

## Chapter 14 - FLOODS

## ARTICLE I. - IN GENERAL

Secs. 14-1—14-18. - Reserved.

## ARTICLE II. - FLOOD DAMAGE PREVENTION

## DIVISION 1. - GENERALLY

Sec. 14-19. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*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 firewall. Any walled and roofed addition which is connected by a firewall or is separated by an independent perimeter load-bearing wall shall be considered new construction.

*Appeal* means a request for a review of the floodplain administrator's interpretation of any provision of this article.

*Area of shallow flooding* means a designated A, AE, AH, AO, V or VE zone on a community's flood insurance rate map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three 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.

*Area of special flood hazard* means the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. In the absence of official designation by the Federal Emergency Management Agency, areas of special flood hazard shall be those designated by the local community and referenced in section 14-25.

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

*Basement* means any area of a building having its floor subgrade (below ground level) on all sides.

*Breakaway wall* means a wall that is not part of the structural support of the building and is intended, through its design and construction, to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or supporting foundation system.

*Buffer zone* means land which is maintained in either a natural or landscaped state and is used to screen and/or mitigate the impacts of development on surrounding areas, wetlands, properties or rights-of-way

*Building. See Structure.*

*Coastal high hazard area* means an area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. These areas are designated on a FIRM as Zones V1-30, VE or V.

*Development* means any manmade change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation, drilling operations, and storage of equipment or materials.

*Elevated building* means a non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, columns or fill.

*Existing construction* means any structure for which the start of construction commenced before September 16, 2008.

*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 construction of streets, and final site grading or the pouring of concrete pads) is completed before September 16, 2008.

*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.

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

- (1) The overflow of inland or tidal waters; or
- (2) The unusual and rapid accumulation or runoff of surface waters from any source.

*Flood hazard boundary map (FHBM)* means an official map of a community, issued by the Federal Insurance Administration (FIA), where the boundaries of areas of special flood hazard have been designated as Zone A.

*Flood insurance rate map (FIRM)* means an official map of a community, on which the Federal Emergency Management Agency has delineated the areas of special flood hazard and/or risk premium zones applicable to the community.

*Flood insurance study or flood elevation study* means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide and/or flood-related erosion hazards.

*Floodplain* means any land area susceptible to being inundated by water from any source.

*Floodplain administrator* means the agency appointed to administer and implement the provisions of this article.

*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.

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

*Functionally dependent facility* 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, shipbuilding, or ship repair facilities. The term "functionally dependent facility" does not include long-term storage, manufacture, sales or service facilities.

*Highest adjacent grade* means the highest natural elevation of the ground surface, prior to construction, next to the proposed 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 the 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.

*Jurisdictional wetland* means a wetland area that meets the definitional requirements for wetlands to include the hydrology, hydric soil types and wetland vegetation as determined by the U.S. Army Corps of Engineers, 1987 Federal Wetland Delineation Manual and any amendments thereto.

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

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

*Lowest floor* means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, used 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 article. In V zones the regulatory reference level is the lowest horizontal structural member.

*Mangrove stand* means an assemblage of mangrove trees which are mostly low trees noted for copious development of interlacing adventitious roots above the ground and which contain one or more of the following species: black mangrove (*Avicennia nitida*), red mangrove (*Rhizophora mangle*), white mangrove (*Languncularia racemosa*), and buttonwood (*Conocarpus erecta*).

*Manufactured home* means a structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term "manufactured home" 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.

*Mean sea level* means the average height of the sea for all stages of the tide. The term "mean sea level" is used as a reference for establishing various elevations within the floodplain. For purposes of this article, the term "mean sea level" is synonymous with National Geodetic Vertical Datum (NGVD) of 1929 or other datum.

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

*New construction* means any structure for which the start of construction commenced after September 16, 2008, and includes any subsequent improvements to the structure.

*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 construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after September 16, 2008.

*Recreational vehicle* means a vehicle which is:

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

*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 this article 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 separate occasions during a ten-year period for which the cost of repairs at the time of each such flood event, on average, equals or exceeds 25 percent of the market value of the structure before the damages occurred.

*Sand dunes* means naturally occurring accumulations of sand in ridges or mounds landward of the beach. Prohibits manmade alteration of sand dunes and mangrove stands within Zones V1-30, VE and V on the community's FIRM which would increase potential flood damages.

*Section 1316.* No new flood insurance 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.

*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 term "actual start of construction" 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. The term "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. Accessory structures are not exempt from any article requirements. For a substantial improvement, the term "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 aboveground, a manufactured home, or a gas or liquid storage tank.

