

**APPENDIX B**  
**Mobile County Flood Damage Prevention Ordinance**

# **Mobile County Flood Damage Prevention Ordinance**



**Adopted by the**

**MOBILE COUNTY COMMISSION**

**Merceria L. Ludgood    President**  
**Stephen D. Nodine    Commissioner**  
**Mike Dean            Commissioner**

**March 11, 2010**

# Mobile County Flood Damage Prevention Ordinance

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# Mobile County Flood Damage Prevention Ordinance

## ARTICLE 1. Statutory Authorization, Findings of Fact, Purpose, and Objectives

### SECTION A. Statutory Authorization

The Legislature of the State of Alabama has in the Code of Alabama §11-19-1 through 24; §11-45-1 through 11; §11-52-1 through 84; and §41-9-166 (1975) authorized local government units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the Mobile County Commission does ordain as follows:

### SECTION B. Findings Of Fact

- (1) The flood hazard areas of **Mobile County**, Alabama are subject to periodic inundation that results in hazards to property, health and safety, and may disrupt commerce and governmental services. Also, this inundation can result in extraordinary public expenditures for flood protection and relief and impairment of the tax base that adversely affect the public health, safety and general welfare.
- (2) These potential flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities, and by the occupancy in flood hazard areas by uses vulnerable to floods or hazardous to other properties that are inadequately elevated, flood-proofed or otherwise protected from flood damage.

### SECTION C. Statement Of Purpose

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

- (1) restrict or prohibit uses that 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, but not limited to, 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 that are involved in the accommodation of floodwaters;

- (4) control filling, grading, dredging and other development that may increase erosion or flood damage, and;
- (5) prevent or regulate the construction of flood barriers that will unnaturally divert flood waters 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, streets 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, and;
- (7) to insure that potential home buyers are notified that property is in a flood area.

## **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.

“Addition (to an existing building)” means any walled or 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 that is connected by a firewall or is separated by independent perimeter load-bearing walls is new construction.

“Appeal” means a request for a review of the Local Administrators interpretation of any provision of this Ordinance or a request for a variance.

“Appurtenant structure” means a structure which is on the same parcel of property as the principal structure to be insured and the use of which is incidental to the use of the principal structure.

“Area of shallow flooding” means a designated AO Zone on a Mobile County’s Flood Insurance Rate Map (FIRM) with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

“Area of special flood hazard” 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” means the flood having a one percent chance of being equaled or exceeded in any given year.

“Basement” means that portion 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 the supporting foundation system.

“Building” means any structure built for support, shelter, or enclosure for any occupancy or storage.

“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.

“County” means Mobile County, a body corporate and politic and a political subdivision of the State of Alabama.

“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, excavating, drilling operations, or permanent storage of materials or equipment.

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

“Existing construction” means any structure for which the “start of construction” commenced before (the effective date of the first floodplain management code, Ordinance, or standard based upon specific technical base flood elevation data that established the area of special flood hazard) or January 1, 1975.

“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 either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community (before the effective date of the first floodplain management code, Ordinance, or standard based upon specific technical base flood elevation data that established the area of special flood hazard) or January 1, 1975.

“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;
- (2) the unusual and rapid accumulation or runoff of surface waters from any source.

“Flood Hazard Boundary Map (FHBM)” means an official map of Mobile County, issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazard have been defined as Zone A.

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

“Flood Insurance Study”/“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.

“Flood Insurance Study” is the official report provided by the Federal Emergency Management Agency. The report contains flood profiles, also the Flood Boundary Floodway Map and the water surface elevation of the base flood.

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

“Flood proofing” means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

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

“Floor” means 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 of a garage used solely for parking vehicles.

“Freeboard” means a factor of safety usually expressed in feet above a flood level for purposes of flood plain management. “Freeboard” tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed.

“Functionally dependent facility” means a facility that 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 for passengers, shipbuilding, ship repair, or seafood processing facilities. The term 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 building.

“Historic Structure” means any structure that is

- (1) listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register:



- (2) certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district:
- (3) individually listed on a state inventory of historic places in states with historic preservation programs that have been approved by the Secretary of the Interior; or
- (4) individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
  - ( a ) By an approved state program as determined by the Secretary of the Interior, or
  - ( b ) Directly by the Secretary of the Interior in states without approved programs.

“Local Administrator” means the person or office designated to administer this Ordinance and is the **Director of Building Inspections**.

“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 code.

