;
- (4) Control filling, grading, dredging, and other development which may increase erosion or flood damage; and
- (5) Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands; and whereas,

The objectives of this chapter are:

- (1) To protect human life and health;
- (2) To minimize expenditure of public money for costly flood control projects;
- (3) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) To minimize prolonged business interruptions;
- (5) To minimize damage to public facilities and utilities such as water and gas mains; electric, telephone, and sewer lines; and streets and bridges located in floodplains;
- (6) To help maintain a stable tax base providing for the sound use and development of flood prone areas in such a manner as to minimize future flood blight areas; and
- (7) To insure that potential home buyers are notified that property is in a flood area.

13.12-1.040 Lands to Which this Ordinance Applies.

This ordinance shall apply to all areas of special flood hazard within the jurisdiction of Colleton County as identified by the Federal Emergency Management Agency in its Flood Insurance Study, dated November 7, 2001 with accompanying maps and other supporting data that are hereby adopted by reference and declared to be a part of this ordinance. Upon annexation any special flood hazard areas identified by the Federal Emergency Management Agency in its Flood Insurance Study for the unincorporated areas of Colleton County, with accompanying map and other data are adopted by reference and declared part of this ordinance.

13.12-1.050 Permit Required.

A building or zoning permit shall be required in conformance with the provisions of this chapter prior to the commencement of any development activities.

13.12-1.060 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.

13.12-1.070 Interpretation

In the interpretation and application of this ordinance all provisions shall be considered as minimum requirements, liberally 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.

13.12-1.080 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.

13.12-1.090 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 Colleton 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.

Article 13.12-2 DEFINITIONS

13.12-2.010 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.

13.12-2.020 Definitions

Accessory Structure - structures that are 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 firewall 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 that is below grade on all sides.

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

Coastal High Hazard Area - an area of special flood hazard extending from offshore to the inland limit of the primary frontal dune along an open coast and any other area subject to velocity wave action from storms or seismic sources.

Critical Development – Development that is critical to the community's public health and safety, is essential to the orderly functioning of a community, store or produce highly volatile, toxic or water-reactive materials, or house occupants that

may be insufficiently mobile to avoid loss of life or injury. Examples of critical development include jails, hospitals, schools, fire stations, nursing homes, wastewater treatment facilities, water plants, and gas/oil/propane storage facilities.

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.

Executive Order 11988 (Floodplain Management) - Issued by President Carter in 1977, this order requires that no federally assisted activities be conducted in or have the potential to affect identified special flood hazard areas, unless there is no practicable alternative.

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 April 7, 1987.

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 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-resistant material - any building material capable of withstanding direct and prolonged contact (minimum 72 hours) with floodwaters without sustaining damage that 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 lumbers are acceptable flooring materials. Sheet-type flooring coverings that restrict evaporation from below and materials that are impervious, but dimensionally unstable are not acceptable. Materials that absorb or retain water excessively after submergence are not flood-resistant. Please refer to Technical Bulletin 2-93, *Flood-Resistant Materials for Buildings Located in Special Flood Hazard Areas in Accordance with the National Flood Insurance Program*, document number FIA-TB-2, dated 4/93, 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: (a) 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; (b) certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; (c) individually listed on a State inventory of historic places; (d) individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified (1) by an approved State program as determined by the Secretary of Interior, or (2) 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 that 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 *13.12-4.010 (D) Critical Development* of this ordinance. If the area is located below the base flood elevation in a V, VE and V1-V30 zone it must meet the requirements of *13.12-4.060 Coastal High Hazard Areas (V-Zones)* 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 flood-proofing certificate completion.

New construction - structure for which the start of construction commenced after April 7, 1987. 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 before April 7, 1987.

Primary Frontal Dune - a continuous or nearly continuous mound or ridge of sand with relatively steep seaward and landward slopes immediately landward and subject to erosion and overtopping from high tides and waves during coastal storms. The inland limit of the primary frontal dune occurs at the point where there is a distinct change from a relatively steep slope to a relatively mild slope.

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

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. Such repairs may be undertaken successively and their costs counted cumulatively. 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 that have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:

- a) 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,
- b) any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.
- c) 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 – A grant of relief from the requirements of this chapter as provided under the provisions of *13.12-5.030 Historic Structures* and *13.12-5.040 Agricultural Structures*.

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

Article 13.12-3 ADMINISTRATION

13.12-3.010 Designation of Local Administrator.

The Colleton County Planning and Development Department is hereby appointed to administer and implement the provisions of this ordinance.

13.12-3.020 Adoption of Letter of Map Revisions (LOMR)

Adopt all LOMRs that are issued in the areas identified in *13.12-1.040 Lands to Which This Ordinance Applies* of this ordinance.

13.12-3.030 Designation of Party Responsible for Biennial Report

The floodplain administrator is hereby designated as the party responsible to submit the Biennial Report to FEMA.

