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AN ORDINANCE  
ENTITLED  
**AN ORDINANCE ADOPTING AND ESTABLISHING A  
FLOODPLAIN MANAGEMENT ORDINANCE FOR THE  
CITY OF ALBANY; REPEALING PRIOR ORDINANCES  
IN CONFLICT; AND FOR OTHER PURPOSES**

WHEREAS, the Constitution of the State of Georgia authorizes the City of Albany to adopt ordinances designed to promote public health, safety and welfare, and

WHEREAS, the adoption of a Floodplain Management Ordinance is in the best interests of the citizens of Albany,

NOW, THEREFORE, BE IT ORDAINED by the Board of Commissioners of the City of Albany, Georgia and it is hereby ordained by authority of same:

SECTION 1. From and after adoption of this Ordinance, the following shall be designated as the Floodplain Management Ordinance for the City of Albany:

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

**SECTION A. SECTION A, AUTHORIZATION**

Article IX, Section II of the Constitution of the State of Georgia and Section 36-1-20(a) of the Official Code of Georgia Annotated have delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the Mayor and Board of Commissioners of Albany, GEORGIA, does ordain as follows:

**SECTION B. FINDINGS OF FACT**

1. The flood hazard areas of the City of Albany 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 protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.
2. These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities, and by the occupancy in flood hazard areas by uses vulnerable to floods or hazards to other lands which are inadequately elevated, flood-proofed, or otherwise unprotected from flood damages.

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### **SECTION C. STATEMENT OF PURPOSE**

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

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

### **SECTION D. OBJECTIVES**

The objectives of this ordinance are:

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

### **ARTICLE 2: 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 Use:* a use of a nature customarily subordinate or incidental to, and located on the same parcel, as the principal use of any structure or property.

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

**Appeal:** means a request for a review of the Planning and Development Services Department's interpretation of any provision of this ordinance or a request for a variance.

**Area of Special Flood Hazard:** is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year.

**Base Flood (Regulatory Flood):** the flood having a one percent or greater chance of flooding in any given year.

**Base Flood Elevation (BFE):** The elevation shown on the Flood Insurance Rate Map for Zones AE, AH, AI-A30, AR, AR/A, AR/AE, AR/AI-A30, AR/AH, AR/AO, VI-V30, and VE that indicates the water surface elevation resulting from a flood that has a one percent chance of equaling or exceeding that level in any given year.

**Basement:** that portion of a building having its flood grade below ground level on all sides.

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

**Critical Facility:** means any public or private facility, which, if flooded, would create an added dimension to the disaster or would increase the hazard to life and health. Critical facilities include:

- (a) structures or facilities that produce, use, or store highly volatile, flammable, explosive, toxic, or water-reactive materials;
- (b) hospitals and nursing homes, and housing for the elderly, which are likely to contain occupants who may not be sufficiently mobile to avoid the loss of life or injury during flood and storm events;
- (c) emergency operation centers or data storage centers which contain records or services that may become lost or inoperative during flood and storm events; and
- (d) generating plants, and other principal points of utility lines.

**Development:** any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavating, drilling operations, or permanent storage of materials or equipment.

**Elevated Building:** a non-basement building to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, pilings, columns (posts and piers), shear walls, or breakaway walls.

**Existing construction:** means for the purposes of determining rates, structures for which the "start of construction" commenced before August 15, 1977 [the effective date of the initial FIRM for that community].

**Existing Manufactured Home Park or subdivision:** means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum the installation of utilities, the

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construction of streets, and final site grading or the pouring of concrete pads) is completed before August 9, 1977 [the effective date of the FIRST floodplain management regulations adopted by a community].

**Fair Market Value:** the value of property or structures, as used in the definition of "substantial improvement" shall mean, as determined by the tax assessor, either (a) before the improvement was started, or (b) if the structure has been damaged and is being restored, before the damage occurred.

**Flood or Flooding:**

1. A general and temporary condition of partial or complete inundation of normally dry land areas from:
  - a. the overflow of inland waters, and
  - b. the unusual and rapid accumulation of runoff of surface waters from any source.
2. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm or force of nature, such as a flash flood, or by some similarly unusual event which results in flooding as defined in (a) above.

**Flood Hazard Boundary Map (FHBM):** an official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood areas have been defined as Zone A and the floodway has been delineated.

**Flood Insurance Rate Map (FIRM):** an official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

**Flood Insurance Study:** the official report provided by the Federal Emergency Management Agency. The report contains flood profiles, as well as the Flood Boundary Map and the water surface elevation of the base flood.

**Flood Control Works:** any man-made construction, such as a dam, levee, groin, or jetty designed to alter the flood potential of the body of water on or adjacent to which it is built.

**Floodplain:** the land within a community which is subject to a one percent (1%) chance of flooding in any given year.

**Flood-proofing:** a combination of structural and/or non-structural additions, changes, or adjustments to properties or structures that are subject to flooding and which will reduce or eliminate flood damages to improved real property, water and sewer facilities, structures, and contents of buildings.

**Floodway:** the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

**Floodway Fringe:** that area of the floodplain lying outside the floodway.

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

*Lowest Floor:* the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.

