

Chapter 5 - BUILDINGS AND CONSTRUCTION

ARTICLE I. - IN GENERAL

Sec. 5-1. - Technical codes—Adopted by reference.

For the purpose of regulating the various facets of construction and repair and to ensure safe and healthful occupancy, there are hereby adopted the following technical codes, copies of which are hereby adopted the following technical codes, copies of which are on file in the building inspector's office; subject, however, to all amendment, deletions, and conflicting provisions contained in this Code:

- (1) 2018 Edition of the International Building Code, International Code Council.
- (2) NFPA 70 National Electrical Code, 2017 Edition, National Fire Protection Association, (for all commercial and industrial buildings and residential buildings containing more than two (2) dwelling units).
- (3) 2018 Edition of the International Fuel Gas Code, International Code Council.
- (4) 2018 Edition of the International Mechanical Code, International Code Council.
- (5) 2018 Edition of the International Plumbing Code, International Code Council.
- (6) 2018 Edition of the International Fire Code, International Code Council.
- (7) 2018 Edition of the International Swimming Pool and Spa Code, International Code Council.
- (8) 2018 Edition of the International Energy Conservation Code, International Code Congress.
- (9) 2010 ADA Standards for Accessible Design.
- (10) 2018 Edition of the International Residential Code, International Code Council in addition to the City of Robertsdale Supplemental Code for Residential Structures:
 - (a) *P2609.3* Delete
 - (b) *P2609.4* Delete
 - (c) Section *P2904* Delete
 - (d) Section *P3009* Delete

(Ord. No. 83-2, 2-15-83; Ord. No. 84-5, 11-6-84; Ord. No. 86-3, 2-18-86; Ord. No. 01-01, 2-19-01; Ord. No. 007-09, 10-19-09; Ord. No. 005-12, 9-17-12; Ord. No. 002-19, 2-4-19)

Cross reference— See also § 8-1 for adoption of fire prevention code.

Sec. 5-2. - Same—Violations.

Any person violating any provision of any of the codes hereinabove adopted shall be subject to punishment as provided in section 1-8 of the Code. Anyone occupying a structure prior to a certificate of occupancy being issued by the building inspector, will be subject to punishment as provided in section 1-8 of the Code and if determined to be appropriate by the building inspector, the utilities may be disconnected in order to protect life and property.

(Ord. No. 007-09, 10-19-09, Ord. No. 005-12, 9-17-12)

Sec. 5-3. - Permit—Required.

It shall be unlawful for any person to erect any building, or addition to any existing building, within the building jurisdiction of the city, without first having secured a permit therefore from the building inspector. If a construction project is started prior to obtaining a proper building permit, the building permit fee will be doubled.

(Ord. of 12-21-64, § 1; Ord. No. 007-09, 10-19-09, Ord. No. 005-12, 9-17-12)

Sec. 5-4. - Same—Application; plans.

Any person desiring a building permit shall make application to the building inspector in writing, accompanied by full plans, and the amount of floor space for the proposed construction. Said plans must be approved by the building inspector and zoning enforcement officer before a permit can be issued.

(Ord. of 12-21-64, §§ 2, 3; Ord. No. 007-09, 10-19-09; Ord. No. 005-12, 9-17-12)

Sec. 5-5. - Same structures where explosive substance or material will be stored.

The building inspector or zoning enforcement officer may refuse to approve a permit for the erection of any building, plant, warehouse, tank or other structure for the storage of gasoline, naphtha or other explosive liquids or explosive material, unless and until one (1) and/or both of them has fully investigated the same and is of the opinion that the storage of such explosive liquids or explosive material at the place and in the manner proposed shall not endanger lives and property within the city.

(Ord. of 7-6-26, § 2; Ord. No. 007-09, 10-19-09; Ord. No. 005-12, 9-17-12)

Sec. 5-6. - Same—Fees.

(a) *Residential new construction/major addition.* Fee shall be based on the following:

Site plan review \$30.00

Valuation per square-foot heated area:

Single-family \$70.00

Multifamily \$70.00

Townhouse \$70.00

Condo/apartment \$70.00

Valuation per square foot:

Garages \$30.00

Covered patio \$30.00

Porches \$30.00

Basements, etc. \$30.00

Unheated area \$30.00

BUILDING PERMIT FEES

Per \$1,000.00:

Single-family \$4.00

Multifamily \$5.00

Townhouse \$5.00

Condo/apartment \$5.00

Per unit:

Electrical fee \$110.00

HVAC fee \$110.00

Plumbing fee \$110.00

(b) *Minor additions, fences, pool, other construction requiring permit.* Fee shall be based on the following:

Building Permit Fees

Total Cost	Fee
\$100.00 or less	No permit required
\$101.00 to \$2,000.00	\$25.00
\$2,001.00 to \$15,000.00	\$25.00 for the first \$2,000.00 plus \$3.00 for each additional thousand or fraction thereof, to and including \$15,000.00
\$15,001.00 to \$50,000.00	\$64.00 for the first \$15,000.00 plus \$2.50 for each additional thousand or fraction thereof, to and including \$50,000.00
\$50,001.00 to \$100,000.00	\$166.50 for the first \$50,000.00 plus \$2.00 for each additional thousand or fraction thereof, to and including \$100,000.00
\$100,001.00 to \$500,000.00	\$266.50 for the first \$100,000.00 plus \$1.25 for each additional thousand or fraction thereof, to and including \$500,000.00
\$500,001.00 and up	\$766.50 for the first \$500,000.00 plus \$0.75 for each additional thousand or fraction thereof

For moving any building or structure \$175.00

For demolition of any building or structure \$175.00

Per unit, if applicable:

Electrical fee \$50.00

HVAC fee \$50.00

Plumbing fee \$78.00

(c) *Commercial*. Fee shall be based on the following:

Building Permit Fees

Total Cost of Project	Fee
Commercial Plan Review:	
\$500,000.00 or less	\$500.00
\$500,001.00 and up	\$500.00 for the first \$500,000.00, plus \$1.00 for each additional thousand or fraction thereof
Total contract amount including labor and materials	\$25.00 plus \$5.00 per \$1,000.00 or fraction thereof
Electrical fee	\$1.00 per \$1,000.00 or fraction thereof, based on original contract price of structure
HVAC fee	\$1.00 per \$1,000.00 or fraction thereof, based on original contract price of structure
Plumbing fee	\$1.00 per \$1,000.00 or fraction thereof, based on original contract price of structure

(d) *Trailers/mobile homes*. Fee shall be based on the following:

Moving and inspection \$40.00

Electrical fee \$30.00

Plumbing fee \$30.00

(e) *Additional administrative fees*. If an inspection fails more than once or a project is not ready for an inspection at the time the inspection is scheduled for, a re-inspection fee will be charged. The first re-inspection fee is twenty-five dollars (\$25.00). Each additional re-inspection fee will be increased by twenty-five dollars (\$25.00) each time. These fees must be paid prior to a re-inspection being scheduled.

No furnishings, other than appliances, shall be placed in structure prior to passing the final inspection. If this takes place, the building inspector shall not perform the inspection and a re-inspection fee will be charged as per this section.

(Ord. No. 12-21-64, § 6; Ord. No. 82-3, 9-7-82; Ord. No. 85-7, 12-17-85; Ord. No. 86-2, 2-4-86; Ord. No. 86-2, 2-4-86; Ord. No. 93-2, 6-7-93; Ord. No. 95-8, 4-10-95; Ord. No. 97-11, 11-3-97; Ord. No. 03-06, 3-6-06; Ord. No. 007-09, 10-19-09, Ord. No. 005-12, 9-17-12)

Sec. 5-7. - Impact fees on new development.

- (1) *Findings.* In accordance with the Act, the city has been authorized by the Legislature of the State of Alabama to adopt and impose impact fees on new development within the city's corporate limits. In support of the adoption and imposition of such impact fees, the council makes the following findings:
 - (a) The city is a municipal corporation vested with a portion of the state's sovereign power to protect and provide for the public health, safety, and welfare. The city is authorized to adopt and implement comprehensive plans, zoning ordinances and other land use regulations to assure its orderly development.
 - (b) The city is a fast-growing community with an estimated population in 2008 of five thousand four hundred sixty (5,460) residents. In calendar year 2006, one hundred three (103) new building permits were issued and in calendar year 2007, one hundred eight (108) new building permits were issued. Approximately one hundred thirteen (113) new permits are projected to be issued in calendar year 2008.
 - (c) The city encourages development that will make the city a vital, attractive community to serve both residents of the city and the substantial and significant number of visitors who visit the city on a yearly basis.
 - (d) New residential and nonresidential development, however, imposes increased and excessive demands upon public facilities. As demand for public facilities has increased, funding sources for those facilities have decreased at both the state and federal level. In addition, demand for new facilities necessitated by new development impairs the ability of the city to maintain existing facilities because funds must be diverted to construction or expansion of new facilities.
 - (e) The city's current comprehensive plan projects that new development will continue and will place ever-increasing demands on the city to provide public facilities to serve new development.
 - (f) Following the adoption of the Act by the Legislature of the State of Alabama, the city engaged the South Alabama Regional Planning Commission (SARPC) for purposes of preparing an impact fee study. With input from the city, SARPC prepared an "impact fee study" for the city dated December, 2007 (the "study").
 - (g) The study demonstrates the monetary needs of the city in adding the additional governmental infrastructure necessary to keep pace with the city's growth.
 - (h) In accordance with Section 7 of the Act, a public hearing was held on January 10, 2008, at city hall to address the city's governmental infrastructure needs as a result of new development. At this public hearing, a representative of SARPC presented the study to the council and the public, and the public was given the opportunity to provide comments.
 - (i) To the extent that new development places demands upon public facilities, those demands should be satisfied by shifting the responsibility for financing the provision of such facilities from the public to the development creating the demands.
 - (j) An impact fee, established in accordance with this section, will benefit new development.
- (2) *Authorization.* This section is enacted pursuant to the Act and the city's general police power and land use authority.
- (3) *Purpose and intent.* The purpose of this section is to establish procedures to:
 - (a) Determine what local capital improvements are reasonably necessary to serve new development and the cost thereof;
 - (b) Determine the portion of the demand for local capital improvements created by particular types of new development; and

(c) Assess against new development an impact fee to finance the cost of local capital improvements proportional to development's demand for said capital improvements.