*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 50 percent of the market value of the structure before the damage occurred. The term "substantial damage" also means flood-related damages sustained by a structure on two separate occasions during a ten-year period for which the cost of repairs at the time of each such flood event, on average, equals or exceeds 25 percent of the market value of the structure before the damages occurred.

*Substantial improvement* means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction of the improvement. The term "substantial improvement" includes structures which have incurred repetitive loss or substantial damage, regardless of the actual repair work performed. The market value of the building should be the appraised value of the structure prior to the start of the initial repair or improvement or, in the case of damage, the value of the structure prior to the damage occurring. The term "substantial improvement" includes structures which have incurred substantial damage, regardless of the actual amount of repair work performed. For the purposes of this definition, the term "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 "substantial improvement" does not, however, include either 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 ensure safe living conditions; or 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* means, where the repair, reconstruction, rehabilitation or improvement of the streets, utilities and pads equals or exceeds 50 percent of the value of the streets, utilities and pads before the repair, reconstruction or improvement commenced.

*Variance* means a grant of relief from the requirements of this article which permits construction in a manner otherwise prohibited by this article. Granting of a variance must be consistent with CFR 44, Granting of Variances and Exceptions.

*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, other certifications, or other evidence of compliance required in the Code of Federal Regulations (CFR) § 44, Sec. 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) and corresponding parts of this article is presumed to be in violation, until such time as that documentation is provided.

*Wetlands* means areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, as delineated by the corps of engineers. The term "wetlands" generally includes swamps, marshes, bogs and similar areas.

(Ord. No. 2008-07, art. 6, 9-16-2008)

#### Sec. 14-20. - Statutory authorization.

The state legislature has in Code of Ala. 1975, title 11, ch. 19 (Code of Ala. 1975, § 11-19-1 et seq.), title 11, ch. 45 (Code of Ala. 1975, § 11-45-1 et seq.), title 11, ch. 51 (Code of Ala. 1975, § 11-51-1 et seq.) and Code of Ala. 1975, § 41-9-166 authorized local government units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry.

(Ord. No. 2008-07, art. 1, § A, 9-16-2008)

#### Sec. 14-21. - Findings of fact.

- (a) The flood hazard areas of the town 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, floodproofed, or otherwise unprotected from flood damages, and by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities.

(Ord. No. 2008-07, art. 1, § B, 9-16-2008)

#### Sec. 14-22. - Statement of purpose.

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

- (1) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (2) 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;
- (3) Control filling, grading, dredging and other development which may increase flood damage or erosion;
- (4) Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands; and
- (5) Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of floodwaters.

(Ord. No. 2008-07, art. 1, § C, 9-16-2008)

Sec. 14-23. - Objectives.

The objectives of this article are to:

- (1) Protect human life and health;
- (2) Minimize damage to public facilities and utilities, such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains;
- (3) Help maintain a stable tax base by providing for the sound use and development of floodprone areas in such a manner as to minimize flood blight areas.

(Ord. No. 2008-07, art. 1, § D, 9-16-2008)

Sec. 14-24. - Lands to which this article applies.

This article shall apply to all areas of special flood hazard within the jurisdiction of the town.

(Ord. No. 2008-07, art. 2, § A, 9-16-2008)

Sec. 14-25. - 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 July 17, 2007, with accompanying maps and other supporting data and any revision thereto, are adopted by reference and declared a part of this article. For those land areas acquired by a municipality through annexation, the current effective FIS and data for unincorporated Baldwin County FIRM numbers 840L, 953L, 9541, and 9551, are hereby adopted by reference. Areas of special flood hazard may also include those areas known to have flooded historically or those areas defined through standard engineering analysis by governmental agencies or private parties, but not yet incorporated in a FIS.

(Ord. No. 2008-07, art. 2, § B, 9-16-2008)

Sec. 14-26. - Establishment of development permit.

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

(Ord. No. 2008-07, art. 2, § C, 9-16-2008)

Sec. 14-27. - Compliance.

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

(Ord. No. 2008-07, art. 2, § D, 9-16-2008)

Sec. 14-28. - Abrogation and greater restrictions.

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

(Ord. No. 2008-07, art. 2, § E, 9-16-2008)

Sec. 14-29. - Interpretation.

In the interpretation and application of this article all provisions shall be:

- (1) Considered as minimum requirements;
- (2) Liberally construed in favor of the mayor and council; and
- (3) Deemed neither to limit nor repeal any other powers granted under state statutes.

