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Ordinance 16-05

Lexington County

Flood Damage Prevention Ordinance

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DIVISION 1-GENERAL STANDARDS

Sec. 1-1. Statutory Authorization.

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

Sec. 1-2. Findings of Fact.

The Special Flood Hazard Areas of Lexington County are subject to periodic inundation of flood waters 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.

Sec. 1-3. Statement of Purpose and Objectives.

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

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

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

Sec. 1-4. Lands to Which this Ordinance Applies.

This ordinance and the Lexington County Land Development Manual shall apply to all areas of special flood hazard within the jurisdiction of Lexington County Unincorporated Areas as identified by the Federal Emergency Management Agency in its Flood Insurance Study, dated February 20, 2002 with accompanying maps and other supporting data, and any revision thereto, that are hereby adopted by reference and declared to be a part of this ordinance.

Sec. 1-5. Prerequisite of Building Permit.

A Building Permit, with review and approval by the Lexington County Floodplain Manager, shall be required in conformance with the provisions of this Ordinance and the Lexington County Land Development Manual (LDM) prior to the commencement of any development activities. See Section 2-3 of this ordinance.

Sec. 1-6. Prerequisite of a Floodplain Permit.

For development, that does not fall under the parameters of a building permit a floodplain permit with review and approval by the Lexington County Floodplain Manager, shall be required in conformance with the provisions of this Ordinance and the Lexington County Land Development Manual (LDM) prior to the commencement of any development activities in areas of special flood hazard.

Sec. 1-7. 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. 1-8. 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.

Sec. 1-9. Partial Invalidity and Severability.

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

Sec. 1-10. Warning and Disclaimer of Liability.

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering 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 Lexington County or by any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

Sec. 1-11. 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 violating any provision of this Ordinance shall be subject to a civil penalty subject to the penalty jurisdiction of the Magistrate's Court. Each day the violation continues shall be considered a separate offense. Nothing herein contained shall prevent Lexington County from taking such other lawful action as is necessary to prevent or remedy any violation.

Sec. 1-12. Definitions.

See Division 6 of this Ordinance.

DIVISION 2-ADMINISTRATION

Sec. 2-1. Designation of Lexington County Floodplain Manager.

The Lexington County Floodplain Manager is hereby appointed to administer and implement the provisions of this Ordinance. The Floodplain Manager shall work under the general supervision of the Director of Public Works or his Designee.

Sec. 2-2. Adoption of Letter of Map Revisions (LOMR).

All LOMRs that are issued in the areas identified in Section 1-4, General Standards, Lands to Which this Ordinance Applies are hereby adopted.

Sec. 2-3. Building Permit and Certification Requirements.

(a) Building Permit: - Application for a building permit shall be made to the Lexington County Community Development Department, in conjunction with the Lexington County Floodplain Manager, on forms furnished by the Community Development Department 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:

(1) A site plan that shows the 1-percent annual chance flood contour or a statement that the entire lot is within the floodplain must be provided by the building 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 Lexington County Floodplain Manager of Section 2-4 or the Specific Standards of Section 3-2 and the Standards for streams without Established Base Flood Elevations and Floodways of Section 3-3. The plot plan must be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by it. The plot plan must show the floodway, if any, as identified by the Federal Emergency Management Agency or the floodway that has been accepted by the County Floodplain Manager.

(2) Where base flood elevation data is provided as set forth in Section 1-4 or the duties and responsibilities of the Lexington County Floodplain Manager of Section 2-4 the application for a building permit within the flood hazard area shall show:

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

b. if the structure will be flood proofed in accordance with the Non-Residential Construction requirements of Section 3-2(b), the elevation (in relation to mean sea level) to which the structure will be flood proofed.

(3) Where base flood elevation data is not provided as set forth in Section 1-4 or the duties and responsibilities of the Lexington County Floodplain Manager of Section 2-4, then the provisions in the standards for streams without estimated base flood elevations and floodways of Section 3-3 must be met.

(4) Alteration of Watercourse: Where any watercourse will be altered or relocated as a result of proposed development, the application for a building permit shall include a

description of the extent of watercourse alteration or relocation, an engineering study to demonstrate that the flood- carrying capacity of the altered or relocated watercourse is maintained and a map showing the location of the proposed watercourse alteration or relocation.

