

FLOOD DAMAGE PREVENTION ORDINANCE

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ARTICLE I. STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND OBJECTIVES

SECTION A. STATUTORY AUTHORIZATION

The Legislature of the State of Mississippi has in Title 17, Chapter 1, Mississippi Code 1972 Annotated delegated the responsibility to local government units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the Board of Supervisors of Pearl River County does hereby adopt the following revised and updated floodplain management regulations.

SECTION B. FINDINGS OF FACT

- (1) The flood hazard areas of Pearl River County are subject to periodic inundation, which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.
- (2) These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities, and by the occupancy in flood hazard areas by uses vulnerable to floods or hazardous to other lands which are inadequately elevated, flood-proofed, or otherwise unprotected from flood damages.

SECTION C. STATEMENT OF PURPOSE

The purpose of this ordinance is to promote the public health, safety, and general welfare and to minimize public and private losses due to flood conditions in specific areas through the establishment of comprehensive regulations for floodplain management, designed to:

- (1) Prevent unnecessary disruption of commerce and public service in items of flooding;
- (2) Restrict or prohibit uses which are dangerous to health, safety and property due to flood or erosion hazards, or which result in increases in flood heights or velocities or erosion potential;
- (3) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (4) Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters;

- (5) Control filling, grading, dredging, and other development which may increase flood damage or erosion potential;
- (6) Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards; and
- (7) Contribute to improved construction techniques in the floodplain.

SECTION D. OBJECTIVES

The objectives of this ordinance are:

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

SECTION E. METHODS OF REDUCING FLOOD LOSSES

In order to accomplish its purposes, this ordinance includes methods and provisions for:

- (1) Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- (2) Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (3) Controlling the alteration of natural floodplains, stream channels, and

natural protective barriers, which help accommodate or channel flood waters;

- (4) Controlling filling, grading, dredging, and other development which may increase flood damage; and,
- (5) Preventing or regulating the construction of flood barriers that will unnaturally divert flood waters or may increase flood hazards in other areas

ARTICLE II. DEFINITIONS

SECTION A. GENERAL

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application. Words used in the present tense include the future. Words in the masculine gender include the feminine and neuter. Words in the feminine and neuter gender include the masculine. The singular number includes the plural and the plural number includes the singular.

SECTION B. DEFINITIONS

A Zones - Areas found on all Flood Hazard Boundary Maps, Flood Insurance Rate Maps and Flood Boundary and Floodway Maps, that would be flooded by the Base Flood. An A Zone is the same as a Special Flood Hazard Area (SFHA) or 100-year floodplain. These areas may be numbered as AE, AH, or AO or unnumbered.

Accessory structure (Appurtenant structural) - A structure that is located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. Accessory structures should constitute a minimal initial investment, may not be used for human habitation, and be designed to have minimal damage potential. Examples of accessory structures are detached garages, carports, storage sheds, pole barns, and hay sheds.

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

Appeal - A request for a review of the Floodplain Administrator's interpretation of any provision of this Ordinance or a request for a variance.

Approved - Approved by the authority having jurisdiction.

Area of shallow flooding - A designated AO or VO Zone on a community's Flood

Insurance Rate Map (FIRM) with flood depths during the base flood of from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Area of special flood hazard - The land in the floodplain within a community subject to a 1% or greater chance of flooding in any given year.—Also see Special Flood Hazard Area

B and X Zones (shaded) - Areas of 500-year flood, areas subject to the 100-year flood with average depths of less than 1 foot or with contributing drainage area less than 1 square mile, and areas protected by levees from the base flood.

Base flood - The flood having a one percent chance of being equaled or exceeded in any given year (also called the “100-year flood”). Base flood is the term used throughout this ordinance.

Base Flood Elevation (BFE) - The elevation shown on the Flood Insurance Rate Map (FIRM) for Zones AE, AH, A1-30, AR, AR/A, AR/AE, AR/A1-A30, AR/AH, AR/AO, V1-V30, and VE that indicates the water surface elevation resulting from a flood that has a 1-percent or greater chance of being equaled or exceeded in any given year.

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

Building - Any structure built for support, shelter or enclosure for any occupancy or storage.

C and X (unshaded zones) - Areas determined to be outside the 500-year floodplain.

Community - a political entity that has authority to adopt and enforce flood plain management regulations for the areas within its jurisdiction.

Community Rating System (CRS) - A program developed by the Federal Insurance Administration to provide incentives for those communities in the Regular Program that have gone beyond the minimum floodplain management requirements to develop extra measures to provide protection from flooding.

Community Flood Hazard Area (CFHA) - An area that has been determined by the Floodplain Administrator (or other delegated, designated, or qualified community official) from available technical studies, historical information, and other available and reliable sources, to be subject to periodic inundation by floodwaters that can adversely affect the public health, safety, and general welfare. This includes areas downstream from dams.

Critical Facility - A facility for which even a slight chance of flooding might be too

great. Critical facilities include, but are not limited to schools, nursing homes, hospitals, police, fire and emergency response installations, installations which produce, use or store hazardous materials or hazardous waste.

Dam - means any artificial barrier, including appurtenant works, with the ability to impound water, wastewater, or liquid borne materials and which (a) is 25 feet or more in height from the natural bed of the stream or watercourse measured at the downstream toe of the barrier, or from the lowest elevation of the outside limit of the barrier, if it is not across a stream channel or watercourse, to the maximum water storage elevation; or (b) has an impounding capacity at maximum water storage elevation of 50 acre-feet or more.

- a) This definition does not apply to any such barrier which is not in excess of 6-feet in height regardless of storage capacity or which has a storage capacity at maximum water storage elevation not greater than 15-acre feet regardless of height, unless such a barrier, due to its location or other physical characteristics, is classified as a high hazard potential dam.
- b) No obstruction in a canal used to raise or lower water shall be considered a dam; and,
- c) A fill or structure for highway or railroad use for any other purpose, which may impound water, may be subject to review by the Mississippi Department of Environmental Quality and shall be considered a dam if the criteria of this definition are found applicable and is classified as a high hazard potential dam.

Development - Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, permanent storage of materials, mining, dredging, filling, grading, paving, excavations, operations and other land disturbing activities.

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

Elevation Certificate - A certified statement that verifies a building's elevation information.

Emergency Program - The first phase under which a community participates in the NFIP. It is intended to provide a first layer amount of insurance at subsidized rates on all insurable buildings in that community before the effective date of the initial FIRM.

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

Estuary - A water passage where the tide meets a stream current.

Existing construction - Any structure for which the “start of construction” commenced before the effective date of the first floodplain management code, ordinance, or standard based upon specific technical base flood elevation date which establishes the area of special flood hazard or September 10, 1979.

Existing manufacturing home park or subdivision - A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before September 10, 1979, the effective date of the floodplain management regulations adopted by Pearl River County.

Expansion to an existing manufactured home park or subdivision - The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

Fill - Material such as earth, clay, or crushed stone that is dumped in an area and compacted to increase ground elevation.

Five-Hundred year Flood - The flood that has a 0.2 percent chance of being equaled or exceeded in any year. Areas subject to the 500-year flood have a moderate to low risk of flooding.

Flood or flooding - A general and temporary condition of partial or complete inundation of normally dry land from:

- (a) the overflow of inland or tidal waters;
- (b) the unusual and rapid accumulation or runoff of surface waters from any source.