(Ord. No. 2008-07, art. 2, § F, 9-16-2008)

Sec. 14-30. - Warning and disclaimer of liability.

The degree of flood protection required by this article 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 manmade or natural causes. This article 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 article shall not create liability on the part of the town or by any officer or employee thereof for any flood damages that result from reliance on this article or any administrative decision lawfully made thereunder.

(Ord. No. 2008-07, art. 2, § G, 9-16-2008)

Sec. 14-31. - Penalties for violation.

Violation of the provisions of this article 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 article 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 town from taking such other lawful actions as is necessary to prevent or remedy any violation.

(Ord. No. 2008-07, art. 2, § H, 9-16-2008)

Sec. 14-32. - Savings clause.

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

(Ord. No. 2008-07, art. 2, § I, 9-16-2008)

Sec. 14-33. - Additional freeboard.

An additional freeboard elevation of three feet shall be required to the current adopted FEMA FIRM (flood insurance rate map) panel numbers as follows: 840L, 953L, 954L and 955L.

(Ord. No. 2008-07, art. 2, § J, 9-16-2008)

Secs. 14-34—14-54. - Reserved.

DIVISION 2. - ADMINISTRATION

Sec. 14-55. - Designation of floodplain administrator.

The county building inspection department, hereinafter referred to as the floodplain administrator, is hereby appointed to administer and implement the provisions of this article.

(Ord. No. 2008-07, art. 3, § A, 9-16-2008)

Sec. 14-56. - Permit procedures.

Application for a development permit shall be made to the floodplain administrator on forms furnished by him prior to any development activities, and may include, but not be limited to, plans in duplicate drawn to scale showing the elevations of the area in question and the nature, location, and dimensions of existing or proposed structures, fill placement, storage of materials or equipment, and drainage facilities. A land use certificate (zoning approval) must be obtained by the town planning and zoning department prior to the issuance of any permits by the floodplain administrator. Specifically, the following information is required:

- (1) *Application stage.*
  - a. Elevation in relation to mean sea level (or highest adjacent grade) of the regulatory lowest floor level, including basement, of all proposed structures;
  - b. Elevation in relation to mean sea level to which any nonresidential structure will be floodproofed;
  - c. Design certification from a registered professional engineer or architect that any proposed nonresidential floodproofed structure will meet the floodproofing criteria of sections 14-89(2) and 14-91(2);
  - d. Design certification from a state-registered-licensed professional engineer or architect that any new construction or substantial improvement placed in a coastal high hazard area will meet the criteria of section 14-93(2), (3), and (4);
  - e. Description of the extent to which any watercourse will be altered or relocated as a result of a proposed development; and
- (2) *Construction stage.* For all new construction and substantial improvements, the permit holder shall provide to the administrator an as-built certification of the regulatory floor elevation or floodproofing level using an appropriate FEMA elevation or floodproofing certificate immediately after the lowest floor or floodproofing is completed. Where a structure is subject to the provisions applicable to coastal high hazard areas, after placement of the lowest horizontal structural members, any regulatory floor certification made relative to mean sea level shall be prepared by or under the direct supervision of a state-registered land surveyor or professional engineer and certified by the same. When floodproofing is utilized for nonresidential structures, said certification shall be prepared by or under the direct supervision of a state professional engineer or architect and certified by the same.

Any work undertaken prior to submission of these certifications shall be at the permit holder's risk. The floodplain administrator shall review the certification data, referenced in subsections (1) and (2) of this section, 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.

(Ord. No. 2008-07, art. 3, § B, 9-16-2008)

Sec. 14-57. - Duties and responsibilities of the administrator.

Duties of the floodplain administrator shall include, but shall not be limited to:

- (1) Review all development permits to ensure that the permit requirements of this article have been satisfied and that sites are reasonably safe from flooding.
- (2) Review proposed development to ensure 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 USC 1334. Require that copies of such permits be provided and maintained on file.
- (3) When base flood elevation data or floodway data have not been provided in accordance with section 14-25, 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 division 3 of this article.
- (4) Verify and record the actual elevation in relation to mean sea level (or highest adjacent grade) of the regulatory floor level, including basement, of all new construction or substantially improved structures in accordance with section 14-56(2).
  - (5) Verify and record the actual elevation, in relation to mean sea level to which any new or substantially improved structures have been floodproofed, in accordance with sections 14-89(2) and 14-91(2).
  - (6) When floodproofing is utilized for a structure, the floodplain administrator shall obtain certification of design criteria from a state-registered professional engineer or architect in accordance with section 14-56(1)c and section 14-89(2) or 14-91(2).
  - (7) Obtain design certification from a state-registered professional engineer or architect that any new construction or substantial improvement placed in a coastal high hazard area will meet the criteria in section 14-93.
  - (8) Notify adjacent communities and the state 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 state department of economic and community affairs/office of water resources/NFIP state coordinator's office.
  - (9) For any altered or relocated watercourse, submit engineering data/analysis within six months to FEMA and the state to ensure accuracy of community flood maps through the letter of map revision process. Ensure flood-carrying capacity of any altered or relocated watercourse is maintained.
  - (10) 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. Any person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this article.
  - (11) All records pertaining to the provisions of this article shall be maintained in the office of the floodplain administrator and shall be open for public inspection.

(Ord. No. 2008-07, art. 3, § C, 9-16-2008)

Secs. 14-58—14-87. - Reserved.

### DIVISION 3. - PROVISIONS FOR FLOOD HAZARD REDUCTION

Sec. 14-88. - General standards.

- (a) In all areas of special flood hazard the following provisions are required:
  - (1) New construction and substantial improvements of existing structures shall be anchored to prevent flotation, collapse or lateral movement of the structure;
  - (2) New construction and substantial improvements of existing structures shall be constructed with materials and utility equipment resistant to flood damage;
  - (3) New construction or substantial improvements of existing structures shall be constructed by methods and practices that minimize flood damage;
  - (4) Elevated buildings. All new construction or substantial improvements of existing structures that include any fully enclosed area located below the lowest floor formed by a 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 floodwaters.
    - a. Designs for complying with this requirement must either be certified by a state 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 that they permit the automatic flow of floodwater in both directions.
    - b. So as not to violate the "lowest floor" criteria of this article, the unfinished or flood-resistant enclosure 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; and
    - c. The interior portion of such enclosed area shall not be partitioned or finished into separate rooms.
- (5) All heating and air conditioning equipment and components and 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;
- (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) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system;
- (8) 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;
- (9) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding; and
- (10) Any alteration, repair, reconstruction or improvement to a structure which is not compliant with the provisions of this article shall be undertaken only if the nonconformity is not furthered, extended or replaced.
- (b) All jurisdictional wetlands, as acknowledged by the Army Corps of Engineers, located on property or any portion thereof within a special flood hazard area shall remain in an undisturbed natural state and shall have a minimum buffer zone width of 30 feet from the closest edge of the wetlands to new structures, with the exclusion of the following structures:
  - (1) One pile-supported single-family dwelling per existing legal description or one pile-supported commercial structure (if zoned commercially) for occupancy by one business per existing legal description;
  - (2) A pile-supported driveway for structure, if required;
  - (3) Pile-supported boardwalks and walkways to a waterway;
  - (4) Excluded structures listed in subsections (b)(1) through (3) of this section shall be subject to all applicable zoning regulations, permitting, and building code requirements for the town or any other governmental agency having jurisdiction over same. Repairs and renovations (not exceeding 50 percent of the structure's value) to an existing single-family dwelling or commercial structure that is nonconforming to the required buffer zone are allowed, subject to all applicable zoning regulations, permitting, and building code requirements for the town or any other governmental agency having jurisdiction over same. An existing single-family dwelling or commercial structure may not increase its footprint into the required buffer zone.

(Ord. No. 2008-07, art. 4, § A, 9-16-2008)

#### Sec. 14-89. - Specific standards.

In all areas of special flood hazard where base flood elevation data have been provided, the following provisions are required:

- (1) *New construction and substantial improvements.* Where base flood elevation data are available, new construction or substantial improvement of any structure 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 movements of floodwaters shall be provided in accordance with standards of section 14-88(a)(4).