13.12-3.040 Permitting and Certification Requirements.

1. **Building/Zoning Permits:** Application for a permit shall be made to the local administrator on forms furnished by him or her prior to any development activities. The building 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:

A. 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 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 the Duties and Responsibilities of the Local Administrators of *13.12-3.050 (K) Use of Best Data Available* or *13.12-4.030 Standards for Subdivision Proposals* and *13.12-4.040 Standards for streams without Estimated Base Flood Elevations and/or Floodways*. The plot plan must be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by same. The plot plan must show the floodway, if any, as identified by the Federal Emergency Management Agency or the floodway identified pursuant to either the Duties and Responsibilities of the Local Administrators of *13.12-3.050 (K) Use of Best Data Available* or *13.12-4.030 Standards for Subdivision Proposals* and *13.12-4.040 Standards for streams without Estimated Base Flood Elevations and/or Floodways*.

B. Where base flood elevation data is provided as set forth in *13.12-1.040 Lands to Which This Ordinance Applies* or the Duties and Responsibilities of the Local Administrators of *13.12-3.050 (K) Use of Best Data Available*, the application for a permit within the flood hazard area shall show:

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

(2) if the structure will be flood-proofed in accordance with *13.12-4.020 (B) Non-Residential Construction* requirements of the elevation (in relation to mean sea level) to which the structure will be flood-proofed.

C. Where Base Flood Elevation Data Is Not Provided.

If no base flood elevation data is provided as set forth in *13.12-1.040 Lands to Which This Ordinance Applies* or the Duties and Responsibilities of the Local Administrators of *13.12-3.050 (K) Use of Best Data Available*, then the provisions of *13.12-4.040 Standards for Streams without Estimated Base Flood Elevations and/or Floodways* must be met.

D. Alteration of Watercourse.

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.

2. Certifications

A. Flood-proofing Certification

When a structure is flood-proofed, the applicant shall provide certification from a registered, professional engineer or architect that the non-residential, flood-proofed structure meets the flood-proofing criteria in the non-residential construction requirements of *13.12-4.020 (B) Non-Residential Construction*.

B. Certification During Construction

A lowest floor elevation or flood-proofing 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 flood-proofing by whatever construction means, whichever is applicable, it shall be the duty of the permit holder to submit to the local administrator a certification of the elevation of the lowest floor, or flood-proofed 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 it. 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. The permit holder immediately and prior to further progressive work being permitted to proceed shall correct deficiencies detected by such review. 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.

C. V-Zone Certification

When a structure is located in Zones V, VE, or V1-30, certification shall be provided from a registered professional engineer or architect, separate from submitted plans, that new construction or substantial improvement meets the criteria for the coastal high hazard areas outlined in *13.12-4.060 Coastal High Hazard Areas (V-Zones)*.

D. As-built Certification

Upon completion of the development a registered professional engineer, land surveyor or architect, in accordance with SC law, shall certify according to the requirements of *13.12-3.040 Certifications 2a, 2b, and 2c* that the development is built in accordance with the submitted plans and previous pre-development certifications.

13.12-3.050 Duties and Responsibilities of the Local Administrator.

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

A. Permit Review - Review all building and zoning permits to assure that the requirements of this ordinance have been satisfied.

B. Requirement of Federal and/or state permits - Advise permittee that additional federal or State permits may be required, and if specific federal or State permits are known, require that copies of such permits be provided and maintained on file with the development permit.

C. Watercourse alterations –

a) Notify adjacent communities and the South Carolina Department of Natural Resources, Land Resources and Conservation Districts 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.

b) In addition to the notifications required watercourse alterations per *13.12-3.050 (C.a) Watercourse Alterations*, 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.

c) 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 the start of actual construction.

d) Within 60 days of completion of an alteration of a watercourse, referenced in the certification requirements of *13.12-3.040 (2.D) As-built Certification*, the applicant shall submit as-built certification, by a registered professional engineer, to the Federal Emergency Management Agency.

D. Floodway encroachments - Prevent encroachments within floodways unless the certification and flood hazard reduction provisions of *13.12-4.020 (E) Floodways* are met.

E. Development Proposals – Require development proposals for proposed developments prior to signing off on and CLOMRs or LOMRs.

F. Adjoining Floodplains - Cooperate with neighboring communities with respect to the management of adjoining floodplains and/or flood-related erosion areas in order to prevent aggravation of existing hazards.

G. Notifying Adjacent Communities – Notify adjacent communities prior to permitting substantial commercial developments and large subdivisions to be undertaken in areas of special flood hazard and/or flood-related erosion hazards.