Flood Boundary and Floodway Map (FBFM) - The official map on which the Federal Emergency Management Agency (FEMA) or Federal Insurance Administration (FIA) has delineated the areas of flood hazards and regulatory floodway.

Flood Hazard Boundary Map (FHBM) - An official map of a community, issued by the FEMA, where the boundaries of the areas of special flood hazard have been identified as Zone A.

Flood Insurance Rate Map (FIRM) - The official map of a community, on which the FEMA has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

Flood Insurance Study (FIS) - The official hydraulic and hydrologic report provided by the FEMA. The report contains flood profiles, as well as the FIRM, FHBM (where applicable) and the water surface elevation of the base flood.

Floodplain - Any land area susceptible to being inundated by flood waters from any source.

Floodplain management - The operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including but not limited to emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.

Floodplain Management Administrator - The individual appointed to administer and enforce the floodplain management regulations.

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

Floodproofing - A combination of structural modifications which result in a building, including the attendant utility and sanitary facilities, being watertight with walls substantially impermeable to the passage of water and with structural components having the capacity of resisting hydrostatic and hydrodynamic loads and effects of buoyancy to the floodproofed design level.

Floodproofing Certificate - A form used to certify compliance for non-residential structures as an alternative to elevating buildings to or above the BFE.

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

Floodway fringe - That area of the floodplain on either side of the regulatory floodway where encroachment may be permitted.

Freeboard - A factor of safety usually expressed in feet above BFE, which is applied for the purposes of floodplain management. It is used to compensate for the many unknown factors that could contribute to flood heights greater than those calculated for the base flood.

Functionally dependent facilities - A facility which cannot be used for its intended purpose unless it is located or carried out in close proximity to water, such as a docking or port facility necessary for the loading or unloading of cargo or passengers, shipbuilding, or ship repair. The term does not include long-term storage, manufacture, sales, or service facilities.

Hardship (as related to variances of this ordinance) - The exceptional hardship that

would result from a failure to grant the requested variance. The Board of Supervisors 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.

Hazard potential - The possible adverse incremental consequences that result from the release of water or stored contents due to failure of a dam or mis-operation of a dam or appurtenances. The hazard potential classification of a dam does not reflect in any way on the current condition of a dam and its appurtenant structures (e.g., safety, structural integrity, flood routing capacity).

Highest adjacent grade - The highest natural elevation of the ground surface prior to construction, next to the proposed walls of a building.

Historic structure - Any structure that is:

- (a) listed individually in the National Register of Historic Places (a listing maintained by the 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) dually listed on a state inventory of historic places in 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 in 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.

Increased Cost of Compliance (ICC) - The cost to repair a substantially damaged building that exceeds the minimal repair cost and that is required to bring a substantially damaged building into compliance with the local flood damage prevention ordinance. Acceptable mitigation measures are elevation, relocation, demolition, or any combination thereof. All renewal and new business policies with effective dates on or after June 1, 1997, will include ICC coverage.

Letter of Map Amendment (LOMA) - An official amendment, by letter, to an effective NFIP map. A LOMA establishes a property's location in relation to the SFHA.

Letter of Map Revision (LOMR) - An official revision, by letter, to an effective NFIP map. A LOMR may change flood insurance risk zones, floodplain boundary delineations, planimetric features, and/or BFE.

Letter of Map Revision Based on Fill (LOMR-F) - An official revision by letter to an effective NFIP map. A LOMR-F provides FEMA's determination concerning whether a structure or parcel has been elevated on fill above the BFE and excluded from the SFHA.

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

Levee system - A flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices. For a levee system to be recognized, the following criteria must be met. All closure devices or mechanical systems for internal drainage, whether manual or automatic, must be operated in accordance with an officially adopted operation manual (a copy of which must be provided to FEMA by the operator when levee or drainage system recognition is being sought or revised). All operations must be under the jurisdiction of a Federal or State agency, an agency created by Federal or State law, or an agency of a community participating in the NFIP.

Low hazard potential dam - A dam assigned the low hazard potential classification where failure or misoperation results in no probable loss of human life and low economic and/or environmental losses. Losses are limited to the owner's property.

Lowest adjacent grade - The elevation of the ground, sidewalk, patio, deck support, or basement entryway immediately next to the structure and after the completion of construction. It does not include earth that is emplaced for aesthetic or landscape reasons around a foundation wall. It does include natural ground or properly compacted fill that comprises a component of a building's foundation system.

Lowest floor - The floor of the lowest enclosed area, (including basement). An unfinished or flood resistant enclosure, useable 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 built in accordance with the non-elevation provisions of this code.

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

Manufactured home park or subdivision - A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Map Panel Number - The four-digit number followed by a letter suffix assigned by FEMA on a flood map. The first four digits represent the map panel, and the letter suffix represents the number of times the map panel has been revised. (The letter “A” is not used by FEMA, the letter “B” is the first revision.)

Map Amendment - A change to an effective NFIP map that results in the exclusion from the SFHA or an individual structure or a legally described parcel of land that has been inadvertently included in the SFA (i.e., no alterations of topography have occurred since the date of the first NFIP map that showed the structure or parcel to be within the SFHA.

Market value - The building value, excluding the land (as agreed between a willing buyer and seller), 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 - The average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within the floodplain. For purposes of this ordinance, the term is synonymous with National Geodetic Vertical Datum (NGVD).

Mitigation - Sustained actions taken to reduce or eliminate long-term risk to people and property from hazards and their effects. The purpose of mitigation is twofold: to protect people and structures, and to minimize the costs of disaster response and recovery.

National Flood Insurance Program (NFIP) - 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 of 1929 (NGVD 1929) - Formerly Mean Sea Level 1929. The datum established in 1929 by the U.S. Coast and Geodetic Survey as the surface against which elevation data in the United States is referenced.

New construction - Any structure for which the “start of construction” commenced after the effective date of the first floodplain management ordinance, September 10, 1979. The term also includes any subsequent improvements to such structure.

New manufactured home park or subdivision - A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.

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

North American Datum of 1927 (NAD 1927, NAD27) - The primary local geodetic datum used to map the United States during the middle part of the 20th Century, referenced to the Clarke spheroid of 1866 and an initial point at Meades Ranch, Kansas. Features on USGS topographic maps, including the corners of 7.5-minute quadrangle maps, are referenced to NAD27. It is gradually being replaced by the North American Datum of 1983.

North American Datum of 1983 (NAD 1983, NAD83) - A geocentric datum based on the Geodetic Reference System 1980 ellipsoid (GRS80). Its measurements are obtained from both terrestrial and satellite data.

Obstruction - Includes, but is not limited to, any dam, wall, wharf, embankment, levee, dike, pile, abutment, protection, excavation, channelization, bridge, conduit, 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.

One-Hundred Year Flood (100-Year Flood) - The flood that has a 1-percent chance or greater chance of being equaled or exceeded in any given year. Any flood zone that begins with the letter A or V is subject to the 100-year flood. Over the life of a 30-year loan, there is a 26-percent chance of experiencing such a flood with SFHA.

Participating community - Any community that voluntarily elects to participate in the NFIP by adopting and enforcing floodplain management regulations that are consistent with the standards of the NFIP.

Post-FIRM Construction - Construction or substantial improvement that started on or after the effective date of the initial FIRM of the community or after December 31, 1974, whichever is later.