*Highest Adjacent Grade:* the highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a building.

*Historic Structure:* any structure that is:

- a. listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- b. certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- c. individually listed on a State Inventory of Historic Places.

*Manufactured Home:* a building or structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term also includes park 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:* a parcel or contiguous parcels of land divided into two or more manufactured home lots for rent or sale.

*Mean Sea Level:* the mean height of the sea for all stages of the tide.

*National Geodetic Vertical Datum (NGVD):* as corrected in 1929, it is a vertical control used as a reference for establishing varying elevations within the floodplain.

**New construction:** means, for the purposes of determining insurance rates, structures for which the "start of construction" commenced after August 15, 1977 [the effective date of the initial FIRM) and includes any subsequent improvements to such structures. For floodplain management purposes, "new construction" means structures for which the "start of construction" commenced after August 9, 1977 [the effective date of the FIRST floodplain management ordinance adopted by the community] and includes any subsequent improvements to such structures.

**New manufactured home park or subdivision:** means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the

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construction of streets, and either final site grading or the pouring of concrete pads) is completed after August 9, 1977 [the effective date of the first floodplain management regulations adopted by a community].

*Non-Conforming Floodway Use:* any residential, commercial, industrial, office institutional, or public building located within the floodway on the date of the adoption of these regulations, and which would not be permitted to be constructed within the floodway after the first date (August 9, 1977 in the City of Albany) of the adoption of this ordinance. Any use of land within a floodway existing on the first date of the adoption of this ordinance, and which will not be permitted as a new use within the floodway.

*Non-Conforming Floodway Fringe Use:* any structure that is located within the floodway fringe on the first date of the adoption of this ordinance and that does not meet standards for finished floor elevations and/or flood-proofing that apply to new construction in the floodway fringe. For example, the finished floor elevation of a single family residence might be three feet (3') below the 100 year flood elevation; such a residence should be defined as a non-conforming floodway fringe use.

**Person:** any individual or group of individuals, corporation, partnership, association or any other organized group of persons, including state and local governments and agencies thereof.

*Recreation Vehicle:* means a vehicle that is:

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

*Regulatory Flood:* the flood having a one percent (1%) chance of occurring in any given year. The Regulatory Flood is commonly known as the "100 Year Flood".

*Regulatory Flood Elevation:* the crest elevation in relation to mean sea level expected to be reached by the regulatory flood at any given point in an area of special flood hazard.

*Start of Construction:* start of construction includes substantial improvement, and means the date the building repair, reconstruction, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; 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 accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main structure.

*Structure:* a walled and roofed building that is principally above the ground and affixed to a permanent site, as well as a manufactured home. The term includes a building while in the course of construction, alteration or repair. The term does not include building materials or supplies intended for use in construction, alteration or repair, unless such materials or supplies are within an enclosed building on the premises. The words "building" and "structure" shall have the same meaning for the purposes of this ordinance.

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*Substantial Damage:* damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred.

*Substantial Improvements:* any combination of repairs, reconstruction, alteration, or improvements to a building, the costs of which equals or exceeds fifty percent (50%) of the fair market value of the structure. The market value of the building should be:

1. The appraised value of the initial repair or improvement, or
2. In the cause of damage, the value of the building prior to the damage occurring.

This term includes structures that have incurred "substantial damage," regardless of the actual repair work performed. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration affects the external dimensions of a building. The term does not include any repair, reconstruction, improvement, or alteration of a structure listed on the National Register of Historic Places. Also, the term does not include any project for improvement of a building required to comply with existing health, sanitary, or safety code specifications which have been identified by the building inspector and which are solely necessary to assure safe living conditions.

*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 fifty percent (50%) of the value of the streets, utilities and pads before the repair, reconstruction or improvement commenced.

*Variance:* a grant of relief to a person from the requirements of these regulations, as provided in Article 12, which permits construction in a manner otherwise prohibited by this ordinance where specific enforcement of this ordinance would result in unnecessary hardship.

**Violation:** means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, or other certifications, or other evidence of compliance required by this ordinance is presumed to be in violation until such time as that documentation is provided.

### **ARTICLE 3: GENERAL PROVISIONS**

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

This ordinance shall apply to all lands within the City of Albany that are depicted on the Flood Boundary and Floodway Map, and the Flood Insurance Rate Map as lying within areas of special flood hazard.

#### **SECTION B. BASIS FOR AREA OF SPECIAL FLOOD HAZARD**

The Areas of Special Flood Hazard identified by the Federal Emergency Management Agency in its Flood Insurance Study (FIS), dated September 25, 2009, with accompanying maps and other supporting data and any revision thereto, are adopted by reference and declared a part of this ordinance.

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For those laq areas acquired by a municipality through annexation, the current effective FIS dated September 25, 2009 with accompanying maps and other supporting data and any revision thereto, for the City of Albany, Georgia are hereby adopted by reference.

Areas of Special Flood Hazard 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.

The Repository for public inspection of the Flood Insurance Study (FIS), accompanying maps and other supporting data is located in the office of the Planning and Development Services Department.