(5) Floodplain permit: A floodplain permit is required for all developments located in the Special Flood Hazard Area. The Floodplain Manager may require a building permit applicant to obtain a floodplain permit. Chapter 11 of the Land Development Manual outlines the requirements.

(b) Certifications

(1) Floodproofing Certification - When a non-residential structure is floodproofed, the applicant shall provide certification from a registered, professional engineer or architect that the non-residential, floodproofed structure meets the floodproofing criteria in the non-residential construction requirements of Section 3-2(b). An emergency operations and annual maintenance and inspection plan shall be submitted prior to issuance of a certificate of occupancy.

(2) Certification During Construction – A lowest floor elevation or floodproofing certification is required after the lowest floor is completed. As soon as possible after completion of the lowest floor and before any further vertical construction commences, or floodproofing by whatever construction means, whichever is applicable, it shall be the duty of the permit holder to submit to the Lexington County Floodplain Manager a certification of the elevation of the lowest floor, or floodproofed elevation, whichever is applicable, as built, in relation to mean sea level. Said certification shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by the supervising surveyor or professional engineer. Any work done prior to submission of the certification shall be at the permit holder's risk. The Lexington County Floodplain Manager 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.

(3) 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 Section 2-3(b)(1), 2-3(b)(2), and 2-3(b)(3) that the development is built in accordance with the submitted plans and previous pre-development certifications.

Sec. 2-4. Duties and Responsibilities of the Lexington County Floodplain Manager.

Shall include, but not be limited to:

(a) Building Permit Review - Review all building permits to assure that the requirements of this ordinance have been satisfied.

(b) Floodplain permit review and issuance – Review all development within the areas of special flood hazard for compliance with this ordinance and Chapter 11 of the Land Development Manual.

(c) Requirement of Federal and/or State permits - Advise permittees 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 building permit.

(d) Watercourse alterations –

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

(2) Maintain written reports of maintenance 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.

(3) 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 construction.

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

(e) Floodway encroachments - Prevent encroachments within floodways unless the certification and flood hazard reduction provisions of the LDM, Chapter 11, Section 4 are met.

(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 –

(1) 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 Section 2-3(b)(2).

(2) Obtain the actual elevation (in relation to mean sea level) to which the new or substantially improved structures have been floodproofed, in accordance with the floodproofing certification outlined in Section 2-3(b)(1).

(3) When floodproofing 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 Section 3-2(b).

(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), 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 Section 4-2.

(j) Prevailing Authority – Where a map boundary showing an area of special flood hazard and field elevations disagree, the base flood 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 Section 3-2(g)(2).

(k) Use of Best Available Data - When base flood elevation data and floodway data has not been provided in accordance with Section 1-4, the applicant shall 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 Section 3-2(l), 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 or the requirements set forth in the LDM, whichever is greater. 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 site information takes precedence. In this case, when the lowest adjacent grade is at or above the BFE, the property owner may apply and may be approved for a Letter of Map Amendment (LOMA) by FEMA. The Lexington County Floodplain Manager will maintain a copy of the Letter of Map Amendment issued from FEMA in the permit file.

(m) On-Site Inspections - Make on-site inspections of projects in accordance with the administrative procedures outlined in Section 2-5(a).

(n) Administrative Notices - Serve notices of violations, issue stop-work orders, revoke permits and take corrective actions in accordance with the administrative procedures in Section 2-5.

(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, State Coordinator for the National Flood Insurance Program within six (6) months, of any annexations or detachments that include special flood hazard areas.

(q) Federally Funded Development - The President issued *Executive Order 11988, Floodplain Management May 1977. E.O.* 11988 as amended by Executive Order 13690 (January 2015). Establishing a Federal Flood Risk Management Standard. E.O. disasters by ensuring that Federal investments in and affecting floodplains are constructed to better withstand the impacts of flooding. Evidence of compliance with the executive order must be submitted as part of the permit review process.