H. Certification requirements –

a) Obtain and review actual elevation (in relation to mean sea level) of the lowest floor of all new or substantially improved structures, in accordance with administrative procedures outlined in *13.12-3.040 (2.B) Certification During Construction* or the coastal high hazard area requirements outlined in *13.12-4.060 (E) Coastal High Hazard Areas (V-Zones)*.

b) Obtain the actual elevation (in relation to mean sea level) to which the new or substantially improved structures have been flood-proofed, in accordance with the flood-proofing certification outlined in *13.12-3.040 (2.A) Flood-proofing Certification*.

c) When flood-proofing is utilized for a particular structure, obtain certifications from a registered professional engineer or architect in accordance with the non-residential construction requirements outlined in *13.12-4.020 (B) Non-Residential Construction*

d) A registered professional engineer or architect shall certify that the design, specifications and plans for construction are in compliance with the provisions contained in the coastal high hazard area requirements outlined in *13.12-4.060 (D, F & H) Coastal High Hazard Areas (V-Zones)* of this ordinance.

I. Map Interpretation - 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), the Local Administrator shall 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 *13.12-3.050 (L)*.

J. Prevailing Authority – Where a map boundary showing an area of special flood hazard and field elevations disagree, the base flood elevations for flood protection elevations (as found on an elevation profile, floodway data table, etc.) shall prevail. The correct information should be submitted to FEMA as per the map maintenance activity requirements outlined in *13.12-4.020 (G) Map Maintenance Activities*.

K. Use Of Best Available Data - When base flood elevation data or floodway data has not been provided in accordance with *13.12-1.040 Lands to Which This Ordinance Applies*, 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 the standards for subdivision proposals outlined in *13.12-4.040 (D) Standards for Streams without Established Base Flood Elevations and/or Floodways* 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. Data must be developed using hydraulic models meeting the minimum requirement of NFIP approved model. 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.

L. Special Flood hazard Area/topographic Boundaries Conflict - 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. The local administrator in the permit file will maintain a copy of the Letter of Map Amendment issued from FEMA.

M. On-Site inspections - Make on-site inspections of projects in accordance with the administrative procedures outlined in *13.12-3.040 (D) Periodic Inspections*.

N. Administrative Notices - Serve notices of violations, issue stop-work orders, revoke permits and take corrective actions in accordance with the administrative procedures in *13.12-3.040 Administrative Procedures*.

O. Records Maintenance - Maintain all records pertaining to the administration of this ordinance and make these records available for public inspection.

P. Annexations and Detachments - Notify the South Carolina Department of Natural Resources Land, Water and Conservation Division, within six (6) months, of any annexations or detachments that include special flood hazard areas. The community must incorporate applicable maps from surrounding jurisdictions into this ordinance within 90 days of date of the annexation.

Q. Federally Funded Development - The President issued Executive Order 11988, Floodplain Management May 1977. E.O. 11988 directs federal agencies to assert a leadership role in reducing flood losses and losses to environmental values served by floodplains. Proposed developments must go through an eight-step review process. Evidence of compliance with the executive order must be submitted as part of the permit review process.

R. 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% of the market value of the structure before the damage occurs.

S. Substantial Improvement Determinations – Perform an assessment of permit applications for improvements or repairs to be made to a building or structure equals or exceeds 50 percent of the market value of the structure before the improvement or repair is started. Cost of work counted for determining if and when substantial improvement to a structure occurs shall be cumulative for a period of five years. If the improvement project is conducted in phases the total of all cost associated with each phase, beginning with the issuance of the first permit, shall be utilized to determine whether “substantial improvement” will occur.

Methods of Market Value Determination. **The market values shall be determined by one of the following methods:**

(1) the current assessed building value as determined by the county’s assessor’s office or the value of an appraisal performed by a licensed appraiser at the expense of the owner; or,

(2) one or more certified appraisals from a registered professional licensed appraiser in accordance with the laws of South Carolina. The appraisal shall indicate actual replacement value of the building or structure in its pre-improvement condition, less depreciation for functionality and obsolescence and site improvements. The Marshall & Swift Residential Cost Handbook shall be used to determine costs for buildings or structures.

(3) Real Estate purchase contract within 12 months prior to the date of the application for a permit.

13.12-3.040 Administrative Procedures.

A. Inspections of Work in Progress: As the work pursuant to a permit progresses, the local administrator 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.

B. Stop-Work Orders: Whenever a building or part thereof is being constructed, reconstructed, altered, or repaired in violation of this ordinance, the administrator 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.

C. Revocation of Permits: The local administrator may revoke and require the return of the building 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.

D. Periodic Inspections: The local administrator 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.

E. Violations to be Corrected: When the local administrator finds violations of applicable State and local laws, it shall be the duty of that administrator to notify the last owner of record of the structure of the violation. The owner shall remedy each of the violations of law on the property. Where no owner is found, posting of the property and public notice of the violation in a newspaper of general circulation shall be made.

F. 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 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 the violation continues shall be considered a separate offense. Nothing herein contained shall prevent Colleton County from taking such other lawful action as is necessary to prevent or remedy any violation.