“Mangrove Stand” means an assemblage of mangrove trees that is mostly low trees noted for a copious assemblage of interlacing adventitious roots above the ground and which contain one or more of the flooding species: black mangrove (*Avicennia Nitida*); red mangrove (*Rhizophora Mangle*); white mangrove (*Languncularia Racemosa*); and buttonwood (*Cococarpus Erecta*).

“Manufactured home” means a building, 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, 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. It is used as a reference for establishing various elevations within the floodplain. For the purpose of this Ordinance the term is synonymous with National Geodetic Vertical Datum (NGVD).

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

“New construction” means structures for which the “start of construction” commenced on or after the effective date of this Ordinance.

“New manufactured home park or subdivision 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 the effective date of floodplain management regulations adopted by a community.

“Primary Frontal Dune” means a continuous or nearly continuous mound or ridge of sand with relatively steep seaward and landward slopes immediately landward and adjacent to the beach and subject to erosion and overtopping from high tides and waves during major coastal storms. The inland limit of the primary frontal dune occurs at the point where there is a distinct change from a relatively steep slope to a relatively flat slope.

“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.
- (5) Be on site less than 180 consecutive days

“Reference Feature” is the receding edge of a bluff or eroding frontal dune, or if such a feature is not present, the normal high water line or the seaward line of permanent vegetation if a high water line cannot be identified.

“Remedy a violation” means to bring the structure or other development into compliance with State or local flood plain management regulations, or, if this is not possible, to reduce the impacts of its noncompliance. Ways that impacts may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of the ordinance or otherwise deterring future similar violations, or reducing Federal financial exposure with regard to the structure or other development.

”Repetitive Loss” means flood-related damages sustained by a structure on at least two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damages occurred.

“Sand Dunes” mean naturally occurring accumulations of sand in ridges or mounds landward of the beach.

“Start of construction” includes substantial improvement, and means the date the building permit was issued, provided that actual start of construction, repair, reconstruction, or improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of a building (including a manufactured home) on a site, such as the pouring of slabs or footings, installation of piles, construction of columns, or any work beyond the stage of excavation or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for 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 building. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

“Structure” means a walled and roofed building that are principally above ground, a manufactured home, a gas or liquid storage tank, or other manmade facilities or infrastructures.

“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.

“Substantial improvement for residential construction” means any improvement to a building that results in an increase to the square footage of the building footprint and/or building living area (excluding interior repairs or interior modifications to the existing portion of the building), in which cost equals or exceeds 50 percent of the market value of the building. The market value of the building should be the appraised value of the building prior to the start of the initial repair or improvement. For the purpose of this definition, “substantial improvement” is considered to occur when the first alteration results in an increase to the overall square footage foot print of the building and/or the square footage of the building living area. The term does not, however, include any project for improvement of a building required to comply with existing health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions.

“Substantial improvement for non-residential construction” means any combination or repairs, reconstruction, alteration, or improvements to a non-residential building, in which the cost equals or exceeds 50 percent of the market value of the building. The

market value of the building should be (1) the appraised value of the building prior to the start of the initial repair or improvement, or (2) in the case of damage, the value of the building prior to the damage occurring. This term includes structures which have incurred “substantial damage,” regardless of the actual repair work performed. For the purpose of this definition, “substantial improvement for non-residential construction ” is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the building. The term does not, however, include any project for improvement of a building required to comply with existing health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions.

“Substantially improved existing manufactured home parks or subdivision” is where the repair, reconstruction, rehabilitation or improvement of the streets, utilities and pads equals or exceeds 50 percent of the value of the streets, utilities and pads before the repair, reconstruction or improvement commenced.

“Variance” is a grant of relief from the requirements of this Ordinance which permits construction in a manner otherwise prohibited by this Ordinance where specific enforcement would result in unnecessary hardship.

“Verify” means the act of relying upon a properly licensed professional’s opinion regarding raw data and the implications thereof.

“Violation” means the failure of a structure or other development to be fully compliant with the provisions of this ordinance.

“Zone of imminent collapse” means an area subject to erosion adjacent to the shoreline of an ocean, key, bay, lake and within a distance equal to 10 feet plus 5 times the average annual long-term erosion rate for the site, measured from the reference feature.

### **ARTICLE 3    General Provisions**

#### SECTION A.    Lands To Which This Ordinance Applies

This ordinance shall apply to all areas of special flood hazard within the jurisdiction of **Mobile County** as shown on the FIRM.