#### **SECTION C. ESTABLISHMENT OF A DEVELOPMENT PERMIT**

A development permit shall be required in conformance with the provisions of this ordinance prior to the commencement of any development activities.



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**SECTION D. COMPLIANCE**

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

**SECTION E. ABROGATION AND GREATER RESTRICTION**

This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance conflicts or overlaps with any existing easements, covenants or deed restrictions, the more stringent restrictions shall prevail.

**SECTION F. 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.

**SECTION G. RELATIONSHIP BETWEEN THE ZONING REGULATIONS AND FLOODPLAIN MANAGEMENT REGULATIONS**

On March 24, 1970, the City of Albany adopted Ordinance #1341. The Floodplain Management Ordinance that is now established imposes additional requirements on the use of property above and beyond those requirements that are stated in the zoning ordinance. Development of lands located within the floodplain shall comply with all of the requirements that are given in this ordinance, as well as with all of those requirements that are given in the zoning ordinance.

The City Commission may change the zoning district classification of lands located within the floodplain by following customary rezoning procedures.

**SECTION H. 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 on rare occasions. Flood heights may be increased by man-made or natural causes. This ordinance can not guarantee that areas outside the floodplain's boundaries or land uses that are permitted within the floodplain will be free from flooding or flood damage. This ordinance shall not create liability on the part of the City of Albany or by an officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

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**SECTION I. PENALTIES FOR VIOLATION**

Violation of the provisions of this ordinance or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with the granting of variances 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 no more than \$300 or imprisoned for no more than 90 days or both, and in addition shall pay costs and expenses involved in the case. Each day such violation continues shall be considered a separate offence. Nothing herein contained shall prevent the City of Albany from taking such other lawful action as necessary to prevent or remedy any violation.

**ARTICLE 4: ADMINISTRATION**

**SECTION A. DESIGNATION OF FLOODPLAIN MANAGEMENT ADMINISTRATOR**

The director of Planning and Development Services is hereby appointed to administer and implement the provisions of this ordinance.

**SECTION B. DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN MANAGEMENT ADMINISTRATOR**

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

1. Require that if additional federal or state permits are required, and if specific federal or state permit requirements are known, copies of such permits be provided and maintained on file with the development permit.
2. Notify adjacent communities and the 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.
3. All records pertaining to the provisions of this ordinance shall be maintained in the office of the Planning and Development Services and shall be open for public inspection.
4. Interacting with the state and federal agencies and ensuring that all applicable reports and applications are completed.
5. Review all permit applications to determine whether proposed building sites will be reasonably safe from flooding.

**SECTION C. DUTIES AND RESPONSIBILITIES OF THE CITY ENGINEER**

1. When base flood elevation data or floodway data has not been provided, the City Engineer shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state, or other source in order to administer the provisions of this ordinance.
2. 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 City Engineer shall make the

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necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this Article.

3. Assure that maintenance is provided within the altered or relocated portion of said watercourse so the flood carrying capacity is not diminished.
4. Assist the Board of Review in evaluating proposed projects in relation to flood heights and velocities, threatened erosion, the adequacy of the plans for flood and erosion protection, the adequacy of drainage facilities, and other technical matters.
5. Verify and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved buildings.
6. Verify and record the actual elevation (in relation to mean sea level) to which the new or substantially improved buildings have been flood-proofed.

#### **SECTION D. DUTIES AND RESPONSIBILITIES OF THE BUILDING INSPECTION DEPARTMENT**

1. Review all development permits to assure that the permit requirements of this ordinance have been satisfied.
2. When flood-proofing is utilized for a particular building, the Building Inspection Department shall obtain certification from a registered professional engineer or architect.
3. The Building Inspection Department shall note on all building permits issued - the elevation (in relation to mean sea level) of the lowest floor of all new or substantially improved structures. If a structure is to be flood-proofed, then the Building Inspector shall note on the building permit the elevation (in relation to mean seal level) to which the structure will be floqd-proofed.
4. Issue permits.

#### **SECTION E. PERMIT PROCEDURES**

Applications for a development permit shall be made to the Building Inspection Department on forms furnished by the department prior to any development activities, and may include, but not limited to, the following plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, earthen fill, storage of materials or equipment, drainage facilities, and the location of the foregoing. Specifically, the procedure includes the following:

1. Application Stage
  - a. owner shall submit development application to Building Inspection Department.
  - b. inspection staff shall determine **if** development is in floodplain. If development is not in floodplain, application will go through normal review.
  - c. if development is in floodplain, the Building Inspection Department shall ask the City Engineer to establish the following:

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1. minimum allowable elevation in relation to mean sea level of the lowest floor (including basement) of the building;
  2. elevation in relation to mean sea level to which any non-residential building must be flood-proofed.
- d. certificate from a professional engineer or registered architect that the non-residential flood-proofed building will meet the flood-proofing criteria in Article 7.
  - e. the location of the lot of the existing structure, if an addition to the existing is being proposed for construction. The proposed elevation of the lowest floor of the addition shall be indicated.
  - f. Description of the extent to which any watercourse will be altered or relocated as a result of the proposed development.
  - g. If all requirements are met, a permit shall be issued to the applicant. A copy of the permit shall be sent to the office of Planning and Development Services for record keeping.