(r) Substantial Damage Determination –An assessment of damage from any origin to the

structure using FEMA's Substantial Damage Estimator (SDE) Tool to determine if the damage equals or exceeds 50 percent of the market value of the structure before the damage occurred.

(s) Substantial Improvement Determinations – Perform an assessment of building permit applications for improvements or repairs to be made to a building or structure that 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 (5) 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.

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 within the past 6 months.

(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.

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

Sec. 2-5. Administrative Procedures.

(a) Inspections of Work in Progress - As the work pursuant to a permit progresses, the Lexington County Floodplain Manager 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 this ordinance and the terms of the permit. In exercising this power, the Lexington County Floodplain Manager 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 development, building or part thereof is being constructed, reconstructed, altered, or repaired in violation of this ordinance, the Lexington County Floodplain Manager 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 Lexington County Floodplain Manager may revoke a floodplain permit and require the return of the either 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 Lexington County Floodplain Manager and each member of his/her 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 Lexington County Floodplain Manager finds violations of applicable state and local laws, it shall be his/her duty to notify the owner or occupant of the property of the violation. The owner or occupant shall immediately remedy each of the violations of law on the property.

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

(1) the building or property is in violation of the Flood Damage Prevention Ordinance,

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

(3) following the hearing, the Lexington County Floodplain Manager may issue such order to alter, vacate, or demolish the building; or to remove fill as appears appropriate.

(g) Order to Take Corrective Action: If, upon a hearing held pursuant to the notice prescribed above, the Lexington County Floodplain Manager shall find that the building or development is in violation of the Flood Damage Prevention Ordinance, he/she shall make an order in writing to the owner, requiring the owner to remedy the violation within such period, not less than 60 days, the Lexington County Floodplain Manager may prescribe; provided that where the Lexington County Floodplain Manager finds that there is imminent danger to life or other property, he/she may order that corrective action be taken in such lesser period as may be feasible.

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

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

(j) Denial of Flood Insurance under the NFIP: If a structure is declared in violation of this ordinance and after all other penalties are exhausted to achieve compliance with this ordinance then the Lexington County Floodplain Manager shall notify the Federal Emergency Management Agency (FEMA) to initiate a Section 1316 of the National Flood Insurance Act of 1968 action against the structure upon the finding that the violator refuses to bring the violation into compliance with the ordinance. Once a violation has been remedied the Lexington County Floodplain Manager shall notify FEMA of the remedy and ask that the Section 1316 denial be rescinded.

(k) The Federal Emergency Management Agency (FEMA) periodically publishes and updates guidance documents to clarify or expound upon the regulatory standards the County is required to meet. The Lexington County Floodplain Manager may rely on all published technical bullets, floodplain management bulletins to provide advice and direction in complying with the FEMA floodplain management standards.

DIVISION 3-PROVISIONS FOR FLOOD HAZARD REDUCTION

Sec. 3-1. General Standards.

Development may not occur in the Special Flood Hazard Area (SFHA) where alternative locations exist due to the inherent hazards and risks involved. Before a building permit is issued, the applicant shall demonstrate that new structures cannot be reasonably located out of the SFHA and that encroachments onto the SFHA are minimized. In all areas of special flood hazard the provisions of the Lexington County Land Development Manual (LDM) and the following shall apply:

(a) Anchoring - All new construction and substantial improvements shall be anchored to prevent flotation, collapse, and 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 in accordance with Technical Bulletin 2, *Flood Damage-Resistant Materials Requirements*, dated 8/08, or as amended and available from the Federal Emergency Management Agency.

(c) Minimize Flood Damage - All new construction and substantial improvements shall be constructed by methods and practices that minimize flood damages.

(d) Critical Development – See LDM, Chapter 11, Section 10.4

(e) Utilities - See LDM, Chapter 11, Section 11.4

(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 floatation and 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 Section 3-2, 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.

(l) Outlet structures and emergency spillways - For all controls, other than a retention or detention pond engineered as part of a stormwater system (e.g. flood control structure), that impede, encroach or alter a major drainage channel or floodplain, the outlet structures and emergency spillways must be capable of accommodating stormwater runoff from a 1% annual chance storm event based on built-out conditions for the watershed.

Sec. 3-2. Specific Standards.