(4) *Definitions.* Whenever used in this section, the following capitalized words, terms, and phrases, and their derivations, shall have the meanings ascribed to them below except where the context clearly indicates a different meaning:

Act shall mean 2006 Ala. Acts 300, as the same may hereafter be altered or amended from time to time.

All other housing means residential housing units and/or structures other than single-family residential structures, and includes, without limitation, duplexes, triplexes, apartments, condominiums and other multifamily developments.

Applicant shall mean any person or entity making an application for a building permit with the city.

Benefit area means one (1) or more areas as defined herein which are used to calculate the costs and expenses relative to the governmental infrastructure needs created by a particular type of new development.

Building department means the city's building and inspection department.

Building permit means a document issued by the city authorizing construction of new buildings and/or improvements within the city's corporate limits.

Calculate means to determine the amount of the impact fees assessed against a particular new development in accordance with the terms and conditions of this section and the Act.

City means the City of Robertsdale, Alabama.

Estimated fair and reasonable market value shall have the meaning ascribed to such term in Section 5(a)(2) of the Act.

Fire means a benefit area for:

- (i) The construction, development and/or improvement of fire stations,
- (ii) The acquisition of firefighting vehicles, and
- (iii) The acquisition of firefighting apparatus, and
- (iv) The fire component of the study and/or any other impact fee study obtained by the city in connection with the imposition of impact fees.

Governmental infrastructure shall have the meaning ascribed to such term in the Act.

Impact fee shall have the meaning ascribed to such term in the Act.

Impact fee account means a special interest-bearing account of the city established by the city at a banking institution whose deposits are insured by the Federal Deposit Insurance Corporation.

Impact fee committee means a committee consisting of the mayor, the chief financial officer, and the chief building official. The mayor shall serve as the chairman of this committee and shall have full and exclusive authority to designate proxies for any member of the committee unable to participate in committee activities. Such proxies shall be appointed from the ranks of the city employees and/or elected officials.

Impact fee schedule means the schedule of fees adopted by the council setting the base fee amount for each benefit area and the total impact fee for each type of new development.

Library means a benefit area for:

- (i) The construction, development, and/or improvement of a library facility,
- (ii) The acquisition of new library collections including books, periodicals, and multi-media materials, and computer equipment, and
- (iii) The library component of the study.

New development shall have the meaning ascribed to such term in the Act.

Nonresidential development project means all new development in the city other than residential development projects, and shall include, without limitation, any new development project consisting of one or any combination of comm/shop ctr, office/inst, business park, light industrial, warehousing, manufacturing and lodging.

Parks and recreation means a benefit area for:

- (i) The acquisition of new public park lands,
- (ii) The construction, development and/or improvement of public recreational facilities,
- (iii) The construction, development and/or improvement of public park amenities,
- (iv) The acquisition of new park vehicles, and
- (v) The parks and recreation component of the study and/or any other impact fee study obtained by the city in connection with the imposition of impact fees.

Police means a benefit area for:

- (i) The cost recovery of the city's cost and expense related to the construction, development and improvement of its justice center,
- (ii) The cost recovery of the city's cost and expense related to the construction, development and improvement of its animal shelter,
- (iii) The acquisition of police vehicles, and
- (iv) The acquisition of police-related apparatus and equipment, and
- (v) The fire component of the study and/or any other impact fee study obtained by the city in connection with the imposition of impact fees.

Residential development project means any new development in the city undertaken with respect to a single-family development and/or an all other housing development.

Single-family means a detached residential dwelling unit designed for and occupied by one (1) family as a home.

- (5) *Imposition of impact fees.* The city hereby imposes an impact fee in accordance with the impact fee schedule against all new development constructed within the city's corporate limits, subject to any limitations on the amount of the Impact Fee set forth in the Act. In the event any appraisal process is commenced in accordance with the Act, the city shall be responsible for the cost of any appraisal required by the city, and the city and the applicant shall share equally in the cost of any appraisal obtained at the request of both the city and the applicant. This section and/or the impact fee schedule may be amended at any time hereafter and from time to time by the council in accordance with the procedure set forth in the Act for the adoption of an impact fee. The impact fee shall be collected and administered as hereinafter provided.
- (6) *Calculation and collection of impact fees.* Impact fees may be imposed only on new development and subject to any limitations on the imposition and collection thereof in the Act. Impact fees shall be calculated and collected by the building department prior to the issuance of a building permit for new development and in accordance with the

impact fee schedule. Except as is hereafter provided in subsection (15) hereof, all impact fees shall be paid by an applicant to the city in cash or other immediately available funds.

- (7) *[Calculation of market value of new development.]* In calculating the market value of a new residential and/or nonresidential development, both the value of the structure and the land upon which the structure will be built shall be considered. If the area of land that will be built upon represents a portion of a larger parcel of property, the remainder of which will be undeveloped, the city reserves the right to calculate market value of the "developable" area through either method listed below:
- (a) Use of the developer's market value of the "developable" area in addition to the value of the structure; and/or
 - (b) Determining the percentage the "developable" area represents to the whole parcel and multiplying said percentage to the overall market value of the whole parcel.

If future areas of a large parcel are proposed to be developed, the developer may be allowed to have the overall market value of the whole parcel included in the calculation of the market value for the smaller parcel. Future areas of development of the large parcel would be exempted from the "land" portion of the market value. The developer would receive a certificate indicating payment of the market value for the whole parcel.

- (8) *[Assessment on additions to existing facilities.]* Impact fees shall be assessed on any additions to existing nonresidential facilities which create a demand on city services.
- (9) *[Exception.]* New developments which do not create any additional impact will not be assessed an impact fee.
- (10) *No additional capacity.* No impact fee may be assessed for or expended upon the construction, improvement, operation or maintenance of any governmental infrastructure that does not create additional capacity for use by the general public.
- (11) *Nature of impact fee.* An impact fee is both a personal liability of the applicant and a lien upon the real property upon which the new development is to be constructed and/or improved. Said lien may be foreclosed upon in accordance with the procedure for the foreclosure of real estate mortgages in the State of Alabama.
- (12) *Refund of impact fee.* Except as is specifically required by the Act, impact fees are not refundable, unless the applicable building permit is voided in writing by the applicant and no construction or construction related activities have taken place.
- (13) *Impact fee accounts.* The funds collected pursuant to this section shall be deposited into the impact fee account. The funds of the impact fee account shall not be commingled with other funds of the city. The city shall separately account for fees collected for the benefit areas of parks and recreation, fire, police and library. In the event that less than the full impact fee is assessed for any reason, including, without limitation, any cap on such fee contained in the Act, said partial impact fee shall be allocated to the applicable benefit areas in the same proportion as the full impact fee would be allocated to and among the applicable benefit areas.
- (14) *Use of impact fees.* Impact fees may be expended only for the benefit area for which they were imposed, calculated, and collected and according to the time limits and procedures established in this section and the Act, if any. All impact fees collected for a benefit area must be spent in that benefit area. Impact fees generated by this section may be used for any purpose permitted by the Act.
- (15) *Time limitations on use of impact fees.* The city shall expend or contract for the expenditure of all impact fees collected in accordance with this section within any time periods set forth in the Act; provided, however, that in the event the Act does not impose any limitation on the timing of the expenditure of impact fees, then the city shall have no obligation to expend any impact fees within any specific period of time. In the event it becomes necessary for the city to refund any impact fees due to the failure to expend or contract for the expenditure of such impact

fees within a given period of time as required by the Act, the city shall refund such impact fees to the applicant who paid such impact fees. Notwithstanding anything contained herein to the contrary, no party entitled to a refund of any impact fee hereunder shall be entitled to any interest on said refunded impact fee.

- (16) *Appeals.* In the event the building department and an applicant are unable to agree upon the estimated fair and reasonable value following the appraisal process set forth in Section 5(a)(2) of the Act, the applicant against which an impact fee has been assessed may pay the impact fee as calculated by the building department and preserve the right to appeal the amount of the impact fee by submitting with payment a written statement that payment is made "under protest" or that includes other language that would notify a reasonable person that the applicant intends to preserve its right of appeal. Any applicant intending to appeal the calculation of an impact fee must file said appeal in writing with the city clerk of the city within thirty (30) days of the last to occur of the calculation of the impact fee by the building department and the payment of the impact fee by the applicant to the city. In the written appeal provided to the city clerk by the applicant, the applicant shall set forth enough detail to allow the city to reasonably determine the basis for the applicant's appeal. All appeals of impact fee assessments shall be heard by the council at a regularly held meeting of the council within thirty (30) days of the date of the filing of the notice of appeal by the applicant with the city clerk. At such appeal hearing, the applicant and the city shall have the right to present evidence relative to the establishment of the estimated fair and reasonable market value of a new development. In making such presentations, each of the applicant and the city shall be limited to fifteen (15) minutes for the presentation of such evidence. Thereafter, a majority decision by the council shall be required to overturn the decision of the building department with regard to the calculation of the applicable impact fee.
- (17) *Review of impact fee structure.* The impact fee committee shall report to the council with:
- (a) Recommendations, if any, for amendments to this section;
 - (b) Proposals identifying capital improvements to be funded in whole or in part by the impact fees collected pursuant to this section;
 - (c) Proposals for changes to the impact fee schedule.