Article 13.12-4. PROVISIONS FOR FLOOD HAZARD REDUCTION

13.12-4.010 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:

A. Anchoring - All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure,

B. Flood Resistant Materials and Equipment - All new construction and substantial improvements shall be constructed with flood resistant materials and utility equipment resistant to flood damage,

C. Minimize Flood Damage - All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damages,

D. Critical Development - shall be elevated to the 500 year flood elevation or be elevated to the highest known historical flood elevation (where records are available), whichever is greater. If no data exists establishing the 500 year flood elevation or the highest known historical flood elevation, the applicant shall provide a hydrologic and hydraulic engineering analysis that generates 500 year flood elevation data,

E. Utilities - Electrical, ventilation, plumbing, heating and air conditioning equipment (including ductwork), and other equipment or 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,

F. Water Supply Systems - All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system,

G. Sanitary Sewage Systems – 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. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding,

H. Gas Or Liquid Storage Tanks – All gas or liquid storage tanks, either located above ground or buried, shall be anchored to prevent flotation or lateral movement resulting from hydrodynamic and hydrostatic loads.

I. Alteration, Repair, Reconstruction, Or Improvements - Any alteration, repair, reconstruction, or improvement to a structure that 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.

J. 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,

K. American with Disabilities Act (ADA). A building must meet the specific standards for floodplain construction outlined in Article IV.B, 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.

13.12-4.020 Specific Standards.

In all areas of special flood hazard (Zones A, AE, V, and VE) where base flood elevation data has been provided, as set forth in *13.12-1.040 Lands to Which This Ordinance Applies* or outlined in *13.12-3.050 Duties and Responsibilities of the Local Administrator* the following provisions are required:

A. Residential Construction. New construction or substantial improvement of any residential structure (including manufactured homes) shall have the lowest floor elevated no lower than one foot 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 the elevated buildings requirements in *13.12-4.020 (D) Elevated Buildings*.

B. 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 one foot 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 the elevated buildings requirements in *13.12-4.020 (D) Elevated Buildings*. No basements are permitted. Structures located in A-zones may be flood-proofed 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 the flood-proofing certification requirements in *13.12-3.040 (2.A) Flood-proofing Certification*. A variance may be considered for wet-flood-proofing agricultural structures in accordance with the criteria outlined in *13.12-5.040 Agricultural Structures* of this ordinance. Agricultural structures not meeting the criteria of *13.12-5.040 Agricultural Structures* must meet the non-residential construction standards and all other applicable provisions of this ordinance.

C. Manufactured Homes.

1. Manufactured homes that are placed or substantially improved on sites outside a manufactured home park or subdivision, in a new manufactured home park or sub-division, 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 one foot above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

2. 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 for residential construction in *13.12-4.020 (A) Residential Construction* of this ordinance must be elevated so that the lowest floor of the manufactured home is elevated no lower than one foot above the base flood elevation, and be securely anchored to an adequately anchored foundation to resist flotation, collapse, and lateral movement.

3. 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 19-425.39 of the *South Carolina Manufactured Housing Board Regulations*, effective date May 25, 1990, 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, reinforced piers or other foundation elements of at least equivalent strength shall support the chassis. When the elevation of the chassis is above 36 inches in height an engineering certification is required.

D. 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.

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

a. 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,

b. The bottom of all openings shall be no higher than one foot above grade,

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

d. 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.

2. 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.

3. Enclosures below BFE

(1) 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).

(2) 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.

(3) 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 the specific standards outlined in *13.12-4.020 (A, B & C) Specific Standards*.

(4) All construction materials below the required lowest floor elevation specified in the specific standards outlined in *13.12-4.020 (A, B & C) Specific Standards* should be of flood resistant materials.

E. Floodways.

Located within areas of special flood hazard established in *13.12-1.040 Lands to Which This Ordinance Applies*, are areas designated as floodways. The floodway is an extremely hazardous area due to the velocity of floodwaters that carry debris and potential projectiles and has erosion potential. The following provisions shall apply within such areas:

1. 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 local administrator.

2. If *13.12-4.020 (E.1) Floodways* is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of 13.12-4.

3. Stream crossings for any purpose (i.e. timber harvesting operations), if temporary, shall be permitted in accordance with floodway requirements of *13.12-4.020 (E) Floodways* and the temporary development provisions of *13.12-4.020 (I) Temporary Development*. Otherwise, the development shall comply with all applicable flood hazard reduction provisions of *13.12-4*.

4. 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 *13.12-4.020 (C) Manufactured Homes* are met.

5. 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-impact 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 or changes to the floodway configuration.

F. Recreational Vehicles

1. A recreational vehicle is ready for highway use if it is:

- a. on wheels or jacking system;
- b. attached to the site only by quick-disconnect type utilities and security devices; and,
- c. has no permanently attached additions.