Pre-FIRM Construction - Construction or substantial improvement that started on or before December 31, 1974, or before the effective date of the initial FIRM of the community, whichever is later.

Probation - A means of formally notifying participating communities of violations and deficiencies in the administration and enforcement of the local floodplain management regulations.

Public safety and nuisance, (as related to variances in this ordinance) - The granting of a variance must not result in anything which is injurious to safety or health of an entire community or neighborhood, or any considerable number of persons, or unlawfully obstruct the free passage or use, in the customary manner of any navigable lake, river, bay, stream, canal, or basin.

Recreational vehicle - A vehicle which is:

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

Regular Program - The phase of the community's participation in the NFIP where more comprehensive floodplain management requirements are imposed and higher amounts of insurance are available based upon risk zones and elevations determined in a FIS.

Regulatory floodplain - The area of the floodplain identified on the official floodplain map along with the water-surface profile of the base flood elevation. (Note: The base flood elevation profile and regulatory floodplain is the 100-year frequency flood.)

Regulatory Floodway - The channel of the river, creek, or other watercourse and the adjacent land areas that must be reserved in order to discharge the 100-year flood without cumulatively increasing the water surface elevation more than one foot.

Repair - The reconstruction or renewal of any part of an existing building.

Repetitive Loss - Flood-related damages sustained by a structure on two separate occasions during a 10-year period ending on the date of the event for which the second claim is made, in which the cost of repairing the flood damage, on the average, equals or exceeds 25 percent of the market value of the building at the time of each such flood event.

Reservoir - Any basin, which contains or will contain impounded water, wastewater, or liquid-borne materials by virtue of its having been impounded by a dam.

Riverine - Relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

Section 1316 - Section of the National Flood Insurance Act of 1968, as amended, which states that no new flood insurance coverage shall be provided for any property that the Administrator finds has been declared by a duly constituted state or local zoning authority or other authorized public body to be in violation of state or local laws, regulations, or ordinances that are intended to discourage or otherwise restrict land development or occupancy in flood-prone areas.

Significant hazard potential dam - A dam assigned the significant hazard potential classification where failure or mis-operation results in no probable loss of human life but can cause major economic loss, environmental damage, disruption of critical facilities, or impact other concerns. Significant hazard potential classification dams are often located in predominantly rural or agricultural areas but could be located in areas with population and significant infrastructure.

Special Flood Hazard Area (SFHA) - The land in the floodplain subject to a 1% or greater chance of flooding in any given year and flood related erosion hazards as shown on an FHBM or FIRM as Zone A, AO A1-A30, AE, A99, or AH.

Start of construction (for other than new construction or substantial improvements under the Coastal Barrier Resources Act P.L. 97-348) - Includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, or improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of a building (including a manufactured home) on a site, such as the pouring of a slab or footings, installation of piles, construction of columns, or any work beyond the stage of excavation or placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets or walkways; nor does it include the excavation for a basement, footings, piers or foundations, or the erection of temporary forms; nor does it include the installation on the property of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main building. For 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.

Stormwater detention storage - Stormwater runoff collected and stored for a period of time and released at a rate much less than the inflow rate.

Structure - Any walled and roofed building that is principally above ground, as well as a mobile or manufactured home, a gas or liquid storage tank or other man-made facilities.

Subdivision - Any division, for the purposes of sale, lease, or development, either on the installment plan or upon any and all other plans, terms, and conditions, of any tract or parcel of land into two (2) or more lots or parcels.

Subrogation - An action brought by FEMA when flood damages have occurred, flood insurance has been paid, and all or part of the damage can be attributed to acts or omissions by a community or other third party.

Substantial damage - Any repair to a building for which the cost of repairs equals or exceeds fifty percent of the market value of the building prior to the damage occurring. This term includes structures that are categorized as repetitive loss.

For purposes of this definition, “repair” is considered to occur when the first repair or reconstruction of any wall, ceiling, floor, or other structural part of the building commences. The term does not apply to:

- a.) Any project for improvement of building required to comply with existing health, sanitary, or safety code specifications which have been identified by the Code Enforcement Official and which are solely necessary to assure safe living conditions, or
- b.) Any alteration of a “historic structure” provided that the alteration will not preclude the structure’s continued designation as a “historic structure.” or
- c.) Any improvement to a building.

Substantial improvement - Any combination of repairs, reconstruction, alteration, addition, or improvements to a building, taking place during the life of the building or a 25 year period, in which the cumulative cost equals or exceeds fifty percent (50%) of the market value of the building. The market value of the building should be (1) the appraised value of the building prior to the start of the initial repair or improvement, or (2) in the case of damage, the value of the building prior to the damage occurring. This term includes structures that have incurred “substantial damage” or “repetitive loss,” regardless of the actual repair work performed. For the purposes of this definition improvement occurs 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 apply to:

- a.) Any project for improvement of building required to comply with existing health, sanitary, or safety code specifications which have been identified by the Code Enforcement Official and which are solely necessary to assure safe living conditions, or
- b.) Any alteration of a “historic structure” provided that the alteration will not preclude the structure’s continued designation as a “historic structure.” or
- c.) Any building that has been damaged from any source or is categorized as repetitive loss.

Substantially improved existing manufactured home parks or subdivisions - Where the repair, reconstruction, rehabilitation or improvement of the streets, utilities and pads equals or exceeds fifty percent (50%) of the value of the streets, utilities and pads before the repair, reconstruction or improvement commenced.

Suspension - The removal of a participating community from the NFIP because the community has not enacted and/or enforced the proper floodplain management regulations required for participation in the NFIP.

Variance - A grant of relief from the requirements of this ordinance, which permits construction in a manner otherwise prohibited by this standard where specific enforcement would result in unnecessary hardship.

Violation - The failure of a structure or other development to be fully compliant with the

provisions of this ordinance. A structure or other development without an elevation certificate, other certifications, or other evidence of compliance required in this ordinance is presumed to be in violation until such time as that documentation is provided.

Watercourse - A lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated area in which substantial flood damage may occur.

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

X zone - The area where the flood hazard is less than that in the SFHA. Shaded X zones shown on recent FIRMs (B zones on older FIRMs) designate areas subject to inundation by the flood with a 0.2-percent annual probability of being equaled or exceeded (the 500-year flood). Unshaded X zones (C zones on older FIRMs) designate areas where the annual exceedance probability of flooding is less than 0.2 percent

Zone - A geographical area shown on a Flood Hazard Boundary Map or a Flood Insurance Rate Map that reflects the severity or type of flooding in the area.

ARTICLE III. GENERAL PROVISIONS

SECTION A. LAND TO WHICH THIS ORDINANCE APPLIES

This ordinance shall apply to all of the unincorporated areas of Pearl River County and all Special Flood Hazard Areas and Community Flood Hazard Areas (CFHA) within the jurisdiction of the Board of Supervisors of Pearl River County.

SECTION B. BASIS FOR ESTABLISHING THE SPECIAL FLOOD HAZARD AREA

The areas of special flood hazard as identified by the Federal Emergency Management Agency in "The Flood Insurance Study for Pearl River County, Mississippi, and Incorporated Areas," dated May 17, 1990, with accompanying Flood Insurance Rate Maps (FIRM), Flood Boundary and Floodway Maps (FBFM), and related supporting data, along with any revisions thereto, are adopted by reference and declared to be a part of this ordinance. The Flood Insurance Study is on file at the Department of Planning and Development.