2. Construction Stage

Builder shall provide a floor elevation or flood-proofing certification after the lowest floor is completed, or instances where the building is subject to the regulations applicable to flood hazard areas, after placement of the horizontal structural members of the lowest floor. Upon placement of the lowest floor or flood-proofing by whatever construction means, or upon placement of the horizontal structural members of the lowest floor, whichever is applicable, it shall be the duty of the permit holder to submit to the Building Inspection Department a certification of the elevation lowest floor, flood-proofed elevation, or the elevation of the lowest portion of the horizontal structural members of the lowest floor, whichever is applicable, as built in relation to mean sea level.

Said certification shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by same. When flood-proofing is utilized for a particular building, said certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. Any work undertaken prior to submission of the certification shall be at the pennit holder's risk.

The City Engineer shall inspect the floor elevation survey data submitted to ascertain compliance with regulations. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further progressive work being permitted to proceed. Failure to submit the survey or failure to make said corrections required hereby shall be cause to issue a stop-work order for the project. Upon inspection, the City Engineer shall sign the elevation certificate for the lowest floor. A copy of the elevation certificate shall be sent to the department of Planning and Development Services for record keeping.

**SECTION F. ESTABLISHMENT OF A BOARD OF REVIEW**

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A Board of Review is hereby established which shall consist of seven members appointed by the City Commission. The initial appointees shall serve staggered terms, with three members serving three years, three members serving two years, and one member serving one year. Each member shall thereafter serve a term of three years. One member of the Board may be a member of the department of Planning and Development Services. Any vacancy on the board shall be filled by the City Commission for the unexpired term of such vacancy.

At least two members of the Board shall be engineers or land surveyors licensed to practice in the State of Georgia.

The Board shall select a secretary, who will prepare and keep all permanent records of the Board, including agendas, minutes, legal notices and other required papers.

#### **SECTION G. DUTIES AND RESPONSIBILITIES OF THE BOARD OF REVIEW**

1. The Board of Review shall adopt rules for the conduct of its business.
2. The Board shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by an administrative official (including, but not limited to, the Director of Planning and Development Services, the Building Inspector, and the City Engineer) in the enforcement or administration of this ordinance.
3. The Board shall hear and decide applications for Special Use Permits upon which it is authorized to pass under this ordinance.
4. The Board may authorize, upon appeal from a decision of the director of Planning and Development Services, the City Engineer or the Building Inspection Department, a variance from the requirements of this ordinance.
5. The Board shall interpret the boundaries of the floodway and the floodway fringe on appeal from a decision of the City Engineer, or Building Inspector.
6. The Board shall hear and decide appeals from the denial of building permits.
7. The Board shall determine the specific flood or erosion hazard at the site and shall evaluate the suitability of the proposed use in relation to the flood hazard, and if a permit is to be issued, may attach appropriate conditions. In passing upon such applications, the Board shall consider the technical evaluation of the City Engineer all relevant factors and standards specified in other sections of this ordinance, and;
  - a. the danger that materials may be swept onto other lands to the injury of others.
  - b. the danger of life and property due to flooding or erosion damage.
  - c. the proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.
  - d. the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
  - e. the importance of the services provided by the proposed facility to the community.

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- f. the necessity to the facility of a waterfront location.
  - g. the availability of alternative locations, not subject to flooding or erosion damage for the proposed use.
  - h. the compatibility for the proposed use with existing development and development that is anticipated in the foreseeable future.
  - i. the relationship of the proposed use to the comprehensive development plan and floodplain management program for that area.
  - j. the safety of access to the property in times of flood for ordinary and emergency vehicles.
  - k. the expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters expected at the site.
  - l. the cost of providing governmental services during and after flood conditions, including the maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.

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## **SECTION H. SPECIAL USE PERMIT PROCEDURES**

### **General**

A person may appear before the Board of Review:

1. To appeal a decision of the Director of Planning and Development Services, the City Engineer, or the Building Inspection Department;
2. to make application for a variance, or
3. to make application for a special use permit.

### **Permit Procedures**

The Board shall conduct a public hearing on all applications for special use permits. Public notice shall consist of publication of a legal advertisement in a newspaper of general circulation throughout the city and county. At the hearing, an applicant may appear in person, or by an agent or by an attorney to present evidence for the record. The Board shall arrive at its decision on appeal for special use permits within thirty (30) days after the hearing. In granting a special use permit, the Board may impose whatever conditions it believes are necessary to promote the general objectives and purposes of this ordinance. The decision of the Board shall be in writing, and it must set forth the specific reasons which in view of the Board justify its decision.

