

Chapter 22
Flood Damage Prevention

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Article I Statutory Authorization, Findings of Fact, Purpose and Objectives

Sec. 22.1. Statutory Authorization

The Legislature of the State of South Carolina has in South Carolina Code of Laws delegated the responsibility to local governmental units to adopt regulations designated to promote the public health, safety, and general welfare of its citizenry. Therefore, the Town Council does ordain as follows:

Sec. 22.2 Findings of Fact

- (1) The flood hazard area of Town is subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditure for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.
- (2) These flood losses are caused by the cumulative effect of obstructions in flood plains 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.

Sec. 22.3 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) 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 flood plains, stream channels, and natural protective barriers which are involved;
- (4) control filling, 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.

Sec. 22.4 Objectives

The objectives of this ordinance 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, street and bridges located in floodplain;
- (6) to help maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize flood blight areas, and;
- (7) to insure that potential home buyers are notified that property is in a flood area.

Sec. 22.5 Sediment Control

The Lexington County Sediment Control Ordinance is hereby adopted and included by reference. Any conflicts between this chapter and the Lexington County Sediment Control Ordinance shall be remedied by enforcement of the most stringent requirements.

Article II. 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.

Addition (to an existing building) Any walled and roofed expansion to the perimeter of a building in which the addition is connected by a common load-bearing wall other than a fire wall. Any walled and roofed addition which is connected by a fire wall or is separated by independent perimeter load bearing walls is new construction.

Appeal A request for a review of the building inspector's interpretation of any provision of this ordinance or a request for a variance.

Area of special flood hazard The land in the flood plain within a community subject to a one percent or greater chance of flooding in any given year.

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

Basement That portion of a building having its floor subgrade (below ground level) at all sides.

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

Development Any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavating, drilling operations, or permanent storage of 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 (posts and piers), sheer walls, or breakaway walls.

Existing construction Any structure for which the start of construction commenced before the effective date of the first floodplain management code, ordinance, or standard based upon specific technical base flood elevation data.

Flood or flooding A general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) the overflow of inland or tidal waters;
- (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 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.

Floor The top surface of an enclosed area in a building (including basement), i.e., top of slab in concrete slab construction or top of wood flooring in wood frame construction. The term does not include the floor or a garage used solely for parking vehicles.

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 a building.

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 the purposes of this ordinance, the term is synonymous with National Geodetic Vertical Datum (NGVD).

Manufactured Home A building 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 also includes park trailers, travel trailers, and similar transportable structures placed on a site for 180 consecutive days or longer and intended to be improved property.

National Geodetic Vertical Datum (NGVD) As corrected in 1929 is a vertical control used as a reference for establishing varying elevations within the flood plain.

New construction Any structure for which the "start of construction" commenced after the effective date of the first flood plain management code, ordinance, or standard based upon specific technical base flood elevation data which establishes the area of special flood hazard or specific date.

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, or improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of a building (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 a basement, footings, piers or foundations or the erection or 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 building.

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

Substantial improvement Any combination of repairs, reconstruction, alteration, or improvements to a building, taking place during the life of a building, in which the cumulative cost equals or exceeds fifty percent of the market value of the building. The market value of the building should be: (1) the appraised value of the building prior to the start of the initial repair or improvement, or; (2) in the case of damage, the value of the building prior to the damage occurring. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the building. The term does not, however, include any project for improvement of a building required to comply with existing health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions.

Variance A grant of relief from the requirements of this ordinance which permits construction in a manner otherwise prohibited by this ordinance where specific enforcement would result in unnecessary hardship.

Article III. General Provisions.

Sec. 22.5. Lands To Which This Ordinance Applies.

This ordinance shall apply to all areas of special flood hazard within the jurisdiction of the Town.

Sec. 22.6 Basis for Establishing the Areas of Special Flood Hazard

The areas of special flood hazard identified by the Federal Emergency Management Agency in its Flood Insurance Rate Map, dated 3/2/89, with accompanying maps and other supporting data, and any revision thereto, are adopted by reference and declared to be a part of this ordinance.

Sec. 22.7 Establishment of Development Permit

A Development Permit shall be required in conformance with the provision of this ordinance prior to the commencement of any development activities.

Sec. 22.8 Compliance.

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

Sec. 22.9 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 conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

Sec. 22.10 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 the state statutes.

Sec. 22.11 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 the Town or by any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

Sec. 22.12 Penalties for Violation

Violation of the provisions of this ordinance or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$200 or imprisoned for not more than 30 days, or both, and in addition, shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the Town from taking such other lawful actions as is necessary to prevent or remedy any violation.

Article IV Administration

Sec. 22.13 Designation of Building Inspector as Administrator.

The building inspector is hereby appointed to administer and implement the provisions of this ordinance.