SECTION C. ESTABLISHMENT OF FLOODPLAIN DEVELOPMENT PERMIT

A development permit shall be required prior to the commencement of any development activity. The Department of Planning and Development shall review all permit applications to determine whether proposed development sites lie in Special Flood Hazard Areas and Community Flood Hazard Areas. Activities requiring permits include:

- (1) Construction of new buildings
- (2) Additions to existing buildings
- (3) Substantially improving existing buildings
- (4) Placing manufactured (mobile) homes
- (5) Subdivision of land
- (6) Temporary buildings and accessory structures
- (7) Parking or storage of recreational vehicles
- (8) Storing of materials, including gas/liquid tanks
- (9) Fill, grading, excavation, mining, and dredging
- (10) Altering streams

SECTION D. COMPLIANCE

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

SECTION E. ABROGATION AND GREATER RESTRICTIONS

This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another conflict or

overlap, whichever imposes the more stringent restrictions shall prevail.

SECTION F. INTERPRETATION

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

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

SECTION G. WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering consideration. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the Special Flood Hazard Areas or the Community Flood Hazard Area or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of Board of Supervisors of Pearl River County or by any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

SECTION H. PENALTIES FOR VIOLATIONS

Any person, firm, corporation or agent who is in violation of the provisions of this ordinance, or fail to comply with any of its requirements, including violation of conditions of safeguards established in connection with grants of variance or special exceptions, shall constitute a misdemeanor. Each day or portion thereof such violation continues shall be considered a separate offense. Nothing herein shall prevent the Floodplain Ordinance Administrator from taking such other lawful actions as necessary to prevent or remedy the violation.

ARTICLE IV. ADMINISTRATION

SECTION A. DESIGNATION OF FLOOD DAMAGE PREVENTION ORDINANCE ADMINISTRATOR

The Board of Supervisors of Pearl River County hereby appoints the Director of Planning and Development or their designee to administer and implement the provisions of this ordinance and is herein referred to as the Floodplain Ordinance Administrator, the Floodplain Administrator, the Floodplain Management Administrator and/or the Administrator.

SECTION B. PERMIT PROCEDURES

Application for a Development Permit shall be made to the Floodplain Administrator on forms furnished by them prior to any development activities, which may include, but are not limited to, the following plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question, existing or proposed structures, earthen fill, storage of materials or equipment, drainage facilities, and the location of the foregoing. Other materials may be required to adequately review the application for compliance. Specifically, the following information is required:

(1) Application:

- a.) E-911 Address Verification Form
- b.) Copy of Mississippi State Department of Health "Notice of Intent" Form 908 to construct individual on-site wastewater disposal system or approval from association providing sewer service.
- c.) Recorded deed to property
- d.) Survey of property and/or site plan
- e.) Copy of construction plans for building
- f.) Elevation Certificate from a registered professional engineer for proposed buildings located in Zone A
 1. Elevation in relation to NGVD 1929 and NADV 1988 to which any non-residential building will be floodproofed;
 2. Certificate from a registered professional engineer or architect that the non-residential floodproofed building will meet the flood-proofing criteria in Article V, Section B(2) and Section D (2);
- g.) Building/construction plans
- h.) Road and bridge plans and culvert sizes located in Zone A
- i.) Description of fill, grading, excavating, mining, and dredging located in Zone A
- j.) Description of the extent to which any water course will be altered or relocated as a result of proposed development and;
- k.) Site grading and drainage plan for total project area

- (2) Time limitation of application. An application for a permit for any proposed work shall be deemed to have been abandoned 180 days after the date of filing, unless such application has been pursued in good faith or a permit has been issued; except that the Administrator is authorized to grant one or more extensions of

- time for additional periods not exceeding 90 days each. The extension shall be requested in writing and justifiable cause demonstrated.
- (3) Expiration. Every permit issued shall become invalid unless the work on the site authorized by such permit is commenced within 180 days after its issuance, or if the work authorized on the site by such permit is suspended or abandoned for a period of 180 days after the time the work is commenced. The Administrator is authorized to grant, in writing, one or more extensions of time, for periods of not more than 180 days each. The extension shall be requested in writing and justifiable cause demonstrated.
 - (4) Work commencing before permit issuance. Any person who commences any work on a building, structure or other permit activities before obtaining the necessary permits shall be subject to 100% of the usual permit fee in addition to the required permit fee.
 - (5) Construction. Upon placement of the lowest floor, or flood-proofing by whatever construction means, it shall be the duty of the permit holder to submit to the Department of Planning and Development certification of the elevation of the lowest floor or flood-proofed elevation, as built, in relation to both NGVD 1929 and NADV 1988 vertical datums. Said certification shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by same. Any work undertaken prior to submission of the certification shall be at the permit holders' risk. The Department of Planning and Development shall review the submitted elevation data and or flood-proofing elevation data submitted. The permit holder shall, immediately and prior to further progressive work being permitted to proceed, correct deficiencies detected by such review. Failure to submit the survey or failure to make said corrections required hereby, shall be cause to issue a stop-work order for the project.

SECTION C. POWERS, DUTIES, AND RESPONSIBILITIES OF THE FLOODPLAIN ORDINANCE ADMINISTRATOR

Floodplain Ordinance Administrator and/or staff is hereby authorized and directed to enforce the provisions of this ordinance. The Administrator is further authorized to render interpretations of this ordinance, which are consistent with its spirit and purpose. Administrative procedures shall include, but not be limited to:

Right of Entry

- (1) Whenever necessary to make an inspection to enforce any of the provisions of this ordinance, or whenever the Administrator has reasonable cause to believe that there exists in any building or upon any premises any condition or ordinance violation which makes such building, structure, or premises unsafe, dangerous, or hazardous, the Administrator may enter such building, structure, or premises at all reasonable times to inspect the same or perform any duty imposed by the Administrator by this ordinance
- (2) If such building or premises are occupied, he shall first present proper credentials

and request entry. If such building, structure, or premises are unoccupied, the Administrator shall first make a reasonable effort to locate the owner or other persons having charge or control of such entry.

- (6) If entry is refused, the Administrator shall have recourse to every remedy provided by law.
- (7) When the Administrator shall have first obtained a proper inspection warrant or other remedy provided by law to secure entry, no owner or occupant or any other persons having charge, care, or control of any building, structure, or premises shall fail or neglect, after proper request is made as herein provided, to promptly permit entry therein by the Administrator for the purpose of inspection and examination pursuant to this ordinance.

Stop Work Orders

Upon notice from the Administrator, work on any building, structure, or premises that is being done contrary to the provisions of this ordinance shall immediately cease. Such notice shall be in writing and shall be given to the owner of the property, or to his agent, or to the person doing the work, and shall state the conditions under which work may be resumed.

Revocation of Permits

- (1) The Administrator may revoke a permit or approval, issued under the provisions of this ordinance, in case there has been any false statement or misrepresentation as to the material fact in the application or plans on which the permit or approval was based.
- (2) The Administrator may revoke a permit upon determination by the administrator that the construction, erection, alteration, repair, moving, demolition, installation, or replacement of the structure for which the permit was issued is in violation of, or not in conformity with, the provisions of this ordinance.

