

SCOTT COUNTY, KENTUCKY  
SCOTT FISCAL COURT  
ORDINANCE NO. 13-09

**AN ORDINANCE REPEALING EXISTING PROVISIONS OF THE SCOTT COUNTY CODE OF ORDINANCES RELATING TO FLOODPLAIN MANAGEMENT AND REPLACING THEM WITH A NEW FLOOD DAMAGE PREVENTION ORDINANCE.**

**SUMMARY**

**SECTION ONE**

Repeals all previous Ordinances, Resolutions, and Executive Orders in conflict with this ordinance.

**SECTION TWO**

Enacts a Flood Damage Prevention Ordinance as follows:

**Article I:** States statutory authorization, findings of fact, and purpose for the Ordinance.

**Article II:** Defines terms relevant to the Ordinance.

**Article III:** Provides that this Ordinance pertains to all areas of special flood hazard within Scott County, Kentucky, as identified by the Federal Insurance Administration. Mandates that no structure or land in said areas shall hereafter be located, or extended, converted or structurally altered without compliance with its specifications, requirements and provisions. Requires permits from the County of Scott, as administrator, and the Kentucky Division of Water prior to commencement of development activities in special flood hazard areas. Disclaims liability for reliance on Ordinance provisions. Provides that violations are misdemeanors and civil offenses. Violations of the provisions of this Ordinance or failure to comply with any of its requirements, including violations of conditions and safeguards established in connection with granting of a variance or special exceptions, shall constitute a misdemeanor civil offense. Any person who violates this ordinance or fails to comply with any of its requirements shall, upon conviction thereof, be fined not less than \$100 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 Floodplain Administrator from taking such other lawful acting as necessary to prevent or remedy any violation.

**Article IV:** Designates the Georgetown/Scott County Planning Commission as Floodplain Administrator. Specifies the duties and rights of the Floodplain Administrator including permit review, review of base flood data, notification, documentation of development, map determinations, right of entry, issuing stop work orders and revocation of permits. Limits liability of officers. Provides for expiration of permits if start of construction has not occurred timely after issuance.

**Article V:** Requires that all new construction and substantial improvements in Special Flood Hazard Areas be constructed to certain minimum flood damage prevention standards. Sets forth standards for residential construction, Non-residential construction, elevated structures, manufactured homes and recreational vehicles, floodways, utilities, structures elevated on fill, and vegetative buffer strips. Provides that in all areas of special flood hazard, the lowest floor of any residential structure constructed or substantially improved shall have the lowest floor elevated at or above base flood elevation, or have said floor flood proofed. Establishes standards for streams without established base flood elevation and/or floodways. Establishes standards for shallow flooding zones, subdivision proposals, accessory structures, and critical facilities.

**Article VI:** Establishes appeals and variance procedures and conditions. Designates respective jurisdictions' Boards of Adjustment as appeals and variance boards. Defines duties of appeals and variance boards and sets forth procedures. Provides for variances for historic structures.

**Article VII:** Provides that if any portion of this Ordinance is for any reason held invalid or unlawful such portion shall be deemed a separate provision and such holding shall not affect the validity of the remaining portions of this Ordinance.

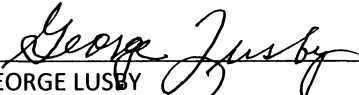
### **SECTION THREE**

Provides that this Ordinance shall become effective on passage and publication.

The full text of Ordinance 13-09 is available for examination in the Scott County Judge Executive Office, 101 East Main Street, Georgetown, Kentucky 40324.

The foregoing Ordinance was read for the first time December 13, 2013, read for the second time December 27, 2013, adopted and approved December 27, 2013.

ADOPTED AND APPROVED:

  
\_\_\_\_\_  
GEORGE LUSBY  
SCOTT COUNTY JUDGE/EXECUTIVE

ATTESTED BY:

  
\_\_\_\_\_  
STACY HAMILTON  
SCOTT FISCAL COURT CLERK

I, CAMERON CULBERTSON, Assistant Scott County Attorney, hereby certify I am an Attorney licensed to practice law in the Commonwealth of Kentucky. My office is located at 198 East Washington Street, Georgetown, Kentucky 40324. I further certify the foregoing Summary of Ordinance 13-09 of the SCOTT FISCAL COURT, SCOTT COUNTY, KENTUCKY, was prepared in accordance with the requirements of KRS 83A.060(9), and is a true and accurate summary of the contents of said Ordinance.