Sec. 22.14 Permit Procedures

Application for a development permit shall be made to the town administrator or his designee on forms furnished by him or her prior to any development activities, and may include, but not be limited to, the following plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question: existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing. Specifically, the following information is required:

(1) Application Stage

(a) elevation in relation to mean sea level of the proposed lowest floor, including the basement, of all buildings;

(b) elevation in relation to mean sea level to which any non-residential building will be flood-proofed;

(c) certificate from a registered professional engineer or architect that the non-residential flood-proofed building will meet the flood-proofing criteria in Article 5, Section B (2);

(d) description of the extent to which any watercourse will be altered or relocated as result of proposed development, and;

(2) Construction Stage.

Provide a floor elevation or flood proofing certificate after the lowest floor is completed, or instances where the building is subject to the regulations applicable to Coastal High Hazard Areas, after placement of the horizontal structural members of the lowest floor. Upon placement of the lowest floor, or flood-proofing by whatever construction means, or upon placement of the horizontal structural members of the lowest floor, whichever is applicable, it shall be the duty of the permit holder to submit to the building inspector a certification of the elevation of the lowest floor, flood-proofed elevation, or the elevation of the lowest portion of the horizontal structural members of the lowest floor, whichever is applicable, as built, in relation to the mean sea level. Said certification shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by same. When flood proofing is utilized for a particular building, said certification shall be prepared by or

under the direct supervision of a professional engineer or architect and certified by same. Any work undertaken prior to submission of the certification shall be at the permit holder's risk. The building inspector shall review the flood elevation survey data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further progressive work being permitted to proceed. Failure to submit the survey or failure to make said corrections required hereby, shall be cause to issue a stop work order for the project.

Sec. 22.15 Duties and Responsibilities of the Building Inspector.

Duties of the building inspector shall include, but not be limited to:

- (1) review of all development permits to assure that the permit requirements of this ordinance have been satisfied;
- (2) advise permittee that additional federal or state permits may be required, and if specific federal or state permit requirements are known, require that copies of such permits be provided and maintained on file with the development permit;
- (3) notify adjacent communities and the South Carolina Department of Natural Resources, Water Resources Division, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency;
- (4) assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished;
- (5) verify and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved buildings, in accordance with Article 4, Section B (2);
- (6) verify and record the actual elevation (in relation to mean sea level) to which the new or substantially improved buildings have been flood-proofed, in accordance with Article 4, Section B (2);
- (7) when flood proofing is utilized for a particular building, the building inspector shall obtain certification from a registered professional engineer or architect, in accordance with Article 5, Section B (2);
- (8) 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 building inspector 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 this article;
- (9) when base flood elevation data or floodway data have not been provided in accordance

with Article 3, Section B, then the building inspector shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source, in order to administer the provisions of Article 5;

- (10) all records pertaining to the provisions of this ordinance shall be maintained in the office of the building inspector and shall be open for public inspection;

Sec. 22.16 Variance Procedures.

- (1) The Board of Zoning Appeals as established by the Town shall hear and decide appeals and requests for variances from the requirements of this ordinance.
- (2) The Board of Zoning Appeals shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the building inspector in the enforcement or administration of this ordinance.
- (3) Any person aggrieved by the decision of the Board of Zoning Appeals or any taxpayer may appeal such decision to the Circuit Court for the County, as provided in the zoning ordinance for the Town and the South Carolina Code of Laws.
- (4) Variances may be issued for the reconstruction, rehabilitation or restoration of buildings 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 section, except for Article 4, Section D (8) (a) and (d) and provided the proposed reconstruction, rehabilitation, or restoration will not result in the building losing its historical designation.
- (5) In passing upon such applications, the Board of Zoning Appeals 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 of life and property due to flooding or erosion damage;
 - (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 of the facility to a waterfront location, in the case of a functionally dependent facility;
 - (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;
 - (h) the relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
 - (i) the safety of access to the property in times of flood for ordinary and emergency vehicles;
 - (j) 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, and;
 - (k) 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.
- (6) Upon consideration of the factors listed above, and the purposes of this ordinance, the board of zoning appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.
- (7) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- (8) Conditions for Variances:
- (a) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief; and in the instance of a historical building, a determination that the variance is the minimum necessary so as not to destroy the historic character and design of the building.
 - (b) Variances shall only be issued upon (i) a showing of good and sufficient cause; (ii) a determination that failure to grant the variance would result in exceptional hardship, and; (iii) 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.
 - (c) 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 building is to be built and stating that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.
 - (d) the building inspector shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request.

Article V, Provisions for Flood Hazard Reduction.

Sec. 22.17. General Standards.