2. Recreational vehicles placed on sites shall either be:

- a. on site for fewer than 180 consecutive days; and,
- b. be fully licensed and ready for highway use, or meet the permit and certification requirements of *13.12-3.040 Permit and Certification Requirements*, general standards outlined in *13.12-4.010 General Standards*, and manufactured homes standards in *13.12-4.020 (C) Manufactured Homes*.

G. Map Maintenance Activities

The National Flood Insurance Program requires flood data to be reviewed and approved by FEMA. This ensures that flood maps, studies and other data identified in *13.12-1.040 Lands to Which This Ordinance Applies* accurately represent flooding conditions so appropriate floodplain management criteria are based on current data, the following map maintenance activities are identified:

a) Requirement to Submit New Technical Data

1. For all development proposals that impact floodway delineations or base flood elevations, the community shall ensure that technical data reflecting such changes be submitted to FEMA within six months of the date such information becomes available. These development proposals include:

(a) Floodway encroachments that increase or decrease base flood elevations or alter floodway boundaries;

(b) Fill sites to be used for the placement of proposed structures where the applicant desires to remove the site from the special flood hazard area;

(c) Alteration of watercourses that result in a relocation or elimination of the special flood hazard area, including the placement of culverts; and

(d) Subdivision or large scale development proposals requiring the establishment of base flood elevations in accordance with *13.12-4.030 (D) Standards for Subdivision Proposals*.

2. It is the responsibility of the applicant to have technical data, required in accordance with *13.12-4.020 (G) Map Maintenance Activities*, prepared in a format required for a Conditional Letter of Map Revision or Letter of Map Revision, and submitted to FEMA. Submittal and processing fees for these map revisions shall also be the responsibility of the applicant.

3. The Floodplain Administrator shall require a Conditional Letter of Map Revision prior to the issuance of a permit for:

a) Proposed floodway encroachments that increase the base flood elevation; and

b) Proposed development which increases the base flood elevation by more than one foot in areas where FEMA has provided base flood elevations but no floodway.

4. Permits approved by the Floodplain Administrator shall be conditioned upon the applicant obtaining a Letter of Map Revision from FEMA for any development proposal subject to *13.12-4.020 (G) Map Maintenance Activities*.

5. Conditional Letter of Map revisions (CLOMR) and/or Letters of Map Revision (LOMR) must go through the variance process outlined in *13.12-5 Variance Procedures*.

b) Right to Submit New Technical Data

The Floodplain Administrator may request changes to any of the information shown on an effective map that does not impact floodplain or floodway delineations or base flood elevations, such as labeling or planimetric details. Such a submission shall include appropriate supporting documentation made in writing by the local jurisdiction and may be submitted at any time.

H. Accessory Structures.

1. A detached accessory structure or garage, the cost of which is greater than \$4,000, must comply with the requirements as outlined in FEMA's Technical Bulletin 7-93 *Wet Flood-proofing Requirements or be elevated in accordance with 13.12-4.020 (A) Residential Construction and (D) Elevated Buildings or dry flood-proofed in accordance with 13.12-4.020 (B) Non-residential Construction*.

2. When accessory structures of \$4,000 or less are to be placed in the floodplain, the following additional 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 *13.12-4.010 (E) Utilities*; and

f. Openings to relieve hydrostatic pressure during a flood shall be provided below base flood elevation in conformance with *13.12-4.020 (D.1) Elevated Buildings*.

3. Swimming Pool Utility Equipment Rooms

If the building can not be built at or above the BFE, because of functionality of the equipment then a structure to house the utilities for the pool may be built below the BFE with the following provisions:

1. Meet the requirements for accessory structures in *13.12-4.020 (H) Accessory Structures*.
2. The utilities must be anchored to prevent flotation and shall be designed to prevent water from entering or accumulating within the components during conditions of the base flood.
3. A variance may be granted to allow wet flood-proofing of the structure.

4. Elevators

1. Install a float switch system or another system that provides the same level of safety is necessary for all elevators where there is a potential for the elevator cab to descend below the BFE during a flood per FEMA's *Technical Bulletin 4-93 Elevator Installation for Buildings Located in Special Flood Hazard Areas*.
2. All equipment that may have to be installed below the BFE such as counter weight roller guides, compensation cable and pulleys, and oil buffers for traction elevators and the jack assembly for a hydraulic elevator must be constructed using flood-resistant materials where possible per FEMA's *Technical Bulletin 4-93 Elevator Installation for Buildings Located in Special Flood Hazard Areas*.

I. 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 flood-proofing criteria of *13.12-4.020 (A) Residential Construction* and *13.12-4.020 (B) Non-Residential Construction*, respectively, provided that the following criteria are met:

- a) All applicants must submit to the local administrator, 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.