#### SECTION B.    Basis For Establishing The Areas Of Special Flood Hazard

The areas of special flood hazard identified by the Federal Emergency Management Agency in its **Flood Insurance Study** effective March 17, 2010, with accompanying maps and other supporting data, and any revision thereto, are adopted by reference and declared to be a part of this Ordinance. 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.

#### SECTION C.    Establishment Of Development Permit

A Development Permit shall be required in conformance with the provisions of this Ordinance prior to the commencement of any development activities.

#### 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 regulations.

#### SECTION E.    Abrogation And Greater Restrictions

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

#### 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. Warnings And Disclaimer Of Liability

The degree of flood protection required by this Ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering consideration. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This Ordinance does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. This Ordinance shall not create liability on the part of the County or any of its agents, officers or employees for any flood damage or similar damage, for any act or omission of the County, its agents, officers or employees.

SECTION H. Penalties For Violation

Violation of the provisions of this Ordinance or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall constitute a misdemeanor. Any person who violates this Ordinance or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$100.00 or imprisoned for not more than one (1) day, 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, provided, however, that the maximum penalty shall not exceed a fine in the amount of \$500.00 or imprisonment for more than one (1) year as authorized by the Code of Alabama 1975, Section 11-19-22, and any hereafter enacted amendments thereto. Nothing herein contained shall prevent the County from taking such other lawful action as is necessary to prevent or remedy any violation.

SECTION I. Savings Clause

If any section, subsection, sentence, clause, phrase, or word of this ordinance is for any reason held to be noncompliant with this ordinance, unconstitutional, void, invalid, and/or moot, such decision shall not affect the validity of the remaining portions of this ordinance.

## **ARTICLE 4. Administration**

### **SECTION A. Designation Of Local Administrator**

The **Director of Building Inspections** is hereby appointed to administer and implement the provisions of this ordinance.

### **SECTION B. Permit Procedures**

Application for a Development Permit shall be made to the local administrator on forms furnished by him or her prior to any development activities, and may include, but not be 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 and equipment, drainage facilities, and the location of the foregoing. Specifically, the following information is required:

- (1) Application Stage.
  - (a) Elevation in relation to mean sea level of the proposed lowest floor (including basement) of all buildings;
  - (b) Elevation in relation to mean sea level to which any nonresidential building will be flood-proofed;
  - (c) Certificate from a registered professional engineer or architect that the nonresidential flood-proofed building will meet the flood-proofing criteria in Article 5, Section B (2);
  - (d) Design certification from a registered professional engineer or architect that any new construction or substantial improvement placed in a Coastal High Hazard Area will meet the criteria of Article 5, Section B (6); and
  - (e) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.
- (2) Construction Stage.

Provide a floor elevation or flood-proofing certification after the lowest floor is completed. Upon placement of the lowest floor, or flood-proofing by whatever construction means, it shall be the duty of the permit holder to submit to the local administrator a certification of the elevation of the lowest floor, flood-proofed elevation, 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 permit holder's risk. The local administrator shall review the floor elevation survey data submitted. 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.

#### SECTION C. Duties And Responsibilities Of The Local Administrator

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

- (1) Review all development permits to assure that the permit requirements of this Ordinance have been satisfied.
- (2) Advise permittee that additional federal or state permits may be required, and if specific federal or state permit requirements are known, require that copies of such permits be provided and maintained on file with the development permit.
- (3) Notify adjacent communities and the Alabama Department of Economic and Community Affairs-Office of Water Resources prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.
- (4) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.
- (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, in accordance with Article 4, Section B (2).
- (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, in accordance with Article 4, Section B (2).
- (7) When flood-proofing is utilized for a particular building, the local administrator shall obtain certification from a registered professional engineer or architect, in accordance with Article 5, Section B (2).
- (8) 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 local administrator shall make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretations provided in this article.



- (9) When base flood elevation data or floodway data have not been provided in accordance with Article 3, Section B, then the local administrator 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 Article 5.
- (10) All records pertaining to the provisions of this Ordinance shall be maintained in the office of the local administrator and shall be open for public inspection.