Responsibilities of the Floodplain Ordinance Administrator shall include, but are not limited to, the items listed in this article.

- (1) Review all development permits to assure that the permit requirements of this ordinance have been satisfied.
- (2) Advise permittee that additional Federal or State permits may be required, and if specific Federal or State permit requirements are known, require that copies of such permits be provided and maintained on file with the Development Permit.
- (3) Assure that no development or land-disturbing activity within an area of special flood hazard shall be undertaken until after issuance of a permit. In case of land disturbing activity proposed in conjunction with construction for which a permit

application has been filed, a site grading and drainage plan shall be approved prior to issuance of the permit.

- (4) Notify adjacent communities, the State NFIP Coordinator, and other Federal and/or State agencies with statutory or regulatory authority prior to any alteration or relocation of a watercourse.
- (5) Assure that an engineering analysis, if necessary, is obtained which demonstrates that the flood carrying capacity of the altered or relocated portion of the watercourse will not be decreased. Such watercourses shall be maintained in a manner which preserves the channel's flood carrying capacity.
- (6) Verify that the Elevation Certificate is complete. Certificate must record the actual elevation of the lowest floor (including basement) of all new or substantially improved buildings and/ or the actual elevation to which the new or substantially improved non-residential buildings have been flood-proofed in accordance with Article IV, Section B (2). Elevations must be provided in relation to both NGVD 1929 and NADV 1988 vertical datums.
- (7) Review certified plans and specifications for compliance.
- (8) Ensure that no new construction, substantial improvement or other development, including land fill, shall be permitted in riverine situations in a floodway, until a regulatory floodway is designated.
- (9) Where interpretation is needed as to the exact location of the boundaries of the Special Flood Hazard Areas or community flood hazard area (for example where there appears to be a conflict between a mapped boundary and actual field conditions), the Department of Planning and Development shall make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this article.
- (10) Maintain all records pertaining to this ordinance in the Department of Planning and Development and open for public inspection.

Liability. Any officer or employee, or member of the Administrator's staff, charged with the enforcement of this ordinance, acting for the applicable governing authority in the discharge of his/her duties, shall not thereby render himself personally liable, and is hereby relieved from all personal liability, 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. Any suit brought against any officer or employee or member because of such act performed by him in the enforcement of any provision of this ordinance, shall be defended by the department of law until the final termination of the proceedings.

SECTION D. COMPLIANCE REQUIREMENTS

- (1) Permit to Post. The “Permit to Post” shall include the required elevation of the lowest floor, including the basement provided in relation to both the NGVD 1929 and NADV 1988 vertical datums). The contractor or builder shall be responsible for ensuring that the actual elevation is accurate prior to further vertical construction. The Department of Planning and Development shall require that the actual elevation be certified by a registered engineer or land surveyor.
- (2) In areas of special flood hazard and community flood hazard areas, as determined by documents enumerated in Article III, Section B, it shall be unlawful to occupy or to permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted or wholly or partly altered or enlarged in its use or structure until a Certificate of Compliance has been issued by the Floodplain Administrator stating that the building or land conforms to the requirements of this Ordinance.
- (3) Certificate of Compliance. A certificate of compliance shall be issued by the Floodplain Administrator upon satisfactory completion of all development in areas of special flood hazard.
- (4) Issuance of the Certificate shall be based upon the inspections conducted as prescribed in Section C, and/or any certified elevations, hydraulic data, floodproofing, anchoring requirements or encroachment analyses which may have been required as a condition of the approved permit.
- (5) Floodproofing certification. For cases when floodproofing is utilized on a non-residential building as specified in Articles V (B)(2) and VII, the applicant shall provide to the Department of Planning and Development certification obtained from a registered professional engineer or architect that the floodproofing is in accordance with this ordinance.
- (6) Certification records. The certifications required in order to meet the provisions of this ordinance shall be attached to the permit copy, and be permanently maintained by the Department of Planning and Development.
- (7) Information to be Retained. The Floodplain Administrator shall retain and make available for inspection, copies of the following:
 - a. Floodplain Development Permits and Certificates of Compliance;
 - b. Elevation Certificates
 - c. Flood-proofing Certificates.
 - d. Copy of Mississippi State Department of Health “On-Site Wastewater Disposal System Approval,” Form No. 910 (Revised 5/24/99; Book 93 pages 360-361).

(8) Permit from the Mississippi Department of Environmental Quality.

- a. A Small Construction General Permit from the Mississippi Department of Environmental Quality is required if the total project ground disturbance is greater than 1 acre and less than 5 acres, pursuant to Section 401 of the Clean Water Act (33 U.S.C. 1344).
- b. A Large Construction General Permit from the Mississippi Department of Environmental Quality is required if the total project ground disturbance is 5 acres or greater, pursuant to Section 401 of the Clean Water Act (33 U.S.C. 1344).

(9) Permit from the Corps of Engineers.

- a. For activities that include excavation within or discharge of dredged or fill material into Waters of the United States, including wetlands, a permit from the Corps of Engineers is required, pursuant to Section 404 of the Clean Water Act (33 U.S.C. 1344).
- b. If a project includes obstruction or alteration of navigable Waters of the United States, including dredging or bridging, a permit is required from the Corps of Engineers, pursuant to Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403).

SECTION E. PERMIT COMPLIANCE AND FEES

The Board of Supervisors shall establish by Board Order, a schedule of fees and conditions applicable to all permit applications, petitions, and appeals. The fee schedule resolution shall be attached to all copies of this ordinance that are distributed to the public. The schedule of fees may be altered or amended by the Pearl River County Board of Supervisors. Current fees and compliance requirements are detailed below:

- | | |
|--|----------|
| (1) Residential Permit | \$50.00 |
| (2) Commercial Permit | \$100.00 |
| (3) Utility/Accessory Structure Permit | \$25.00 |
| (4) Mobile Home Permit | \$25.00 |
| (5) Electrical Power Pole Permit | \$10.00 |
| (6) Addition to Existing Building | \$25.00 |
| (7) Parking or Storage of Recreational Vehicles | \$25.00 |
| (8) Storing Materials, including gas/liquid tanks | \$100.00 |
| a. Concurrence letter from the Mississippi Department of Environmental Quality, Office of Pollution Control. | |
| (9) Subdivision of Land | |
| a. Fees (Section 601) and conditions outlined in Subdivision Regulations of Pearl River County. | |
| (10) Roads, Bridges and Culverts | \$100.00 |
| a. For activities that include discharge of dredged or fill material into Waters | |

of the United States, including wetlands, a permit from the Corps of Engineers is required, pursuant to Section 404 of the Clean Water Act (33 U.S.C. 1344).

- b. If a project includes obstruction or alteration of navigable Waters of the United States, including bridges, a permit is required from the Corps of Engineers, pursuant to Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403).

(11) Fill, Grading, excavation, mining, & dredging \$100.00

- a. A Small Construction General Permit from the Mississippi Department of Environmental Quality is required for total project ground disturbance of greater than 1 acre and less than 5 acres, pursuant to Section 401 of the Clean Water Act (33 U.S.C. 1344).
- b. A Large Construction General Permit from the Mississippi Department of Environmental Quality for total project ground disturbance of 5 acres or greater, pursuant to Section 401 of the Clean Water Act (33 U.S.C. 1344).
- c. For activities that include excavation within or discharge of dredged or fill material into Waters of the United States, including wetlands, a permit from the Corps of Engineers is required, pursuant to Section 404 of the Clean Water Act (33 U.S.C. 1344).
- d. If a project includes obstruction or alteration of navigable Waters of the United States, including dredging, a permit is required from the Corps of Engineers, pursuant to Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403).