In all areas of special flood hazard the following provisions are required:

- (1) New construction and substantial improvements shall be anchored to prevent flotation collapse or lateral movement of the structure.
- (2) Manufactured homes shall be anchored to prevent 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 standard shall be in addition to and consistent with applicable state requirements for resisting wind forces.
- (3) New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- (4) New construction or substantial improvements shall be constructed by methods and practices that minimize flood damage.
- (5) Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
- (6) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
- (7) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.
- (8) On site disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.
- (9) Any alteration, repair, reconstruction or improvements to a building which is in compliance with the provisions of this ordinance, shall meet the requirements of "new construction" as contained in this ordinance.
- (10) Any alteration, repair, construction or improvements to a building which is not in compliance with the provisions of this ordinance, shall be undertaken only if said non-conformity is not furthered, extended, or replaced.

Sec. 22.18 Specific Standards

In all areas of special flood hazard where base flood elevation data have been provided, as set forth in Article 3, Section B, or Article 4, Section C (9), the following provisions are required:

- (1) **Residential Construction.** New construction or substantial improvement of any residential building or manufactured home shall have the lowest floor, including basement elevated no lower than (3 feet) above the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of flood waters shall be provided in accordance with standards of Article 5, Section B (3).
- (2) **Non-Residential Construction.** New construction or substantial improvement of any commercial, industrial, or non-residential building or manufactured home shall have the lowest floor, including basement, elevated no lower than (3 feet) above the level of the base flood elevation. Buildings located in all A-Zones may be flood-proofed in lieu of being elevated provided that all areas of the building below the required elevation are water tight with walls substantially impermeable to the passage of water, and use 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 certification shall be provided to the official as set forth in Article 4, Section C (7).
- (3) **Elevated Buildings.** New construction or substantial improvements of elevated buildings that include fully enclosed areas formed by foundation and other exterior walls below the base flood elevation shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwater to automatically equalize hydrostatic flood forces on exterior walls.
 - (a) Designs for complying with this requirement must be certified by a professional engineer or architect or meet the following criteria:
 - (i) provide a minimum of two openings having a total new area or not less than one square inch for every square foot of enclosed area subject to flooding;
 - (ii) the bottom of all openings shall be no higher than one foot above grade, and;
 - (iii) openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwater in both directions.
 - (b) 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), and;

- (c) The interior portion of such enclosed area shall not be partitioned or finished into separate rooms.

Sec. 22.19 Standards for Streams without Established Base Flood Elevation and/or Floodway

Located within the areas of special flood hazard established in Article 3, Section B, where streams exist but where no base flood data has been provided or where base flood data has been provided without floodway, the following provisions apply:

- (1) No encroachments, including fill material or structures shall be located within areas of special flood hazard, unless certification 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. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles;
- (2) new construction or substantial improvements of buildings shall be elevated or flood-proofed to elevations established in accordance with Article 4, Section c (9).

Sec. 22.20 Standards for Subdivision Proposals.

- (1) All subdivision proposals shall be consistent with the need to minimize flood damage;
- (2) all subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage;
- (3) all subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards, and;
- (4) base flood elevation data shall be provided for subdivision proposals and other proposed development (including manufactured home parks and subdivisions) which is greater than the lesser of fifty lots of five acres.

Ordinance No. 2009 01
Chapter 22 Code of Ordinances

STATE OF SOUTH CAROLINA)	An Ordinance Adopting, by reference, The Lexington County Stormwater Management Ordinance and Land Development Manual into the Town of Swansea Code of Ordinances.
)	
COUNTY OF LEXINGTON)	
TOWN OF SWANSEA)	

WHEREAS, the Town of Swansea shall resend all previous ordinances concerning stormwater management and land development. Town Council wishes to adopt, by reference, the Lexington County Stormwater Ordinance and Land Development Manual into the Town of Swansea Code of Ordinances. A copy of the Ordinance is attached hereto and made a copy of hereby reference.

WHEREAS, Adoption of said ordinance and manual will permit the County of Lexington, in conjunction with the Town of Swansea, to enforce the Lexington County Stormwater Management Ordinance and Land Development Manual within the Town of Swansea jurisdiction.

NOW THEREFORE, BE IT ORDERED AND ORDAINED by the Town of Swansea, South Carolina, in Council duly assembled and by the authority thereof, that: The Lexington County Stormwater Ordinance and Land Development Manual be adopted by the Town of Swansea Council and incorporated, by reference, in the Town of Swansea Code of Ordinances.

DULY ADOPTED THIS 1st day of June 2009 under the corporate seal of the Town of Swansea.

Ray Spires

James Ray Spires, Mayor

Woodrow Davis Jr.

James B. Black

Hinda Gutter

W. D. Bailey Jr.

First Reading: 6-1-2009
Second Reading: 6-8-2009

Attest: *Lorraine W. Abell*

Lorraine W. Abell, Town Clerk

SEE THE
LAND DEV. MANUAL
&
STORMWATER MANUAL
IN
SEPARATE BOOK