SECTION D. Variance Procedures

- (1) The **Mobile County Commission** shall provide the appointment of five (5) Mobile County residents to the **Board Of Adjustment And Appeals**, which is hereby established by the **County Commission** shall hear and decide appeals and requests for variances from the requirements of this Ordinance.
- (2) The **Board Of Adjustment And Appeals** shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the local administrator in the enforcement or administration of this Ordinance.
- (3) Any person aggrieved by the decision of the **Board Of Adjustment And Appeals** may appeal such decision to the District Court as provided by law.
- (4) Variances may be issued for the repair or rehabilitation of historic structures (see definition) upon a determination that the proposed repair or rehabilitation will not preclude the structure's continue 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 such applications, the **Board Of Adjustment And Appeals** 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 and the effect of such 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 relationship of the proposed use to the comprehensive plan and floodplain management program for the area;
  - ( i ) the safety of access to the property in times of flood for ordinary and emergency vehicles;
  - ( j ) the expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effect of wave action, if applicable, expected at the site, and;
  - ( k ) the costs 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 Adjustment And Appeals** 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.
- (8) Conditions for Variances:
- ( a ) 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;
  - ( b ) Variances shall only be issued upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship, and; (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or

victimization of the public, or conflict with existing local laws or Ordinances.

- ( c ) 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 structure 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.
  - ( d ) The local administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request.
- (9) The concurring vote of four (4) members of the **Board Of Adjustments And Appeals** shall be necessary to reverse any order requirement, decision or determination of any administrative official or to decide in favor of the applicant on any matter upon which it is requested to pass.

## **ARTICLE 5. Provisions For Flood Hazard Reduction**

### **SECTION A. General Standards**

In all areas of special flood hazard the following provisions are required.

- (1) New construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure;
- (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 components during conditions for 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, and;
- (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) Any alteration, repair, construction or improvements to a building which is not in compliance with the provisions of this Ordinance, shall be undertaken only if said nonconformity is not furthered, extended, or replaced.
- (11) For new construction or substantial improvements, elevation certificates shall be submitted on all three (3) stages of construction prior to inspection. A temporary benchmark (TBM) shall be placed on the property as noted until completion of construction.

## SECTION B. Specific Standards

In all areas of special flood hazard where base flood elevation data have been provided, as set forth in Article 3, Section B. or Article 4, Section C (11), 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 (one foot of Freeboard) above base flood elevation. The freeboard is two feet in the coastal and riverine areas that are subject to the stillwater elevations derived from the storm surge hydrologic analysis used in the March 17, 2010 Flood Insurance Study for Mobile County. The two foot freeboard is transitioned linearly in the riverine areas from the stillwater elevation to the next equivalent 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 Article 5, Section B (3).
- (2) **Nonresidential construction.** New construction or substantial improvement of any commercial, industrial, or nonresidential building (or manufactured home) shall have the lowest floor, including basement, elevated no lower than one foot (one foot of Freeboard) above the base flood elevation. The freeboard is two feet in the coastal and riverine areas that are subject to the stillwater elevations derived from the storm surge hydrologic analysis used in the March 17, 2010 Flood Insurance Study for Mobile County. The two foot freeboard is transitioned linearly in the riverine areas from the stillwater elevation to the next equivalent 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 provided to the official as set forth in Article 4, Section C (7).
- (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 preclude finished living space and designed to allow for the entry and exit to 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 and meet the following minimum criteria:

- (i.) Provide a minimum of two openings having a total net area of not less than one square inch for every square foot enclosed area subject to flooding;
  - (ii.) The bottom of all openings shall be no higher than one foot above grade; and,
  - (iii.) Openings may be equipped with screens , louver, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.
- ( 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 (stairways 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

- ( a ) All manufactured homes placed, or substantially improved, on individual lots or parcels, in expansions to existing manufactured home parks or subdivisions, in substantially improved manufactured home parks or subdivisions, or in new manufactured home parks or subdivisions must meet all the requirements for new construction, including elevation and anchoring.
- ( b ) All manufactured homes placed or substantially improved in an existing manufactured home park or subdivision must be elevated so that:
  - (i.) The lowest floor of the manufactured home is elevated no lower than one foot (one foot of Freeboard) above the level of the base flood elevation. The freeboard is two feet in the coastal and riverine areas that are subject to the stillwater elevations derived from the storm surge hydrologic analysis used in the March 17, 2010 Flood Insurance Study for Mobile County. The two foot freeboard is transitioned linearly in the riverine areas from the stillwater elevation to the next equivalent base flood elevation, or
  - (ii.) The manufactured home chassis is supported by reinforced piers or other foundation elements of at least an equivalent

strength, of no less than 36 inches in height above grade, and;

(iii.) The manufactured home must be securely anchored to the adequately anchored foundation system to resist flotation, collapse and lateral movement.