In connection with the foregoing, the impact fee committee is hereby authorized to engage such consultants as it deems reasonably necessary to prepare additional impact fee studies for purposes of arriving at an appropriate and reasonable impact fee rate structure.

- (18) *Credits.* An applicant who offers to dedicate land or otherwise provide for the funding of governmental infrastructure may be eligible for a credit for such contribution against the impact fee otherwise due for that benefit area. In the event an applicant desires to obtain a credit in accordance with the foregoing, the applicant shall submit its proposal for a credit in writing to the building department. To the extent the city prepares forms for the credit process, the applicant shall make its submittal on said city-provided forms. Thereafter, the building department shall transmit said proposal to the impact fee committee. The impact fee committee shall make written findings with regard to:
- (a) The value of the applicant's proposed contribution;
 - (b) Whether the proposed contribution meets capital improvement needs for which the particular impact fee has been imposed; and
 - (c) Whether the proposed contribution will substitute or otherwise reduce the need for governmental infrastructure anticipated to be provided with impact fees otherwise assessable against the applicant. The impact fee committee shall transmit said written findings to the council along with a recommendation for whether to accept or decline the applicant's offer. The council shall make the final determination as to whether to accept the applicant's proposed contribution; provided, however, that in no event shall the credit given to any such applicant exceed the amount of the otherwise applicable impact fee.

(19) *Recovery of public hearing costs.* Any costs incurred by the city:

- (a) In preparing for and conducting any public hearing required by the Act; and
- (b) In connection with the study or any similar study hereafter conducted may be recovered as a part of the impact fees assessed and collected in accordance with this section.

(Ord. No. 01-08, §§ 1—19, 3-17-08)

Secs. 5-8—5-19. - Reserved.

ARTICLE II. - DANGEROUS BUILDINGS

Sec. 5-20. - Dangerous buildings defined.

All buildings or structures which have any or all of the following defects shall be deemed "dangerous buildings":

- (1) Those whose interior walls or other vertical structural members list, lean or buckle to such an extent that a plumb line passing through the center of gravity falls outside of the middle third of its base.
- (2) Those which, exclusive of the foundation, show thirty-three (33) per cent or more, of damage or deterioration of the supporting member or members, or fifty (50) per cent or more of damage or deterioration of the nonsupporting enclosing or outside walls or covering.
- (3) Those which have improperly distributed loads upon the floors or roofs or in which the same are overloaded, or which have insufficient strength to be reasonably safe for the purpose used.
- (4) Those which have been damaged by fire, wind or other causes so as to have become dangerous to life, safety, morals, or the general welfare and health of the occupants or the people of the city.
- (5) Those which have become or are so dilapidated, decayed, unsafe, unsanitary or which so utterly fail to provide the amenities essential to decent living that they are unfit for human habitation, or are likely to cause sickness or disease, so as to work injury to the health, morals, safety or general welfare of those living therein.
- (6) Those having light, air and sanitation facilities which are inadequate to protect the health, morals, safety or general welfare of human beings who live or may live or may live therein.
- (7) Those having inadequate facilities for egress in case of fire or panic or those having insufficient stairways, elevators, fire escapes, or other means of communications.
- (8) Those which have parts thereof which are so attached that they may fall and injure members of the public or property.
- (9) Those which because of their condition are unsafe, unsanitary, or dangerous to the health, morals, safety or general welfare of the people of this city.

(Ord. No. 77-6, § 1, 8-1-77)

Sec. 5-21. - Declaration of nuisance.

All dangerous buildings within the terms of this article are hereby declared to be public nuisances, and shall be repaired, vacated or demolished as hereinafter provided.

(Ord. No. 77-6, § 3, 8-1-77)

Sec. 5-22. - Standards for repair, vacation or demolition.

The following standards shall be followed in substance by the building inspector in ordering repair, vacation or demolition:

- (1) If the dangerous building can reasonably be repaired so that it will no longer exist in violation of the terms of this article it shall be ordered repaired.
- (2) If the dangerous building is in such condition as to make it dangerous to the health, morals, safety or general welfare of its occupants it shall be ordered to be vacated.
- (3) In any case where a dangerous building is fifty (50) per cent or more damaged or decayed, or deteriorated from its original value or structure, it shall be demolished, and in all cases where a building cannot be repaired so that it will no longer exist in violation of the terms of this article it shall be demolished. In all cases where a dangerous building is a fire hazard existing or erected in violation of the terms of this article it shall be demolished.

(Ord. No. 77-6, § 2, 8-1-77)

Sec. 5-23. - Service of notice on absent persons.

In cases, except in emergency cases, where the owner, occupant, lessee, or mortgagee is absent from the city, all notices or orders provided for herein shall be sent by certified mail to the owner, occupant, mortgagee, lessee, and all other persons having an interest in said building as shown by the land records in the office of the judge of probate, to the last known address of each, and a copy of such notice shall be posted in a conspicuous place on the dangerous building to which it relates. Such mailing and posting shall be deemed adequate service.

(Ord. No. 77-6, § 9, 8-1-77)

Sec. 5-24. - Duties of building inspector.

The building inspector shall:

- (1) Inspect or cause to be inspected semiannually all public buildings, schools, halls, churches, theaters, hotels, tenements, commercial, manufacturing, or loft buildings for the purpose of determining whether any conditions exist which render such places a dangerous building within the terms of this article.
- (2) Inspect any building, wall or structure about which complaints are filed by any person to the effect that a building, wall or structure is or may be existing in violation of this article.
- (3) Inspect any building, wall or structure reported (as hereinafter provided for) by the fire department or police department of this city as probably existing in violation of the terms of this article.
- (4) Notify in writing the owner, occupant, lessee, mortgagee, agent and all other persons having an interest in said building as shown in the office of the judge of probate of any building found by him to be a dangerous building within the standards set forth in this article, that:
 - (a) The owner must vacate, or repair, or demolish said building in accordance with the terms of the notice and this article;
 - (b) The occupant or lessee must vacate said building or may have it repaired in accordance with the notice and remain in possession;
 - (c) The mortgagee, agent or other persons having an interest in said building as shown in the office of the judge of probate may at his own risk repair, vacate or demolish said building or have such work or act done; provided, that any person notified under this subsection to repair, vacate or demolish any building

shall be given such reasonable time, not exceeding sixty (60) days, as may be necessary to do, or have done, the work or act required by the notice provided for herein.

- (5) Set forth in the notice provided for in subsection (4) hereof, a description of the building, or structure deemed unsafe, a statement of the particulars which make the building or structure a dangerous building and an order requiring the same to be put in such condition to comply with the terms of this article within such length of time, not exceeding sixty (60) days, as is reasonable.
- (6) Report to the city council any noncompliance with the notice provided for in subsections (4) and (5) hereof.
- (7) Place a notice on all dangerous buildings reading as follows: "This building has been found to be a dangerous building by the Building Inspector. This notice is to remain on this building until it is repaired, vacated, or demolished in accordance with the notice which has been given to owner, occupant, lessee, mortgagee, or agent of this building, and all other persons having an interest in said building as shown in the office of the Judge of Probate of Baldwin County, Alabama. It is unlawful to remove this notice until such notice is complied with."

(Ord. No. 77-6, § 4, 8-1-77)

Sec. 5-25. - Duties of the council—Routine cases.

The city council shall:

- (a) Upon receipt of a report of the building inspector as provided for in section 5-24, subsection (6), give written notice to the owner, occupant, mortgagee, lessee, agent and all other persons having an interest in said building as shown by the land records in the office of the judge of probate, to appear before it on the date specified in the notice to show cause why the building or structure reported to be a dangerous building should not be repaired, vacated or demolished in accordance with the statement of particulars set forth in the building inspector's notice provided for herein in section 5-24, subsection (7).
- (b) Hold a hearing and hear such testimony as the building inspector or the owner, occupant, mortgagee, lessee or any other person having an interest in said building as shown by the land records in the office of the judge of probate shall offer relative to the dangerous building.
- (c) Determine from the testimony offered pursuant to subsection (b) as to whether or not the building in question is a dangerous building within the terms of this article.
- (d) Issue an order based upon the determination made pursuant to subsection (c) commanding the owner, occupant, mortgagee, lessee, agent and all other persons having an interest in said building as shown by the land record in the office of the judge of probate to repair, vacate, or demolish any building found to be a dangerous building within the terms of this article and provided that any person so notified, except the owners, shall have the privilege of either vacating or repairing said dangerous building; or any person not the owner of said dangerous building, but having an interest in said building as shown on the land records in the office of the judge of probate, may demolish said dangerous building at his own risk to prevent the acquiring of a lien against the land upon which said dangerous building stands by the city as provided in subsection (e) hereof.
- (e) If the owner, occupant, mortgagee, or lessee fails to comply with the order provided for in subsection (d) hereof, within thirty (30) days, the city council shall cause such building or structure to be repaired, vacated or demolished as the facts may warrant, under the standards hereinabove provided for in section 5-22, and, with the assistance of the city attorney, shall cause the costs of such repair, vacation, demolition to be charged against the land on which the building existed as a municipal lien or cause such costs to be recovered in a suit

at law against the owner; provided, in cases where such procedure is desirable and any delay thereby caused will not be dangerous to the health, morals, safety or general welfare of the people of this city, the city council shall notify the city attorney to take legal action to force the owner to make all necessary repairs or demolish the building.

- (f) Report to the city attorney the names of all persons not complying with the order provided for in subsection (d) hereof.

(Ord. No. 77-6, § 5, 8-1-77)

Sec. 5-26. - Same—Emergency cases.