  
\_\_\_\_\_  
CAMERON CULBERTSON

SCOTT COUNTY, KENTUCKY  
SCOTT FISCAL COURT  
ORDINANCE NO. 13-09

AN ORDINANCE REPEALING EXISTING PROVISIONS OF THE SCOTT COUNTY CODE OF ORDINANCES RELATING TO FLOODPLAIN MANAGEMENT AND REPLACING THEM WITH A NEW FLOOD DAMAGE PREVENTION ORDINANCE.

NOW, THEREFORE, Be it ordained by the SCOTT FISCAL COURT:

**SECTION ONE**

All previous Ordinances, Resolutions, and Executive Orders in conflict with this Ordinance, including but not limited to the SCOTT FISCAL COURT Ordinance 08-01, are hereby repealed.

**SECTION TWO**

The Flood Damage Prevention Ordinance is enacted as follows:

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**ARTICLE 1.                    STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND OBJECTIVES**

**SECTION A. STATUTORY AUTHORIZATION**

The Legislature of the Commonwealth of Kentucky has in Kentucky Revised Statutes (KRS) 67.083, 83A.130, and 83A.140 delegated to local government units the authority to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. KRS 151.230 empowers local government to enact administrative regulations for floodplain management through Ordinance. Local Government's participation in the National Flood Insurance Program (NFIP) assures the Federal Insurance Administration that it will enact as necessary, and maintain in force in those areas having flood, or flood-related erosion hazards, adequate land use and control measures with effective enforcement provisions consistent with the Criteria set forth in Parts 59, 60, and 65 of the National Flood Insurance Program Regulations (44 CFR). Therefore, the Fiscal Court of Scott County, the City Council of Georgetown, and the City Commissions of Sadieville and Stamping Ground, Kentucky, hereby adopt the following floodplain management ordinance, as follows:

**SECTION B. FINDINGS OF FACT**

- 1) The flood hazard areas of Scott County and the Cities of Georgetown, Sadieville, and Stamping Ground are subject to periodic inundation which result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all which adversely affect the public health, safety, and general welfare.
- 2) These flood losses are caused by the cumulative effect of obstructions in floodplains causing increased flood height and velocity, and by the location in flood hazard areas of uses vulnerable to floods or hazardous to other lands which are inadequately elevated, flood-proofed, or otherwise protected from flood damage.

**SECTION C. STATEMENT OF PURPOSE**

It is the purpose of this ordinance to promote the public health, safety, and general welfare and to minimize public and private loss due to flooding by provisions designed to:

- 1) Restrict or prohibit uses which are dangerous to health, safety, and property due to water erosion hazards, or which result in damaging increases in erosion or in flood height or velocity;
- 2) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

- 3) Control the alteration of natural floodplains, stream channels, and natural protective barriers which accommodate or channel flood waters;
- 4) Control filling, grading, dredging, and other development which may increase erosion or flood damage, and;
- 5) Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other areas.

#### **SECTION D. OBJECTIVES**

The objectives of this ordinance are to:

- 1) Protect human life and health;
- 2) Minimize expenditure of public money for costly flood control projects;
- 3) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- 4) Minimize prolonged business interruptions;
- 5) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines; streets and bridges located in areas of special flood hazard;
- 6) Help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard or other flood-prone areas in such a manner as to minimize future flood blighted areas caused by flooding;
- 7) Ensure that potential homebuyers are on notice that property is in a Special Flood Hazard Area; and,
- 8) Ensure that those who occupy a Special Flood Hazard Area assume responsibility for their actions.

#### **ARTICLE 2. DEFINITIONS**

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted to give them the meaning they have in common usage and to give this ordinance its most reasonable application. Definitions contained in the Zoning Ordinance and Subdivision and Development Regulations of Scott County may conflict and are intended for use in those provisions and shall not be used to interpret this ordinance.

**A Zone** - Special Flood Hazard Areas inundated by the 1% annual chance flood (100-year flood). Base flood elevations (BFEs) are **not** determined.