In all areas of the Special Flood Hazard Area (SFHA) where base flood elevation data has been provided, as set forth in Section 1-4 or outlined in the Duties and Responsibilities of the Lexington County Floodplain Manager Section 2-4, the provisions of the Land Development Manual and the following shall apply:

(a) Residential Construction - See LDM, Chapter 11, Section 4

(b) Non-Residential Construction - See LDM, Chapter 11, Section 4

(1) A variance may be considered for wet-floodproofing agricultural structures in accordance with the criteria outlined in Section 4 of this ordinance. Agricultural structures not meeting the criteria of Section 4 must meet the non-residential construction standards and all other applicable provisions of this ordinance. Structures that are floodproofed are required to have an approved maintenance plan with an annual exercise. Lexington County Floodplain Manager must approve the maintenance plan and notification of the annual exercise shall be provided to it.

(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 subdivision, in an expansion to an existing manufactured home park or subdivision, or in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as the result of a flood, must be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated no lower than 2.0 feet 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 Section 3-2(a) of this ordinance must be elevated so that the lowest floor of the manufactured home is elevated no lower 2.0 feet than 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, and lateral movement. For the purpose of this requirement, manufactured homes must be anchored to resist flotation, collapse, and lateral movement in accordance with Section 40-29-10 of the *South Carolina Manufactured Housing Board Regulations*, as amended. Additionally, when the elevation requirement would be met by an elevation of the chassis 36 inches or less above the grade at the site, the chassis shall be

supported by reinforced piers or engineered foundation. When the elevation of the chassis is above 36 inches in height an engineering certification is required.

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

(d) Elevated Buildings - New construction and substantial improvements of elevated buildings that include fully enclosed areas below the lowest floor 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 or exceed the provisions of the Land Development Manual, Chapter 11, Section 4, and the following minimum criteria:

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

b. 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 Lowest Floor

a. 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). Enclosures of this nature shall not exceed 299 square feet.

b. The interior portion of such enclosed area shall not be finished or partitioned into separate rooms, must be void of utilities except for essential lighting as required for safety, and cannot be temperature controlled.

c. 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 Section 3-2(a), (b) and (c).

d. All construction materials below the required lowest floor elevation should be of flood resistant materials.

(e) Floodways - See LDM, Chapter 11, Section 4.

(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; or

b. be fully licensed and ready for highway use, or meet the building permit and certification requirements of Section 2-4, general standards outlined in Section 3-1, and manufactured homes standards in Section 3-2(c) and (d).

(g) Map Maintenance Activities – The National Flood Insurance Program (NFIP) requires flood data to be reviewed and approved by FEMA. This ensures that flood maps, studies and other data identified in Section 1-4 accurately represent flooding conditions so appropriate floodplain management criteria are based on current data. The following map maintenance activities are identified:

(1) Requirement to Submit New Technical Data - See LDM, Chapter 11, Section 7.

(2) Right to Submit New Technical Data - The Lexington County Floodplain Manager 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, which is greater than 500 square feet, must comply with the requirements as outlined in FEMA's Technical Bulletin 7-93 Wet Floodproofing Requirements or be elevated in accordance with Section 3-2(a) and (d) or dry floodproofed in accordance with Section 3-2(b).

(2) If accessory structures greater than 500 square feet are to be placed in the floodplain, the following criteria shall be met:

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

b. Accessory structures shall be designed to have low flood damage potential,

c. Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters,

d. Accessory structures shall be firmly anchored to prevent flotation, collapse and lateral movement of the structure,

e. Service facilities such as electrical and heating equipment shall be installed in accordance with Section 3-1(e).

f. Openings to relieve hydrostatic pressure during a flood shall be provided below base flood elevation in conformance with Section 3-2(d)(1).

g. Accessory structures shall be built with flood resistance materials in accordance with Technical Bulletin 2, *Flood Damage-Resistant Materials Requirements*, dated 8/08, or as amended and available from the Federal Emergency Management Agency. Class 4 and 5 materials, referenced therein, are acceptable flood-resistant materials.

(i) Swimming Pool Utility Equipment Rooms - If the building cannot 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 Section 3-2(h).

(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.