- (2) *Nonresidential construction.* New construction or the substantial improvement of any nonresidential structure located in AH zones may be floodproofed in lieu of elevation. The structure, together with attendant utility and sanitary facilities, designed to be watertight to one foot above the base flood elevation, with walls substantially impermeable to the passage and structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy, shall be designed and constructed in accordance with the standards of practice for meeting the provisions above, and shall provide such certification to the official as set forth in section 14-57(6). Floodproofing is not allowed within any V FEMA flood zone.
- (3) *Standards for manufactured homes and recreational vehicles.* Where base flood elevation data are available:
- a. All manufactured homes placed or substantially improved on individual lots or parcels in new or substantially improved manufactured home parks or subdivisions, in expansions to existing manufactured home parks or subdivisions, or on sites in existing manufactured home parks or subdivisions where manufactured homes have incurred substantial damage as the result of a flood must have the lowest floor, including the basement, elevated no lower than one foot above the base flood elevation.
  - b. Manufactured homes placed or substantially improved in an existing manufactured home park or subdivision must be elevated so that either:
    1. The lowest floor of the manufactured home is elevated no lower than one foot above the level of the base flood elevation; or
    2. Where no base flood elevation exists, the manufactured home chassis and supporting equipment is supported by reinforced piers or other foundation elements of at least equivalent strength and is elevated to a maximum of 60 inches (five feet).
  - c. All manufactured homes must be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement (refer to section 14-88).
  - d. All recreational vehicles placed on sites must either:
    1. Be on the site for fewer than 180 consecutive days, fully licensed and ready for highway use if licensed, on wheels or jacking systems, attached to sites only by quick disconnect type utilities and security devices, and have no permanently attached structures or additions; or
    2. Recreational vehicles must meet all the requirements for new construction, including the anchoring and elevation requirements of subsections (3)a and c of this section.

(Ord. No. 2008-07, art. 4, § B, 9-16-2008)

#### Sec. 14-90. - Floodways.

- (a) Located within areas of special flood hazard established in section 14-25 are areas designated as floodways. 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, provided it is demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practices that the encroachment shall not result in any increase in flood levels or floodway widths during a base flood discharge. A state-registered professional engineer must provide supporting technical data and certification thereof;
  - (3) 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, AE and V on the community's 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.

- (b) Only if the provisions from subsections (a)(2) and (3) of this section are satisfied, then any new construction or substantial improvement shall comply with all other applicable flood hazard reduction provisions of this division.

(Ord. No. 2008-07, art. 4, § C, 9-16-2008)

Sec. 14-91. - Building standards for streams without established base flood elevations (approximate A zones).

Located within the areas of special flood hazard established in section 14-25, where streams exist but no base flood data have been provided (approximate A zones) or where base flood data has been provided, but a floodway has not been delineated, the following provisions apply:

- (1) When base flood elevation data or floodway data have not been provided in accordance with section 14-25, 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 this division. Only if data are not available from these sources, then the following provisions shall apply:
  - a. No encroachments, including structures or fill material, shall be located within an area equal to the width of the stream or 25 feet, whichever is greater, measured from the top of the stream bank, unless certification by a state-registered professional engineer is provided demonstrating that such encroachment shall not result in any increase in flood levels during the occurrence of the base flood discharge.
  - b. All development in Zone A must meet the requirements of sections 14-88 and 14-89(1) through (3).
- (2) 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 feet above the highest adjacent grade at the building site. Also, in the absence of a base flood elevation, a manufactured home must also meet the elevation requirements of section 14-89(3)b.2 in that the structure must be elevated to a maximum of 60 inches (five feet). Openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with standards of section 14-88(a)(4).

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

(Ord. No. 2008-07, art. 4, § D, 9-16-2008)

Sec. 14-92. - Standards for areas of shallow flooding (AO zones).

Areas of special flood hazard established in section 14-25, 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 nonresidential 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 two feet above the highest adjacent grade. Openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with standards of section 14-88(a)(4). The floodplain administrator 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 nonresidential structure may be floodproofed in lieu of elevation. The structure, together with attendant utility and sanitary facilities, must be designed to be watertight to the specified FIRM flood level plus two feet (if no map elevation is listed), 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 state-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 in subsection (1) of this section and section 14-56(a)(1) and (2).

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

(Ord. No. 2008-07, art. 4, § E, 9-16-2008)

Sec. 14-93. - Coastal high hazard areas (V zones).

Located within the areas of special flood hazard established in section 14-25 are areas designated as coastal high hazard areas (V zones). These areas have special flood hazards associated with wave action and storm surge, therefore, the following provisions shall apply:

- (1) Provide that all new construction within Zones V1-30, VE and V on the community's FIRM is located landward of the reach of mean high tide.
- (2) All new construction and substantial improvements of existing structures shall be elevated on piers, columns, or shear walls parallel to the flow of water so that the bottom of the lowest horizontal structural member (excluding pilings or columns) is located no lower than the base flood elevation. Breakaway walls must be designed by a state-registered professional engineer or architect. All space below the lowest supporting member shall remain free of obstruction. Open lattice work or decorative screening may be permitted for aesthetic purposes only and must be designed to wash away in the event of abnormal wave action.
  - a. Design safe loading resistance of each breakaway wall shall not be less than ten or more than 20 pounds per square foot; or
  - b. If the design safe loading resistance of the breakaway wall is more than 20 pounds per square foot, a state-registered professional engineer or architect shall certify that the design wall collapse would result from a water load less than that which would occur during the base flood event, and the elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement or other structural damage due to the effects of wind and water loads acting simultaneously on all building components during the base flood event. Maximum wind and water loading values to be used in this determination shall each have a one percent chance of being equaled or exceeded in any given year (100-year mean recurrence interval).
- (3) All new construction or substantial improvements of existing structures shall be securely anchored on pilings, columns or shear walls.
- (4) All pile and column foundations and the structures attached thereto shall be anchored to resist floatation, collapse, and lateral movement due to the combined effects of wind and water loads acting simultaneously on all building components, both nonstructural and structural.
- (5) A state-registered engineer or architect shall certify that the design, specifications and plans for construction are in full compliance with the provisions of this article.
- (6) There shall be no fill material used as structural support. Non-compacted fill may be used around the perimeter of a building for landscaping/aesthetic purposes, provided the fill will wash out from a storm surge, (thereby rendering the building free of obstruction) prior to generating excessive loading forces, ramping effects or wave deflection. The floodplain administrator shall approve design plans for landscaping/aesthetic fill only after the applicant has provided an analysis by a state-registered engineer or architect and/or soil scientist which demonstrates that the following factors have been fully considered:
  - a. Particle composition of fill material does not have a tendency for excessive natural compacting;
  - b. Volume and distribution of fill will not cause wave deflection to adjacent properties; and
  - c. Slope of fill will not cause wave run-up or ramping.
- (7) There shall be no alteration of sand dunes or mangrove stands which would increase potential flood damage.

- (8) Any alteration, repair, reconstruction, or substantial improvement to a structure shall not enclose the space below the supporting members, except with breakaway walls.
- (9) The placement of a manufactured home or mobile home within a V or VE zone shall meet the requirements of this section.

(Ord. No. 2008-07, art. 4, § F, 9-16-2008)

Sec. 14-94. - Standards for subdivisions.

The following standards shall apply to subdivisions:

- (1) All subdivision proposals shall be consistent with the need to minimize flood damage;
- (2) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage;
- (3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards; and
- (4) Base flood elevation data shall be provided for all commercial and residential subdivision proposals and all other proposed development, including, but not limited to, manufactured home parks and subdivisions, apartments, townhomes, condominiums, RV parks, and motor coach resorts greater than 50 lots/units or five acres, whichever is the lesser.

(Ord. No. 2008-07, art. 4, § G, 9-16-2008)

Secs. 14-95—14-116. - Reserved.

#### DIVISION 4. - VARIANCE PROCEDURES

Sec. 14-117. - Generally.

- (a) The board of adjustments, as established by the town council, shall hear and decide requests for appeals or variances from the requirements of this article.
- (b) The board shall hear and decide appeals when it is alleged an error in any requirement, decision, or determination is made by the floodplain administrator in the enforcement or administration of this article.
- (c) Any person aggrieved by the decision of the board of adjustments may appeal such decision to the circuit court, as provided in Code of Ala. 1975, § 11-52-81.
- (d) 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.
- (e) Variances may be issued for development necessary for the conduct of a functionally dependent use, provided the criteria of this division are met, no reasonable alternative exists, and the development is protected by methods that minimize flood damage during the base flood and create no additional threats to public safety.
- (f) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- (g) In reviewing such requests, the board of adjustments shall consider all technical evaluations, relevant factors, and all standards specified in this and other sections of this article.
- (h) Conditions for variances:
  - (1) 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 will 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 health, safety, or property, or extraordinary public expense, or create a nuisance, cause fraud on or victimization of the public, or conflict with existing ordinances.
- (2) The provisions of this article 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; and, in the instance of a historic structure, a determination that the variance is the minimum necessary so as not to destroy the historic character and design of the building.
- (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 of the proposed lowest floor and stating that the cost of flood insurance will be commensurate with the increased risk to life and property resulting from the reduced lowest floor elevation.
- (4) The floodplain administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency and the state department of economic and community affairs/office of water resources, upon request.
- (5) Upon consideration of the factors listed in this subsection (h) and the purposes of this article, the board of adjustments may attach such conditions to the granting of variances as it deems necessary to further the purposes of this article.

(Ord. No. 2008-07, art. 5, 9-16-2008)