(12) Stream Alteration \$100.00

- a. A permit for obstruction or alteration of navigable Waters of the United States, including dredging, is required from the Corps of Engineers, pursuant to Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403).

13) Request for Variance \$150.00

The Floodplain Administrator may require any information necessary to determine compliance with the above conditions.

ARTICLE V. PROVISIONS FOR FLOOD HAZARD REDUCTION

SECTION A. GENERAL STANDARDS

In all Special Flood Hazard Areas and Community Flood Hazard Areas the following provisions are required:

- (1) All new construction and substantial improvements shall:
 - a.) Be anchored to prevent flotation, collapse, or lateral movement of the structure from hydrostatic and hydrodynamic loads and the effects of buoyancy;
 - b.) Be constructed with materials and utility equipment resistant to flood damage; and
 - c.) Be constructed by methods and practices that minimize flood damage.
- (2) The structural systems of all buildings, including manufactured homes shall be designed, connected, and 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 Federal and State requirements for resisting wind forces.
- (3) Electrical heating, ventilation, plumbing, air conditioning equipment and other service facilities including, but not limited to, circuit breaker panels, furnaces, air exchanges, water heaters, heat pumps, duct work, etc., shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding. Such facilities shall be located a minimum of one foot above the Base Flood Elevation.
- (4) New or replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system and shall be located and constructed so as to minimize or eliminate flood damage.
- (5) New and replacement sanitary sewage systems and private sewer treatment plants (including all pumping stations and collector systems) shall be designed to minimize or eliminate infiltration of flood waters into the system and discharges from the system into flood waters. In addition, they shall be located and constructed so as to minimize or eliminate flood damage and impairment.
- (6) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.
- (7) All storm drainage facilities shall be designed to convey the flow of surface waters so as to minimize or eliminate damage to persons or property. The system shall insure drainage away from buildings and on-site disposal sites. The authority having jurisdiction may require a primary underground system to

accommodate larger, less frequent floods. Drainage plans shall be consistent with local and regional drainage plans. The facilities shall be designed to prevent the discharge of excess runoff onto adjacent properties.

- (8) Streets and sidewalks shall be designed to minimize potential for increasing or aggravating flood levels.
- (9) Any alteration, repair, construction, or improvements to a building that is in compliance with the provisions of this ordinance shall meet the requirements of “new construction” as contained in this ordinance, and;
- (10) Any alteration, repair, construction, or improvements to a building that is not in compliance with the provisions of this ordinance shall be undertaken only if said non-conformity is not furthered, extended, or replaced.
- (11) All development shall provide maintenance of all floodway and drainage mechanisms and facilities to maximize safety and the preservation of riverine habitats. This includes compliance with the Federal Water Pollution Control Acts as amended, Public Law 100-4, Title IV-Permits and Licenses Certification, Section 401 (a)(1), and Section 404 Permits for Dredged or Fill Material in Wetlands and Floodplain Management Regulations as amended, where applicable.
- (12) A building must meet the specific standards for floodplain construction outlined in this ordinance, as well as any applicable requirements of the Americans With Disabilities Act (ADA). The ADA is not justification for issuing a variance or otherwise waiving these requirements. Also, the cost of improvements required to meet the ADA provisions shall be included in the cost of the improvements for calculating substantial improvement.
- (13) The following uses shall be prohibited from the areas of special flood hazard: sanitary landfills, chemical storage, underground storage tanks, and all other uses that could create a public health or safety hazard when flooded.
- (14) New construction and substantial improvements built on fill shall be constructed on properly designed and compacted fill that extends beyond the building walls before dropping below the base flood elevation, and shall have appropriate protection from erosion and scour.

SECTION B. SPECIFIC STANDARDS

In all Special Flood Hazard Areas, the following provisions shall apply:

- (1) Residential Construction. New construction or substantial improvement of residential structures must have the lowest floor, including basement, elevated one foot above the base flood level. 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 the standards of Article V, Section B (3).

- (2) Non-Residential Construction. New construction or substantial improvement of any commercial, industrial, or non-residential building (or manufactured home) and its attendant utility and sanitary facilities shall have the lowest floor, including basement, elevated no lower than one foot above the level of the base flood elevation (the community free board). Non-residential buildings located in all A-Zones may be flood-proofed in lieu of being elevated, provided that all areas of the building below the BFE (plus 1-foot community free board requirement) are water tight with walls substantially impermeable to the passage of water (flood-proofed), and use structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to The Department of Planning and Development.
- (3) Elevated Buildings. All new construction and substantial improvements of elevated buildings that include fully enclosed areas formed by foundation and other exterior walls below the base flood elevation shall be designed to preclude finished living space and to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls.
 - a.) Designs for meeting this requirement must either be certified by a professional engineer or meet the following minimum criteria:
 - (i) Provide a minimum of two openings having a total net area of no less than 1 square inch for every square foot of enclosed area subject to flooding;
 - (ii) The bottom of all openings shall be no higher than 1 foot above the foundation interior grade (which must be equal to in elevation or higher than the exterior foundation grade); and
 - (iii) Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.
 - b.) Access to the lower enclosed area below an elevated building shall be the minimum necessary to allow for parking of vehicles, or limited storage of maintenance equipment used in connection with the premises (standard exterior door), and access to the elevated living area (stairway or elevator).
 - c.) The interior portion of the lower enclosed area shall not be partitioned or finished into separate rooms.
 - d.) Where elevation requirements exceed 6 feet above the highest adjacent

grade, a copy of the legally recorded deed restriction prohibiting the conversion of the area below the lowest floor to a use or dimension contrary to the building's originally approved design, shall be presented as a condition of issuance of the final Certificate of Compliance.

(4) Standards for Manufactured Homes and Recreational Vehicles

- a.) All manufactured homes placed, or substantially improved, on individual lots or parcels in existing manufactured home parks or subdivisions, in expansions to existing manufactured home parks or subdivisions, in new manufactured home parks or subdivisions or in substantially improved manufactured home parks or subdivisions, must meet all the requirements for new construction, including elevation and anchoring.

All manufactured homes must:

- (i) Be elevated on a foundation; and
 - (ii) Have its lowest Floor elevated no lower than one foot above the level of the base flood elevation; and
 - (iii) Be securely anchored to an adequate foundation system to resist flotation, collapse, and lateral movement.
- b.) The placement of manufactured homes shall not be permitted within designated floodways.
- c.) All recreational vehicles placed on sites in Special Flood Hazard Areas must either:
- (i) Be on site for fewer than 180 consecutive days with not less than 30 days between successive 180-day periods, or
 - (ii) Be fully licensed and titled as an RV or park model and ready for highway use, (A recreational vehicle is ready for highway use if it is licensed and insured in accordance with the State of Mississippi motor vehicle regulations, is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions, such as decks, porch, or shed.), or,
 - (iii) Must meet all the requirements for new construction, including anchoring and elevation requirements of Article V, Section B-4 (a) or (b) (i) and (iii) above and comply with FEMA Technical Bulletin "Guidelines for the Placement of Temporary Structures in Special Flood Hazard Areas."