(j) Elevators

(1) Install a float switch system or another system that provides the same level of safety 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.

(k) 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 Section 3-2(a) or (b), 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.

(2) 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.

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

(4) Fill slopes shall be no greater than two horizontal to one vertical. Flatter slopes may be

required where velocities may result in erosion.

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

(6) 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.

l) Standards for Subdivision Proposals and Other Development

(1) All subdivision proposals and other proposed new development shall be consistent with the need to minimize flood damage and are subject to all applicable standards in these regulations.

(2) All subdivision proposals and other proposed new development 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 and other proposed new development shall have adequate drainage provided to reduce exposure to flood damage.

(4) 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;

(5) The applicant shall meet the requirement to submit technical data to FEMA in Section 3-2(g) when a hydrologic and hydraulic analysis is completed that generates base flood elevations.

Sec. 3-3. Standards for Streams without Established Base Flood Elevations and Floodways.

Located within the areas of special flood hazard (Zone A) established in Section 1.D, are small streams where no base flood data has been provided and where no floodways have been identified. The provisions of the Lexington County Land Development Manual (LDM) and the following shall apply:

(a) 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.

(b) When base flood elevation (BFE) data is not available from a federal, state, or other source one of the following methods may be used to determine a BFE For further information regarding the methods for determining BFEs listed below, refer to FEMA's manual Managing Floodplain Development in Approximate Zone A Areas:

(1) Contour Interpolation

a. Superimpose approximate Zone A boundaries onto a topographic map and estimate a BFE.

b. Add one-half of the contour interval of the topographic map that is used to the BFE.

(2) Data Extrapolation - A BFE can be determined if a site within 500 feet upstream of a reach of a stream reach for which a 100-year profile has been computed by detailed methods, and the floodplain and channel bottom slope characteristics are relatively similar to the downstream reaches. No hydraulic structures shall be present.

(3) Hydrologic and Hydraulic Calculations- Perform hydrologic and hydraulic calculations to determine BFEs using FEMA approved methods and software.

Sec. 3-4. Standards for Streams with Established Base Flood Elevations but without Floodways.

Along rivers and streams where Base Flood Elevation (BFE) data is provided but no floodway is identified for a Special Flood Hazard Area on the FIRM or in the FIS. The provisions of the LDM, Chapter 11, Section 4 shall apply.

DIVISION4-VARIANCE PROCEDURES

Sec. 4-1. Establishment of Appeal Board.

The Stormwater Advisory Board as established by Lexington County Council shall hear and decide requests for variances from the requirements of this Ordinance and the Land Development Manual.

Sec. 4-2. Right to Appeal.

Any person aggrieved by the decision of the appeal board or any taxpayer may appeal such decision to the Stormwater Advisory Board.

Sec. 4-3. Historic Structures.

Variances may be issued for the repair or rehabilitation of historic structures upon the determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

Sec. 4-4. Functionally Dependent Uses.

Variances may be issued for development necessary for the conduct of a functionally dependent use, provided the criteria of this Section are met, no reasonable alternative exist, and the development is protected by methods that minimize flood damage and create no additional threat to public safety.

Sec. 4-5. Agricultural Structures.

Variances may be issued to wet floodproof an agricultural structure provided if it is used solely for agricultural purposes. 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 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, variances may not be issued for structures that were substantially damaged. New construction or substantial improvement of such structures must meet the elevation requirements of Section 3-2(b) 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 500 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 Section 3-2(d) of this ordinance.

(e) Any mechanical, electrical, or other utility equipment must be located above the base flood elevation (BFE) so that they are contained within a watertight, floodproofed enclosure that is capable of resisting damage during flood conditions in accordance with Section 3-1(e) of this ordinance.

(1) The agricultural structure must comply with the floodway encroachment provisions of Section 3-2(e) of this ordinance.

(f) Major equipment, machinery, or other contents must be protected. Such protection may include protective watertight floodproofed areas within the building, the use of equipment hoists for readily elevating contents, permanently elevating contents on pedestals or shelves above the base flood elevation, or determining that property owners can safely remove contents without risk to lives and that the contents will be located to a specified site out of the floodplain.

Sec. 4-6. Findings.

Findings listed above and in the Land Development Manual 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.

Sec. 4-7. 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 conditions outlined in the Land Development Manual and the following 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) The Lexington County Floodplain Manager shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency (FEMA) upon request.

(c) Variances shall not be issued for unpermitted development or other development that is not in compliance with the provisions of this ordinance. Violations must be corrected in accordance with Section 2-5(e) of this ordinance.

DIVISION 5-RESERVED

DIVISION 6-DEFINITIONS

Sec. 6-1. 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 it's most reasonable application.

"Accessory Structure (Appurtenant 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. Accessory Structures should constitute a minimal investment, may not be used for human habitation, and be designed to have minimal flood damage potential. Examples of accessory structures are detached garages, carports, storage sheds, pole barns, and hay sheds.

"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 Lexington County Floodplain Manager'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.

"Base Flood Elevation" - the elevation of 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" - see structure

"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. This includes improvements to structures.

"Elevated building" - a non-basement building built to have the lowest floor elevated above the ground level by means of 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.

"Executive Order (E.O.) 13690 (amends E.O. 11988)" – Issued by President Obama in January 2015, establishing a Federal Flood Risk Management Standard and a Process for Further Soliciting and Considering Stakeholder Input, which amended E.O. 11988, Floodplain Management, issued in 1977. Once implemented by Federal agencies, the Federal Flood Risk Management Standards (FFRMS) will reduce the risk and cost of future flood disasters by ensuring that Federal investments in and affecting floodplains are constructed to better withheld the impacts of flooding. It will support the thousands of communities across the country that have strengthened their local floodplain management codes and standards and will help ensure Federal projects last as long as intened. The FFRMS will apply to the Hazard Mitigation Assistance Grants, the Public Assistance Program and any other FEMA grants when they fund construction activities in or affecting a floodplain.

"Existing construction" - means, for the purposes of determining rates, structures for which the start of construction commenced before June 15, 1981.

"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 June 15, 1981.

"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 which 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, Flood Damage-Resistant Materials Requirements, dated 8/08, or as amended 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 use"- a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

"Highest Adjacent Grade" - the highest natural elevation of the ground surface, prior to construction, next to the proposed walls of 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 Article IV.A.4 of this ordinance.

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

"Lowest Floor" -the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements 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" – means, for the purpose of this ordinance, the Nations Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum (NAVD) of 1988, or other datum, to which the base flood elevations shown on a community's Flood Insurance Rate Maps (FIRM) are shown.

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

"North American Vertical Datum (NAVD) of 1988" – vertical control, as corrected in 1988, used as the reference datum on Flood Insurance Rate Maps.

"New construction" - structure for which the start of construction commenced on or after

June 15, 1981. The term also includes any subsequent improvements to such structure.

"New manufactured home park or subdivision" - a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete slabs) is completed on or after June 15, 1981.

"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 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 repetitive loss or 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 or,

b) any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

Permits shall be cumulative for a period of five (5) 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" - is a grant of relief from a term or terms of this ordinance.

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

DIVISION 7-LEGAL STATUS PROVISIONS

Sec. 7-1. 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 requirements in the stormwater ordinance enacted September, 2007, 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 requirements in the stormwater ordinance of Lexington County enacted on September, 2007, as amended, which are not reenacted herein, are repealed.

Sec. 7-2. Effect upon Outstanding Building Permits.

Nothing herein contained shall require any change in the plans, construction, size or designated use of any building, structure or part thereof for which a building permit has been granted by the Chief Building Inspector or his authorized agents before the time of passage of this ordinance; provided, however, that when start of construction has not occurred under such outstanding permit within a period of sixty (60) days subsequent to passage of this ordinance, construction or use shall be in conformity with the provisions of this ordinance.

Sec. 7-3. Effective Date.

This ordinance shall become effective upon adoption.

ENACTED this 26th day of July, 2016

LEXINGTON COUNTY, SOUTH CAROLINA

By: M. Todd Cullum

M. Todd Cullum, Chairman
Lexington County Council

Attest:

By: Diana W. Burnett

Diana W. Burnett
Clerk to Council

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Second Reading: June 28, 2016

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