(iv.) In an existing manufactured home park or subdivision on which a manufactured home has incurred “substantial damage” as the result of a flood, any manufactured home placed or substantially improved must meet the standards of Article 5, Section B (4) (b) (i) and (iii) above.

(c) All recreational vehicles placed on sites must either:

(i.) Be fully licensed and ready for highway use, on its wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and had no permanently attached structures or additions; or

(ii.) The recreational vehicle must meet all the requirements for new construction, including anchoring and elevation requirements of Article 5, Section B (4) (a) or (b), (i) and (iii) above.

(5) Floodways. Located within areas of special flood hazard established in Article 3, Section B, are areas designated as floodways. 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) Encroachments are prohibited, including fill, new construction, substantial improvements or other development within the adopted regulatory floodway. Development may be permitted however, provided it is demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the encroachment shall not result in any increase in flood levels or floodway widths during a base flood discharge. A registered professional engineer must provide supporting technical data and certification thereof;;

(b) If Article 5, Section B (5) (a) above, is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provision of Article 5.

- (c) Prohibit the placement of manufactured homes (mobile homes), except in an existing manufactured homes (mobile homes) park or subdivision. A replacement manufactured home may be placed on a lot in an existing manufactured home 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 5, Section B (5) (a), are met.
- (6) Coastal High Hazard Areas (V Zones). Located within the areas of special flood hazard established in Article 3, Section B, are areas designated as Coastal High Hazard areas. These areas have special flood hazards associated with wave wash, therefore, the following provisions shall apply:
- (a) All buildings shall be located 10 feet landward of the reach of the mean high tide;
  - (b) All new construction and substantial improvements of existing structures shall be elevated on piles, columns, or shear walls parallel to the flow of water so that the bottom of the lowest supporting horizontal structural member (excluding pilings or columns) is located no lower than two feet above the base flood elevation level. 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 and in accordance with Article 5, Section B (6) (h);
  - (c) All buildings or structures shall be securely anchored on pilings or columns;
  - (d) All pile and column foundations and structures attached thereto shall be anchored to resist flotation, collapse, and lateral movement due to the effect of wind and water loads acting simultaneously on all buildings components. Water loading values shall equal or exceed the base flood. Wind loading values shall be in accordance with the building code adopted by the Mobile County Commission as of the date of permit issuance.
  - (e) A registered professional engineer or architect shall certify that the design, specifications and plans for construction are in compliance with the provisions contained in Article 5, Section B (6) (b), (c) and (d) of the ordinance.
  - (f) There shall be no fill 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



storm surge, (thereby rendering the building free of obstruction) prior to generating excessive loading forces, ramping effects, or wave deflection. The Director of Building Inspections shall approve design plans for landscaping/aesthetic fill only after the applicant has provided an analysis by an engineer, architect, and/or soil scientist, which demonstrates that the following factors have been fully considered:

- (i.) Particle composition of fill material does not have a tendency for excessive natural compaction;
  - (ii.) Volume and distribution of fill will not cause wave deflection to adjacent properties; and
  - (iii.) Slope of fill will not cause wave run-up or ramping.
- (g) There shall be no alteration of sand dunes or mangrove stands which would increase potential flood damage;
- (h) Lattice work or decorative screening shall be allowed below the base flood elevation provided they are not part of the structural support of the building and are designed so as to breakaway, under abnormally high tides or wave action, without damage to the structural integrity of the building on which they are to be used and provided the following design specifications are met:
- (i) No solid walls shall be allowed; and
  - (ii.) Material shall consist of lattice or mesh screening only.
- (i) If aesthetic lattice work or screening is utilized, such enclosed space shall not be designed to be used for human habitation, but shall be designed to be used only for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises.
- (j) Prior to construction, plans for any buildings that will have lattice work or decorative screening must be submitted to the Director of Building Inspections for approval.
- (k) Any alteration, repair, reconstruction or improvement to a structure shall not enclose the space below the lowest floor except with lattice work or decorative screening, as provided for in Article 5, Section B (6) (h) and (i).
- (l) The placement of manufactured homes (mobile homes), except in an existing manufactured homes (mobile homes) park or subdivision is prohibited. A replacement manufactured home may be placed on a lot in an existing manufactured home park or

subdivision, provided the anchoring standards of Article 5, Section B (6) (e), and the elevation standards of Article 5, Section B (6) (b) are met.

SECTION C. Standards For Streams Without Established Base Elevations And/Or Floodways.