- (5) Floodways. Located within the areas of special flood hazard established in Article 3, Section C, are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and has erosion potential, the following provisions shall apply:
- a.) Encroachments, including fill, new construction, substantial improvements, and other development, are prohibited.
 - b.) The placement of manufactured homes (mobile homes) is prohibited.
 - c.) Development or land disturbing activity shall not be permitted within the boundaries of the regulatory floodway unless the potential effect of such on flood heights is fully offset by accompanying improvements which have been approved by appropriate Federal, State, and local authorities.
 - d.) Permissible uses within floodways may include: general farming, pasture, outdoor plant nurseries, horticulture, forestry, wildlife sanctuary, game farm, and other similar agricultural, wildlife, and related uses. Also lawns, gardens, play areas, picnic grounds, and hiking and horseback riding trails are acceptable uses, provided that they do not employ structures or fill. Substantial development of a permissible use may require a no-rise certification from an engineer. The uses in this subsection are permissible only if and to the extent that they do not cause any increase in base flood elevations.
- (6) Fill. Fill is discouraged because storage capacity is removed from floodplains. Elevating buildings by other means must be considered. An applicant must demonstrate that fill is the only alternative to raising the building to at least one foot above the base flood elevation, and that the amount of fill used will not affect the flood storage capacity or cause drainage problems on neighboring properties. If any fill material is used, the following provisions shall apply:
- a.) Certification is required by a registered professional engineer demonstrating through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment shall not result in any increase in flood levels during the occurrence of the base flood discharge. Such certification and technical data shall be presented to the floodplain administrator before permit is issued;
 - b.) Fill may not be placed in wetlands without the required State and Federal permits.

- c.) Fill must consist of soil and rock materials only. Landfills, rubble fills, dumps, and sanitary fills are not permitted.
- d.) Fill used to support structures must comply with ASTM Standard D-698, and its suitability to support structures certified by a registered, professional engineer.
- e.) Fill slopes shall be no greater than two horizontal to one vertical. Flatter slopes may be required where velocities may result in erosion.

SECTION C. STANDARDS FOR STREAMS WITHOUT ESTABLISHED BASE FLOOD ELEVATION AND/OR FLOODWAYS

Located within the Special Flood Hazard Areas established in Article III, Section B are areas designated Zone A, where streams exist but where no base flood data has been provided or where base flood data has been provided without floodways. In addition to those requirements set forth elsewhere in this ordinance, the following provisions shall apply:

- (1) New construction, substantial improvement, and/or other structures, located in Zone A shall have the lowest floor of the lowest enclosed area, including basement, elevated no less than one foot above the base flood elevation listed on the elevation certificate.
- (2) If fill is used, it must be in compliance with Section B (6), this article.
- (3) No encroachments, including fill material or structures, shall be located within a distance of the stream bank equal to seventy-five (75) feet from each side measured from the top of the bank.

SECTION D. STANDARDS FOR ACCESSORY BUILDINGS IN ALL ZONES BEGINNING WITH THE LETTER 'A'

For all accessory buildings in Special Flood Hazard Areas (SFHA) designated 'A' the following provisions shall apply:

- (1) Structures must be non-habitable.
- (2) Structures must be anchored to resist floatation forces.
- (3) Structures require flood openings/vents no more than one-foot above grade. Total openings are to be one square inch per one square foot of floor area, at least two openings required on opposite walls.
- (4) Structures must be built of flood resistant materials.

- (5) Must elevate utilities above the base flood elevation.
- (6) Structures can only be used for storage or parking.
- (7) Structures cannot be modified for a different use after permitting.
- (8) Structures must have lowest floor elevation documented.

SECTION E. STANDARDS FOR SUBDIVISION PROPOSALS

- (1) Subdivision and new development review. Individual lots in subdivision developments shall not be considered as separate projects, rather the subdivision development as a whole shall be considered as a single project. Any subdivision proposal or other proposed new development in of Special Flood Hazard Areas shall be reviewed to assure that:
 - a.) All such proposals are consistent with the need to minimize flood damage within Special Flood Hazard Areas, and
 - b.) All public utilities and facilities, such as sewer, gas, electric, and water systems are located and constructed to minimize or eliminate flood damage, and
 - c.) All proposals shall have adequate drainage as provided to reduce exposure to flood hazards
 - d.) All proposals shall provide stormwater detention storage, channel improvement or other mitigating measures. If stormwater detention storage is included, owner must provide the Department of Planning and Development with a plan for the perpetual maintenance of the detention facility. Said plan shall set forth the maintenance requirements of the facility and the party responsible for performing the maintenance in perpetuity.
 - e.) Base flood elevation data shall be provided for all new subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) within the Special Flood Hazard Areas.
 - f.) Where less than 50% of the subdivision lot or lots is in a designated Zone A Special Flood Hazard Area inundated by 100-year flood with no base flood elevations determined and there is sufficient ground slope on the site to avoid possible flooding of structures in Zone X areas determined to be outside 500 year floodplain. The Floodplain Administrator may waive the requirement for a detailed flood study to determine the base flood elevations.
 - g.) In order for the Floodplain Administrator to consider waiving the requirement of Section E(4) the applicant must provide an accurate topographic map for the lot or lots in question, as well as the total project acreage and the acreage within the SFHA, certified by a licensed land surveyor and/or professional civil engineer indicating sufficient detail to

allow a thorough review by the Floodplain Administrator.

- h.) Each proposed parcel must have a designated buildable pad or site above the 100-year flood plain. The distance of the buildable pad or site above the 100-year flood plain shall depend on the slope of the ground and in accordance with the following table:

Distance in feet from Zone A 100 year floodplain	Minimum Slope from Zone A – 100 year flood plain to ground level at pad
20	5%
30	3.33%
40	2.50%
50	2.0%
60	1.67%
70	1.43%
80	1.25%
90	1.11%
100	1.0%

Residential or non-residential structures lowest floor elevation also must be elevated 1.5 feet above the ground level on the buildable pad or site.

- i.) If a waiver is granted for Section D(1) the subdivider/applicant must comply with the following:

- 1) File restrictive covenants on the lot or lots prohibiting construction within the designated Special Flood Hazard Area inundated by the 100-year flood and requirement for elevated lowest floor elevation.
- 2) Place a statement on the face of the plat prohibiting construction in the designated Special Flood Hazard Area.

- j.) Notice must be sent to the State NFIP Coordinator indicating that a waiver has been granted for Section D(1)(f) providing written details of the waiver granted by the Floodplain Administrator.

(2) Subdivision requirements. In addition to those requirements set forth elsewhere in this ordinance, the following requirements shall apply to any proposed subdivision, where any portion of the land lies within an area of special flood hazard:

- a.) The Special Flood Hazard Area shall be delineated on surveys and preliminary and final subdivision plats.

- b.) Residential building lots shall be provided with adequate buildable area outside the regulatory floodway. An access road, constructed above the elevation of the one-hundred-year floodplain shall be provided.
- c.) The design criteria for utilities and facilities set forth in this ordinance shall be met.
- d.) Site design shall not cause the predevelopment peak runoff from a 10-year storm to increase.