In cases where it reasonably appears that there is immediate danger to the life or safety of any person unless a dangerous building as defined herein is immediately repaired, vacated, or demolished the building inspector shall report such facts to the city council and the city council shall cause the immediate repair, vacation, or demolition of such dangerous building. The costs of such emergency repair, vacation or demolition of such dangerous building shall be collected in the same manner as provided in section 5-25, subsection (e).

(Ord. No. 77-6, § 8, 8-1-77)

Sec. 5-27. - Duties of fire department.

The employees of the fire department shall make a report in writing to the building inspector of all buildings or structures which are, may be, or are suspected to be dangerous buildings within the terms of this article. Such reports must be delivered to the building inspector within twenty-four (24) hours of the discovery of such buildings by an employee of the fire department.

(Ord. No. 77-6, § 11, 8-1-77)

Sec. 5-28. - Duties of police department.

All employees of the police department shall make a report in writing to the building inspector of any buildings or structures which are, may be, or are suspected to be dangerous buildings within the terms of this article. Such reports must be delivered to the building inspector within twenty-four (24) hours of the discovery of such buildings by an employee of the police department.

(Ord. No. 77-6, § 12, 8-1-77)

Sec. 5-29. - Duties of the city attorney.

The city attorney shall:

- (1) Prosecute all persons failing to comply with the terms of the notices provided for in section 5-24, subsections (5) and (6), and the order provided for in section 5-25, subsection (d).
- (2) Appear at all hearings before the city council in regard to dangerous buildings.
- (3) Bring suit to collect all municipal liens, expenditures or costs incurred by the city council in repairing or causing to be vacated or demolished dangerous buildings.
- (4) Take such other legal action as is necessary to carry out the terms and provisions of this article.

(Ord. No. 77-6, § 7, 8-1-77)

Sec. 5-30. - Liability of officers.

No officer, agent or employee of the city shall render himself personally liable for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of his duties under this article. Any suit brought against any officer, agent or employee of the city as a result of any act required or permitted in the discharge of his duties under this article shall be defended by the city attorney until the final determination of the proceedings therein.

(Ord. No. 77-6, § 10, 8-1-77)

Sec. 5-31. - Violations.

- (a) The owner of any dangerous building who shall fail to comply with any notice or order to repair, vacate or demolish said building given by any person authorized by this article to give such notice or order shall be guilty of a misdemeanor and upon conviction thereof shall be punished as provided in section 1-8. Each day's violation of the provisions of this article shall constitute a separate offense, punishable as herein provided.
- (b) The occupant or lessee in possession who fails to comply with any notice to vacate and who fails to repair said building in accordance with any notice given as provided for in this article shall be guilty of a misdemeanor and upon conviction thereof shall be punished as provided in section 1-8. Each day's violation of the provisions of this article shall constitute a separate offense, punishable as herein provided.
- (c) Any person removing the notice provided for in section 5-24, subsection (7) hereof shall be guilty of a misdemeanor and upon conviction shall be punished as provided in section 1-8 for each offense.

(Ord. No. 77-6, § 6, 8-1-77)

Secs. 5-32—5-40. - Reserved.

ARTICLE III. - FLOOD DAMAGE PREVENTION

DIVISION 1. - STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND OBJECTIVES

Sec. 5-41. - Statutory authorization.

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

(Ord. No. 04-07, art. 1, § A, 2-5-07)

Sec. 5-42. - Findings of fact.

- (1) The flood hazard areas of Robertsdale, Alabama, are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood relief and protection, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.
- (2) 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. 04-07, art. 1, § B, 2-5-07)

Sec. 5-43. - 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; and
- (4) Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands;
- (5) Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of floodwaters.

(Ord. No. 04-07, art. 1, § C, 2-5-07)

Sec. 5-44. - Objectives.

The objectives of this article are:

- (1) To protect human life and health;
- (2) 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;
- (3) To 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;
- (4) To minimize expenditure of public money for costly flood control projects;
- (5) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (6) To minimize prolonged business interruptions; and
- (7) To insure that potential home buyers are notified that property is in a flood area.

(Ord. No. 04-07, art. 1, § D, 2-5-07)

Secs. 5-45—5-60. - Reserved.

DIVISION 2. - GENERAL PROVISIONS

Sec. 5-61. - Lands to which this article applies.

This article shall apply to all areas of special flood hazard within the jurisdiction of the City of Robertsdale, Alabama.

(Ord. No. 04-07, art. 2, § A, 2-5-07; Ord. No. 004-19, 5-3-19)

Sec. 5-62. - 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 December 1, 1981, 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 Baldwin County are hereby adopted by reference. Areas of special flood hazard may also include those areas known to have flooded historically or defined through standard engineering analysis by governmental agencies or private parties but not yet incorporated in a FIS.

(Ord. No. 04-07, art. 2, § B, 2-5-07)

Sec. 5-63. - 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. 04-07, art. 2, § C, 2-5-07)

Sec. 5-64. - 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. 04-07, art. 2, § D, 2-5-07)

Sec. 5-65. - Abrogation and greater restrictions.

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

(Ord. No. 04-07, art. 2, § E, 2-5-07)

Sec. 5-66. - 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 governing body; and (3) deemed neither to limit nor repeal any other powers granted under state statutes.

(Ord. No. 04-07, art. 2, § F, 2-5-07)

Sec. 5-67. - 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 City of Robertsdale 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. 04-07, art. 2, § G, 2-5-07)

Sec. 5-68. - Penalties for violation.

- (1) *Notice of violation.* If the community determines that an applicant or other responsible person has failed to comply with the terms and conditions of a permit, or the provisions of this ordinance, it shall issue a written notice of violation, by certified return receipt mail, to such applicant or other responsible person. Where the person is engaged in activity covered by the ordinance codified in this section without having first secured a permit, the notice shall be served on the owner or the responsible person in charge of the activity being conducted on the site. The notice of violation shall contain:
 - (a) The name and address of the owner or the applicant or the responsible person;
 - (b) The address or other description of the site upon which the violation is occurring;
 - (c) A statement specifying the nature of the violation;
 - (d) A description of the remedial measures necessary to bring the action or inaction into compliance with the permit or this ordinance and the date for the completion of such remedial action;
 - (e) A statement of the penalty or penalties that may be assessed against the person to whom the notice of violation is directed, and;
 - (f) A statement that the determination of violation may be appealed to the community by filing a written notice of appeal within thirty (30) days after the notice of violation (except, that in the event the violation constitutes an immediate danger to public health or public safety, twenty-four-hour notice shall be sufficient).
- (2) *Additional enforcement actions.* If the remedial measures described in the notice of violation have not been completed by the date set forth for such completion in the notice of violation, any one (1) or more of the following enforcement actions may be enacted against the person to whom the notice of violation was directed. Before taking any of the following actions or imposing any of the following penalties, the City of Robertsdale shall first notify the applicant or other responsible person in writing of its intended action. The City of Robertsdale shall provide reasonable opportunity, of not less than ten (10) days (except, that in the event the violation constitutes an immediate danger to public health or public safety, twenty-four-hour notice shall be sufficient) to cure such violation. In the event the applicant or other responsible person fails to cure such violation after such notice and cure period, the City of Robertsdale may take or impose any one (1) or more of the following enforcement actions or penalties:
 - (a) *Civil penalties:* Violation of the provisions of this ordinance or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than five hundred dollars (\$500.00) or imprisoned for not more than thirty (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 City of Robertsdale from taking such other lawful actions as is necessary to prevent or remedy any violation.
- (3) *Administrative appeal; judicial review.* Any person receiving a notice of violation may appeal the determination of the community, including, but not limited to, the issuance of a stop work order, the assessment of an administratively-imposed monetary penalty, the suspension, revocation, modification, or grant with condition of a permit by the community upon finding that the holder is in violation of permit conditions, or that the holder is in violation of any applicable ordinance or any of the community's rules and regulations, or the issuance of a notice of bond forfeiture.

The notice of appeal must be in writing and must be received within ten (10) days from the date of the notice of violation. A hearing on the appeal shall take place within thirty (30) days from the date of receipt of the notice of appeal by the floodplain administrator.

- (4) *[Appeal board.]* All appeals shall be heard and decided by the community's designated appeal board, which shall be the Robertsdale Zoning Board of Adjustments, or their designees. The appeal board shall have the power to affirm, modify, or reject the original penalty, including the right to increase or decrease the amount of any monetary penalty and the right to add or delete remedial actions required for correction of the violation and compliance with the community's flood damage prevention ordinance, and any other applicable local, state, or federal requirements. The decision of the appeal board shall be final.
- (5) *[Judicial review.]* A judicial review can be requested by any person aggrieved by a decision or order of the community, after exhausting his/her administrative remedies. They shall have the right to appeal de novo to the Baldwin County Circuit Court.

(Ord. No. 04-07, art. 2, § H, 2-5-07; Ord. No. 004-19, 5-3-19)

Sec. 5-69. - Saving clause.

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

(Ord. No. 004-19, 5-3-19)

Secs. 5-70—5-80. - Reserved.

DIVISION 3. - ADMINISTRATION

Sec. 5-81. - Designation of ordinance administrator.

The building official is hereby appointed to administer and implement the provisions of this article and is designated as the floodplain administrator.

(Ord. No. 04-07, art. 2, § H, 2-5-07; Ord. No. 004-19, 5-3-19)

Sec. 5-82. - Permit procedures.

Application for a development permit shall be made to the building official on forms furnished by the community prior to any development activities, and may include, but not be limited to the following: Plans in duplicate drawn to scale showing the elevations of the area in question and the nature, location, dimensions, of existing or proposed structures, earthen fill placement, storage of materials or equipment, and drainage facilities.