Located within the areas of special flood hazard established in Article 3, Section B, when streams exist but where no base flood data has been provided or where base flood data has been provided without elevations the following provisions 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 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.
- (2) New residential construction or substantial improvements of buildings shall be elevated 2 feet above the highest adjacent grade.
- (3) New nonresidential construction or substantial improvements of nonresidential buildings shall be elevated 2 feet above the highest adjacent grade or flood-proofed in accordance with the standards set forth in Article 5, Section B (2).

SECTION D. Standards For Subdivision Proposals

- (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 subdivision proposals and other proposed development (including manufactured home parks and subdivisions) which is greater than the lesser of fifty lots or five acres.

SECTION E. Standards For Areas Of Shallow Flooding (AO Zones)

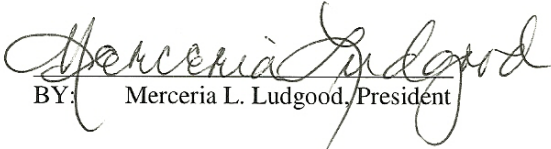
Located within the areas of special flood hazard established in Article 3, Section B, are areas designated as shallow flooding areas. These areas have special flood hazards

associated with base flood depths of one to three feet (1' – 3') where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate; therefore, the following provisions apply;

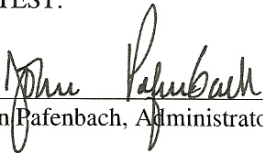
- (1) All new construction and substantial improvements of residential buildings shall have the lowest floor, including basement, elevated to the depth number specified on the Flood Insurance Rate Map, in feet, above the highest adjacent grade. If no depth number is specified, the lowest floor, including basement, shall be elevated, at least two (2) 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 5, Section B (3).
- (2) All new construction and substantial improvements of nonresidential buildings shall:
  - (a) Have the lowest floor, including basement, elevated to the depth number specified on the Flood Insurance Rate Map, in feet, above the highest adjacent grade. If no depth number is specified, the lowest floor, including basement shall be elevated at least three (3) feet above the highest adjacent grade, or;
  - (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. A registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions above, and shall provide such certification to the official as set forth above and as required in Article 4(B)(2).
- (3) Drainage paths shall be provided to guide floodwater around and away from any proposed structure.

Amended on March 11, 2010

MOBILE COUNTY COMMISSION

  
BY: Merceria L. Ludgood, President

ATTEST:

  
John Rafenbach, Administrator

RESOLUTION

**WHEREAS**, the **MOBILE COUNTY COMMISSION** desires to amend the **MOBILE COUNTY FLOOD DAMAGE PREVENTION ORDINANCE OF MOBILE COUNTY**; and

**WHEREAS**, State law authorizes and empowers county commissions to adopt zoning ordinances and building codes for flood-prone areas outside municipalities by ordinance and to enforce such ordinance; and

**WHEREAS**, state law also requires that the County provide notice of its intent to promulgate building codes and ordinances;

**NOW, THEREFORE**, be it resolved, that the **MOBILE COUNTY COMMISSION** does hereby amend the **MOBILE COUNTY FLOOD DAMAGE PREVENTION ORDINANCE OF MOBILE COUNTY** for the unincorporated areas of **MOBILE COUNTY**; and

**BE IT FURTHER RESOLVED**, that a notice of the COUNTY's intent to amend the **MOBILE COUNTY FLOOD DAMAGE PREVENTION ORDINANCE OF MOBILE COUNTY** as set forth in the provisions of Code of Alabama (1975) §11-19-18 ran once a week for two (2) consecutive weeks in a newspaper of general circulation in **MOBILE COUNTY**; and

**BE IT FURTHER RESOLVED**, that the required public provision has been satisfied, and Mobile County Flood Damage Prevention Ordinance is hereby amended.


**ADOPTED** this 11<sup>th</sup> day of March 2010.

**STATE OF ALABAMA }**

**COUNTY OF MOBILE }**

I, JOHN PAFENBACH, Administrator/Clerk of the Mobile County Commission, hereby certify that the foregoing is a true and correct copy of the resolution adopted by the Mobile County Commission in regular meeting convened on the 11<sup>th</sup> day of March, 2010.

IN WITNESS WHEREOF, I have hereunto set my hand on the official seal of the Mobile County Commission on this 12<sup>th</sup> day of March, 2010.

  
\_\_\_\_\_  
John Pafenbach  
Mobile County Administrator/Clerk