### **Required Documentation**

1. Applications for uses requiring special use permits shall be submitted to the office of Planning and Development Services on forms to be provided. Upon receipt of the properly completed application, planning staff shall submit it to the Board of Review. The application shall contain the following information and any additional information requested by the Board.
  - a. a map in duplicate, drawn to scale showing the curvilinear line representing the regulatory flood elevation, dimensions of the lot, existing structures and uses on the lot and adjacent lots, soil type, existing flood control and erosion control works, existing drainage elevations and ground contours, location and elevation of existing streets, water supply and sanitary facilities, and other pertinent information.
  - b. a preliminary plan showing the approximate dimensions, elevation and nature of the proposed use, amount, are and type of proposed fill; area and nature of proposed grading or dredging, proposed flood protection or erosion control works, proposed drainage facilities, proposed roads, sewers, water and other utilities, specifications for building construction and materials included in the flood-proofing.

The Board is not required to conduct a public hearing on applications for variances or in acting on appeals made from a decision of the City Engineer, Building Inspector, or the administrative officer. In granting variances, the Board may impose whatever conditions it believes are necessary to promote the general objectives and purposes of this ordinance. The

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decision of the Board shall be in writing, and it must set forth the specific reasons that in the view of the Board, justify its decision.

Violation of any condition that may have been established by the Board in granting a variance or special use permits will be considered a violation of this ordinance. A violation is punishable under the terms of Article 3, Section I.

#### **SECTION I. VARIANCE PROCEDURES**

1. The Board of Review as established by the City of Albany shall hear and decide appeals and requests for variances from the requirements of this ordinance.
2. The Board shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the City Engineer or the Building Inspection Department in the enforcement or administration of this ordinance.
3. Any person aggrieved by the decision of the Board of Review or any taxpayer may appeal such decision to the Dougherty County Superior Court.
4. 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.
5. In passing upon variance applications, the Board of Review shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this ordinance, and;
  - a. the danger that materials may be swept onto other lands to the injury of others;
  - b. the danger to life and property due to flooding or erosion damage;
  - c. the susceptibility of the proposed facility and its contents to flood damage on the Individual owner;
  - d. the importance of the services provided by the proposed facility to the community;
  - e. the necessity of the facility to a waterfront location, in the case of a functionally dependent facility;
  - f. the availability of alternative locations, not subject to flooding or erosion damage for the proposed use;
  - g. the compatibility of the proposed use with existing and anticipated development;
  - h. the safety of access to the property in times of flood for ordinary and emergency vehicles;
  - i. the relationship of the proposed use to the comprehensive plan and floodplain management program for that area;



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- j. the expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters expected at the site, and;
  - k. the cost of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.
6. Upon consideration of the factors listed above, and the purposes of this ordinance, the Board of Review may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.
  7. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result

**Conditions for Variances**

1. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief; and in the instance of a historical building, a determination that the variance is the minimum necessary so as not to destroy the historic character and design of the building;
2. Variances shall only be issued upon the following:
  - a. a showing of good and sufficient cause;
  - b. a determination that failure to grant the variance would result in exceptional hardship, and;
  - c. a determination that 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.
3. Any applicant to whom a variance is granted shall be given written notice specifying the difference between the base flood elevation and the elevation to which the building is to be built and stating that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.
4. The department of Planning and Development Services shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request.

**ARTICLE 5: PROVISIONS FOR FLOOD HAZARD REDUCTION**

**SECTION A. GENERAL STANDARDS**

In all areas of the floodplain, the following provisions are required:

1. New construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure;

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2. Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over the top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable state requirements for resisting wind forces.
  3. New construction and substantial Improvements shall be constructed with materials and utility equipment resistant to flood damage.
  4. New construction or substantial improvements shall be constructed by methods and practices that minimize flood damage.
  5. Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
  6. New and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
  7. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters.
  8. On site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.
  9. Any alteration, repair, reconstruction or improvements to a building which is in compliance with the provisions of this ordinance, shall meet the requirements of "new construction" as contained in this ordinance.
  10. An individual who plans to make alterations or relocations in any watercourse within the City of Albany shall notify the department of Planning and Development Services in accordance with Article 4, Section B, (2), and Article 4, Section C, (3) of this ordinance.
  11. The City Engineer shall advise the engineer of each proposed subdivisions that additional federal or state permits may be required. If the City Engineer knows that specific federal or state permits will be required to allow completion of the subdivision, then the City Engineer shall require that copies of such permits be provided by the engineer of the subdivision. Copies of such permits shall be sent to the department of Planning and Development Services for record keeping.

#### **SECTION B. SPECIFIC STANDARDS**

In all areas of the Special Flood Hazard where base flood elevation data has been provided, as set forth in Article 3, Section B, or Article 4, Section C (1), the following provisions are required:

1. Residential Construction

New construction or substantial improvement of any residential building (or manufactured home) shall have the lowest floor, including basement elevated no lower than one foot above the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded

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movements of floodwaters shall be provided in accordance with standards of Article 5, Section B (3).

- (a) All heating and air conditioning equipment and components (including ductwork), all electrical, ventilation, plumbing, and other service facilities shall be elevated at or above *one foot* above the base flood elevation.