SECTION F. STANDARDS FOR EROSION, SEDIMENT, AND STORMWATER

- (1) All development shall comply with Erosion, Sediment, and Stormwater Management Guidelines and Regulations contained in the "Planning and Design Manuel for the Control of Erosion, Sediment, and Stormwater," dated April, 1994 and subsequent amendments, published by the Mississippi Department of Environmental Quality, the Mississippi Soil & Water Conservation Commission, and the USDA Soil Conservation Service.
- (2) If stormwater associated with any construction or industrial activity is to be discharged into State Waters, a Storm Water Construction Permit or Storm Water Baseline Permit, is required from the Mississippi Department of Environmental Quality, in accordance with the provisions of the Mississippi Water Pollution Control Law (Section 49-17-1 et seq., Mississippi Code of 1972) and the regulations and standards adopted and under the authority granted pursuant to Section 402 (b) of the Federal Water Pollution Control Act, Public Law 92-500.
- (3) Written permission must be obtained from downstream property owners to improve the receiving channel to an adequate channel condition, unless channel is in an existing County-owned drainage easement. Such improvements shall extend downstream until an adequate channel section is reached. Cost of such improvements shall be borne by the developer. Sufficient engineering calculations shall accompany the plan, submitted for verification of obtaining adequate channel condition.
- (4) It shall be unlawful to remove vegetation, alter the ground, or undertake any development within 15 feet of a channel bank that may damage the riparian habitat or cause bank erosion.

SECTION G. CRITICAL FACILITIES

Construction of new critical facilities shall be located outside the limits of the Special Flood Hazard Area (100-year floodplain), the 500-year floodplain, and the Community Flood Hazard Area (CFHA) unless no feasible alternative site is available. Critical facilities constructed within the SFHA shall have the lowest floor elevated three feet or

more above the level of the base flood elevation. Flood proofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes elevated to or above the level of the base flood elevation shall be provided to all critical facilities to the extent possible.

ARTICLE VI. PROVISIONS FOR FLOODPROOFING

SECTION A. GENERAL

Floodproofing shall comply with classification standards FP1 and FP2, contained in the U.S. Army Corps of Engineers "Floodproofing Regulations" or other approved methods.

SECTION B. LOCATION

Floodproofing shall not be permitted in a designated floodway or in a coastal high hazard area.

SECTION C. WALLS BELOW FLOOD LEVEL

All buildings and structures of all use groups except residential may be floodproofed with walls which are substantially impermeable to the passage of water below the base flood level and with structural components capable of resisting hydrostatic and hydrodynamic loads, and particularly, the effects of buoyancy.

SECTION D. PROTECTIVE MEASURES

Floodproofing measures shall be designed consistent with the flood protection elevation for the particular area, flood velocities, durations, rate of rise, hydrostatic and hydrodynamic forces, and other factors associated with the base flood. The applicant shall submit a plan or document certified by a registered professional engineer or architect that the floodproofing measures are consistent with the base flood elevation and associated flood factors for the particular area. The following floodproofing measures shall be part of the plan:

- (1) Anchorage to resist flotation and lateral movement.
- (2) Installation of watertight doors, bulkheads, and shutters, or similar methods of construction.
- (3) Reinforcement of walls to resist water pressures.
- (4) Construction of water supply and waste treatment systems so as to prevent the entrance of floodwaters.
- (5) Installation of valves or controls on sanitary and storm drains which will permit the drains to be closed to prevent backup sewerage and storm waters into the buildings or structures.
- (6) Location of all electrical equipment, circuits, and electrical appliances will be installed in a manner that will minimize flooding and provide protection from inundation by the flood.

- (7) Location of any structural storage facilities for chemicals, explosives, buoyant materials, flammable liquids or other toxic materials which could be hazardous to public health, safety, and welfare will be stored in a manner which will assure that the facilities are situated at elevations above the height associated with the base flood elevation.

ARTICLE VII. VARIANCES

SECTION A. DESIGNATION OF VARIANCE AND APPEALS BOARD

The Pearl River County Board of Supervisors shall hear and decide appeals and requests for variances from requirements of this ordinance.

SECTION B. DUTIES OF VARIANCE AND APPEALS BOARD

The Board shall hear and decide appeals when it is alleged that there is an error in any requirement, decision, or determination made in the enforcement of this standard or administration of this ordinance. The Board has the right to attach such conditions to the variance, as it deems necessary to further the purposes and objectives of this ordinance. Any person aggrieved by the decision of the Board may appeal such decision to the Chancery Court.

SECTION C. VARIANCE PROCEDURES

In reviewing applications for a variance, the Board shall consider all technical evaluations, all relevant factors, all other standards specified in other sections of this ordinance, and the following:

- (1) The danger that materials may be swept onto other lands resulting in further injury or damage;
- (2) The danger to life and property due to flooding or erosion damage;
- (3) The susceptibility of the proposed facility and its contents to flood damage, and the effect of such damage on the owner;
- (4) The importance of the services provided by the proposed facility to the community;
- (5) The necessity of the facility to a waterfront location in the case of a functionally dependent facility;
- (6) The availability of alternate locations for the proposed use that are not subject to flooding or erosion;
- (7) The compatibility of the proposed use with existing and anticipated development;
- (8) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
- (9) The safety of access to the property in times of flood for ordinary and emergency vehicles;
- (10) The expected heights, velocity, duration, rate of rise, and debris and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site, and;
- (11) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, streets and bridges.
- (12) Applicability of Federal and State environmental regulations.

SECTION D. CONDITIONS FOR VARIENCES

- (1) Variances shall be issued only when there is:
 - a.) A technical showing of good and sufficient cause that the unique characteristics of the size, configuration, or topography of the site renders the elevation standards inappropriate; and
 - b.) A determination that failure to grant the variance would result in exceptional non-economic 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, nor create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances; and
- (2) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief; and in the instance of an “historic structure,” a determination that the variance is the minimum necessary so as not to destroy the historic character and design of the building.
- (3) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the base flood elevation and the elevation to which the lowest floor is to be built and stating that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation. (See Article VII Section E)
- (4) The Floodplain Administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request (See Section E)

SECTION E. VARIANCE NOTIFICATION

Any applicant to whom a variance is granted shall be given written notice over the signature of a community official. The written notice must:

- (1) State that the issuance of a variance to construct a structure below the base flood elevation will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage.
- (2) State that such construction below the base flood level increased risks to life and property. A copy of the notice shall be filed by the Floodplain Management Administrator in the Office of the Pearl River County Chancery Clerk and shall be recorded in a manner so that it appears in the chain of title for the affected parcel of land.

- (3) Specify the difference between the base flood elevation and the elevation to which the lowest floor is to be built, and state that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced floor elevation.

The Floodplain Administrator will maintain a record of all variance actions, including justification for their issuance, and report such variances issued in the community's biennial report submitted to the Federal Emergency Management Agency.

SECTION F. HISTORIC STRUCTURES

Variances may be issued for the repair or rehabilitation of buildings listed on the National Register of Historic Places or the State Inventory of Historic Places without regard to the procedures set forth in the remainder of this article providing that the variance is the minimum necessary to afford relief so as not to destroy the historic character and design of the building, and that the proposed repair or rehabilitation will not result in the building losing its historical designation.

SECTION G. SPECIAL CONDITIONS

Upon consideration of the factors listed in Article VII, and the purposes of this ordinance, the Board of Supervisors may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.

Variances shall not be issued within any designated floodway.

ARTICLE VIII. SEVERABILITY

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