J. Fill.

An applicant shall demonstrate that fill is the only alternative to raising the building to meet the residential and non-residential construction requirements of *13.12-4.020 (A) Residential Construction* and *13.12-4.020 (B) Non-Residential Construction*, 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:

1. Fill may not be placed in the floodway unless it is in accordance with the requirements in *13.12-4.020 (E.1) Floodways*,

2. Fill may not be placed in tidal or non-tidal wetlands without the required State and federal permits,

3. Fill must consist of soil and rock materials only. A registered professional geotechnical engineer may use dredged material as fill only upon certification of suitability. Landfills, rubble fills, dumps, and sanitary fills are not permitted in the floodplain,

4. Fill used to support structures must comply with ASTM Standard D-698, and its suitability to support structures certified by a registered, professional engineer,

5. Fill slopes shall be no greater than two horizontal to one vertical. Flatter slopes may be required where velocities may result in erosion; and,
6. The use of fill shall not increase flooding or cause drainage problems on neighboring properties.
7. Fill may not be used for structural support in the coastal high hazard areas
8. Will meet the requirements of FEMA Technical Bulletin 10-01, *Ensuring That Structures Built On Fill In Or Near Special Flood Hazard Areas Are Reasonable Safe From Flooding*.

13.12-4.030 Standards for Subdivision Proposals.

- A. All subdivision proposals shall be consistent with the need to minimize flood damage and are subject to all applicable standards in these regulations;
- B. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;
- C. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and
- D. In all areas of special flood hazard where base flood elevation data are not available, the applicant shall provide a hydrologic and hydraulic engineering analysis that generates base flood elevations for all subdivision proposals and other proposed developments containing at least 50 lots or 5 acres, whichever is less. For further information regarding the methods for determining BFEs listed below refer to FEMA's manual *Managing Floodplain Development in Approximate Zone A Areas*.
- E. If the areas of special flood hazard is identified as an area of open space and is deeded as such then a hydrologic and hydraulic engineering analysis that generates base flood elevations for the subdivision proposal would not be required.
- F. The applicant shall meet the requirement to submit technical data to FEMA in *13.12-4.020 (G) Map Maintenance Activities* when a hydrologic and hydraulic analysis is completed that generates base flood elevations.

13.12-4.040 Standards for Streams without Established Base Flood Elevations and/or Floodways:

Located within the areas of special flood hazard (Zones A and V) established in *13.12-1.040 Lands to Which This Ordinance Applies*, 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:

A. 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.

B. If *13.12-4.040 (A) Standards for streams without Estimated Base Flood Elevations and/or Floodways* 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 13.12-4 and shall be elevated or flood-proofed in accordance with elevations established in accordance with *13.12-3.030 (K) Use of Best Data Available*.

1. Data from preliminary, draft, and final Flood Insurance Studies constitutes best available data. Refer to FEMA Floodplain Management Technical Bulletin 1-98 *Use of Flood Insurance Study (FIS) Data as 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.

2. When base flood elevation data is not available from federal, state or other sources, the lowest floor shall be elevated at least three (3) feet above the highest adjacent grade.

13.12-4.050 Standards for Streams with Established Base Flood Elevations but without Floodways.

Along rivers and streams where Base Flood Elevation (BFE) data is provided but neither floodway are identified for a Special Flood Hazard Area on the FIRM or in the FIS. The following provisions apply within such areas:

1. No encroachments, including fill, new construction, substantial improvements, or other development, shall be permitted unless certification with supporting technical data by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

13.12-4.060 Coastal High Hazard Areas (V-Zones).

Located within the areas of special flood hazard established in *13.12-1.040 Lands to Which This Ordinance Applies* or *13.12-3.050 (K) Use of Best Data Available* are areas designated as coastal high hazard areas. These areas have special flood hazards associated with wave wash. The following provisions shall apply within such areas:

A. All buildings or structures shall be located landward of the first line of stable natural vegetation and comply with all applicable Department of Health and Environmental Control (DHEC) Ocean and Coastal Resource Management (OCRM) setback requirements.

B. All buildings or structures shall be elevated so that the bottom of the lowest supporting horizontal member (excluding pilings or columns) is located no lower than one foot above the base flood elevation level, with all space below the lowest supporting member open so as not to impede the flow of water. Prior to construction, plans for any structures that will have lattice work or decorative screening must be submitted to the local administrator for approval. Open lattice work or decorative screening may be permitted for aesthetic purposes only and must be designed to wash away in the event of abnormal wave action and in accordance with *13.12-4.060 (H)*.

C. All buildings or structures shall be securely anchored on pilings or columns, extending vertically below a grade of sufficient depth and the zone of potential scour, and securely anchored to the subsoil strata.

D. All pilings and columns and the attached structures shall be anchored to resist flotation, collapse, lateral movement and scour due to the effect of wind and water loads acting simultaneously on all building components.