2. Non-residential Construction

New construction or substantial improvement of any commercial, industrial, or non-residential building (or manufactured home) shall have the lowest floor, including basement, elevated no lower than one foot above the level of the base flood elevation. Buildings located in all A-zones may be flood-proofed in lieu of being elevated provided that all areas of the building below the required elevation are water tight with walls substantially, impermeable to the passage of water, and use structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be proved to the official as set forth in Article 4, Section E (2).

3. Elevated Buildings

New construction or substantial improvements of elevated buildings that include fully enclosed areas formed by foundation and other exterior walls below the base flood elevation shall be designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls.

- a. designs for complying with this requirement must either be certified by a professional engineer or architect or meet the following minimum criteria:
  - 1. provide a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;
  - 2. the bottom of all openings shall be no higher than one foot above grade, and;
  - 3. openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both direction.
- b. access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the living area (stairway or elevator), and;
- c. the interior portion of such enclosed area shall not be partitioned or finished into separate rooms.

4. Standards for Manufactured Homes and Recreational Vehicles

- 1. all manufactured homes placed or substantially improved on individual lots or parcels, in expansions to existing manufactured home parks or

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subdivisions, must meet all the requirements for new construction, including elevation and anchoring.

2. all manufactured homes placed or substantially improved in an existing manufactured home park or subdivision must be elevated so that:
  - a. the lowest floor of the manufactured home is elevated no lower than one foot above the level of the base flood, or
  - b. the manufactured home chassis is supported by reinforced piers or other foundation elements of at least an equivalent strength, of no less than thirty six inches in height above grade.
  - c. the manufactured home must be securely anchored to adequately anchored foundation system to resist flotation, collapse and lateral movement.
  - d. In an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as a result of flood, any manufactured home placed or substantially improved must meet the standards of Article 5, Section B (4) (2) (a) and (c) above.
3. all recreational vehicles placed on sites must either:
  - a. be on the site for fewer than 180 consecutive days.
  - b. be fully licensed and ready for highway use, or
  - c. the recreation vehicle must meet all the requirements for new construction, including anchoring and elevation requirements of Article 5, Section B (4) (1) or (2) (a) and (c), above.

a recreational vehicle is ready for highway use if it is on wheels or jacking system, and is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached structures.

5. Standards for Subdivision Proposals
  - 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.
  - d. For subdivisions and / or developments greater than fifty lots or five acres, whichever is less, base flood elevation data shall be provided for subdivisions and all other proposed development, including manufactured home parks and subdivisions. Any changes or revisions to the flood data adopted herein and shown on the FIRM shall be submitted to FEMA for review as a Conditional

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Letter of Map Revision (LOMR) or Conditional Letter of Map (CLOM), whichever is applicable. Upon completion of the project, the developer is responsible for submitting the "as-built" data to FEMA in order to obtain the final LOMR.

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**6. STANDARDS FOR AREAS OF SPECIAL FLOOD HAZARD (ZONES AE) WITH ESTABLISHED BASE FLOOD ELEVATIONS WITHOUT DESIGNATED FLOODWAYS**

Located within the Areas of Special Flood Hazard established in Article 2, Section B, where streams with base flood elevations are provided but no floodways have been designated, (Zones AE) the following provisions apply:

1. No encroachments, including fill material, new structures or substantial improvements shall be located within areas of special flood hazard, unless certification by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than *011e foot* at any point within the community. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles.
2. New construction or substantial improvements of buildings shall be elevated or flood-proofed to elevations established in accordance with Article 4, Section B.

**7. STANDARDS FOR AREAS OF SHALLOW FLOODING (AO ZONES)** Areas of Special Flood hazard established in Article 2, Section B, may include designated "AO" shallow flooding areas. These areas have base flood depths of *one to three feet* above ground, with no clearly defined channel. The following provisions apply:

(1) All new construction and substantial improvements of residential and non-residential structures shall have the lowest floor, including basement, elevated to the flood depth number specified on the Flood Insurance Rate Map (FIRM), above the highest adjacent grade: If no flood depth number is specified, the lowest floor, including basement, shall be elevated at least *three 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 A (4), "Elevated Buildings".

The City Engineer shall certify the lowest floor elevation level and the record shall become a permanent part of the permit file.

(2) New construction or 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 FIRM flood level plus *011e foot*, 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

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such certification to the official as set forth above and as required in Articles 3(B)(1)(c) and (3)(8)(2).

(3) Drainage paths shall be provided to guide floodwater around and away from any proposed structure.

**8. STANDARDS FOR CRITICAL FACILITIES**

(1) Critical facilities shall not be located in the 100-year floodplain or the 500-year floodplain.

(2) All ingress and egress from any critical facility must be protected to the 500-year flood elevation.

**ARTICLE 6: Establishment OF AREAS Within THE FLOODPLAIN**

**SECTION A. GENERAL**

The floodplain within the City of Albany is hereby divided into three separate areas - the floodway, the floodway fringe, and other floodplain areas.

**SECTION B. FLOODWAY**

1. Applicability

The provisions of this section shall apply to the floodway as shown on the Official Flood Maps.