**Accessory structure (Appurtenant structure)** - A structure 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 initial investment, may not be used for human habitation, and should be designed to have minimal flood damage potential. Examples of accessory structures are detached garages, carports, storage sheds, pole barns, and hay sheds.

**Accessory use** - A use which is incidental and subordinate to the principal use of the parcel of land on which it is located.

**Addition (to an existing structure)** - Any walled and roofed expansion to the perimeter or height of a structure.

**AE zones** - Special Flood Hazard Areas inundated by the 1% annual chance flood (100-year flood). Base flood elevations (BFEs) are determined.

**AH zone** - An area of 100-year shallow flooding where depths are between one and three feet (usually shallow ponding). Base flood elevations are determined.

**AO zone** - An area of 100-year shallow flooding where water depth is between one and three feet (usually sheet flow on sloping terrain). Flood depths are determined.

**Appeal** - A request for a review of the Floodplain Administrator's interpretation of any provision of this ordinance or from the floodplain administrator's ruling on a request for a variance.

**AR/A1 – A30, AR/AE, AR/AH, AR/AO, and AR/A zones** - Special Flood Hazard Areas (SFHAs) that result from the de-certification of a previously accredited flood protection system that is in the process of being restored to provide a 100-year or greater level of flood protection. After restoration is complete these areas will still experience residual flooding from other flooding sources.

**A99 zone** - That part of the SFHA inundated by the 100-year flood which is to be protected from the 100-year flood by a Federal flood protection system under construction. No base flood elevations are determined.

**Area of shallow flooding** - A designated AO or AH Zone on a community's Flood Insurance Rate Map (FIRM) where the base flood depths range from one to three feet, there is no clearly defined channel, the path of flooding is unpredictable and indeterminate; and velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

**Base flood** - A flood which has a one percent chance of being equaled or exceeded in any given year (also called the "100-year flood"). Base flood is the term used throughout this ordinance.

**Base Flood Elevation (BFE)** - The elevation shown on the Flood Insurance Rate Map (FIRM) for Zones AE, AH, A1-30, AR, AR/A, AR/AE, AR/A1-A30, AR/AH, and AR/AO that indicates the water surface elevation resulting from a flood that has a 1-percent or greater chance of being equaled or exceeded in any given year.

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

**Building** - See definition for structure.

**Community** - A political entity having the authority to adopt and enforce floodplain ordinances for the area under its jurisdiction.

**Community Rating System (CRS)** - A program developed by the Federal Insurance Administration to provide incentives to those communities in the Regular Program to go beyond the minimum floodplain management requirements to develop extra measures for protection from flooding.

**Community Flood Hazard Area (CFHA)** - An area that has been determined by the Floodplain Administrator (or other delegated, designated, or qualified community official) from available technical studies, historical information, and other available and reliable sources, which may be subject to periodic inundation by floodwaters that can adversely affect the public health, safety and general welfare. This includes areas downstream from dams.

**Critical facility** - Any property that, if flooded, would result in severe consequences to public health and safety or a facility which, if unusable or unreachable because of flooding, would seriously and adversely affect the health and safety of the public. Critical facilities include, but are not limited to: housing likely to contain occupants not sufficiently mobile to avoid injury or death unaided during a flood; schools, nursing homes, hospitals, police, fire and emergency response installations, vehicle and equipment storage facilities, emergency operations centers likely to be called upon before, during and after a flood, public and private utility facilities important to maintaining or restoring normal services before, during and after a flood, and those facilities or installations which produce, use or store volatile, flammable, explosive, toxic and/or water-reactive materials, hazardous materials or hazardous waste.

**D zone** - An area in which the flood hazard is undetermined.

**Development** - Any manmade 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 storage of equipment or materials.

**Elevated structure** – For insurance purposes, a non-basement structure built to have the lowest floor elevated above ground level by foundation walls, shear walls, posts, piers, pilings or columns.

**Elevation Certificate** - A statement certified by a registered professional engineer or surveyor on the FEMA-approved form in effect at the time of certification that verifies a structure's elevation and other related information to verify compliance with this ordinance.

**Emergency Program** - The initial phase under which a community participates in the NFIP, intended to provide a first layer amount of insurance at subsidized rates on all insurable structures in that community before the effective date of the initial FIRM.

**Enclosure** - That portion of a structure below the lowest floor used solely for parking of vehicles, limited storage, or access to the structure.

**Encroachment** - The physical advance or infringement of uses, plant growth, fill, excavation, structures, or development into a floodplain, which may impede or alter the flow capacity of a floodplain.

**Existing construction** - Any structure for which the "start of construction" commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date. Existing construction may also be referred to as existing structures.

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

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

**Five-Hundred Year Flood** - The flood that has a 0.2 percent chance of being equaled or exceeded in any year. Areas subject to the 500-year flood have a moderate risk of flooding.

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

- a.) The overflow of inland or tidal waters.
- b.) The unusual and rapid accumulation or runoff of surface waters from any source.

c.) Mudslides which are proximately caused by flooding and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.

d.) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding.

**Flood Boundary and Floodway Map (FBFM)** -A map on which the Federal Emergency Management Agency (FEMA) has delineated the areas of flood hazards and the regulatory floodway.

**Flood Hazard Boundary Map (FHBM)** -A map on which the boundaries of the flood, mudslide (i.e. mudflow), and flood-related erosion areas having special hazards have been designated as Zones A, M, and/or E by the Federal Emergency Management Agency (FEMA).

**Flood Insurance Rate Map (FIRM)** - A map on which the Federal Emergency Management Agency (FEMA) has delineated special flood hazard areas and risk premium zones.

**Flood Insurance Study** - The report provided by the Federal Emergency Management Agency (FEMA) containing flood profiles, the Flood Insurance Rate Map (FIRM), and/or the Flood Boundary Floodway Map (FBFM), and the water surface elevation of the base flood.

**Floodplain or flood-prone area** - Any land area susceptible to being inundated by flood waters from any source.

**Floodplain Administrator** - The individual appointed by the community to administer and enforce the floodplain management ordinances.

**Floodplain Management** - The operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing natural resources in the floodplain, including but not limited to emergency preparedness plans, flood control works, floodplain management ordinances, and open space plans.

**Floodplain Management Regulations** - This ordinance and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as grading and erosion control), and other applications of police power, which control development in flood-prone areas. This term describes federal, state and/or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

**Floodproofing** - Any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitation facilities, structures, and their contents.

**Floodproofing Certificate** - A certification by a registered professional engineer or architect, the FEMA form in effect at the time of certification stating that a non-residential structure, together with attendant utilities and sanitary facilities is watertight to a specified design elevation with walls that are substantially impermeable to the passage of water and all structural components are capable of resisting hydrostatic and hydrodynamic flood forces, including the effects of buoyancy and anticipated debris impact forces.

**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. Also referred to as the "regulatory floodway".

**Floodway fringe** - That area of the floodplain on either side of the regulatory floodway.

**Freeboard** - A factor of safety, usually expressed in feet above the BFE, which is applied for the purposes of floodplain management. It is used to compensate for the many unknown factors that could contribute to flood heights greater than those calculated for the base flood. Freeboard must be applied not just to the elevation of the lowest floor or floodproofing level, but also to the level of protection provided to all components of the structure, such as building utilities, HVAC components, etc.

**Fraud and victimization** - As related in Article 6, **Appeals and Variance Procedures**, of this ordinance, means that the variance granted must not cause fraud on or victimization of the public. In examining this requirement, the Fiscal Court or City Council/Commission will consider the fact that every newly constructed structure adds to government responsibilities and remains a part of the community for fifty to one hundred years. Structures that are permitted to be constructed below the base flood elevation are subject during all those years to increased risk of damage from floods, while future owners of the property and the community as a whole are subject to all the costs, inconvenience, danger, and suffering that those increased flood damages may incur. In addition, future owners may purchase the property, unaware that it is subject to potential flood damage, and can be insured only at very high flood insurance rates.

**Functionally dependent use facility** - A facility, structure, or other development, which cannot be used for its intended purpose unless it is located or carried out in close proximity to water. The term includes only a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, or ship repair. The term does not include long-term storage, manufacture, sales, or service facilities.

**Governing body** - The local governing unit, i.e. county or municipality that is empowered to adopt and implement ordinances to provide for the public health, safety and general welfare of its citizenry.

**Hazard potential** - The possible adverse incremental consequences that result from the release of water or stored contents due to failure of a dam or miss-operation of a dam or appurtenances. The hazard potential classification of a dam does not reflect in any way the current condition of a dam and its appurtenant structures (e.g. safety, structural integrity, flood routing capacity).

**Highest adjacent grade** - The highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a structure.

**Historic Structure** - Any structure that is:

- 1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- 2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district.
- 3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- 4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
  - a) By an approved state program as determined by the Secretary of the Interior, or
  - b) Directly by the Secretary of the Interior in states without approved programs.

**Increased Cost of Compliance (ICC)** – Increased cost of compliance coverage means under the standard flood insurance policy the cost to repair a substantially flood damaged building that exceeds the minimal repair cost and that is required to bring a substantially damaged building into compliance with the local flood damage prevention ordinance. Acceptable mitigation measures are floodproofing (nonresidential), relocation, elevation, demolition, or any combination thereof.

ICC coverage is available on residential and non-residential buildings (this category includes public or government buildings, such as schools, libraries, and municipal buildings) insured under the NFIP.

**Letter of Map Change (LOMC)** – An official FEMA determination, by letter, to amend or revise effective Flood Insurance Rate Maps, Flood Boundary and Floodway Maps, and Flood Insurance Studies. LOMC's include the following categories:

- 1) **Letter of Map Amendment (LOMA)** – A revision based on technical data showing that a property was inadvertently included in a designated SFHA. A LOMA amends the current effective FIRM and establishes that a specific property is not located in a SFHA.
- 2) **Letter of Map Revision (LOMR)** - A revision based on technical data that, usually due to manmade changes, shows changes to flood zones, flood elevations, floodplain and floodway delineations, and planimetric features.
- 3) **Letter of Map Revision – Based on Fill (LOMR-F)** – A determination that a structure or parcel has been elevated by properly placed engineered fill above the BFE and is, therefore, excluded from the SHFA.

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

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

**Limited storage** - An area used for storage and intended to be limited to incidental items which can withstand exposure to the elements and have low flood damage potential. Such an area must be of flood resistant material, void of utilities except for essential lighting, and cannot be temperature controlled.

**Lowest adjacent grade** – The lowest elevation of the sidewalk, patio, attached garage, deck support, basement entryway or grade immediately next to the structure and after the completion of construction.

**Lowest Floor** - The lowest floor of the lowest enclosed area **including basement**. An unfinished or flood resistant enclosure, usable solely for parking of vehicles, structure access, or storage in an area **other than a basement area** is not considered a structure’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 is designed to be used with or without a permanent foundation when connected or attached 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. The term “manufactured home” does not include a “recreational vehicle” (see 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.

**Map** - The Flood Hazard Boundary Map (FHBM) or the Flood Insurance Rate Map (FIRM) for a community issued by the Federal Emergency Management Agency (FEMA).

**Map Panel Number** - The four-digit number on a flood map, followed by a letter suffix, assigned by FEMA. The first four digits represent the map panel. The letter suffix represents the number of times the map panel has been revised. (The letter "A" is not used by FEMA, the letter "B" is the first revision.)

**Market value** - The property value (as agreed between a willing buyer and seller), excluding the value of the land as established by what the local real estate market will bear. Market value of the structure can be established by independent certified appraisal; replacement cost depreciated by age of structure (Actual Cash Value) or adjusted assessed values.

**Mean Sea Level (MSL)** - The average height of the sea for all stages of the tide. For the purposes of the National Flood Insurance Program, the MSL is used as a reference for establishing various elevations within the floodplain as shown on the community's FIRM. For purposes of this ordinance, the term is synonymous with either National Geodetic Vertical Datum (NGVD) of 1929 or North American Vertical Datum (NAVD) of 1988.

**Mitigation** - Sustained actions taken to reduce or eliminate long-term risk to people and property from hazards and their effects. The purpose of mitigation is twofold: to protect people and structures, and to minimize the costs of disaster response and recovery.

**Mudslide (i.e. mudflow)** - Describes a condition where there is a river, flow, or inundation of liquid mud down a hillside, usually as a result of a dual condition of loss of brush cover and the subsequent accumulation of water on the ground, preceded by a period of unusually heavy or sustained rain. A mudslide (i.e. mudflow) may occur as a distinct phenomenon while a landslide is in progress, and will be recognized as such by the Floodplain Administrator only if the mudflow, and not the landslide, is the proximate cause of damage that occurs.

**Mudslide (i.e. mudflow) area management** - The operation of and overall program of corrective and preventative measures for reducing mudslide (i.e. mudflow) damage, including but not limited to emergency preparedness plans, mudslide control works, and floodplain management regulations.

**Mudslide (i.e. mudflow) prone area** - An area with land surfaces and slopes of unconsolidated material where the history, geology, and climate indicate a potential for mudflow.

**National Flood Insurance Program (NFIP)** - The federal program that makes flood insurance available to owners of property in participating communities nationwide through the cooperative efforts of the federal government and the private insurance industry.

**National Geodetic Vertical Datum (NGVD)** - As corrected in 1929, a vertical control used as a reference for establishing varying elevations within the floodplain. (Generally used as the vertical datum on the older FIRM's. Refer to FIRM legend panel for correct datum.)

**New Construction** - Structures for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

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

**Non-Residential** – Structures that are not designed for human habitation, including but is not limited to: small business concerns, churches, schools, farm structures (including grain bins and silos), pool houses, clubhouses, recreational structures, mercantile structures, agricultural and industrial structures, warehouses, and hotels or motels with normal room rentals for less than 6 months duration.

**North American Vertical Datum (NAVD)** – As corrected in 1988, a vertical control used as a reference for establishing varying elevations within the floodplain. (Generally used on the newer FIRM's and Digitally Referenced FIRM's (DFIRM's). (Refer to FIRM or DFIRM panel legend for correct datum.)

**Obstruction** - Includes but is not limited to any dam, wall, embankment, levee, dike, pile, abutment, protection, excavation, channelization, bridge, conduit, culvert, structure, wire, fence, rock, gravel, refuse, fill, structure, vegetation or other material in, along, across or projecting into any watercourse which may alter, impede, retard or change the direction and/or velocity of the flow of water, due to its location, its propensity to snare or collect debris carried by the flow of water, or its likelihood of being carried downstream.

**One-Hundred Year Flood** (100-Year Flood) (see Base Flood) - The flood that has a 1-percent or greater chance of being equaled or exceeded in any given year. Any flood zone that begins with the letter A is subject to inundation by the 100-year flood. Over the life of a 30-year loan, there is a 26-percent chance of experiencing such a flood with the SFHA.

**Participating Community** - A community that voluntarily elects to participate in the NFIP by adopting and enforcing floodplain management regulations that are consistent with the standards of the NFIP.

**Pre-FIRM Construction** - New construction or substantial improvements for which start of construction occurred on or before December 31, 1974, or before the effective date of the initial FIRM of the community, whichever is later.

**Post-FIRM Construction** – New construction or substantial improvements for which start of construction occurred after December 31, 1974, or on or after the effective date of the initial FIRM of the community, whichever is later.

**Probation** – A FEMA imposed change in community's status resulting from violations and deficiencies in the administration and enforcement of the local floodplain management regulations.

**Program Deficiency** - A defect in a community's floodplain management regulations or administrative procedures that impairs effective implementation of those floodplain management standards.

**Public Safety and Nuisance** - Anything which is injurious to safety or health of an entire community or neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

**Recreational Vehicle** - A vehicle that is:

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

**Regular Program** - The phase of a community's participation in the NFIP where more comprehensive floodplain management requirements are imposed and higher amounts of insurance are available based upon risk zones and flood elevations determined in the FIS.

**Regulatory floodway** - The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot. See Base Flood.

**Remedy a violation** - The process by which a community brings a structure or other development into compliance with State or local floodplain management regulations, or, if this is not possible, to reduce the impact of non-compliance. Reduced impact may include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of the ordinance or otherwise deterring future similar violations, or reducing state or federal financing exposure with regard to the structure or other development.

**Repair** - The reconstruction or renewal of any part of an existing structure.

**Repetitive Loss** - Flood-related damages sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on

average, equals or exceeds 25 percent of the market value of the structure before the damage occurred.

**Repetitive Loss Property** - Any insurable building for which two or more claims of more than \$1,000 were paid by the National Flood Insurance Program (NFIP) within any rolling 10-year period, since 1978. At least two of the claims must be more than ten days apart but, within ten years of each other. A RL property may or may not be currently insured by the NFIP.

**Riverine** - Relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

**Section 1316** - That section of the National Flood Insurance Act of 1968, as amended, which states that no new or renewal flood insurance coverage shall be provided for any property that the Administrator finds has been declared by a duly constituted state or local zoning authority or other authorized public body to be in violation of state or local laws, regulations, or ordinances that are intended to discourage or otherwise restrict land development or occupancy in flood-prone areas.

**Severe Repetitive Loss Structure** - Any insured property that has met at least one of the following paid flood loss criteria since 1978, regardless of ownership:

1. Four or more separate claim payments of more than \$5,000 each (including building and contents payments); or
2. Two or more separate claim payments (building payments only) where the total of the payments exceeds the current market value of the property.

In either case, two of the claim payments must have occurred within ten years of each other. Multiple losses at the same location within ten days of each other are counted as one loss, with the payment amounts added together.

**Sheet flow area** - see "Area of shallow flooding".

**Special flood hazard area (SFHA)** - That portion of the floodplain subject to inundation by the base flood and/or flood-related erosion hazards as shown on a FHBM or FIRM as Zone A, AE, A1 – A30, AH, AO, or AR.

**Start of Construction** (includes substantial improvement and other proposed new development) - The date a building permit is issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement or other improvement is within 180 days of the permit date. The actual start means the first placement of permanent construction of a structure (including manufactured home) on a site, such as the pouring of slabs or footings, the 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 of temporary forms; the installation on the property of accessory structures, 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 a building, whether or not that alteration affects the external dimensions of the structure.

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

**Subdivision** - Any division, for the purposes of sale, lease, or development, either on the installment plan or upon any and all other plans, terms and conditions, of any tract or parcel of land into two (2) or more lots or parcels.

**Subrogation** – A legal action brought by FEMA to recover insurance money paid out where all or part of the damage can be attributed to acts or omissions by a community or other third party.

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

**Substantial Improvement** - Any reconstruction, rehabilitation, addition, or other improvement of a structure, taking place during a 1-year period in which the cumulative percentage of improvements equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either:

- a.) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local Code Enforcement Official and which are the minimum necessary 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."

**Substantially improved existing manufactured home parks or subdivisions** - Repair, reconstruction, rehabilitation, or improvement of the streets, utilities, and pads equaling or exceeding 50 percent of the value of the streets, utilities, and pads before the repair, reconstruction, or improvement commenced.

**Suspension** - Removal of a participating community from the NFIP for failure to enact and/or enforce floodplain management regulations required for participation in the NFIP.

**Utilities** – Include, but not limited to, electrical, heating, ventilation, plumbing, and air conditioning equipment that service the structure and the site.

**Variance** - Relief from some or all of the requirements of this ordinance.

**Violation** - Failure of a structure or other development to fully comply with this ordinance. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this ordinance is presumed to be in violation until such time as that documentation is provided.

**Watercourse** - A lake, river, creek, stream, wash, channel or other topographic feature on or over which water flows at least periodically.

**Water surface elevation** - The height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, (or other datum, where specified) of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

**Watershed** - All the area within a geographic boundary from which water, sediments, dissolved materials, and other transportable materials drain or are carried by water to a common outlet, such as a point on a larger stream, lake, or underlying aquifer.

**X (shaded) and B zones** - Areas of the 0.2% annual chance (500-year) flood that are outside of the SFHA, areas subject to the 100-year flood with average depths of less than one foot or with contributing drainage area less than 1 square mile, and areas protected by levees from the base flood

**X (un-shaded) and C zones** - Areas determined to be outside the 500-year floodplain.

**Zone** - A geographical area shown on a Flood Hazard Boundary Map or a Flood Insurance Rate Map that reflects the severity or type of flooding in the area.

### **ARTICLE 3.                    GENERAL PROVISIONS**

#### **SECTION A.    LANDS TO WHICH THIS ORDINANCE APPLIES**

This ordinance shall apply to all Special Flood Hazard Areas (SFHA), areas applicable to KRS 151.250 and, as determined by the Floodplain Administrator or other delegated, designated, or qualified community official as determined by the Fiscal Court of Scott County, or the City Council of Georgetown, or the City Commissions of Stamping Ground and Sadieville from available technical studies, historical information, and other available and reliable sources,