Specifically, the following procedure and information is required for all projects in the special flood hazard areas within the jurisdiction of the City of Robertsdale:

- (1) *Application stage.* Plot plans are to include:
- (a) The base flood elevation (BFE) where provided as set forth in this article;
 - (b) Boundary of the special flood hazard area and floodway(s) as delineated on the FIRM or other flood map as determined in section 5-62;

- (c) Flood zone designation of the proposed development area as determined on the FIRM or other flood map a section 5-62;
 - (d) Elevation in relation to mean sea level (or highest adjacent grade) of the regulatory lowest floor level, including basement, of all proposed structures;
 - (e) Elevation in relation to mean sea level to which any nonresidential structure will be floodproofed;
 - (f) Design certification from a registered professional engineer or architect that any proposed nonresidential floodproofed structure will meet the floodproofing criteria of sections 5-92, 5-94 and 5-95;
 - (g) A foundation plan, drawn to scale, that shall include details of the proposed foundation system to ensure all provisions of this article are met. These details include, but are not limited to, the proposed method of elevation (i.e., fill, solid foundation perimeter wall, solid backfilled foundation, open foundation on columns/posts/piers/piles/shear walls) and description of any flood openings required in accordance with sections 5-92, 5-94 and 5-95 when solid foundation perimeter walls are used.
 - (h) Usage details of any enclosed areas below the lowest floor shall be described.
 - (i) Plans and/or details for the protection of public utilities and facilities such as sewer, gas, electrical, and water systems to be located and constructed to minimize flood damage.
 - (j) Description of the extent to which any watercourse will be altered or relocated as a result of a proposed development including current and proposed locations of the watercourse. An engineering report shall be provided on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream. The affected properties shall be depicted on a map or on the plot plan.
 - (k) Certification of the plot plan by a licensed professional engineer or surveyor in the State of Alabama is required.
- (2) *Construction stage.* For all new construction and substantial improvements, the permit holder shall provide to the building official an as-built certification of the regulatory floor elevation or floodproofing level using appropriate FEMA elevation or floodproofing certificate immediately after the lowest floor or floodproofing is completed.
- (a) When floodproofing is utilized for nonresidential structures, said certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same.
 - (b) Any work undertaken prior to submission of these certifications shall be at the permit holder's risk.
 - (c) The floodplain administrator shall review the above referenced certification data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further progressive work being allowed to proceed. Failure to submit certification or failure to make said corrections required hereby, shall be cause to issue a stop-work order for the project.
 - (d) The floodplain administrator shall make periodic inspections of projects during construction throughout the special flood hazard areas within the jurisdiction of the community to ensure that the work is being done according to the provisions of the local ordinance and the terms of the permit. Members of his or her inspections/engineering department shall have a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action.
 - (e) The floodplain administrator may revoke and require the return of the floodplain development permit by notifying the permit holder in writing stating the reason(s) for the revocation. Permits shall be revoked for any substantial departure from the approved application, plans, and specifications; for refusal or failure

to comply with the requirements of state or local laws; or for false statements or misrepresentations made in securing the permit. Any floodplain development permit mistakenly issued in violation of an applicable state or local law may also be revoked.

- (3) *Finished construction.* Upon completion of construction, a FEMA elevation certificate (FEMA Form 81-31), which depicts all finished construction elevations, is required to be submitted to the floodplain administrator prior to issuance of a certificate of occupancy.
- (a) If the project includes a floodproofing measure, a FEMA floodproofing certificate is required to be submitted by the permit holder to the floodplain administrator.
 - (b) The floodplain administrator shall review the certificate(s) data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to certificate of compliance/occupancy issuance.
 - (c) In some instances, another certification may be required to certify corrected as-built construction. Failure to submit the certification or failure to make required corrections shall be cause to withhold the issuance of a certificate of compliance/occupancy.
 - (d) Documentation regarding completion and compliance with the requirements stated in the permit application and with subsection 5-82(1) of this article shall be provided to the local floodplain administrator at the completion of construction or records shall be maintained throughout the construction stage by inspectors for the floodplain administrator. Failure to provide the required documentation shall be cause to withhold the issuance of a certificate of compliance/occupancy.
 - (e) All records that pertain to the administration of this article shall be maintained and made available for public inspection, recognizing that such information may be subject to the Privacy Act of 1974, as amended.

(Ord. No. 04-07, art. 2, § H, 2-5-07; Ord. No. 004-19, 5-3-19)

Sec. 5-83. - Duties and responsibilities of the administrator.

Duties of the building official shall include, but shall not be limited to:

- (1) Review all development permits to assure that the permit requirements of this article have been satisfied;
- (2) Review proposed development to assure that all necessary permits have been received from governmental agencies from which approval is required by federal or state law, including section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334, requiring 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 5-62, then the building official 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 4.
- (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 5-82.
- (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 subsections 5-92(2) and 5-95(2).
- (6) When floodproofing is utilized for a structure, the building official shall obtain certification of design criteria from a registered professional engineer or architect in accordance with section 5-82 and subsections 5-92(2) and 5-95(2).

- (7) Notify adjacent communities and the Alabama Department of Natural Resources prior to any alteration or relocation of a watercourse and submit evidence of such notification to the Federal Emergency Management Agency (FEMA), and the Department of Economic and Community Affairs/Office of Water Resources/NFIP State Coordinator's Office.
- (8) For any altered or relocated watercourse, submit engineering data/analysis within six (6) months to the FEMA and state to ensure accuracy of community flood maps through the letter of map revision process. Assure flood-carrying capacity of any altered or relocated watercourse is maintained.
- (9) 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.
- (10) 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. 04-07, art. 2, § H, 2-5-07; Ord. No. 004-19, 5-3-19)

Secs. 5-84—5-90. - Reserved.

DIVISION 4. - PROVISIONS FOR FLOOD HAZARD REDUCTION

Sec. 5-91. - General standards.

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

- (1) Require copies of all necessary permits from governmental agencies from which approval is required by federal or state law, including section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334. Maintain such permits be on file.
- (2) New construction and substantial improvements of existing structures shall be anchored to prevent flotation, collapse or lateral movement of the structure;
- (3) New construction and substantial improvements of existing structures shall be constructed with materials and utility equipment resistant to flood damage;
- (4) New construction or substantial improvements of existing structures shall be constructed by methods and practices that minimize flood damage:
 - (a) All subdivision proposals shall be consistent with the need to minimize flood damage;
 - (b) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage;

All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards.
- (5) All heating and air-conditioning equipment and components, all electrical, ventilation, plumbing, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
- (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;
- (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;
- (11) Proposed new construction and substantial improvements that are partially located in an area of special flood hazard shall have the entire structure meet the standards for new construction; and
- (12) Proposed new construction and substantial improvements that are located in multiple flood hazard risk zones or in a flood hazard risk zone with multiple base flood elevations shall have the entire structure meet the standards for the most hazardous flood hazard risk zone and the highest base flood elevation.

(Ord. No. 004-19, 5-3-19)

Sec. 5-92. - Specific standards.

In all areas of special flood hazard designated as A1-30, AE, AH, A (with engineering or with estimated BFE), the following provisions are required:

- (1) *Residential and nonresidential structures.* 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 (1) 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 subsection 5-92(3).
- (2) *Nonresidential structures.* New construction and the substantial improvement of any nonresidential structure located in A1-30, AE, or AH zones, may be floodproofed in lieu of elevation. The structure, together with attendant utility and sanitary facilities, must be designed to be watertight to one (1) foot above the base flood elevation, with walls substantially impermeable to the passage of water, and structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. 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 in subsection 5-83(6).
- (3) *Enclosures of elevated buildings.* All new construction or substantial improvements of existing structures that include any fully enclosed area located below the lowest floor formed by 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 professional engineer or architect or meet the following minimum criteria:
 - (i) Provide a minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding (if a structure has more than one (1) enclosed area below the base flood elevation, each shall have openings on exterior walls);
 - (ii) The bottom of all openings shall be no higher than one (1) foot above grade; and
 - (iii) Openings may be equipped with screens, louvers, valves or other coverings or devices provided 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 parking of vehicles, limited storage of maintenance equipment used in connection with the premises, or ent area; and
 - (c) The interior portion of such enclosed area shall not be partitioned or finished into separate rooms. All interior walls, ceilings and floors below the base flood elevation shall be unfinished and/or constructed of flood resistant materials.
 - (d) Mechanical, electrical or plumbing devices shall not be installed below the base flood elevation. The interior portion of such enclosed area(s) shall be void of utilities except for essential lighting and power as required.
- (4) *Standards for manufactured homes and recreational vehicles.* Where base flood elevation data are available:
- (a) All manufactured homes placed or substantially improved on:
 - (i) Individual lots or parcels,
 - (ii) In new or substantially improved manufactured home parks or subdivisions,
 - (iii) In expansions to existing manufactured home parks or subdivisions, or
 - (iv) On a site in an existing manufactured home park or subdivision where a manufactured home has incurred "substantial damage" as the result of a flood, must have the lowest floor including basement elevated no lower than one (1) foot above the base flood elevation.
 - (b) Manufactured homes placed or substantially improved in an existing manufactured home park or subdivision may be elevated so that either:
 - (i) The lowest floor of the manufactured home is elevated no lower than one (1) foot above the level of the base flood elevation, or
 - (ii) 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 sixty (60) inches (five (5) feet).
 - (c) All manufactured homes must be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.
 - (d) All recreational vehicles placed on sites must be on the site for fewer than one hundred eighty (180) consecutive days, fully licensed and ready for highway use if it is licensed, on its wheels or jacking system, attached to the site only by quick disconnect-type utilities and security devices, and has no permanently attached structures or additions;
- (5) *[Non-detrimental cumulative effect required.]* Require, until a regulatory floodway is designated, that no new construction, substantial improvements, or other development (including fill) shall be permitted within zones A1-30 and AE on the Robertsdale 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 (1) foot at any point within the community.
- (6) *Accessory structures (also referred to as appurtenant structures).* This provision generally applies to new and substantially improved accessory structures. When an accessory structure complies with all other provisions of this article (including floodway encroachment), represents a minimal investment (less than one thousand dollars (\$1,000.00)), and meets the requirements outlined below, these structures may be wet-floodproofed and do not have to be elevated or dry-floodproofed.

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

- (a) A permit shall be required prior to construction or installation.
 - (b) Must be low value (less than one thousand dollars (\$1,000.00)) and not be used for human habitation.
- (c) Use must be restricted to parking of personal vehicles or limited storage (low-cost items that cannot be conveniently stored in the principal structure).
- (d) Must be designed with an unfinished interior and constructed with flood damage-resistant materials below the BFE.
- (e) Must be adequately anchored to prevent flotation, collapse, or lateral movement.
- (f) Must have adequate flood openings as described in subsection 5-92(3a) and be designed to otherwise have low flood damage potential.
- (g) Shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters.
- (h) Any mechanical and other utility equipment in the structure must be elevated to or above the BFE or must be floodproofed.
- (i) Under limited circumstances communities may issue variances to permit construction of wet-floodproofed accessory structures. Communities should not grant variances to entire subdivisions for accessory structures, especially detached garages. Variances should only be reviewed and issued on an individual or case-by-case basis and be based on the unique characteristics of the site.

(Ord. No. 004-19, 5-3-19)

Sec. 5-93. - Floodways.

- (1) *Floodway*. Located within areas of special flood hazard established in section 5-62 are areas designated as floodway. A floodway may be an extremely hazardous area due to velocity floodwaters, debris or erosion potential. In addition, the area must remain free of encroachment in order to allow for the discharge of the base flood without increased flood heights. Therefore, the following provisions shall apply:
 - (a) 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 (1) foot at any point;
 - (b) 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;
 - (c) A community may permit encroachments within the adopted regulatory floodway that would result in an increase in base flood elevations, provided that the community first applies for a conditional letter of map revision (CLOMR) and floodway revision, fulfills the requirements for such revisions as established under the provisions of § 65.12, and receives the approval of FEMA;
 - (d) Only if subsection 5-93(1)(b), or (c), above, are satisfied, then any new construction or substantial improvement shall comply with all other applicable flood hazard reduction provisions of this division.

(Ord. No. 004-19, 5-3-19)

Sec. 5-94. - Building standards for streams without established base flood elevations (A zones).

Located within the areas of special flood hazard established in section 5-62, where streams exist but no base flood data have been provided (A zones), the following provisions apply:

- (1) Base flood elevation data shall be provided for subdivision proposals and all other proposed development, including manufactured home parks and subdivisions, greater than fifty (50) lots or five (5) acres, whichever is the lesser.
- (2) When base flood elevation data or floodway data have not been provided in accordance with section 5-62, then the building official 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 is not available from these sources, then the following provisions (subsections (5) and (6)) shall apply:
- (3) No encroachments, including structures or fill material, shall be located within an area equal to the width of the stream or twenty-five (25) feet, whichever is greater, measured from the top of the stream bank, unless certification by a 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.
- (4) All development in zone A must meet the requirements of section 5-91 and subsections 5-92(1) through (3).
- (5) In special flood hazard areas without base flood elevation data, new construction and substantial improvements of existing structures shall have the lowest floor of the lowest enclosed area (including basement) elevated no less than three (3) feet above the highest adjacent grade.
- (6) In the absence of a base flood elevation, a manufactured home must also meet the elevation requirements of subsection 5-92(4)(b)(ii) in that the structure must be elevated to a maximum of sixty (60) inches (five (5) feet).
- (7) Openings sufficient to facilitate automatic equalization of flood water hydrostatic forces on exterior walls shall be provided in accordance with standards of subsection 5-92(3)(a).

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

(Ord. No. 004-19, 5-3-19)

Sec. 5-95. - Standards for areas of shallow flooding (AO zones).

Areas of special flood hazard established in section 5-62, may include designated "AO" shallow flooding areas. These areas have base flood depths of one (1) to three (3) 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 above the highest adjacent grade at least as high as the depth number specified on the flood insurance rate map (FIRM) plus one (1) foot of freeboard. If no depth number is specified, the lowest floor, including basement, shall be elevated at least three (3) feet above the highest adjacent grade. Openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with standards of subsection 5-102(3).

The building official 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 flood level in the above subsection 5-106(1) or three (3) feet (if no depth number 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 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 subsections 5-82(1)(c) and 5-82(2).

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

(Ord. No. 004-19, 5-3-19)

Sec. 5-96. - Standards for 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 subdivision proposals and all other proposed development, including manufactured home parks and subdivisions, greater than fifty (50) lots or five (5) acres, whichever is the lesser.

(Ord. No. 004-19, 5-3-19)

DIVISION 5. - VARIANCE PROCEDURES

Sec. 5-97. - Designation of variance and appeals board.

The zoning board of adjustments as established by the city council shall hear and decide requests for appeals or variance from the requirements of this article.

(Ord. No. 004-19, 5-3-19)

Sec. 5-98. - Duties of board.

The board shall hear and decide appeals when it is alleged an error in any requirement, decision, or determination is made by the building official in the enforcement or administration of this article. Any person aggrieved by the decision of the zoning board of adjustments may appeal such decision to the circuit court, as provided in the Municipal Code of Ordinances.

(Ord. No. 004-19, 5-3-19)

Sec. 5-99. - Variance procedures.

In reviewing requests for variance, the zoning board of adjustments shall consider all technical evaluations, relevant factors, and standards specified in other sections of this article; and

- (1) Variances may be issued for development necessary for the conduct of a functionally dependent use, provided the criteria of this section 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.
- (2) Variances shall not be issued within any designated floodway if any increase in flood levels during the base

flood discharge would result.

- (3) The evaluation must be based on the characteristics unique to that property and not be shared by adjacent parcels. The characteristics must pertain to the land itself, not to the structure, its inhabitants, or its owners.
- (4) Variances should never be granted for multiple lots, phases of subdivisions, or entire subdivisions.
- (5) The danger of life and property due to flooding or erosion damage including materials that may be swept onto other lands to the injury of others.
- (6) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner and the community.
- (7) The safety of access to the property during flood conditions for daily traffic and emergency vehicles.
- (8) The importance of the services provided by the proposed facility to the community.
- (9) The necessity of the facility to be at a waterfront location, where applicable.
- (10) The compatibility of the proposed use with existing and anticipated development based on the community's comprehensive plan for that area.
- (11) The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site.
- (12) The costs associated with providing governmental services to the development during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and community infrastructure such as streets, bridges, and culverts.

Upon consideration of the factors listed above and the purposes of this article, the zoning 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. 004-19, 5-3-19)

Sec. 5-100. - Variances for historic structures.

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

(Ord. No. 004-19, 5-3-19)

Sec. 5-101. - Conditions for variances.

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

- (1) A variance may be issued for new construction and substantial improvements to be erected on a lot of one-half (½) acre or less in size, contiguous to and surrounded by lots with existing structures constructed below the base flood level, in conformance with the procedures of section 5-99 of this article.
In the instance of a historic structure, a determination is required that the variance is the minimum necessary so as not to destroy the historic character and design of the building.
- (2) A variance shall be issued only when there is:
 - (a) A finding of good and sufficient cause;

- (b) A determination that failure to grant the variance would result in exceptional hardship; and
 - (c) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
- (3) A variance shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
 - (4) Variances shall not be issued "after the fact."

(Ord. No. 004-19, 5-3-19)

Sec. 5-102. - Variance notification and records.

- (1) Any applicant to whom a variance is granted shall be given written notice over the signature of a community official that specifies the difference between the base flood elevation and the elevation of the proposed lowest floor and stating that the issuance of such a variance could:
 - (a) Result in rate increases in the hundreds and possibly thousands of dollars annually depending on structure and site-specific conditions; and
 - (b) Increase the risk to life and property resulting from construction below the base flood level.
- (2) The floodplain administrator shall maintain a record of all variance actions and appeal actions, including justification for their issuance. Report any variances to the Federal Emergency Management Agency Region 4 and the Alabama Department of Economic and Community Affairs/Office of Water Resources upon request.
- (3) A copy of the notice shall be recorded by the floodplain administrator in the office of the city clerk or Judge of Probate for Baldwin County, Recording Division and shall be recorded in a manner so that it appears in the chain of title of the affected parcel of land.

(Ord. No. 004-19, 5-3-19)

DIVISION 6. - DEFINITIONS

Sec. 5-103. - Definitions.

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

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

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

Appeal means a request for a review of the building official interpretation of any provision of this article.

Area of shallow flooding means a designated AO or AH zone on a community's flood insurance rate map (FIRM) with base flood depths from one (1) to three (3) feet, and/or where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

Area of special flood hazard means the land in the floodplain within a community subject to a one (1) per cent 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 5-62.

Base flood means the flood having a one (1) per cent chance of being equaled or exceeded in any given year (also referred to as the "one percent chance flood").

Base flood elevation (BFE) means the computed elevation to which floodwater is anticipated to rise during the base flood. It is also the elevation of surface water resulting from a flood that has a one (1) per cent chance of equaling or exceeding that level in any given year. Base flood elevations are shown in the FIS and on the flood insurance rate map (FIRM) for zones AE, AH, A1-A30, AR, AR/A, AR/AE, AR/A1-A30, AR/AH, AR/AO, V1-V30 and VE.

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

Building (also see "structure") means:

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

Community means a political entity and/or its authorized agents or representatives that have the authority to adopt and enforce floodplain ordinances for the area under its jurisdiction.

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, pilings, posts, columns, piers, or shear walls

Elevation certificate means a FEMA form used as a certified statement that verifies a building's elevation information.

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

Existing construction means any structure for which the start of construction commenced before November 3, 1981. Existing construction may also be referred to as existing structures.

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 November 3, 1981.

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:

- a. The overflow of inland or tidal waters; or
- b. The unusual and rapid accumulation or runoff of surface waters from any source.
- c. Mudslides which are proximately caused by flooding as described in part "b." of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.
- d. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually highwater level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in part "a." of this definition.

Flood hazard boundary map (FHBM) means an official map of a community, issued by the Federal Insurance Administration, 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, issued by the Federal Insurance Administration, delineating the areas of special flood hazard and/or risk premium zones applicable to the community.

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

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

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

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.

Freeboard means a factor of safety usually expressed in feet above the base flood elevation (BFE) for purposes of floodplain management which tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed. Used to determine the level for a building's lowest floor elevation or level of floodproofing required to be in compliance with the community's floodplain management regulations.

Functionally dependent facility means a facility which cannot be used for its intended purpose unless it is located or carried out in close proximity to water. This term includes only docking facilities, or port facilities that are necessary for the loading and unloading of cargo or passengers, shipbuilding, and ship repair facilities. The term does not include long-term storage,

manufacture, sales, or service facilities.

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

Highest adjacent grade means the highest natural elevation of the ground surface, prior to construction, adjacent to the proposed walls of a structure.

Historic structure means any structure that is:

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

Letter of map change (LOMC) means an official FEMA determination, by letter, to amend or revise effective flood insurance rate maps, flood boundary and floodway maps, and flood insurance studies. LOMCs are broken down into the following categories:

Letter of map amendment (LOMA): An amendment based on technical data showing that a property was incorrectly included in a designated SFHA, was not elevated by fill (only by a natural grade elevation), and will not be inundated by the one (1) per cent chance flood. A LOMA amends the current effective FIRM and establishes that a specific property is not located in a SFHA.

Letter of map revision (LOMR): A revision based on technical data that, usually due to manmade changes, shows changes to flood zones, flood elevations, floodplain and floodway delineations, and planimetric features. One (1) common type of LOMR, a LOMR-F, is a determination concerning whether a structure or parcel has been elevated by fill above the BFE and is, therefore, excluded from the SFHA.

Conditional letter of map revision (CLOMR): A formal review and comment by FEMA as to whether a proposed project complies with the minimum NFIP floodplain management criteria. A CLOMR does not revise effective flood insurance rate maps, flood boundary and floodway maps, or flood insurance studies.

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.

Manufactured home means a building, transportable in one (1) or more sections, built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term also includes park trailers, travel trailers, and similar transportable structures placed on a site for one hundred eighty (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 (2) or more manufactured home lots for rent or sale.

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

Mean sea level means the average height of the sea for all stages of the tide. It is used as a reference for the base flood elevations shown on a community's flood insurance rate map (FIRM). For purposes of this article, the term is synonymous with national geodetic vertical datum (NGVD) of 1929 or other datum, North American Vertical Datum (NAVD) or 1988, or other datum.

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

National geodetic vertical datum (NGVD) means as corrected in 1929 is a vertical control used as a reference for establishing varying elevations within the floodplain.

New construction means any structure (see definition) for which the start of construction commenced after November 3, 1981, and includes any subsequent improvements (including additions) 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 November 3, 1981.

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

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

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

Post-FIRM construction means new construction and substantial improvements for which start of construction occurred after December 31, 1974, or on or after the effective date of the initial FIRM of the community, whichever is later.

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

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

Recreational vehicle means a vehicle which is:

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

Repetitive loss means flood-related damages sustained by a structure on two (2) separate occasions during a ten-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds twenty-five (25) per cent of the market value of the structure before the damages occurred.

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

Section 1316. No new flood insurance shall be provided for any property which the building official finds has been declared by a duly constituted state or local zoning authority or other authorized public body, to be in violation of state or local laws, regulations or ordinances which are intended to discourage or otherwise restrict land development or occupancy in floodprone areas. If the structure is made compliant with the applicable community's floodplain management ordinance, then the Section 1316 declaration can be rescinded by the community and flood insurance and disaster assistance eligibility restored.

Special flood hazard area (SFHA) means that portion of the floodplain subject to inundation by the base flood and/or flood-related erosion hazards as shown on a FHBM or FIRM as zones A, AE, AH, AO, AR, AR/AE, AR/AO, AR/AH, AR/A, A99, or VE.

Start of construction (for other than new construction or substantial improvements under the Coastal Barrier Resources Act (Pub. L. 97-348)) means the date the development permit was issued (includes substantial improvement), provided the actual start of construction, repair, reconstruction, or improvement was within one hundred eighty (180) days of the permit date. The actual start means the first placement of permanent construction of the structure such as the pouring of slabs or footings, installation of piles, construction of columns, or any work beyond the stage of excavation, and includes the placement of a manufactured home on a foundation.

"Permanent construction" does not include initial land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of buildings appurtenant to the permitted structure, such as garages or sheds not occupied as dwelling units or part of the main structure. (Note: Accessory structures are not exempt from any ordinance requirements.) For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

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

Substantial damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty (50) per cent of the market value of the structure before the damage occurred. Substantial damage also means flood-related damages sustained by a structure on two (2) separate occasions during a ten-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds twenty-five (25) per cent 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 fifty (50) per cent of the market value of the structure before the start of construction of the improvement. This term 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 (1) the appraised value of the structure prior to the start of the initial repair or improvement, or (2) in the case of damage, the value of the structure prior to the damage occurring. This term includes structures which have incurred substantial damage, regardless of the actual amount of repair work performed.

For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the building. The term does not, however, include either:

- (1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
- (2) Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

Substantially improved existing manufactured home parks or subdivisions is where the repair, reconstruction, rehabilitation or improvement of the streets, utilities and pads equals or exceeds fifty (50) per cent 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.

Violation means the failure of a structure or other development to be fully compliant with the community's flood plain 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.

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

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

(Ord. No. 004-19, 5-3-19)

Secs. 5-104—5-107. - Reserved.

DIVISION 7. - SEVERABILITY

Sec. 5-108. - Severability.

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

(Ord. No. 004-19, 5-3-19)

ARTICLE IV. - SUPPLEMENTAL RESIDENTIAL CODE IN ADDITION TO THE ADOPTED RESIDENTIAL CODE

Sec. 5-109. - [Generally.]

The requirements specified in this Code supplement apply to detached one- and two-family dwellings not more than three (3) stories above grade plane in height. The provisions of this supplement are intended to complement the locally adopted codes. The elements of design not addressed by the provisions of this supplement shall be in accordance with the locally adopted code. In the event a conflict between this document and the adopted code, the more stringent shall apply.

STRUCTURAL

- (1) Unless balloon framed, gable ends over four-foot high shall be braced with a minimum two-by-six (2 × 6) horizontal strong back installed at midpoint of the vertical height of the gable end wall. Minimum two-by-four (2 × 4) diagonal bracing not to exceed forty-five (45) degrees or four (4) feet OC shall be installed on top of strong back and face nailed with 4-10d nails into side of gable wall framing studs. In addition, when ceiling joists run parallel to the gable end wall, a minimum two-by-four-by-eight (2 × 4 × 8) brace shall be installed at maximum six (6) feet OC on top of ceiling joists and gable top plate nailed with 2-10d nails at each support. Metal 20-gauge straps shall be installed on top of two-by-four (2 × 4) lateral brace and over gable top plate into stud below using 10-8d nails top and bottom. Install minimum two-by-four (2 × 4) bracing under lateral braces adjacent to gable wall.
- (2) Wood structural panels with a minimum thickness of seven-sixteenths (7/16) inch (eleven (11) mm) and a maximum span of eight (8) feet (two thousand four hundred thirty-eight (2,438) mm) shall be permitted for opening protection in one- and two-story buildings. Panels shall be precut and attached to the framing surrounding the opening containing the product with the glazed opening. Panels shall be predrilled as required for the anchorage method and shall be secured with the attachment hardware provided. Attachments shall be designed to resist the component and cladding loads determined in accordance with either Table R301.2(2) (see International Residential Code 2012) or ASCE 7, with the permanent corrosion-resistant attachment hardware provided and anchors permanently installed on the building. Attachment in accordance with Table R301.2.1.2 is permitted for building with a mean roof height of thirty-three (33) feet (ten thousand fifty-eight (10,058) mm) or less where in Wind Zones 1 and 2 in accordance with figure R301.2(4)C. (Plyox clips are not allowed.)

TABLE R301.2.1.2

WINDBORNE DEBRIS PROTECTION FASTENING
SCHEDULE FOR WOOD STRUCTURAL PANELS ^{a,b,c,d}

Fastener Type	Panel span ≤ 4 feet	4 feet < panel span ≤ 6 feet	6 feet < panel span ≤ 8 feet
No. 8 wood screw based anchor with 2-inch embedment length	16	10	8
No. 10 wood screw based anchor with 2-inch embedment length	16	<u>12</u>	<u>9</u>
¼ inch lag screw based anchor with 2-inch embedment length	16	16	16

S or SI: 1 inch = 25.4 mm, 1 foot = 304.8 mm, 1 pound = 4.448N, 1 mile per hour = 0.447 m/s.

- ^a This table is based on one hundred thirty (130) mph wind speeds and a 33-foot mean roof height.
 - ^b Fasteners shall be installed at opposing ends of the wood structural panel. Fasteners shall be located a minimum of one (1) inch from the edge of the panel.
 - ^c Anchors shall penetrate through exterior wall covering with an embedment length of two (2) inches minimum into the building frame. Fasteners shall be located a minimum of two and one-half (2½) inches from the edge of concrete block or concrete.
 - ^d Where panels are attached to masonry or masonry/stucco, they shall be attached using vibration-resistant anchors having a minimum ultimate withdrawal capacity of one thousand five hundred (1,500) pounds.
- (3) Garage doors shall be rated to or above the applicable wind design load.
- (4) Wood frame chimney chases shall be structurally connected to rafters and/or ceiling joists. The attachment must be detailed in the plans or must meet the following minimum requirements:
- Each corner of the chimney structure must have a tension strap fastened to the corner stud and continues downward to the roof and/or ceiling support members below. The tension strap must have a minimum tension capacity of seven hundred (700) pounds at each end.
- Chimney framing shall be sheathed with minimum seven-sixteenths (7/16) inch structural panel on exterior four (4) sides.
- The base perimeters of chimney framing must be continuously supported by minimum two-by-four (2 × 4) blocking fastened to roof framing members with joist hangers.
- (5) Exterior and interior shear walls and/or braced wall panel locations shall be indicated on the plans and shall be nailed in accordance with the engineered drawings but no less than six (6) inches OC maximum intermediate and edge using 8d irregular shank (i.e., ring shank or spiral) nails with full round heads. All exterior walls and

gable ends shall be fully sheathed with structural sheathing.

(Ord. No. 005-12, 9-17-12)

Sec. 5-110. - Roof coverings.

ASPHALT SHINGLES - REQUIREMENTS

Wind Speed	Shingle Testing Standard/Classification
110 mph	ASTM D3161 (Class F) or ASTM D7158 Class F, G or H
120 mph	ASTM D7158 Class G or H
130 mph	ASTM D7158 Class H

- (1) Asphalt shingles shall be installed according to the manufacturer recommended listed installation instructions for high wind areas with minimum six (6) nails.
- (2) All asphalt shingle roof covering underlayment shall be of a synthetic tear resistant Polypropylene, polyester or fiberglass fabric certified by an approved testing agency or ICC-ES report. The building official may approve an equal or higher performing product. Asphalt felt roofing underlayment shall not be installed as a roof covering underlayment.
 - (a) Roof underlayment shall be installed and fastened in accordance with the manufacturer's installation instructions. NOTE - Most manufacturers do not allow staples as an approved fastener or staple button caps
- (3) All aluminum/vinyl soffit covering shall be attached to minimum 7/16 OSB or plywood or minimum two (2) x two (2) wood supports twelve (12) inches OC maximum.
- (4) Roof deck sheathing seams shall be taped with minimum four-inch peel and stick tape meeting ASTM D-1970, or sheathing seams and each side of roof support shall be sealed with closed cell foam meeting ASTM D-1622, other equal or greater methods may be approved by the building official.
- (5) Metal roof covering shall be fastened to roof assembly with a maximum two-foot O.C. spacing of fasteners in the length dimensions of the panels. The minimum number of fasteners in width dimension of the panel shall be no less than four (4).
- (6) Two-by-four (2x4) wood purlins for attachment of metal roof coverings shall be a maximum two (2) feet O.C. Wood purlins shall be nailed with a maximum two (2) deformed (spiral, ring shank) #16D nails at maximum of twenty-four (24) inches OC One-by-four (1x4) wood purlins may be used on existing plywood roofs.
- (7) Roof decks shall be nailed in accordance with the engineered drawings but no less than six (6) inches OC maximum intermediate and edge, with minimum 8d irregular shank (i.e., ring shank or spiral) nails with full round heads. Staples are not permitted for fastening of the roof decking.
- (8) Replacement of roof covering and underlayment of existing one- and two-family dwellings shall require a re-roofing permit from the City of Robertsdale Building Department. When one (1) roof covering exists then you can cover with another asphalt covering or a metal roof using minimum of one (1) x four (4) wood purlins. When two (2) or more roof coverings exist then all roof coverings and underlayment shall be removed and any

roof decking attached with staples or nailing pattern less than six-inch OC edge and six-inch OC intermediate shall be re-nailed with #8 ring shank nails to meet six-inch OC edge and intermediate. Roof deck seams should be taped with a minimum four-inch peel and stick tape or completely cover with peel and stick meeting ASTM D-1970 to achieve a sealed roof deck or closed cell foam meeting ASTM D-1622 may be applied underneath to each side of framing member and sheathing seams.

- (9) Metal roof covering shall be allowed over only one (1) layer of existing asphalt shingles.
- (10) An additional layer of asphalt shingles will be allowed over one (1) layer of existing asphalt shingles.

(Ord. No. 005-12, 9-17-12; Ord. No. 002-19, 2-4-19)

Sec. 5-111. - Energy.

- (1) Attic: minimum insulation R-38; wall: minimum insulation R-13; floor: minimum insulation R-13.
- (2) Batt insulation shall be cut neatly to fit around pipes and wires or be placed behind piping and wiring.
 - (a) Staple insulation to face of stud.
- (3) Air permeable insulation shall not be used as a sealing material.
- (4) Space between windows and door jams to be sealed.
- (5) Corners, headers and sill plates shall be sealed.
- (6) Rim joists are to be insulated.
- (7) A continuous air barrier shall be installed in the building envelope.
- (8) Break or joints in the air barrier shall be sealed (taped).
- (9) Access openings to un-air-conditioned spaces shall be sealed (weather stripping).
- (10) Building cavities shall not be used as ducts or plenums.
- (11) Programmable thermostat shall be used.
- (12) A minimum of seventy-five (75) per cent of lights used shall be of high efficiency.
- (13) Recessed light fixtures shall be sealed to be airtight.
- (14) U factor of forty (40) must be used and also SHGC of point twenty-five (.25) for windows.
- (15) At the time of rough-in inspection peel and stick aluminum backed tape or other approved material shall be applied to all edges of all windows to prevent air exchange.
- (16) All holes interior and exterior wall top plates shall be sealed with caulking or expandable foam.
- (17) Space around plumbing pipes penetrating interior or exterior wall top plates shall be sealed with caulking or expandable foam.

The City of Robertsdale Building Department may at any time inspect for compliance for items above.

(Ord. No. 005-12, 9-17-12)

Sec. 5-112. - Plumbing.

- (1) Supply piping shall be inspected at minimum pressure of one hundred (100) pounds.
- (2) Top out plumbing inspection shall be performed with electrical, HVAC and framing inspection.
- (3) The contractor responsible for construction shall call in for all four-way inspections.
- (4) All bathtubs and showers shall be connected to the drain waste and vent system at the time of top out inspection.

Exception: Whirlpool and garden tubs may be installed after top out inspection. The trap servicing the whirlpool and

garden tub shall be installed at the time of inspection.

(Ord. No. 005-12, 9-17-12)

Sec. 5-113. - HVAC.

- (1) Air handler's return air filters shall have a minimum one (1) square inch of filter for every two (2) CFM of air the HVAC moves. This equals four hundred (400) CFM per ton of AC capacity. Example: A three-ton system will require a minimum of six hundred (600) square inch of return air filter area.
- (2) Contractor shall provide number of AC units and tonnage of each unit to this department before the rough in inspection.
- (3) The maximum length of flexible duct allowable in any application shall be limited to twelve (12) feet. Any duct run longer than twelve (12) feet shall be same size snap lock pipe or equal. Exception: Flexible duct may exceed the twelve (12) feet maximum length provided a Manual D and Manual J depicting supply air CFM, duct size length and layout of system are provided to this department before rough in inspection is scheduled.
- (4) All 90-degree turns, elbows, tees or taps in rectangular duct construction with the exception of transfer duct shall have turn vanes or two-piece, 45-degree or three-piece 90-degree elbow, 90-degree turns shall be of a long sweep design.
- (5) Each branch shall have a balancing damper with locking quadrant. Locations that are not accessible do not require a balancing damper.
- (6) All insulation shall have a continuous vapor barrier by means of same material "glass fabric tape".
- (7) All duct seams, joints and connections shall be sealed with sealer/mastic to prevent air leakage.
- (8) All duct board seams and joints shall be stapled a maximum two (2) inches OC in addition to tape and sealer.
- (9) On all new construction rough ins, refrigerant tubing must be soldered closed to an air-tight seal.
- (10) Excess plenums above the air handler shall not be allowed, unless Manual D documentation of compliance is provided to this department.
- (11) Secondary plenums shall not be allowed, unless Manual D documentation of compliance is provided to this department.
- (12) Primary contractors are responsible to insure the design of the house will accommodate compliance with the adopted codes.
- (13) Each register boot/box shall be fastened to ceiling joist and have a minimum of one (1) header. Metal rails are acceptable in lieu of two-by-fours (2 × 4s).
- (14) Flex duct shall be installed fully extended and strapped or secured with a device at the ceiling boot/box to prevent sagging.

(Ord. No. 005-12, 9-17-12)

Sec. 5-114. - Modular homes.

- (1) Submit AMHC (Alabama Manufactured Home Commission) stamped plans.
- (2) Modular homes shall be certified by an Alabama Registered Engineer to meet adopted wind loads.
- (3) Submit foundation plans and anchorage to foundation plan. Shall equal or exceed local adopted codes.
- (4) All other on-site construction shall require a separate permit by the building inspection department.
- (5) Modular homes shall be required to have a final inspection after exterior of structure and any on-site construction are complete.

- (6) Modular homes shall be installed as per the engineered installation instructions.
- (7) Modular homes shall be inspected for compliance with engineered instructions and any applicable current local adopted codes.
- (8) In factory construction and components are not the responsibility of the City of Robertsdale Building Department.
- (9) Existing houses that are moved from one (1) site to another shall comply with items (3), (4) and (5) and require a final inspection. Any new construction shall be in compliance with current adopted codes.

(Ord. No. 005-12, 9-17-12)

Sec. 5-115. - Flood zones.

One (1) and two (2) single-family dwelling construction in a designated AE or VE flood zone shall require stamped and sealed engineer plans for structural components and applicable wind loads.

(Ord. No. 005-12, 9-17-12)