2. Restrictions Governing Development in Floodway

Located within areas of special flood hazard established in Article 3, Section B, are areas designated as floodway. Since the floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles, and has erosion potential, the following provisions shall apply:

- a. prohibit encroachments, including fill, new construction, substantial improvements and other developments unless certification (with supporting technical data) by a professional engineer is provided demonstrating that encroachments shall not result in any increase in flood levels during occurrence of the base flood discharge;
- b. if Article 6, Section B (2) (a) is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Article 5.
- c. prohibit the placement of manufactured homes (mobile homes), except in an existing manufactured home (mobile home) park or subdivision. A replacement manufactured home may be placed on a lot in an existing manufactured home

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park or subdivision provided the anchoring standards of Article 5, Section A (2), and the elevation standards of Article 5, Section B (1) and the encroachment standards of Article 6, Section B (2) (a) are met.

3. Permitted Uses

The following and other similar uses normally have a low flood damage potential. These uses are permitted within the floodway provided that they are not prohibited by the Albany Dougherty County Zoning Ordinance or by any other ordinance, and provided that they do not require fill, dumping of materials or waste, or storage of materials or equipment. No use shall be permitted which acting along or in combination with existing or reasonably foreseeable future uses would result in an increase in the regulatory flood elevation in accordance with Article 6, Section B, 2 (a).

- a. agricultural uses, including general farming, grazing, outdoor plant nurseries, horticulture, truck gardening, forestry, sod farming, and wild crop harvesting.
- b. non-structural industrial and commercial uses, including golf courses, tennis courts, driving range, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game fanns, fish hatcheries, shooting preserves, target ranges, trap and skeet ranges, hunting and fishing areas, hiking and horseback riding rails.

4. Special Uses

The following uses may be permitted only upon application to the department of Planning and Development Services and the issuance of a special use permit by the Board of Review as provided in Article 4 of this ordinance, and provided the applicant demonstrates (by technical analysis) that he/she is In compliance with the provisions of Article 6, Section B, 2 (a); that the use will not cause any increase in the regulatory flood level, and further provided that such uses are permitted at the proposed location by the Albany Dougherty Zoning Ordinance:

- a. uses accessory to permitted or special uses;
- b. circuses, carnivals and similar transient amusement or entertainment;
- c. drive-in theaters, Jots for the sale of new and used cars, trucks, farm equipment, campers and mobile homes;
- d. extraction of sand, gravel, and other materials;
- e. railroads, streets, bridges, utility transmission lines, and pipelines;
- f. marinas, boat rentals, docks, piers, wharves;
- g. storage yards for non-floatable and readily transportable equipment or machinery;
- h. other uses which the Board of Review considers to be similar in nature to those listed elsewhere in this section; and



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- i. a single family dwelling or a manufactured home may be constructed on a Jot that was on record in the office of the clerk of the Superior Court of Dougherty County, Georgia on the effective date of the first adoption of this ordinance if the lowest floor of that dwelling is at least one foot above the 100 year flood elevation. The method used to raise the structure must not increase the regulatory flood elevation, or obstruct the carrying capacity of the floodway in accordance with Article 6, Section B, 2 (a).

5. Signs to Identify Floodway

Wherever the floodway boundary crosses a public road, a sign shall be placed by the City of Albany identifying property located on the river side of the sign as lying within the floodway.

### **SECTION C. FLOODWAY FRINGE**

1. Applicability

The provisions of this article shall apply to all areas designated as the floodway fringe on the Official Flood Maps.

2. Subdivision Development in the Floodway Fringe

The plat of each subdivision that is developed in the Floodway Fringe after the effective date when this ordinance was first adopted shall contain a notation clearly stating the water surface elevation of the 100 year flood in relation to the National Geodetic Vertical Datum (NGVD).

### **SECTION D. OTHER FLOODPLAIN AREAS**

#### **Standards for Streams without Established Base Flood Elevation and/or Floodways**

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

1. No encroachments, including fill material or structures shall be located within areas of special flood hazard, unless certification by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development will not increase the water surface elevation of the base flood more than one foot at any point within the community. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles.
2. New construction or substantial improvements of buildings shall be elevated or flood-proofed to elevations established in accordance with Article 4, Section C (1).
  - (a) All heating and air conditioning equipment and components (including ductwork), all electrical, ventilation, plumbing, and other service facilities shall be elevated no less than *three feet* above the highest adjacent grade at the building site.

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3. Where base flood data has been provided but without floodways delineated, new construction or substantial improvements of buildings shall have lowest floor elevated at least one (1) foot above the base flood elevation.