E. A registered professional engineer or architect shall certify that the design, specifications and plans for construction are in compliance with the provisions contained in *13.12-4.060 (C, D, F & I)* of this ordinance.

F. There shall be no fill used as structural support. Non-compacted fill may be used around the perimeter of a building for landscaping/aesthetic purposes provided the fill will wash out from storm surge, thereby rendering the building free of obstruction prior to generating excessive loading forces, ramping effects, or wave deflection. Only beach compatible sand may be used. The local administrator shall approve design plans for landscaping/ aesthetic fill only after the applicant has provided an analysis by an engineer, architect, and/or soil scientist that demonstrates that the following factors have been fully considered:

1. Particle composition of fill material does not have a tendency for excessive natural compaction,
2. Volume and distribution of fill will not cause wave deflection to adjacent properties; and,
3. Slope of fill will not cause wave run-up or ramping.

G. There shall be no alteration of sand dunes that would increase potential flood damage.

H. Lattice work or decorative screening shall be allowed below the base flood elevation provided they are not part of the structural support of the building and are designed so as to breakaway, under abnormally high tides or wave action, without damage to the structural integrity of the building on which they are to be used and provided the following design specifications are met:

1. No solid walls shall be allowed.

2. Breakaway wall material shall consist of wood or mesh screening only.

3. Design safe loading resistance of each breakaway wall shall be not less than 10 nor more than 20 pounds per square foot; or

4. If more than 20 pounds per square foot, a registered professional engineer or architect shall certify that the design wall collapse would result from a water load less than that which would occur during the base flood event, and the elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement, or other structural damage due to the effects of wind and water loads acting simultaneously on all building components (structural and non-structural). The water loading values used shall be those associated with the base flood. The wind loading values used shall be those required by the IBC International Building Code.

5. Breakaway wall material shall be constructed with flood resistant materials.

I. If aesthetic lattice work or screening is utilized, such enclosed space shall not be designed to be used for human habitation, but shall be designed to be used only for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises.

1. Only flood resistant materials shall be used below the required flood elevation specified in *13.12-4.010 (B) Flood Resistant Materials and Equipment*.

2. 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 *13.12-4.010 (D) Critical Development*.

3. The total area of an enclosed space shall not exceed 299 square feet per building.

J. Any alteration, repair, reconstruction or improvement to a structure shall not enclose the space below the lowest floor except with lattice work or decorative screening, as provided for in *13.12-4.060 Coastal High Hazard Areas (V-Zones) (H and I)*.

K. 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 elevation standards of *13.12-4.020 (C) Manufactured Homes*.

L. Recreational vehicles shall be permitted in Coastal High Hazard Areas provided that they meet the Recreational Vehicle criteria of *13.12-4.020 (F) Recreational Vehicles* and the provisions of *13.12-4.020 (I) Temporary Development*.

M. Temporary structures are permitted in accordance with *13.12-4.020 (I) Temporary Development*.

N. Accessory structures, below the required lowest floor elevation specified in *13.12-4.060 (B) Coastal High Hazard Areas (V-Zones)*, are prohibited except for the following:

1. Swimming Pools

a. They are installed at-grade or elevated so long as the pool will not act as an obstruction

b. They must be structurally independent of the building and its foundation.

c. They may be placed beneath a coastal building only if the top of the pool and any accompanying decking or walkway are flush with the existing grade and only if the lower area remains unenclosed.

d. As part of the certification process for V-zone buildings the design professional must consider the effects that any of these elements will have on the building in question and any nearby buildings.

2. Pool Utility Equipment Rooms

If the building can not be built at or above the BFE, because of functionality of the equipment then a structure to house the utilities for the pool may be built below the BFE with the following provisions:

(a) It must be structurally independent from the main structure.

(b) It must be built with breakaway walls.

(c) The utilities must be anchored to prevent flotation and shall be designed to prevent water from entering or accumulating within the components during conditions of the base flood.

3. Access Stairs Attached to or Beneath an Elevated Building:

a. Must be constructed of flood-resistant materials..

b. Must be constructed as open staircases so they do not block flow under the structure in accordance with 44CFR60.3(e)(5).

4. Decks

a. If the deck is structurally attached to a building then the bottom of the lowest horizontal member must be at or above the elevation of the buildings lowest horizontal member.

b. If the deck is to be built below the BFE then it must be structurally independent of the main building and must not cause an obstruction.

c. If an at-grade, structurally independent deck is proposed then a design professional must evaluate the design to determine if it will adversely affect the building and nearby buildings.

