

*Higher Regulatory Standards*

# **FLOODPLAIN MANAGEMENT ORDINANCE**

City of  
**Pinson**  
**Alabama**

**2019-08**

**Adopted: March 7, 2019**



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# **FLOODPLAIN MANAGEMENT ORDINANCE**

## **For City of Pinson, Alabama**

**Ordinance No.: 2019-08**

### **AN ORDINANCE TO REPEAL THE EXISTING FLOODPLAIN ORDINANCE OF PINSON, ALABAMA, ADOPTED ON JUNE 7, 2007, TO ADOPT A NEW FLOODPLAIN MANAGEMENT ORDINANCE AND TO ESTABLISH AN EFFECTIVE DATE THEREOF.**

**WHEREAS**, the frequencies and damages caused by *flooding* events throughout Pinson, Alabama, in recent years have significantly increased; and

**WHEREAS**, *flooding* has caused substantial and recurring damages to properties and threats to public safety; and

**WHEREAS**, considerable public expenses have been incurred by Federal, State, and local agencies through acquisition projects, structural measures, emergency services enhancements, *flood* studies, and other activities and projects designed to mitigate the potential damages and threats posed by *flooding*; and

**WHEREAS**, it is in the interest of the public safety and welfare to enact and enforce higher regulatory standards for the prevention of future *flood* damages and threats to property and life; and

**WHEREAS**, these higher regulatory *floodplain* management standards balance the economic benefits to be gained by reduced *flood* damages resulting from the impacts of such regulations on property values and the economic vitality and growth of Jefferson County.

**NOW, THEREFORE, BE IT ORDAINED, AS FOLLOWS:**

**Section 1.** That the existing Floodplain Ordinance, adopted on June 7, 2007, be repealed in its entirety.

**Section 2.** That a new Floodplain Management Ordinance with higher regulatory standards for *flood* hazard mitigation be adopted to read as follows:



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

**SECTION 100.      STATUTORY AUTHORIZATION**

The Legislature of the State of Alabama has in Title 11, Chapter 19, Sections 1-24, Chapter 45, Sections 1-11, Chapter 52, Sections 1-84, and Title 41, Chapter 9, Section 166 of the Code of Alabama, 1975, authorized local government units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the City Council, of Pinson, Alabama, does ordain as follows:

**SECTION 101.      FINDINGS OF FACT**

- A.    The *Special Flood Hazard Areas* of Pinson, Alabama are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for *flood* relief and protection, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.
- B.    These *flood* losses are caused by the occupancy in flood hazard areas of uses vulnerable to *floods*, which are inadequately elevated, *flood*-proofed, or otherwise unprotected from *flood* damages, and by the cumulative effect of obstructions in *floodplains* causing increases in *flood* heights and velocities.

**SECTION 102.      STATEMENT OF PURPOSE**

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

- A.    require that uses vulnerable to *floods*, including facilities which serve such uses, be protected against *flood* damage at the time of initial construction;
- B.    restrict or prohibit uses which are dangerous to health, safety and property due to water or erosion hazards, or which increase *flood* heights, velocities, or erosion
- C.    control filling, grading, dredging and other *development* which may increase *flood* damage or erosion, and;
- D.    prevent or regulate the construction of *flood* barriers which will unnaturally divert floodwaters or which may increase *flood* hazards to other lands;
- E.    control the alteration of natural *floodplains*, stream channels, and natural protective barriers which are involved in the accommodation of floodwaters.



## **SECTION 103. OBJECTIVES**

The objectives of this ordinance are:

- A. to protect human life and health;
- B. to minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in *floodplains*;
- C. 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,
- D. to minimize expenditure of public money for costly *flood* control projects;
- E. to minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- F. to minimize prolonged business interruptions, and;
- G. to insure that potential home buyers are notified that property is in a *flood* area.

## **ARTICLE 2. GENERAL PROVISIONS**

### **SECTION 200. LANDS TO WHICH THIS ORDINANCE APPLIES**

This ordinance shall apply to all Areas of Special Flood Hazard within the jurisdiction of Pinson, Alabama.

### **SECTION 201. BASIS FOR *SPECIAL FLOOD HAZARD AREAS***

The *Special Flood Hazard Areas* identified by the Federal Emergency Management Agency in its *Flood Insurance Study (FIS)*, dated September 3, 2010, with accompanying maps and other supporting data and any revision thereto, are adopted by reference and declared a part of this ordinance. For those land areas acquired by a municipality through annexation, the current effective *FIS* and data for Jefferson County are hereby adopted by reference. *Special Flood Hazard Areas* may also include those areas known to have flooded historically or defined through standard engineering analysis by governmental agencies or private parties but not yet incorporated in a *FIS*.

When Preliminary Flood Insurance Studies and Flood Insurance Rate Maps have been provided by FEMA to the City of Pinson:

1. Prior to the issuance of a Letter of Final Determination (LFD) by FEMA, the use of the



preliminary flood hazard data shall only be required where no base flood elevations and/or floodway areas exist or where the preliminary base flood elevations or floodway area exceed the base flood elevations and/or floodway widths in the effective flood hazard data provided by FEMA. Such preliminary data may be subject to revision through valid appeals.

2. Upon the issuance of a Letter of Final Determination (LFD) by FEMA, the revised flood hazard data shall be used and replace all previously effective flood hazard data provided by FEMA for the purposes of administering these regulations.

Where adopted regulatory standards conflict, the more stringent base flood elevation shall prevail. Preliminary FIS data may be subject to change by a valid appeal.

## **SECTION 202. ESTABLISHMENT OF FLOODPLAIN DEVELOPMENT PERMIT**

A *Floodplain* Development Permit shall be required in conformance with the provisions of this ordinance PRIOR to the commencement of any *development* activities, including but not limited to construction of or improvements to *buildings* or other *structures*, utilities, roads, bridges, infrastructure, mining, dredging, filling, grading, paving, *excavation*, drilling operations, and storage of vehicles, equipment or materials, whether conducted by a private individual, business or firm, a non-profit agency, or a Federal, State, or local public agency.

## **SECTION 203. COMPLIANCE**

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

## **SECTION 204. NON-CONFORMING STRUCTURES LOCATED WITHIN THE SPECIAL FLOOD HAZARD AREA**

The lawful use of a *structure* or the lawful use of land existing at the *Effective Date of this Ordinance* may be continued although such *structure* or use does not conform to this Ordinance, except any modification, alteration, improvement, expansion, or enlargement of a nonconforming *structure* shall comply with the applicable requirements of this Ordinance.

## **SECTION 205. MAINTENANCE REQUIRED**

The disposal or dumping of debris, brush, trash, garbage, litter, or similar materials within a publicly-maintained drainage way and the disposal, accumulation, or dumping of debris, brush, trash, garbage, litter, or other materials which can obstruct or interfere with the discharge of floodwaters within the *Floodway* shall be prohibited.

Pinson shall have the right to cross private property for the purposes of inspecting and maintaining all publicly-maintained drainage ways and all *Floodways*.



## **SECTION 206. ABROGATION AND GREATER RESTRICTIONS**

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

## **SECTION 207. INTERPRETATION**

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

Where *Base Flood Elevations* have been established and there appears to be a discrepancy between actual field conditions or best available topographic data and the *flood* zone boundaries shown on the Flood Insurance Rate Map (*FIRM*), the more restrictive boundary interpretation shall govern for the purpose of delineating *Special Flood Hazard Areas* regulated by this Ordinance. Where best available topographic data indicates a property or any portion of a property should be excluded from the *FIRM* flood zone designation, a *Letter of Map Amendment* may be filed with FEMA to remove such area from the *Special Flood Hazard Areas* regulated by this Ordinance.

## **SECTION 208. WARNING AND DISCLAIMER OF LIABILITY**

The degree of *flood* protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger *floods* can and will occur; *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 Pinson or by any officer or employee thereof for any *flood* damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

## **SECTION 209. PENALTIES FOR VIOLATION**

- (1) Notice of Violation. If the community determines that an applicant or other responsible person has failed to comply with the terms and conditions of a permit, or the provisions of this ordinance, it shall issue a written notice of violation, by certified return receipt mail, to such applicant or other responsible person. Where the person is engaged in activity covered by this ordinance without having first secured a permit, the notice shall be served on the owner or the responsible person in charge of the activity being conducted on the site. The notice of violation shall contain:
  - (a) The name and address of the owner or the applicant or the responsible person;
  - (b) The address or other description of the site upon which the violation is occurring;
  - (c) A statement specifying the nature of the violation;



- (d) A description of the remedial measures necessary to bring the action or inaction into compliance with the permit or this ordinance and the date for the completion of such remedial action;
- (e) A statement of the penalty or penalties that may be assessed against the person to whom the notice of violation is directed, and;
- (f) A statement that the determination of violation may be appealed to the community by filing a written notice of appeal within thirty days after the notice of violation (except, that in the event the violation constitutes an immediate danger to public health or public safety, 24-hour notice shall be sufficient).

2. **Additional Enforcement Actions.** If the remedial measures described in the Notice of Violation have not been completed by the date set forth for such completion in the Notice of Violation, any one or more of the following enforcement actions may be enacted against the person to whom the Notice of Violation was directed. Before taking any of the following actions or imposing any of the following penalties, Jefferson County shall first notify the applicant or other responsible person in writing of its intended action. The County shall provide reasonable opportunity, of not less than ten days (except, that in the event the violation constitutes an immediate danger to public health or public safety, 24-hour notice shall be sufficient) to cure such violation. In the event the applicant or other responsible person fails to cure such violation after such notice and cure period, the County may take or impose any one or more of the following enforcement actions or penalties:

- (a) **Stop Work Order:** The community may issue a stop work order, which shall be served on the applicant or other responsible person. The stop work order shall remain in effect -until the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violation or violations described therein, provided the stop work order may be withdrawn or modified to enable the applicant or other responsible person to take the necessary remedial measures to cure such violation or violations.
- (b) **Section 1316 Declaration:** Section 1316 of the National Flood Insurance Act authorizes FEMA to deny flood insurance to a property declared by the State, County, or Municipal government to be in violation of the local floodplain management ordinance. A Section 1316 declaration shall be used when all other legal means to remedy a violation have been exhausted and the structure is noncompliant. Once invoked, the property's flood insurance coverage will be terminated and no new or renewal policy can be issued; no flood insurance claim can be paid on any policy on the property, and disaster assistance will be denied.



The declaration must be in writing (letter or citation), from the community to the property owner and the applicable FEMA Regional Office, and must contain the following items:

- i. The name(s) of the property owner(s) and address or legal description of the property sufficient to confirm its identity and location;
- ii. A clear and unequivocal declaration that the property is in violation of a cited State or local law, regulation or ordinance;
- iii. A clear statement that the public body making the declaration has authority to do so and a citation to that authority;
- iv. Evidence that the property owner has been provided notice of the violation and the prospective denial of insurance; and
- v. A clear statement that the declaration is being submitted pursuant to section 1316 of the National Flood Insurance Act of 1968, as amended.

If a structure that has received a Section 1316 declaration is made compliant with the community's floodplain management ordinance, then the Section 1316 declaration can be rescinded by the community and flood insurance eligibility restored.

- (c) Civil penalties: Violation of the provisions of this ordinance or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$500.00 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 County from taking such other lawful actions as is necessary to prevent or remedy any violation.

3. Administrative appeal; judicial review. Any person receiving a Notice of Violation may appeal the determination of the community, including but not limited to the issuance of a stop work order, the assessment of an administratively-imposed monetary penalty, the suspension, revocation, modification, or grant with condition of a permit by the community upon finding that the holder is in violation of permit conditions, or that the holder is in violation of any applicable ordinance or any of the community's rules and regulations, or the issuance of a notice of bond forfeiture.

The Notice of Appeal must be in writing and must be received within ten days from the date of the Notice of Violation. A hearing on the appeal shall take place within thirty days from the date of receipt of the Notice of Appeal by the Floodplain Administrator.

4. All appeals shall be heard and decided by the Jefferson County Flood Hazard Appeal Board. The Appeal Board shall have the power to affirm, modify, or reject the original penalty, including the right to increase or decrease the amount of any monetary penalty



and the right to add or delete remedial actions required for correction of the violation and compliance with the community's flood damage prevention ordinance, and any other applicable local, state, or federal requirements. The decision of the Appeal Board shall be final.

5. A judicial review can be requested by any person aggrieved by a decision or order of the community, after exhausting his/her administrative remedies. They shall have the right to appeal de novo to the Circuit Court or Court of like jurisdiction.

#### **SECTION 210. RIGHT OF UTILITIES NOT TO BE IMPAIRED**

This Ordinance is intended to comply with Sec. 11-19-24 of the Code of Alabama, as amended, which requires that this Ordinance shall not be construed to impair: (1) the right of eminent domain granted by State laws to utilities, whether public or private, or (2) their right to design, locate, erect, construct, reconstruct, alter or maintain utility poles, towers, lines, conduits, pipes or mains reasonably required in the public service or, (3) their right to exercise authority conferred by statute, franchise, certificate of convenience and necessity, license or easement.

#### **SECTION 211. PARTICIPATION IN JEFFERSON COUNTY FLOODPLAIN MANAGEMENT REPOSITORY**

Pinson hereby acknowledges participation and cooperation in the Jefferson County Commission's repository of *floodplain* management information to be administered by the Floodplain Administrator for Unincorporated Jefferson County, Alabama and shared among cooperating municipalities within the County. The Jefferson County Floodplain Administrator shall maintain a repository of available records and information related to *floodplain* management, including but not limited to the following items:

- A. Records of all Letters of Map Revisions and Letters of Map Amendments approved by FEMA within the County and cooperating municipalities.
- B. All hydrologic and hydraulic studies and technical data related to flooding within the County and cooperating municipalities.
- C. Topographic and *flood* elevation data for the County and cooperating municipalities.
- D. Technical guidance and informational materials published by FEMA and other sources.
- E. Records of all *variances* to this Ordinance, including the justification for granting each *variance* within the County and cooperating municipalities.



- F. Documentation of *flood* events within the County, including rainfall data, *flood* elevations, damage assessments, and reported impacts on flooded *buildings* and public infrastructure within the County and cooperating municipalities.
- G. Copies of all public reports, studies, and plans related to *floodplain* management within the County and cooperating municipalities.
- H. As-built certifications and plans approved for compliance with this Ordinance for all *developments* within the County and cooperating municipalities.
- I. Such other information, records, data, and resources that will assist in the coordination and documentation of *floodplain* management activities within the County and cooperating municipalities.

## **SECTION 212. SAVINGS CLAUSE**

If any section, subsection, sentence, clause, phrase, or word of this ordinance is for any reason held to be noncompliant with 44 Code of Federal Regulation 59-78, such decision shall not affect the validity of the remaining portions of this ordinance.

## **ARTICLE 3. ADMINISTRATION**

### **SECTION 300. DESIGNATION AND QUALIFICATIONS OF FLOODPLAIN ADMINISTRATOR AS ORDINANCE ADMINISTRATOR**

- A. The Floodplain Administrator shall meet one of the qualifications specified in paragraphs 1. or 2., as follows:
  - 1. The Floodplain Administrator shall be qualified through education and experience in the knowledge and skills required to administer this Ordinance. The Floodplain Administrator shall periodically complete continuing education courses, such as courses offered through the Emergency Management Institute of the Federal Emergency Management Agency or the Alabama Emergency Management Agency and additional training in *floodplain* hydrology and hydraulic engineering. Certified Floodplain Manager (CFM) designation by the Association of State Floodplain Managers shall be obtained within twelve months of appointment.
  - 2. Should the Floodplain Administrator meet all of the minimum qualifications in paragraph A. above, but is not a qualified *Registered Professional Engineer*, the County shall assign a *Registered Professional*



*Engineer* with training and experience in civil or environmental engineering, hydrology, and hydraulic engineering to assist the Floodplain Administrator.

- B. The Chief Civil Engineer in the Development Services Department of Jefferson County, Alabama is hereby appointed to administer and implement the provisions of this ordinance.

## **SECTION 301. PERMIT PROCEDURES**

Application for a Floodplain Development Permit shall be made to the Floodplain Administrator on forms furnished by the community PRIOR to any *development* activities, and may include, but not be limited to the following: Plans in duplicate drawn to scale showing the elevations of the area in question and the nature, location, dimensions, of existing or proposed *structures*, earthen *fill* placement, storage of materials or equipment, and drainage facilities. No publicly-funded or sponsored project undertaken by any federal, state, or local government, agency, or other governmental authority, including the construction of, improvement to, or modification of a public road, bridge, utility, *building*, parking area, or any other public *structure*, shall be exempt from the permitting requirements of this Ordinance, unless the responsible agency demonstrates that the project is expressly exempt from local permit compliance by Federal directive, in accordance with the provisions of Presidential Executive Order 11988 Floodplain Management (May 24, 1977). In the case of a public project that requires a Floodplain Development Permit and is subject to the National Environmental Policy Act (NEPA), a copy of the Categorical Exemption, Environmental Assessment, or Environmental Impact Statement, as the case may require, shall supplement the application for a Floodplain Development Permit.

- A. The Floodplain Administrator shall act expeditiously on all permit applications and shall complete the following review processes within the time specified:
1. Review for application completeness shall be completed within fourteen (14) days of an application and shall notify the applicant if the application is: (a) complete as submitted, or (b) requires additional information to complete the application. Furthermore, in notifying the applicant that additional information is required, the Floodplain Administrator shall identify all information necessary to properly complete said application.
  2. Once an application is completed, the Floodplain Administrator shall complete the review and final action on the application within thirty (30) days of submittal of a completed application. If the Floodplain Administrator fails to take action on a completed application within thirty (30) days of submittal, application will be deemed approved. Furthermore, should the Floodplain Administrator disapprove a completed application, the Floodplain Administrator shall provide all regulatory and engineering bases for disapproval.



3. The Floodplain Administrator's action shall take one of the following forms:
    - a. The Floodplain Administrator may approve the application for a Floodplain Development Permit.
    - b. The Floodplain Administrator may postpone action on the application for a Floodplain Development Permit due to revisions or additional information being required prior to final action being taken. The Floodplain Administrator shall provide to the applicant a written explanation of the reason for postponement.
    - c. The Floodplain Administrator may deny the application for a Floodplain Development Permit when the proposed project has been reviewed and does not comply with the requirements of this Ordinance. The Floodplain Administrator shall provide to the applicant a written explanation of the reason for denial.
  4. The deadlines for action on permit applications, as enumerated in Section 301.A, above, shall start anew for each subsequent resubmission of applications when action has been postponed due to revision or additional information being required.
  5. Any Community Acknowledgment authorization required by an application for a *Letter of Map Change* to FEMA shall be completed by the Floodplain Administrator and returned to the applicant for submission to FEMA within thirty (30) days.
- B. Where an engineering certification is submitted as part of an application, only the *Registered Professional Engineer* assigned to assist the Floodplain Administrator has the authority to overturn the findings of the certifying *Registered Professional Engineer*.
- C. Specifically, the following information is required:
1. Application Stage:

Plot plans are to include:

    - (a) The Base Flood Elevation (BFE) where provided as set forth in Article 2, Section B; Article 4, Section C; or Article 5, Section D;
    - (b) Boundary of the Special Flood Hazard Area and floodway(s) as delineated on the FIRM or other flood map as determined in Article 2, Section B;
    - (c) Flood zone designation of the proposed development area as determined on the FIRM or other flood map as determined in Article 2, Section B;



- (d) Elevation in relation to mean sea level (or highest adjacent grade) of the regulatory lowest floor level, including basement, of all proposed structures;
- (e) Elevation in relation to mean sea level to which any non-residential structure will be flood proofed;
- (f) Design certification from a registered professional engineer or architect that any proposed non-residential flood-proofed structure will meet the flood-proofing criteria of Article 4, Sections 401(C) and (D);
- (g) A Foundation Plan, drawn to scale, that shall include details of the proposed foundation system to ensure all provisions of this ordinance are met. These details include, but are not limited to, the proposed method of elevation (i.e., fill, solid foundation perimeter wall, solid backfilled foundation, open foundation on columns/posts/piers/piles/shear walls) and description of any flood openings required in accordance with Article 4, Sections 401(2-7) when solid foundation perimeter walls are used.
- (h) Usage details of any enclosed areas below the lowest floor shall be described.
- (i) Plans and/or details for the protection of public utilities and facilities such as sewer, gas, electrical, and water systems to be located and constructed to minimize flood damage.
- (j) Description of the extent to which any watercourse will be altered or relocated as a result of a proposed development including current and proposed locations of the watercourse. An engineering report shall be provided on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream. The affected properties shall be depicted on a map or on the plot plan.
- (k) Certification of the plot plan by a licensed professional engineer or surveyor in the State of Alabama is required.

2. Construction Stage:

For all new construction and substantial improvements, the permit holder shall provide to the Floodplain Administrator an as-built certification of the regulatory floor elevation or flood-proofing level using appropriate FEMA elevation or floodproofing certificate immediately after the lowest floor or flood proofing is completed.

- (a) When flood proofing is utilized for non-residential structures, said certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same.
- (b) Any work undertaken prior to submission of these certifications shall be at the permit holder's risk.



- (c) The Floodplain Administrator shall review the above referenced certification data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further progressive work being allowed to proceed. Failure to submit certification or failure to make said corrections required hereby, shall be cause to issue a stop-work order for the project.
- (d) The Floodplain Administrator shall make **periodic inspections** of projects during construction throughout the Special Flood Hazard Areas within the jurisdiction of the community to ensure that the work is being done according to the provisions of the local ordinance and the terms of the permit. Members of his or her inspections/engineering 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) The Floodplain Administrator may **revoke and require the return of the floodplain development permit** by notifying the permit holder in writing stating the reason(s) for the revocation. Permits shall be revoked for any substantial departure from the approved application, plans, and 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 floodplain development permit mistakenly issued in violation of an applicable State or local law may also be revoked.
- (f) In any lot or lots/areas that will be or have been removed from the special flood hazard area utilizing a Letter of Map Revision Based on Fill (LOMR-F), the top of fill level must meet the community's freeboard elevation at that location. If the top of fill level is below the freeboard elevation, all new structures, additions to existing buildings or substantial improvement must meet the required community freeboard elevation.

### 3. Finished Construction

Upon completion of construction, a FEMA elevation certificate (FEMA Form 81-31), which depicts all finished construction elevations, is required to be submitted to the Floodplain Administrator prior to issuance of a Certificate of Occupancy.

- (a) If the project includes a floodproofing measure, a FEMA floodproofing certificate is required to be submitted by the permit holder to the Floodplain Administrator.
- (b) The Floodplain Administrator shall review the certificate(s) data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to Certificate of Compliance/Occupancy issuance.



- (c) In some instances, another certification may be required to certify corrected as-built construction. Failure to submit the certification or failure to make required corrections shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy.
- (d) Documentation regarding completion and compliance with the requirements stated in the permit application and with Article 3, Section 301(C) of this ordinance shall be provided to the local Floodplain Administrator at the completion of construction or records shall be maintained throughout the Construction Stage by inspectors for the Floodplain Administrator. Failure to provide the required documentation shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy.
- (e) All records that pertain to the administration of this ordinance shall be maintained and made available for public inspection, recognizing that such information may be subject to the Privacy Act of 1974, as amended.

**D. Expiration of Floodplain Development Permit:**

- 1. Approved Floodplain Development Permits shall expire twelve (12) months from the date of approval.
- 2. The permit holder shall renew the approved Floodplain Development Permit for projects requiring more than twelve (12) months to complete construction activities.

**SECTION 302. DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR**

Duties of the Floodplain Administrator shall include, but shall not be limited to:

- A. Review all *development* permits to assure that the permit requirements of this ordinance have been satisfied;
- B. Review proposed *development* to assure that all necessary permits have been received from governmental agencies from which approval is required by Federal or State law, including section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334. Require that copies of such permits be provided and maintained on file.
- C. When *Base Flood Elevation* data or *Floodway* data have not been provided in accordance with Article 2 Section 201, then the Floodplain Administrator shall obtain, review and reasonably utilize any *Base Flood Elevation* and *Floodway* data available from a Federal, State or other sources in order to administer the provisions of Article 4.



- D. Verify and record the actual elevation in relation to *mean sea level* (or *highest adjacent grade*) to which any *new construction* or substantially improved *structures* have been elevated.
- E. When elevation is utilized for a *structure*, the Floodplain Administrator shall require certification of foundation design compliance from a *Registered Professional Engineer* or Architect.
- F. Verify and record the actual elevation, in relation to *mean sea level* to which any new or substantially improved *structures* have been *flood-proofed*.
- G. When *flood-proofing* is utilized for a *structure*, the Floodplain Administrator shall obtain certification of design compliance from a *Registered Professional Engineer* or Architect.
- H. Determine when a *structure* is subject to the “*Substantial Damage*”, “*Repetitive Loss*” and “*Substantial Improvement*” provisions of this Ordinance.
- I. Notify adjacent communities and the Alabama Department of Natural Resources prior to any alteration or relocation of a watercourse and submit evidence of such notification to the Federal Emergency Management Agency (FEMA), and the Alabama Department of Economic and Community Affairs/Office of Water Resources.
- J. For any altered or relocated watercourse, submit engineering data/analysis within six (6) months to the FEMA and State to ensure accuracy of community *flood* maps through the *Letter of Map Revision* process. Assure *flood* carrying capacity of any altered or relocated watercourse is maintained.
- K. Where interpretation is needed as to the exact location of boundaries of the Areas of Special Flood Hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the Floodplain Administrator shall make the necessary interpretation according to the more restrictive boundary interpretation. Any person contesting the location of the boundary shall be given a reasonable opportunity to *appeal* the interpretation as provided in this Ordinance. Where best available topographic data indicates a property or any portion of a property should be excluded from the *FIRM flood* zone designation, a *Letter of Map Amendment* may be filed with FEMA to remove such area from the *Special Flood Hazard Areas* regulated by this Ordinance.
- L. Provide written notice to subject property owners of the existence of a *violation* of the provisions of this Ordinance and inform said owner of available means to *remedy a violation*.
- M. Assure all Conditional Letters of Map Change and Letters of Map Change are filed with FEMA for applications that would result in changes to *Floodway* boundaries, *Base Flood*



*Elevations*, or *Special Flood Hazard Area* boundaries, and provide a signature on behalf of Pinson, as required, on all Community Acknowledgments of such applications.

- N. Transmit to the Jefferson County Floodplain Management Repository copies, if available, of records and information related to *floodplain* management, including but not limited to the following items:
1. Records of all Letters of Map Revisions and Letters of Map Amendments approved by FEMA;
  2. All hydrologic and hydraulic studies and technical data related to flooding;
  3. Topographic and *flood* elevation;
  4. Records of all *variances* to this Ordinance, including the justification for granting each *variance*;
  5. Documentation of *flood* events, including rainfall data, *flood* elevations, damage assessments, and reported impacts on flooded *buildings* and public infrastructure;
  6. Copies of all public reports, studies, and plans related to *floodplain* management;
  7. As-built certifications and plans approved for compliance with this Ordinance for all *developments*;
  8. Such other information, records, data, and resources that will assist in the coordination and documentation of *floodplain* management activities within the County and cooperating municipalities.
  9. Review and provide a Letter of Comment for all *appeals* to the Flood Hazard Appeal Board.
- O. Consult with a qualified *Registered Professional Engineer* in the review of any application submissions requiring an engineering certification of hydrologic or hydraulic studies.
- P. All records pertaining to the provisions of this ordinance shall be maintained in the office of the Floodplain Administrator and shall be open for public inspection.



**ARTICLE 4**  
**PROVISIONS FOR FLOOD HAZARD REDUCTION**

**SECTION 400. GENERAL STANDARDS**

In all *Special Flood Hazard Areas* the following provisions apply:

1. *New construction and substantial improvements of existing structures* shall be anchored to prevent flotation, collapse or lateral movement of the *structure* and surrounding soils. A *Registered Professional Engineer* or Architect shall develop or review the structural design, specifications and plans for the foundation of the *building* and certify that the design and methods of construction are in accordance with accepted practices to withstand flotation, collapse, lateral movement, erosion and scour, undermining, and the effects of water and wind acting simultaneously on all *building* components during the *Base Flood*.
2. *New construction and substantial improvements of existing structures* shall be constructed with materials and utility equipment resistant to *flood* damage to the required *Flood Protection Elevation*.
3. *New construction and substantial improvements of existing structures* shall be constructed by methods and practices that minimize *flood* damage to the required *Flood Protection Elevation*.
4. New and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
5. New and replacement sanitary sewage systems, including septic systems, shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters.
6. *Manufactured homes* shall be anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable State requirements for resisting wind forces.
7. Any *development*, use, or activity within the *Special Flood Hazard Area* and 500-Year *Floodplain* (shaded X zone shown on the *FIRM*) that may be hazardous to public health or water quality is prohibited. These prohibited *developments* and activities include: non-residential *structures* or facilities that produce, use, or store highly volatile, flammable, explosive, toxic and/or water-reactive materials; salvage yards, sanitary landfills, fuel pumps, cemetery lots or vaults, and similar uses deemed hazardous by the Floodplain Administrator. However, replacement of existing underground fuel storage tanks may be permitted, provided the tanks are designed by a *Registered Professional Engineer* to be



anchored to resist the buoyancy effects of a rising water table and comply with all applicable safety code standards.

8. All new and substantially improved *critical facilities*, as defined by Article 6 of this Ordinance shall be elevated at or above the 500-Year-Flood Elevation or the Flood of Record, whichever is higher, or *flood-proofed* in lieu of elevation, except as necessary for operation of wastewater treatment plants and facilities, and utility distribution and collection systems. The critical facility must be connected to a public road outside the 500-Year *Floodplain* by at least one access drive or road that is, to the maximum extent practicable, elevated no lower than six (6) inches below the 500-Year Flood Elevation, except a lower elevation may be required for grade transitions and traffic visibility.
9. Outdoor storage of unsecured, floatable materials, such as dumpsters, storage bins, barrels, lumber, debris, and other materials which may float and cause damage to property during *flood* conditions is prohibited. All such materials must be elevated to the *Flood Protection Elevation* or be adequately secured to prevent floatation.
10. All off-street parking and loading areas constructed after the *Effective Date of this Ordinance* shall be elevated to the maximum extent practicable, as determined by the applicant's *Registered Professional Engineer*, based upon site conditions and proposed land use. Transitions in grade may be required to tie into existing streets, drives, and parking areas or for traffic safety and visibility purposes.
11. Any alteration, repair, reconstruction or improvement to a *development*, which is not compliant with the provisions of this Ordinance and determined not to be a *substantial improvement*, shall be undertaken only if the non-conformity is not furthered, extended or replaced. Any *addition* to a non-conforming *structure*, regardless of the costs of such improvements, shall fully comply with the provisions of this Ordinance.
12. A FEMA application for Conditional *Letter of Map Revision (CLOMR)* or Conditional *Letter of Map Revision Based on Fill (CLOMR-F)* shall be required prior to the issuance of a Floodplain Development Permit for any *development* which will result in the modification of the *Floodway*. After completion of all work within the *Special Flood Hazard Area* or the *Floodway*, a *Letter of Map Revision (LOMR)* or *Letter of Map Revision Based on Fill (LOMR-F)* shall be filed with FEMA with the Community Acknowledgement of the Floodplain Administrator. Where an applicant for a *Letter of Map Revision* is unable to obtain a Community Acknowledgement from the Floodplain Administrator, the applicant may still file the application with FEMA, provided written evidence is provided indicating the Floodplain Administrator has been requested to sign a Community Acknowledgement, as provided by 44 CFR 65.4(b).
13. When unable to fully comply with the above-listed requirements, *functionally dependent uses* and activities, such as marinas, boat launches, docks, piers, and the like, are permitted but subject to the *encroachment* provisions of Article 4 Section 402(2).



14. All heating and air conditioning equipment and components, all electrical, ventilation, plumbing, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of *flooding* to the *Flood Protection Elevation*
15. Proposed new construction and substantial improvements that are partially located in an area of special flood hazard shall have the entire structure meet the standards for new construction.
16. Proposed new construction and substantial improvements that are located in multiple flood hazard risk zones or in a flood hazard risk zone with multiple base flood elevations shall have the entire structure meet the standards for the most hazardous flood hazard risk zone and the highest base flood elevation.

#### SECTION 401. SPECIFIC STANDARDS

In all *Special Flood Hazard Areas* designated as AE, AH, AO, or A (with estimated BFE) zones on the *FIRM*, the following provisions are required:

- A. Residential and Non-residential Structures. Where *Base Flood Elevation* data are available, *new construction* or *substantial improvement* of any non-residential or *residential structure* shall have the *lowest floor*, including *basement*, elevated at or above the *Flood Protection Elevation*. The *Flood Protection Elevation* for *new construction* and *substantial improvements* to *buildings* constructed on or after the *Effective Date of this Ordinance* shall be no lower than two (2) feet above the *Base Flood Elevation*, and the *Flood Protection Elevation* for *substantial improvements* for *buildings* constructed before the *Effective Date of this Ordinance* shall be one (1) foot above the *Base Flood Elevation*. *Building* elevation designs shall conform with the requirements of Section 401(C)(D), "*Elevated buildings*." New installations and *substantial improvements* of *manufactured homes* and *recreational vehicles* shall be subject to the requirements of Section C.3. below.
- B. Non-Residential Construction. *Substantial improvement* of any non-residential *structure* lawfully constructed prior to the *Effective Date of this Ordinance* may be *flood-proofed* in lieu of elevation. The *structure*, together with applicant's attendant project utility and sanitary facilities, including mechanical and utility equipment, must be designed to be water tight to one (1) foot above the *Base Flood Elevation* (the *Flood Protection Elevation*), with walls substantially impermeable to the passage of water, and structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. Where manual intervention is required, an emergency response plan that describes actions to be taken in the event of a *flood* warning or watch shall be prepared and clearly posted throughout the *building*. Such plan shall be submitted to the Floodplain Administrator for approval. A *Registered Professional Engineer* or Architect



shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the *flood-proofing* provisions. *Flood-proofing of new construction of non-residential structures* is expressly prohibited.

- C. *Elevated buildings* – All new construction and substantial improvements shall be elevated at or above the *Flood Protection Elevation* and be resistant to *flood* damage to or above the *Flood Protection Elevation*, in accordance with the following criteria:

1. Where *flood* protection is provided by elevation on *fill*, the *building* shall be constructed on properly designed and compacted *fill* (ASTM D-698 or equivalent) that extends beyond the *building* walls before dropping below the *Flood Protection Elevation* and has appropriate protection from erosion and scour. A *Registered Professional Engineer* must approve the design of the *fill*.

- D. Enclosures for Elevated Buildings - All new construction and substantial improvements of existing structures that include ANY fully enclosed area below the base flood elevation, located below the lowest floor formed by the foundation and other exterior walls shall be designed so as to be an unfinished or flood resistant enclosure. The enclosure shall be designed to equalize hydrostatic flood forces on exterior walls by allowing for the automatic entry and exit of flood waters.

The interior portion of such enclosed area shall not be partitioned or finished into separate rooms. All interior walls, ceilings and floors below the base flood elevation shall be unfinished and/or constructed of flood resistant materials and shall only be used for parking of vehicles, limited storage of maintenance equipment used in connection with the premises, or entry to the elevated area. The *enclosure* shall be designed to equalize hydrostatic *flood* forces on exterior walls by allowing for the automatic entry and exit of floodwaters. Designs for complying with this requirement must be certified by a *Registered Professional Engineer* and meet the following minimum criteria:

1. For crawl space foundations where the elevated finish floor is five (5) or less feet above the lowest grade of the *enclosure*, provide a minimum of two openings below the *Base Flood Elevation* having a total net area in each wall exposed to *flooding* of not less than one (1) square inch for every square foot of enclosed area.
2. For foundations where the elevated finish floor is greater than five (5) feet above the lowest grade of the *enclosure*, provide openings in each wall having a total net area of not less than 50% of the total wall area subject to *flooding* below the *Base Flood Elevation*. Lattice work may be used to meet the required wall openings.
3. The bottom of all openings shall be no higher than one (1) foot above grade.
4. The grade inside the enclosed area shall be equal to or higher than the adjacent grade outside the *building* on at least one side of the *building*.



5. All *building* utilities, including electrical, plumbing, heating, ventilation, air conditioning equipment and service facilities (including ductwork) shall be elevated at or above the *Flood Protection Elevation* or be constructed of *flood-resistant* materials to the required *Flood Protection Elevation*.
6. Openings may be equipped with lattice, screens, louvers, valves or other coverings or *flood vent* devices provided they permit the automatic flow of floodwater in both directions. Windows, doors, and garage doors do not qualify as openings. If a garage floor is below the *Flood Protection Elevation*, the garage must also meet the opening requirements for *enclosures*.
7. 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).

E. Standards for *Manufactured Homes* and *Recreational Vehicles*. Where *Base Flood Elevation* data are available:

1. All new, replacement, and substantially improved *manufactured homes* placed: (a) on individual lots or parcels, (b) in new or substantially improved *manufactured home parks* or *subdivisions*, (c) in an *existing manufactured home park or subdivision*, (d) in expansions to existing *manufactured home parks or subdivisions*, or (e) on a site in an *existing manufactured home park or subdivision* where a *manufactured home* has incurred "*substantial damage*" as the result of a *flood*, must have the *lowest floor* (measured by the lowest horizontal structural member) including *basement* elevated to a minimum of forty-eight (48) inches above grade or three (3) feet above the *Base Flood Elevation*, whichever results in the greater elevation and cannot exceed a maximum of 60 inches (five feet) above grade.
2. All *manufactured homes* must be elevated so that the *manufactured home* chassis is elevated and supported by reinforced piers (or other foundation elements of at least an equivalent strength) to the elevation required by Section 401(E)(1), above.
3. All *manufactured homes* must be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement. A *Registered Professional Engineer* shall certify the design of the foundation system. (Refer to Section 400(1), above).
4. All *recreational vehicles* placed on sites must either:
  - a. Be on the site for fewer than 180 consecutive days, fully licensed and ready for highway use if it is licensed, on its wheels or jacking system, attached to



the site only by quick disconnect type utilities and security devices, and has no permanently attached *structures* or *additions*; or

- b. The *recreational vehicle* must meet all the requirements for *new construction*, including the anchoring and elevation requirements of Section 401(E)(1), through (E)(3), above.

5. Require, until a regulatory floodway is designated, that no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30 and AE on the Jefferson County FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

- F. Accessory Structures (also referred to as appurtenant structures) – This provision generally applies to new and substantially improved accessory structures. When an accessory structure complies with all other provisions of this ordinance (including floodway encroachment), represents a minimal investment (less than \$750), and meets the requirements outlined below, these structures may be wet-floodproofed and do not have to be elevated or dry floodproofed.

Accessory structures include, but are not limited to, residential structures such as detached garages, storage sheds for garden tools or woodworking, gazebos, picnic pavilions, boathouses, small pole barns, and similar buildings. The following provisions apply to accessory structures built below the base flood elevation:

1. A permit shall be required prior to construction or installation.
2. Must be low value (less than \$750) and not be used for human habitation.
3. Use must be restricted to parking of personal vehicles or limited storage (low-cost items that cannot be conveniently stored in the principal structure).
4. Must be designed with an unfinished interior and constructed with flood damage-resistant materials below the BFE.
5. Must be adequately anchored to prevent flotation, collapse, or lateral movement.
6. Must have adequate flood openings as described in Article 4, Section 401 (D)(2) and be designed to otherwise have low flood damage potential.
7. Shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters.
8. Any mechanical and other utility equipment in the structure must be elevated to or above the BFE or must be floodproofed.
9. Under limited circumstances communities may issue variances to permit construction of wet-floodproofed accessory structures. Communities should not grant variances to entire subdivisions for accessory structures, especially detached garages. Variances should only be reviewed and issued on an individual or case-by-case basis and be based on the unique characteristics of the site.



## SECTION 402 FLOODWAYS

Located within Areas of Special Flood Hazard established in Article 2, Section 201, are areas designated as floodway. A floodway may be an extremely hazardous area due to velocity floodwaters, debris or erosion potential. In addition, the area must remain free of encroachment in order to allow for the discharge of the base flood without increased flood heights. Therefore, the following provisions shall apply:

1. The community shall select and adopt a regulatory floodway based on the principle that the area chosen for the regulatory floodway must be designed to carry the waters of the base flood, without increasing the water surface elevation of that flood more than one foot at any point;
2. Encroachments are prohibited, including fill, new construction, substantial improvements or other development within the adopted regulatory floodway. Development may be permitted however, provided it is demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the encroachment **shall not result in any increase** in flood levels or floodway widths during a base flood discharge. A registered professional engineer must provide supporting technical data and certification thereof;
  - a. Notwithstanding any other provisions of this Ordinance, *encroachments* within the *Regulatory Floodway* that would result in an increase in *Base Flood Elevations* are permitted in accordance with 44 CFR 60.3 (d)(4), provided: (1) an application for a Conditional *Letter of Map Revision (CLOMR)* is first submitted to FEMA for a conditional *FIRM* and *Floodway* revision, (2) the application fulfills the requirements for such revisions as established under the provisions 44 CFR 65.12, and (3) the application is approved by FEMA.
  - b. *Encroachments* within the *Floodway Fringe Area* are permitted.
3. Only those uses and activities listed below are permitted within the *Floodway* according to the additional use limitations of the established zoning district in which the land is located and the *encroachment* provisions of Section 402(2). *Buildings*, obstructive fences (such as chain link, wood stockade, solid walls and similar fences that could collect debris and obstruct the free flow of floodwaters, but excluding multi-strand barbed wire fencing and the like), restrooms, vehicle parking, material and equipment storage (temporary or permanent), stockpiling or accumulation of debris, and any other *development*, which could impede the discharge of floodwaters or increase *flood* damages, are expressly prohibited.
  - a. Agricultural uses, such as general farming, pasture, grazing, horticulture (including plant nurseries, except for storage of potted plants and trees), forestry,



- and the like, provided agricultural accessory *structures* meet the *encroachment* provisions of Article 4 Section 402(2).
- b. Public *flood* control *structures* and other public works relating to the control or monitoring of drainage, *flooding*, erosion, water quality, or fish and wildlife habitats.
  - c. Permitted storm sewer and drainage ditch outfalls.
  - d. Wastewater treatment facilities owned or operated by a public or private utility, subject to the *encroachment* provisions of Section 402(2).
  - e. Water intake *structures* and related facilities owned or operated by a public or private utility, subject to the *encroachment* provision of Section 402(2).
  - f. Open space and recreational facilities, including parks, camps, picnic grounds, golf courses, swimming areas, horseback trails, bike paths, pedestrian trails, nature paths, wildlife preserves, hunting and fishing areas, and the like, provided recreational *structures* meet the *encroachment* provisions of Article 4 Section 402(2).
  - g. Public and private roads, bridges, and access drives, subject to the *encroachment* provisions of Section 402(2).
  - h. Public and private utility lines for distribution of potable water, natural gas, methane gas, electric, communications systems, and other services, subject to the *encroachment* provisions of Section 402(2).
  - i. Functionally-dependent uses and activities, such as marinas, boat launches, docks, piers, privately owned water intake *structures* and related facilities, privately owned wastewater treatment facilities, and the like, subject to the *encroachment* provisions of Section 402(2).
  - j. Yard areas, play areas, gardens, and similar open space areas including accessory *structures*, subject to the *encroachment* provisions of Section 402(2).
4. If Section 402(2), above, is satisfied, then any *new construction* or *substantial improvement* shall also comply with all other applicable *flood* hazard reduction provisions of Article 4.

**SECTION 403. BUILDING STANDARDS FOR STREAMS WITHOUT ESTABLISHED BASE FLOOD ELEVATIONS AND/OR FLOODWAY (A-ZONES)**

Located within the Areas of Special Flood Hazard established in Article 2, Section B, where streams exist but no *Base Flood* data have been provided (A-Zones), OR where *Base Flood* data have been provided but a *Floodway* has not been delineated, the following provisions apply:

- A. When *Base Flood Elevation* data or *Floodway* data have not been provided in accordance with Article 2, Section 201, then the Floodplain Administrator shall obtain, review, and reasonably utilize any scientific or historic *Base Flood Elevation* and *Floodway* data available from a Federal, State, or other source, in



order to administer the provisions of Article 4. ONLY if data are not available from these sources, then the following provisions (B&C) below shall apply:

- B. No *encroachments*, including *structures* or *fill* material, shall be located within an area on each side of the stream equal to the width of the stream or twenty-five feet, whichever is greater, shall be measured from the top of each stream bank. This measured area shall be subject to the *Floodway* restrictions of Section 403(A).
  - 1. The area on each side of the stream subject to the *Floodway* restrictions shall be measured from the top of the stream bank under base flow conditions.
  - 2. In no event shall the area on each side of the stream subject to the above-listed *Floodway* restrictions be greater than the limits of the *Special Flood Hazard Area*.
- C. In *Special Flood Hazard Areas* without *Base Flood Elevation* data, *new construction* and *substantial improvements* of existing *structures* shall have the *lowest floor* of the lowest enclosed area (including *basement*) elevated no less than three (3) feet above the *highest adjacent grade* at the *building* site. Openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with standards of Article 4, Section 401(C) and (D), "Elevated Buildings".
  - 1. The applicant shall provide to the Floodplain Administrator certification from a registered land surveyor of the *highest adjacent grade* at the *building* site and the *lowest floor* elevation level. The certification shall become a permanent part of the permit file.
  - 2. Where required, elevation of the *lowest floor* shall be provided in accordance with the standards of Article 4, Sections 401(C) and (D).
  - 3. Where allowed, *floodproofing* of the *lowest floor* shall be provided in accordance with Article 4, Section 401.B.
- E. In the absence of a base flood elevation, a manufactured home must also meet the elevation requirements of Article 4, Section 401(E) in that the structure must be elevated to a maximum of 60 inches (5 feet).
- F. Openings sufficient to facilitate automatic equalization of flood water hydrostatic forces on exterior walls shall be provided in accordance with standards of Article 4, Section 401(D). The Floodplain Administrator shall certify the lowest floor elevation level and the record shall become a permanent part of the permit file.



#### SECTION 404. STANDARDS FOR AREAS OF SHALLOW FLOODING (AO ZONES)

Areas of Special Flood Hazard established in Article 2, Section 201, may include designated "AO" shallow flooding areas. These areas have *Base Flood* depths of one to three feet (1'-3') above ground, with no clearly defined channel. The following provisions apply:

- A. All new construction and substantial improvements of residential and nonresidential structures shall have the lowest floor, including basement, elevated above the highest adjacent grade at least as high as the depth number specified on the Flood Insurance Rate Map (FIRM) plus one foot of freeboard. **If no depth number is specified, the lowest floor, including basement, shall be elevated at least three (3) feet above the highest adjacent grade.** Openings sufficient to facilitate the unimpeded movements of flood waters shall be provided in accordance with standards of Article 4, Section 401(D), "Elevated Buildings.

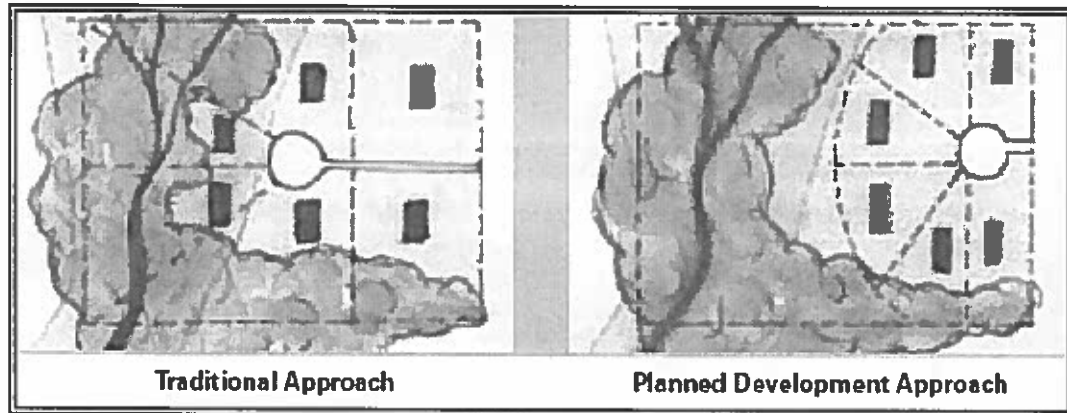
The Floodplain Administrator shall certify the *lowest floor* elevation level and the record shall become a permanent part of the permit file.

- B. New construction and the substantial improvement of a non-residential structure may be flood-proofed in lieu of elevation. **The structure, together with attendant utility and sanitary facilities, must be designed to be water tight to the specified flood level in Article 4, Section 404(A) or three (3) feet (if no depth number is specified), above highest adjacent grade,** with walls substantially impermeable to the passage of water, and structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions above, and shall provide such certification to the official as set forth above and as required in Article 3, Section 301(C)(1) and (2).
- C. Drainage paths shall be provided to guide floodwater around and away from any proposed structure.

#### SECTION 405. STANDARDS FOR SUBDIVISIONS

In the interest of public safety and so as to avoid property owners being subject to the federally mandated purchase of flood insurance it is strongly encouraged that all *Special Flood Hazard Areas* within a *subdivision* be set aside as a common open space for recreational, aesthetic and environmental uses. The creation of such common open spaces has been shown to have the additional benefit of increasing value to surrounding properties. Where such open space is set aside, ownership by a neighborhood association, land trust, or other responsible entity, and attendant maintenance obligations shall be addressed as part of the *subdivision* proposal.





- A. All *subdivision* proposals shall be consistent with the need to minimize *flood* damage;
- B. All *subdivision* proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize *flood* damage;
- C. All *subdivision* proposals shall have adequate drainage provided to reduce exposure to *flood* hazards, and;
- D. Clustering of lots within a planned *residential subdivision* to preserve open space is encouraged and may be credited toward open space required by other ordinances or regulations. For all *residential subdivisions* of six (6) or more lots, where any portion of a *Special Flood Hazard Area* has been set aside as permanent open space and dedicated to a public agency, land trust, homeowner association or other entity, lots within the area(s) remaining outside of the *Special Flood Hazard Area* may clustered. The minimum lot area for clustered lots may be reduced below the minimum zoning requirement, provided the overall density (measured by average lot area per unit) of the clustered lots does not exceed the density of the traditional *subdivision* without clustering and preservation of common open space. Clustering of lots shall otherwise be in accordance with all other applicable zoning and *subdivision* standards.
- E. All streets, drives, and parking areas constructed within a *subdivision* after the *Effective Date of this Ordinance* shall be elevated to the maximum extent practicable, as determined by the *Registered Professional Engineer*, based upon site conditions and proposed land use. Transitions in grade may be required to tie into existing streets, drives, and parking areas or for traffic safety and visibility purposes.
- F. Where *Base Flood* data is available (AE zones), the *Special Flood Hazard Area*, including all *FIRM* zones and *Floodway* boundaries, where applicable, *FIRM*



panel reference, and *Base Flood Elevations* for each affected lot shall be clearly shown on all preliminary plats and final plats submitted for approval.

- G. Where *Base Flood Elevation* and *Floodway* data is not available (A zones), *Base Flood Elevation* and *Floodway* data shall be provided for *subdivision* proposals and all other proposed *developments*, including *manufactured home parks and subdivisions*, greater than fifty (50) lots or five (5) acres, whichever is less. The *Base Flood Elevation* and *Floodway* data shall be certified by a *Registered Professional Engineer* and be developed using FEMA-approved models and methodologies. The regulatory *FIRM flood* zone and *Floodway* delineations, Special Flood Hazard Areas, *FIRM* panel reference, and *Base Flood Elevations* for each affected lot shall be clearly shown on all plans, preliminary plats and final plats submitted for approval. *Base Flood* data and *flood* zone delineations shall be submitted to FEMA through a *Letter of Map Revision*.
- H. *Base Flood Elevation* and *Floodway* data may be developed for *subdivisions* and *developments* within an A zone of smaller size than that specified in paragraph G. above, in which case, the reporting requirements of paragraph G. above shall apply. Where no *Base Flood Elevation* and *Floodway* data is available for a proposed *development* or *subdivision* in an A zone, the Floodplain Administrator shall estimate the *Base Flood Elevations* and *Floodway* delineations in accordance the provisions of Article 4, Section 402, and such data shall be shown and marked as "estimated" on all plans and plats submitted for approval.

## **ARTICLE 5**

### **VARIANCE PROCEDURES**

#### **SECTION 500. DESIGNATION OF VARIANCE AND APPEALS BOARD**

The *Flood Hazard Appeal Board* (Board) as established by the Jefferson County Commission shall serve as the Pinson Board and shall hear and decide requests for appeals or variance from the requirements of this ordinance.

#### **SECTION 501 DUTIES OF BOARD**

The Board shall hear and decide requests for the interpretation of the provisions of this Ordinance. Any person aggrieved by the decision of the Flood Hazard Appeal Board may appeal such decision to the Circuit Court as outlined in Section 503 as provided in and subject to, the provisions of Act 344, General Acts of Alabama, 1947 as amended.



## SECTION 502 VARIANCE PROCEDURES

In reviewing requests for variance, the *Flood Hazard Appeal Board* shall consider all technical evaluations, relevant factors, and standards specified in other sections of this ordinance, and:

- (1) Variances may be issued for development necessary for the conduct of a functionally dependent use, provided the criteria of this Article are met, no reasonable alternative exists, the development is protected by methods that minimize flood damage during the base flood, and it creates no additional threats to public safety.
- (2) Variances shall not be issued within any designated floodway if ANY increase in flood levels during the base flood discharge would result.
- (3) The evaluation must be based on the characteristics unique to that property and not be shared by adjacent parcels. The characteristics must pertain to the land itself, not to the structure, its inhabitants, or its owners.
- (4) Variances should never be granted for multiple lots, phases of subdivisions, or entire subdivisions.
- (5) The danger of life and property due to flooding or erosion damage including materials that may be swept onto other lands to the injury of others.
- (6) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner and the community.
- (7) The safety of access to the property during flood conditions for daily traffic and emergency vehicles.
- (8) The importance of the services provided by the proposed facility to the community.
- (9) The necessity of the facility to be at a waterfront location, where applicable.
- (10) The compatibility of the proposed use with existing and anticipated development based on the community's comprehensive plan for that area.
- (11) The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site.
- (12) The costs associated with providing governmental services to the development during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and community infrastructure such as streets, bridges, and culverts.



Upon consideration of factors listed above, and the purpose of this ordinance, the *Flood Hazard Appeal Board* may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.

#### **SECTION 503.      VARIANCES FOR HISTORIC STRUCTURES**

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

#### **SECTION 504.      CONDITIONS FOR VARIANCES**

The provisions of this Ordinance are minimum standards for flood loss reduction, therefore any deviation from the standards must be weighed carefully. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

- (1) A variance may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size, contiguous to and surrounded by lots with existing structures constructed below the base flood level, in conformance with the procedures of Sections 504(3), 504(4), 505(1) and 505(2) of this Article.
- (2) In the instance of a Historic Structure, a determination is required that the variance is the minimum necessary so as not to destroy the historic character and design of the building.
- (3) A variance shall be issued ONLY when there is:
  - (a) A finding of good and sufficient cause;
  - (b) A determination that failure to grant the variance would result in exceptional hardship; and
  - (c) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
- (4) A variance shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (5) Variances shall not be issued "after the fact."

#### **SECTION 505.      VARIANCE NOTIFICATION AND RECORDS**

- (1) Any applicant to whom a variance is granted shall be given written notice over the signature of a community official that specifies the difference between the base flood



elevation and the elevation of the proposed lowest floor and stating that the issuance of such a variance could:

- a. result in rate increases in the hundreds and possibly thousands of dollars annually depending on structure and site-specific conditions; and
  - b. increase the risk to life and property resulting from construction below the base flood level.
- (2) The Floodplain Administrator shall maintain a record of all variance actions and appeal actions, including justification for their issuance. Report any variances to the Federal Emergency Management Agency Region 4 and the Alabama Department of Economic and Community Affairs/Office of Water Resources upon request.
- (3) A copy of the notice shall be recorded by the Floodplain Administrator in the Office of the County Manager and shall be recorded in a manner so that it appears in the chain of title of the affected parcel of land.

#### **SECTION 506. APPOINTMENTS, MEETINGS, PROCEDURES**

- A. The Board shall be composed of five (5) members. The composition, respective terms and filling of vacancies of the Board shall be consistent with the Alabama Code 1975, Section 11-19-19.
- B. In all decisions rendered by the Board, not less than four (4) concurring votes shall be required. No Board member shall act in a case in which they have personal interest.
- C. The Board shall establish rules and regulations for its own procedure not inconsistent with the provisions of this Ordinance. The Board shall meet at calls of the chairman, or in any event the Board shall meet within thirty (30) days after the filing of a Notice of Appeal.
- D. The Floodplain Administrator shall maintain the records of all *appeal* actions, including justification for their issuance, and report any *variances* to the Federal and State Emergency Management Agencies upon request for an annual or biennial report.
- E. All hearings of the Board shall be open to the public.
  1. A notice of public hearing shall be given once a week for two (2) consecutive weeks in a newspaper published in the county, said notice to be published the first time not less than fifteen (15) calendar days prior to the date fixed for said hearing.
  2. Written notice of the public hearing shall be given to all owners of properties adjoining the affected site.



- F. The Board shall render a decision on an *appeal* within thirty (30) calendar days after hearing the petition, except a decision may be postponed where additional information is required by the Board pursuant to this Ordinance. A decision may be postponed no more than sixty (60) calendar days. The Board shall reconvene to consider the additional information and render a final decision.
- G. All decisions of the Board shall state the basis and conditions upon which the decision was made and the reason therefore.

#### **SECTION 507. FILING OF APPEALS**

- A. Within thirty (30) days after a decision is rendered by the Floodplain Administrator, a Notice Of Appeal to the Board shall be filed with the office of the Floodplain Administrator on forms furnished by the community. A fee, as specified in the Schedule of Fees of this Ordinance, must accompany such Notice Of Appeal.
- B. An *appeal* shall stay all proceedings in furtherance of the action appealed from, unless the Floodplain Administrator certifies to the Board after the Notice Of Appeal has been filed that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property. Such proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board or by a court of record on application or notice to the Floodplain Administrator and on due cause shown.
- C. At the time of filing a Notice Of Appeal to the Board, the applicant shall also submit any information that may be required by the Board as deemed necessary to render a decision.

#### **SECTION 508. APPEAL OF DECISION OF THE BOARD**

Any person aggrieved by the decision of the Board may, within fifteen (15) calendar days thereafter, *appeal* such decision to the Circuit Court or Court of like jurisdiction, by filing with such Court a written Notice Of Appeal specifying the judgment or decision from which the *appeal* is taken. In case of such *appeal*, such Board shall cause a transcript of all the proceedings in the cause to be certified to the Court to which *appeal* is taken and the cause in such Court shall be tried de novo.

### **ARTICLE 6. DEFINITIONS**

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

"Accessory Structure (also referred to as appurtenant structures)" means a structure which is located on the same parcel of property as a principal structure to be insured and the use of



which is incidental to the use of the principal structure. They should constitute a minimal initial investment, may not be used for human habitation, and be designed to have minimal flood damage potential. These structures are used solely for parking (two-car detached garages or smaller) or limited storage (small, low cost storage sheds). They are included under the general definition of structure and are consequently subject to all floodplain management regulations pertaining to structures.

**“Addition (to an existing *Building*)”** means any improvement that increases the square footage of a structure. These include lateral additions added to the front, side, or rear of a structure, vertical additions added on top of a structure, and enclosures added underneath a structure. NFIP regulations for new construction apply to any addition that is considered a perimeter expansion or enclosure beneath a structure. If it is considered to be a substantial improvement (more than 50% of market value) to a structure, the existing structure will also need to be treated as new construction.

Depending on the flood zone and details of the project, the existing building may not have to be elevated. The determining factors are the common wall and what improvements are made to the existing structure. If the common wall is demolished as part of the project, then the entire structure must be elevated. If only a doorway is knocked through it and only minimal finishing is done, then only the addition has to be elevated.

**“Administrative review”** means a request for a review of alleged error in any order, requirement, decision, or determination made by the Floodplain Administrator in the enforcement or administration of this Ordinance.

**“Appeal”** means a request for review by the *Flood Hazard Appeal Board* and/or civil court as provided for in Article 5 of this Ordinance.

**“Area of Shallow Flooding”** means a designated AO or AH Zone on a community's *Flood Insurance Rate Map (FIRM)* with *Base Flood* depths from one (1) to three (3) feet, and/or where a clearly defined channel does not exist, where the path of *flooding* is unpredictable and indeterminate, and where velocity flow may be evident. Such *flooding* is characterized by ponding or sheet flow.

**“Base Flood”** means the *flood* having a one percent (1%) chance of being equaled or exceeded in any given year.

**“Base Flood Elevation (BFE)”** means the computed elevation to which floodwater is anticipated to rise during the base flood. It is also the elevation of surface water resulting from a flood that has a 1% chance of equaling or exceeding that level in any given year. Base Flood Elevations are shown in the FIS and on the Flood Insurance Rate Map (FIRM) for zones AE, AH, A1–A30, AR, AR/A, AR/AE, AR/A1–A30, AR/AH, AR/AO, V1–V30 and VE.

**“Basement”** means that portion of a *building* having its floor subgrade (below ground level) on all sides.



**“Building”** (also see **Structure**) means (1) A structure with 2 or more outside rigid walls and a fully secured roof, that is affixed to a permanent site; or (2) a manufactured home (a “manufactured home,” also known as a mobile home, is a structure built on a permanent chassis, transported to its site in 1 or more sections, and affixed to a permanent foundation); or (3) a travel trailer without wheels, built on a chassis and affixed to a permanent foundation, that is regulated under the community’s floodplain management and building ordinances or laws.

**“Conditional Letter of Map Change”** means an administrative procedure whereby FEMA will review and comment on proposed changes affecting the *SFHA* prior to such changes taking place. The Conditional *Letter of Map Change* is issued by FEMA in the form of a Conditional *Letter of Map Revision* (CLOMR) or a Conditional *Letter of Map Revision Based on Fill* (CLOMR-F). Upon completion of the changes affecting the *SFHA*, the applicant must submit as-built certifications to FEMA for issuance of a final *Letter of Map Change* (LOMR or LOMR-F).

**“Critical Facilities”** means any *building* that, if flooded would result in severe consequences to public health and safety. Critical Facilities include, but are not limited to:

1. Hospitals, nursing homes, schools, day care facilities, prisons and jails, and institutional housing for the elderly, handicapped, and similar *buildings* likely to contain occupants who may not be sufficiently mobile to avoid death or injury during a *flood*;
2. Police stations, fire stations, emergency vehicle and equipment storage facilities, emergency operations centers, community shelters, and other public facilities that are needed for *flood* response activities before, during, and after a *flood*;

**“Development”** means 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, drilling operations, or storage of equipment or materials.

**“Effective Date of this Ordinance”** means the effective enactment date of this Ordinance on March 7, 2019.

**“Elevated Building”** means a non-basement *building* built to have the *lowest floor* elevated above the *Flood Protection Elevation* by means of *fill*, solid foundation perimeter walls, pilings, columns, piers, or shear walls adequately anchored so as not to impair the structural integrity of the *building* during a *Base Flood* event.

**“Enclosure”** means the area below the *lowest floor* formed by foundation and/or other exterior walls; commonly referred to as a “crawl space”.

**“Encroachment”** means any *new construction*, *substantial improvements*, expansions, or enlargements of *buildings* or other *structures*; utilities; roads; bridges; infrastructure; mining; dredging; filling; grading; paving; *excavation*; drilling operations; storage of vehicles, equipment or other materials; or any other *development* within a regulatory *flood* zone.



**“Excavation”** means the removal of any material, to locations either on-site or off-site, which permanently lowers the ground levels of a site.

**“Existing Construction”** means any structure for which the "start of construction" commenced before June 7, 2007 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”** means any properly permitted *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 final site grading or the pouring of concrete pads) is completed before the *Effective Date of this Ordinance*.

**“Expansion To An Existing Manufactured Home Park or Subdivision”** means 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.

**“Fill”** means the placement of any material, from sources either on-site or off-site, which permanently raises the ground levels of a site existing at the time of adoption of the *Flood Insurance Study* and any revisions thereto.

**“Flood” or “Flooding”** means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- a. The overflow of inland or tidal waters; or
- b. The unusual and rapid accumulation or runoff of surface waters from any source.
- c. Mudslides which are proximately caused by flooding as described in part “b.” of this definition 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 highwater 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 as defined in part “a.” of this definition.

**“Flood Hazard Appeal Board (Board)”** means the County Board of Adjustment as defined in Alabama Code 1975, Section 11-19-19.



**"Flood Insurance Rate Map (FIRM)"** means an official map of a community, issued by the Federal Insurance Administration, delineating the *Special Flood Hazard Areas* and/or risk premium zones applicable to the community.

**"Flood Insurance Study" (FIS)** is the official report by the Federal Insurance Administration evaluating *flood* hazards and containing *flood* profiles and water surface elevations of the *Base Flood*.

**"Floodplain management regulations"** means this ordinance and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances, and other applications of police power which control development in flood-prone areas. This term describes federal, state, or local regulations in any combination thereof, which provide standards for preventing and reducing flood loss and damage.

**"Floodproofing"** means any combination of structural and nonstructural additions, changes or adjustments to structures, which reduce or eliminate risk of flood damage to real estate or improved real property, water and sanitation facilities or structures with their contents.

**"Flood Protection Elevation (FPE)"** means the elevation to which *buildings* and uses regulated by this Ordinance are required to be elevated or *flood*-proofed. The *Flood Protection Elevation* for *new construction* is two (2) feet above the *Base Flood Elevation*, and the *Flood Protection Elevation* for *substantial improvements* of and *additions* to Existing *structures* is one (1) foot above the *Base Flood Elevation*.

**"Floodplain"** means any land area susceptible to *flooding*.

**"Flood Vent"** means an opening in a foundation wall which is designed to equalize hydrostatic *flood* forces on exterior walls by allowing for the automatic entry and exit of floodwaters.

**"Floodway (Regulatory Floodway)"** means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the *Base Flood* without cumulatively increasing the water surface elevation more than a designated height.

**"Floodway Fringe Area"** means the portion of the *Special Flood Hazard Area* outside the *Floodway*. The area between the *Floodway* and the boundary of the 100-Year Flood is termed the *Floodway Fringe*. The *Floodway Fringe* thus encompasses the portion of the *Floodplain* that could be completely obstructed without increasing the water surface elevation of the 100-Year *Flood* more than one (1) foot at any point. The *Floodway* and *Floodway Fringe* boundaries have been determined by a *Flood Insurance Study* and are shown on the *Flood Insurance Rate Maps (FIRMs)*. Boundaries for streams without established *Base Flood Elevations* and/or *Floodways* (A-zones) shall be determined in accordance with Section 403.

**"Freeboard"** means a factor of safety usually expressed in feet above the Base Flood Elevation (BFE) for purposes of floodplain management which 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. Used to determine the level for a building's lowest floor elevation or level of floodproofing required to be in compliance with the community's floodplain management regulations.

**“Functionally Dependent Facility (or Use)”** means a facility which cannot be used for its intended purpose unless it is located or carried out in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, ship building, or ship repair facilities. The term does not include long-term storage, manufacture, sales, or service facilities.

**“Hardship”** (as related to variances of this ordinance) means the exceptional difficulty that would result from a failure to grant the requested variance. Jefferson County requires that the variance is exceptional, unusual, and peculiar to the property involved. Mere economic or financial hardship alone is NOT exceptional. Inconvenience, aesthetic considerations, physical handicaps, personal preferences, or the disapproval of one’s neighbors likewise cannot, as a rule, qualify as an exceptional hardship. All of these problems can be resolved through other means without granting a variance, even if the alternative is more expensive, or requires the property owner to build elsewhere or put the parcel to a different use than originally intended.

**“Highest Adjacent Grade”** means the highest natural elevation of the ground surface, prior to construction, adjacent to the exterior walls of a *structure*.

**“Historic Structure”** means any *structure* that is;

1. Listed individually in the National Register of Historic Places (a listing maintained by the U.S. 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 and determined as eligible by 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 and determined as eligible by 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.

**“Letter of Map Amendment (LOMA)”** means an administrative procedure whereby FEMA will review information submitted by a property owner who believes their property has been



inadvertently included in a *Special Flood Hazard Area*. For a *LOMA* to be issued to remove the *structure* from the *SFHA*, NFIP regulations require that the *lowest adjacent grade* (the lowest ground touching the *structure*) be at or above the *Base Flood Elevation* (BFE). To remove the entire lot, the lowest point on the lot must be at or above the BFE.

**“Letter of Map Change (LOMC)”** means any one of the available administrative procedures (*LOMA*, *LOMR*, *LOMR-F*) whereby FEMA officially changes the *SFHA* status of a property.

**“Letter of Map Revision (LOMR)”** means an administrative procedure whereby FEMA issues an annotated copy of the *FIRM* which officially changes the *floodplain* boundaries along certain waterways in the community. A *LOMR* may be based solely on more accurate and detailed scientific or technical information, or on actual physical changes to the *floodplain* that affect *flood*ing conditions. Applications for a *LOMR* by a private individual must be signed by the local Floodplain Administrator on the Community Acknowledgement Form, prior to submission to FEMA. Where an applicant for a *Letter of Map Revision* is unable to obtain a Community Acknowledgement from the Floodplain Administrator, the applicant may still file the application with FEMA, provided written evidence is provided indicating the Floodplain Administrator has been requested to sign a Community Acknowledgement, as provided by 44 CFR 65.4(b).

**“Letter of Map Revision Based on Fill (LOMR-F)”** means an administrative procedure whereby FEMA will review information submitted by a property owner who has elevated their property above the BFE through the placement of *fill* material. NFIP regulations require that the *lowest adjacent grade* of the *structure* be at or above the BFE for a *LOMR-F* to be issued to remove the *structure* from the *SFHA*. The participating community must also determine that the land and any existing or proposed *structures* to be removed from the *SFHA* are “reasonably safe from *flood*ing.” To remove the entire lot and *structure*, both the lowest point on the lot and the *lowest adjacent grade* of the *structure* must be at or above the BFE.

**“Lowest Adjacent Grade”** means the lowest natural elevation of the ground surface, prior to construction, adjacent to the exterior walls of a *structure*.

**“Lowest Floor”** means the *lowest floor* of the lowest enclosed area, including *basement*, measured at the top of the *lowest floor*. An unfinished or *flood*-resistant, usable solely for parking of vehicles, *building* access, or storage, in an area other than a *basement*, is not considered a *building's lowest floor*, provided that such *enclosure* is not built so as to render the *structure* in *violation* of other provisions of this Ordinance. The top of the *lowest floor* shall be measured according to the appropriate *building* diagram in the FEMA Elevation Certificate.

**“Manufactured Home”** means a *building*, transportable in one or more sections, built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term also includes park trailers, travel trailers, and similar transportable *structures* placed on a site for 180 consecutive days or longer and intended to be improved property.



**"Manufactured home park or subdivision"** means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

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

**"Mean Sea Level"** means the average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within the *floodplain*

**"New Construction"** means ANY structure (see definition) for which the "start of construction" commenced after June 7, 2007 and includes any subsequent improvements (including additions) to such structures.

**"New Manufactured Home Park or Subdivision"** means a *manufactured home park or subdivision* for which the "*start of 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) commenced after the *Effective Date of this Ordinance*.

**"Non-Residential"** means, but is not limited to; small business concerns, churches, schools, farm buildings (including grain bins and silos), pool houses, clubhouses, recreational buildings, mercantile structures, agricultural and industrial structures, warehouses, and hotels and motels with normal room rentals for less than 6 months duration.

**"North American Vertical Datum (NAVD) of 1988"** means a vertical control, corrected in 1988, used as a reference for establishing varying elevations within the floodplain.

**"Obstruction"** means, but is not limited to, any dam, wall, wharf, embankment, levee, dike, pile, abutment, protection, excavation, channel construction, bridge, culvert, building, 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, or due to its location, its propensity to snare or collect debris carried by the flow of water, or its likelihood of being carried downstream.

**"Post-FIRM Construction"** means new construction and 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.

**"Pre-FIRM Construction"** means new construction and 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.



**"Public safety and nuisance"** means anything which is injurious to the 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.

**"Public Utilities"** shall mean any person, firm, corporation, municipal department, board, or commission fully authorized to furnish, under governmental regulations, electricity, natural gas, methane gas, steam, communications, telegraph, transportation, water services, sewage disposal, cable and telephone transmission and other services.

**"Recreational Vehicle"** means a vehicle which is:

- a. Licensed and titled as a recreational vehicle or park model;
- b. Built on a single chassis;
- c. 400 square feet or less when measured at the largest horizontal projection;
- d. Has no attached deck, porch, or shed;
- e. Has quick-disconnect sewage, water, and electrical connectors;
- f. Designed to be self-propelled or permanently towable by a light duty truck; and
- g. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

**"Registered Professional Engineer or PE"** means a person licensed to practice professional engineering in the State of Alabama in the fields of civil or environmental engineering with experience in hydrology, who by reason of special knowledge of mathematical and physical sciences and the principles and methods of engineering analysis and design, acquired by professional education and/or practical experience, is qualified to practice engineering according to the provisions of the Code of Alabama (1975), §§ 34-11-1, as amended, and is presently registered by the Alabama Board of Licensure for Professional Engineers and Land Surveyors.

**"Remedy a Violation"** means to bring the *structure* or other *development* into compliance with State or local *floodplain* management regulations, or, if this is not possible, to reduce the impacts of its noncompliance. Ways that impacts may be reduced 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 Federal financial exposure with regard to the *structure* or other *development*.

**"Repetitive Loss"** means *flood*-related damages sustained by a *structure* on two (2) separate occasions during a 10-year period for which the cost of repairs at the time of each such *flood* event, on the average, equals or exceeds 25 percent of the market value of the *structure* before the damages occurred. A *structure* with *Repetitive loss* shall be deemed to have incurred "*substantial damage*" as defined herein.

**"Residential"** means any lot, plot, parcel, tract, area or piece of land or any *building* to be used, or intended to be used, primarily for dwelling purposes; includes owner-occupied, rental, single-family and multi-family uses.



**"Section 1316"** means no new flood insurance policy or federal disaster assistance shall be provided for any property which 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 which are intended to discourage or otherwise restrict land development or occupancy in floodprone areas. If the structure is made compliant with the applicable community's floodplain management ordinance, then the Section 1316 declaration can be rescinded by the community and flood insurance and disaster assistance eligibility restored.

**"Special Flood Hazard Area (SFHA)"** is the land in the *floodplain* within a community subject to a one percent (1%) or greater chance of *flooding* in any given year (the *Base Flood*). The area is used for actuarial purposes in the underwriting of *flood* insurance policies. The area may be designated as Zone A, AE, AH, or AO on the *Flood Insurance Rate Map*. In the absence of official designation by the Federal Emergency Management Agency, *Special Flood Hazard Areas* shall be those designated by the local community as provided for in Section 201.

**"Start of Construction"** means the date the *development* permit was issued, provided the actual *start of construction*, repair, reconstruction, or improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of the *structure* such as the pouring of slabs or footings, installation of piles, construction of columns, or any work beyond the stage of *excavation*, and includes the placement of a *manufactured home* on a foundation. Permanent construction does not include initial 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; nor does it include the installation on the property of *buildings* appurtenant to the permitted *structure*, such as garages or sheds not occupied as dwelling units or part of the main *structure*. (NOTE: accessory *structures* are not exempt from any Ordinance requirements). For a *substantial improvement*, the actual *start of construction* means the first alteration of any wall, ceiling, floor, or other structural part of a *building*, whether or not that alteration affects the external dimensions of the *building*.

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

**"Subdivision"** means the division and re-division of a lot, tract, or parcel of land into two (2) or more lots, plats, sites, tracts, or other divisions of land.

**"Substantial Damage"** means damage of any origin sustained by a *structure* whereby the cost of restoring the *structure* to its before damaged condition would equal or exceed fifty percent (50%) of the market value of the *structure* before the damage occurred. *Substantial Damage* also means a "*Repetitive loss*," as defined herein.

**"Substantial Improvement (Substantially Improved)"** means any combination of repairs, reconstruction, rehabilitation, *addition*, or other improvement of a *structure*, taking place during a ten (10) year period, the cumulative cost of which equals or exceeds fifty-percent (50%) of the



market value of the *structure* before the “*start of construction*” of the improvement. The market value of the *building* should be (1) the appraised value of the *structure* prior to the start of the initial repair or improvement, or (2) in the case of damage, the value of the *structure* prior to the damage occurring. The most recent improvement valuations of the County Tax Assessor determine the market or appraised value, or in the absence of a Tax Assessor valuation, a market appraisal by an Alabama-licensed appraiser shall determine the appraised value of the *building*. This term includes *structures*, which have incurred “*Substantial Damage*” or “*Repetitive loss*,” regardless of the actual amount of repair work performed. For the purposes of this definition, “*Substantial Improvement*” is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the *building* commences, whether or not that alteration affects the external dimensions of the *building*. The term does not, however, include either: (1) 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; (2) 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**” is where the repair, reconstruction, rehabilitation or improvement of the streets, utilities and pads equals or exceeds 25 percent (25%) of the value of the streets, utilities and pads before the repair, reconstruction or improvement commenced.

“**Variance**” is a grant of relief from the requirements of this Ordinance, which permits a use or construction in a manner otherwise prohibited by this Ordinance.

“**Violation**” means the failure of a *structure* or other *development* to be fully compliant with this Ordinance. A *structure* or other *development* without the Elevation Certificate, other certifications, or other evidence of compliance required in 44 CFR 60.3 and corresponding parts of this Ordinance is presumed to be in *violation* until such time as that documentation is provided.

“**Watercourse**” means any flowing body of water including a river, creek, stream, or a branch.

“**Water surface elevation**” means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, the North American Vertical Datum (NAVD) of 1988, (or other datum, where specified) of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

## **ARTICLE 7.**

### **SEVERABILITY**

If any section, clause, sentence, or phrase of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way effect the validity of the remaining portions of this Ordinance.



**ARTICLE 8.**  
**SCHEDULE OF FEES**

The following Schedule of Fees shall apply to action under this Ordinance. All funds collected under this Ordinance shall be paid to the Jefferson County Treasurer.

**SECTION 800. Floodplain Development Permit** \$ 50.00 base fee  
(LOMA in lieu of permit - no charge)

Plus additional cumulative charges as listed below

- |                                                                                            |          |
|--------------------------------------------------------------------------------------------|----------|
| <b>A.</b> Proposed <i>Encroachment</i> into SFHA                                           | \$150.00 |
| <b>B.</b> Proposed Structure located in SFHA<br>(or any <i>additions</i> thereto)          | \$150.00 |
| <b>C.</b> Subdivision Proposals - per Subdivision Plat, plus                               | \$150.00 |
| <b>D.</b> per buildable lot located in SFHA                                                | \$ 75.00 |
| <b>E.</b> Review of No-Rise Certification<br>when hydraulic & hydrologic study is required | \$500.00 |

**SECTION 801. Application to**   
Flood Hazard *Appeal* Board \$300.00

**SECTION 802. Miscellaneous**

- |                                           |                    |
|-------------------------------------------|--------------------|
| <b>A.</b> Floodplain Certification Letter | \$ 15.00           |
| <b>B.</b> Copies of F.I.R.M.'s            | \$ 15.00 per panel |



**ARTICLE 9.**  
**EFFECTIVE DATE OF THIS ORDINANCE**

This Ordinance shall become effective upon its due adoption and publication as provided by law.

**ADOPTED** this the 7 day of March, 2019.

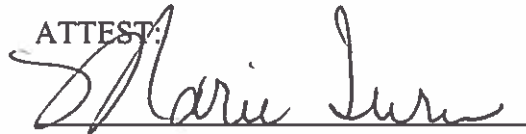
BY:



Date: March 7, 2019

Hoyt Sanders, Mayor  
(Name and Title)

ATTEST:



Date: March 7, 2019

Marie Turner, City Clerk/Treas.  
(Name and Title)