**Areas of Non-Stream Related Flooding**

Located within the areas of special flood hazard established in Article 3, Section B, are isolated areas designated as unnumbered A-zones on the FIRM maps. These areas may have special flood hazards where a clearly defined channel does not exist and where localized ponding occurs; therefore, the following provisions shall apply:

1. All new construction and substantial improvements of residential buildings shall have the lowest floor, including basement, elevated, at least one (1) foot above the base flood elevation established by the City Engineer.
2. All new construction and substantial improvements of non-residential buildings shall:
  - a. have the lowest floor, including basement, elevated at least one (1) foot above the base flood elevation established by the City Engineer.
  - b. together with attendant utility and sanitary facilities be completely flood-proofed to or above that level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

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**ARTICLE 7: FLOOD-PROOFING**

**SECTION A. MINIMUM FLOOD-PROOFING REQUIREMENTS**

Wherever any of the provisions of this ordinance require that a building be flood-proofed or specify that flood-proofing may be used as an alternative to elevating a structure above the regulatory flood level, flood-proofing shall be deemed to include all of the following:

1. Wherever possible, the location, construction, and installation of all electrical and gas utility systems in such a manner as to ensure the continuing functioning of those systems in event of a regulatory flood;
2. The location, construction, and installation of all portable water supply systems in such a manner as to prevent contamination from floodwaters during the regulatory flood. No water supply well shall be located within the foundation walls of a building or structure used for human habitation, medical or educational services, food processing, or public services.
3. Approved backflow preventers or devices shall be installed on main water service lines at water wells and at all building entry locations to protect the system from backflow or back siphonage of floodwaters or other contaminants.
4. Sanitary sewer and storm drainage systems that have openings below the regulatory flood elevation shall be equipped with automatic backwater valves or other automatic backflow devices that are installed in each discharge line passing through a building exterior wall.
5. Sanitary sewer systems, including septic tank systems, that are required to remain in operation during a flood, shall be provided with a sealed holding tank and the necessary isolation and diversion piping, pumps, ejectors, and appurtenances required to prevent sewage discharge during a flood. The holding tank shall be sized for storage of at least two (2) days' demand.
6. All sewer system vents shall extend to an elevation of at least 3 feet above the regulatory flood elevation.
7. A registered professional engineer or architect shall certify that any new construction or substantial improvement has been designed to withstand the flood depths, pressure, velocities, impact and uplift forces associated with the regulatory flood at the location of the building.

The certificate shall state that specific elevation (in relation to mean sea level) to which the structure has been flood-proofed. The certificate shall be kept for public inspection in the office of Planning and Development Services.

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## **SECTION B. APPROVAL OF FLOOD-PROOFING**

Prior to construction, plans for any structure that is required to be flood-proofed must be submitted to the Building Inspection Department. These plans will be forwarded to the City Engineer for review and approval. The City Engineer shall review the plans for compliance techniques specified in the U.S. Army Corps of Engineers publication entitled "Flood-proofing Regulations", June 1972, GPO: 19730-505-026 and for compliance with any other applicable building codes or regulations. The City Engineer shall approve, reject, or recommend modifications of the plans within 15 days from the receipt of the plans.

## **ARTICLE 8: NON-CONFORMING USES**

### **SECTION A. NON-CONFORMING FLOODWAY USES**

All structures located within a floodway on the first date of the adoption of this ordinance and whose construction would not be permitted by right within the floodway after the first date of the adoption of this ordinance, are hereby declared to be "non-conforming floodway uses." The following regulations shall apply to non-conforming floodway uses:

1. No substantial improvement (as defined in Article 2) shall be made to any structure located within the floodway.
2. A duplex, apartment building, commercial building, office building, or industrial building shall not be replaced, rebuilt or repaired if it has been damaged or destroyed by fire, flood explosion, tornado, hurricane or by other means to the extent that the remaining value of the structure is less than 50% of its market value immediately before it was damaged or destroyed. In determining market value, estimates made by the Tax Department shall be relied upon.
3. A detached single family residence that is damaged or destroyed by fire, flood, explosion, tornado, hurricane or by any other means to the extent that the remaining value of the building is less than 50% of its market value immediately before it was damaged or destroyed may be rebuilt. Reconstruction of the single family residence is subject to the requirements listed in Article 6, Section B, (4) (i).
4. If a non-conforming use in the floodway is discontinued or abandoned for twelve months, the use shall not be resumed, and no other use may occupy the structure.
5. An existing non-conforming floodway use may be modified, altered or repaired to incorporate flood-proofing measures.

### **SECTION B. NON-CONFORMING FLOODWAY FRINGE USES**

A structure or use of a structure in a floodway fringe area which was lawful on the date of the adoption of this ordinance, and which does not comply with the various provisions of this ordinance, is hereby declared to be "non-conforming floodway fringe uses." The following regulations shall apply to non-conforming floodway fringe uses:

1. Any substantial improvement (as defined in Article 2) shall comply with all of the requirements of this ordinance for new construction in the floodway fringe.

2. An non-conforming floodway fringe use that is damaged or destroyed by fire, flood, explosion, tornado, hurricane or by other means may be repaired or restored, but only when such construction fully complies with the requirements that are given in this ordinance for new construction in the floodway fringe.

**ARTICLE 9, 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. **All** Ordinances, or parts of Ordinances, in conflict herewith are repealed.

SECTION 2. This Ordinance shall become effective (ill).mediately upon adoption.

SECTION 3. All Ordinances, or parts of Ordinances, in conflict herewith are repealed.

ATTEST:

*Sonja Dolbert*  
CITY CLERK

Adopted: *Sept. 22, 2009*

*W. A. Langford*  
MAYOR

Introduced By Commissioner: *Murr*  
Date(s) read: *Sept. 22, 2009*