5. Elevators

a. Install a float switch system or another system that provides the same level of safety is necessary for all elevators where there is a potential for the elevator cab to descend below the BFE during a flood per FEMA's Technical Bulletin 4-93 Elevator Installation for Buildings Located in Special Flood Hazard Areas.

b. All equipment that may have to be installed below the BFE such as counter weight roller guides, compensation cable and pulleys, and oil buffers for traction elevators and the jack assembly for a hydraulic elevator must be constructed using flood-resistant materials where possible per FEMA's Technical Bulletin 4-93 Elevator Installation for Buildings Located in Special Flood Hazard Areas.

O. Parking areas should be located on a stable grade under or landward of a structure. Any parking surface shall consist of gravel or ROC aggregate.

P. 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 base flood event plus one (1) foot. 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. No utilities or components shall be attached to breakaway walls.

Article 13.12-5. VARIANCE PROCEDURES

13.12-5.010 Establishment of Appeal Board.

The Board of Zoning Appeals as established by Colleton County Council shall hear and decide requests for appeals and eligible variances from the requirements of this ordinance.

13.12-5.020 Right to Appeal.

Any person aggrieved by the decision of the Zoning Board of Appeals or any taxpayer may appeal such decision to the circuit court.

13.12-5.030 Historic Structures.

Variations 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.

13.12-5.040 Agricultural Structures.

Variations may be issued to wet flood-proof an agricultural structure in accordance with *Technical Bulletin 7-93, Wet Flood-proofing 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 *13.12-5.080 Conditions*, this section, and the following standards:

- A. Use of the structure must be limited to agricultural purposes as listed below:
 - 1. Pole frame buildings with open or closed sides used exclusively for the storage of farm machinery and equipment,
 - 2. Steel grain bins and steel frame corncribs,
 - 3. General-purpose barns for the temporary feeding of livestock that are open on at least one side;
 - 4. For livestock confinement buildings, poultry houses, dairy operations, and similar livestock operations, variations may not be issued for structures that were substantially damaged. New construction or substantial improvement of such structures must meet the elevation requirements of *13.12-4.020 (B) Non-Residential Construction* of this ordinance; and,
 - 5. 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.

- B. The agricultural structure must be built or rebuilt, in the case of an existing building that is substantially damaged, with flood-resistant materials for the exterior and interior building components and elements below the base flood elevation,

- C. 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,

- D. The agricultural structure must meet the venting requirement of *13.12-4.020 (D) Elevated Buildings* of this ordinance,

E. Any mechanical, electrical, or other utility equipment must be located above the base flood elevation so that they are contained within a watertight, flood-proofed enclosure that is capable of resisting damage during flood conditions in accordance with *13.12-4.010 (D) Critical Development* of this ordinance,

F. The agricultural structure must comply with the floodway encroachment provisions of *13.12-4.020 (E) Floodways* of this ordinance; and,

G. major equipment, machinery, or other contents must be protected. Such protection may include protective watertight flood-proofed 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 *13.12-4.020 (I) Temporary Development*.

13.12-5.050 Considerations.

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

A. the danger that materials may be swept onto other lands to the injury of others;

B. the danger to life and property due to flooding or erosion damage, and the safety of access to the property in times of flood for ordinary and emergency vehicles;

C. the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

D. the importance of the services provided by the proposed facility to the community;

E. the necessity to the facility of a waterfront location, where applicable;

F. the availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;

G. 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;

H. 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,

I. 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,

J. 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.

13.12-5.060 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, Water and Conservation Division, State Coordinator's Office, must be taken into account and included in the permit file.

13.12-5.070 Floodways.

Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result unless a CLOMR is obtained prior to issuance of the variance. In order to insure the project is built in compliance with the CLOMR for which the variance is granted the applicant must provide a bond for 100% of the cost to perform the development.

13.12-5.080 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:

- A. Variances may not be issued when the variance will make the structure in violation of other federal, State, or local laws, regulations, or ordinances.
- B. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- C. 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.
- D. 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.
- E. The local administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request.

F. 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 *13.12-3.040 (E) Violations To Be Corrected* of this ordinance.

Article 13.12-6. LEGAL STATUS PROVISIONS

13.12-6.010 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 flood damage prevention ordinance enacted April 7, 1987, 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 there under 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 ordinance of Colleton County enacted on April 7, 1987, as amended, which are not reenacted herein, are repealed.

13.12-6.020 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 December 2, 2001; 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.

13.12-6.030 Effective Date. This ordinance shall become effective upon adoption.

3. Severability:

If any provision of this Ordinance or the application thereof to any person or circumstances is held invalid, the invalidity does not affect other provisions or applications of the Ordinance which can be given effect without the invalid provision or application and to this end, the provisions of this Ordinance are severable.

4. Conflict:

Provisions in other County Ordinances, Resolutions, policies, or by-laws in conflict with this Ordinance are hereby repealed.

ATTEST:

SIGNED:

Ruth Mayer, Council Clerk

Joseph F. Flowers, Chairman

Approved as to Form
Sean Thornton, County Attorney

COUNCIL VOTE: Unanimous
OPPOSED: