LAND DEVELOPMENT CODE
ARTICLE 10 - FLOODPLAIN MANAGEMENT

(09-29-06)

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10.00.00. Purpose.

Inasmuch as the flood hazard areas of Escambia County are subject to periodic inundation which can result in loss of life, property, health, and safety, and which can disrupt commerce and governmental services and which can cause extraordinary public expenditures for flood protection and relief and which can impair the tax base of the County and otherwise adversely affect the public health, safety and general welfare and because these flood losses are caused by the cumulative effect of obstruction 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 protected from flood damages, this Article is designed to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas. Towards this end the provisions of this Article are designed to:

A. Restrict or prohibit uses which are dangerous to health, safety and property due to water or erosion or in flood heights or velocities;

B. Require that uses vulnerable to floods, including facilities, which serve such uses, be protected against flood damage;

C. Regulate the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of floodwaters;

D. Regulate filling, grading, dredging and other development, which may increase erosion or flood damage;

E. Regulate the construction of flood barriers which will unnaturally divert floodwater or which may increase flood hazards to other lands.

F. Minimize or prohibit certain activities or land uses which may adversely affect the environment, and encourage conservation of floodplain natural features through compatible uses; and

G. Identify the floodplains in the unincorporated areas of Escambia County and, using all available information, those wetland areas that function as groundwater recharge areas.

10.00.01. Objectives. The objectives of this Article are:

A. To protect human life, health, and to eliminate or minimize surge damage;

B. To minimize expenditure of public money for costly flood control projects;

C. To minimize the need for rescue and relief efforts associated with flooding that are generally undertaken at the expense of the general public;

D. To minimize prolonged business interruptions, and to comply with the flood zone regulations;

E. 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;

F. 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 future flood blight areas; and

G. To insure that potential homebuyers are notified that property is in a flood area.

10.00.02. Effective date. This ordinance shall become effective September 29, 2006.

10.01.00. General Provisions.

10.01.01. Lands to which this article applies. This Article shall apply to all areas of special flood hazard within the jurisdiction of Escambia County, except areas of Escambia County under the jurisdiction of other governmental agencies having independently qualified under the permanent Federal Flood Insurance Program. Floodplain management regulations for lands under the jurisdiction of the Santa Rosa Island Authority are contained in Article 13 of this Code.

10.01.02. Basis for establishing the areas of special flood hazard. The areas of special flood hazard identified by the Federal Emergency Management Agency in the Flood Insurance Study (FIS) for Escambia County, dated September 29, 2006, with accompanying maps and other supporting data, and any subsequent revisions thereto, are adopted by reference and declared to be a part of the Ordinance. The Flood Insurance Study and Flood Insurance Rate Map are on file with the Department of Planning and Zoning.

10.01.03. Definitions. For purposes of Article 10, the following definitions shall apply:

Accessory Structure (Appurtenant structure) means 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 investment, may not be used for human habitation, and be designed to have minimal flood damage potential. Examples of accessory structures are detached garages, detached carports, storage sheds, pole barns and hay sheds.

Appeal. An appeal is a request for review of the Floodplain Administrator's interpretation of any provision of this ordinance or a request for a variance by the Board of Adjustment.

Area of Shallow Flooding. A designated AO or AH Zone on the community's Flood Insurance Rate Map (FIRM) with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Area of special flood hazard means the land within the floodplain subject to a 1% or greater chance of flooding in any given year, designated as zones, A, AE, AO, AH, or VE.

Base Flood. The flood having one percent chance of being equaled or exceeded in any given year (also called the "100-year flood" and the "regulatory flood").

Base Flood Elevation. The water-surface elevation associated with the base flood, as established by the Flood Insurance Rate Map (FIRM) or the Flood Insurance Study (FIS), as applicable.

Basement. That portion of a building having its floor sub-grade (below ground level) on all sides.

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

Building. See Structure.

Coastal High Hazard Area (CHHA). The evacuation zone for a category 1 hurricane as established by the county division of emergency management based upon the Northwest Florida Hurricane Evacuation Restudy, as it is defined in Article 3, section 3.00.01 of this code. Additionally, coastal high hazard area shall include, an area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources designated as zone VE.

Datum. A reference surface used to ensure that all elevation records are properly related. The current national datum is the National Geodetic Vertical Datum (NGVD) of 1929, which is expressed in relation to mean sea level, or the North American Vertical Datum (NAVD) of 1988.

Development. Any man-made change to improved or unimproved real estate, including, but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavating, drilling operations, or storage of materials or equipment.
Elevated building. A non-basement building built to have the lowest floor elevated above the ground level by foundation walls, posts, piers, columns, pilings, or shear walls.

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

Existing construction or existing structures means any structure for which the "start of construction" commenced before September 30, 1977, the effective date of the first Escambia County Floodplain Management Regulations.

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 manufacture 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 30, 1977, the effective date of the first Escambia County Floodplain Management Regulations.

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 –

A. A general and temporary condition of partial or complete inundation of normally dry land areas from:

   1. The overflow of inland or tidal waters.

   2. The unusual and rapid accumulation or runoff of surface water from any source.

   3. Mudslides (i.e., mudflows) which are proximately caused by flooding as defined in paragraph (a) (2) of this definition and are akin to a river of liquid and flowing mud on the surface of normally dry land areas as when earth is carried by a current of water and deposited along the path of the current.

B. The collapse or subsidence of land along a shore of a lake or other body of water as the result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm or by an unanticipated force of nature, such as a flash flood or an abnormal tidal surge or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph (a) (1) above.

Flood Insurance Rate Map. (FIRM) is the official map of the community, issued by FEMA, which delineates both the areas of special flood hazard and the risk premium zones applicable to the county.

Flood Insurance Study. (FIS) is the official hydraulic & hydrologic report provided by FEMA. The study contains an examination, evaluation, and determination of flood hazards, and if appropriate, corresponding water surface elevations.

Floodplain. Any land area susceptible to being inundated by water from any source (see definition of "flooding").

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 Administrator. The individual appointed to administer and enforce the floodplain management regulations of the community. (NOTE: Pursuant to Article 10.02.00, Administration, of the Land Development Code, the Assistant County Administrator, or designee, is designated as the floodplain administrator.)

Floodplain Management Regulations. This ordinance and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as floodplain ordinance, grading ordinance, and erosion control ordinance), and other applications of police power, which control development in flood-prone areas. The term describes Federal, State of Florida, or local regulations in any combination thereof, which provide standards for preventing and reducing flood loss and damage.

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

Floodway. 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.

Floodway fringe That area of the floodplain on either side of the regulatory floodway where encroachment may be permitted without additional hydraulic and/or hydrologic analysis.

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

Free of Obstruction. A condition in which the flow of velocity water and wave action beneath the lowest horizontal structural member of the lowest floor of an elevated building during a base flood event is unimpeded.

Functionally Dependent Facility/Us. A facility which requires access or reasonable proximity to a water body, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, ship repair, or seafood processing facilities.

Hardship/Unique Hardship. A hardship results if due to circumstances involving the parcel's size, location, configuration or geo-technical condition, the strict application of this ordinance:

A. Renders the parcel unusable, or

B. Denies the owner of the same development rights commonly enjoyed by similarly situated property owners who are in compliance with the ordinance.

C. A hardship may not result through the fault of the owner, e.g. such as by building without a permit.

Highest adjacent grade. The highest natural elevation of the ground surface, prior to the start of construction, next to 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 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:

C. Individually 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 determined by the Secretary of the Interior, or

2. Directly by the Secretary of the Interior in states without approved programs.

Lowest adjacent grade. The lowest elevation, after the completion of construction, of the ground, sidewalk, patio, deck support, or basement entryway immediately adjacent to the structure.

Lowest Floor. 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 the non-elevation design standards of this ordinance.

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

Market Value. The building value, which is the property value excluding the land value and any detached accessory structures as established by local real estate market conditions. Market value can be estimated by an independent certified appraisal based upon comparable, acceptable appraisal practices, or tax assessed value.

Mean Sea Level (MSL). The average height of the surface of the gulf for all stages of the tide. It is used as a reference for establishing various elevations, within the floodplain. For purposes of this Article the North American Vertical Datum (NAVD) of 1988 shall be referenced.

Mobile Home/Manufactured Home. A structure transportable in one or more sections which is eight body feet or more in width and which is built on an integral chassis and designed to be used as a dwelling when connected to the required utilities and includes the plumbing, heating, air conditioning, and electrical systems contained therein and is constructed to standards as promulgated by the United States Department of Housing, and Urban Development and bearing the "HUD" insignia.

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

New Construction. Any structure for which the "start of construction" commenced on or after September 30,1977. The term also includes any subsequent improvements to such structures.

New manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) was completed on or after September 30, 1977.

Program Deficiency. A defect in the community's floodplain management regulations or administrative procedures that impairs effective implementation of those floodplain management regulations or of the standards required by the National Flood Insurance Program.

Public Nuisance. Anything which is injurious to the safety or health of the entire community, or a neighborhood; and anything that unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, river, bay, stream, canal, or basin.

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

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

Regulatory 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.

Remedy a Deficiency or Violation. To bring the regulation, procedure, or structure or other development into compliance with State of Florida, Federal or local floodplain management regulations; or if this is not possible, to reduce the impacts of its non-compliance. Ways the impacts may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of this ordinance or otherwise deterring future similar violations, or reducing Federal financial exposure with regard to the structure or other development.

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

Sand Dune. Naturally occurring accumulations of sand in ridges or mounds landward of the beach.

Shallow Flooding. The same as area of shallow flooding.

Special Flood Hazard Area. The same as Area of special flood hazard.

Start of Construction. For other than new construction 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 site, such as the pouring of slabs 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, piers or foundation or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or shed 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.

Storm Cellar. A place below grade used to accommodate occupants of the structure and emergency supplies as a means of temporary shelter against severe tornadoes or similar windstorm activity.

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

Substantial Damage. Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. For ICC eligibility, damage caused by flood only must equal or exceed 50 percent of the market value of the structure. Flood damage, which exceeds 25% of market value twice within any 10-year period, shall be deemed a repetitive flood loss qualifying the property owner for increase cost of compliance (ICC) benefits.

Substantial improvement. Any reconstruction, rehabilitation, addition, or improvement of a structure, the cumulative cost of which equals or exceeds 50 percent of the market value of the structure before the “start of construction” of the improvement. This term includes structures that have incurred “substantial damage” regardless of the actual repair work performed. This term does not, however, include any repair or improvements of a structure to correct existing violations of State of Florida or local health, sanitary, or safety code specifications, which have been identified by the local code enforcement official prior to the application for permit for improvement, and which are the minimum necessary to assure safe living conditions.

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

Variance. A variance is a quasi-judicial remedy for hardship administered by the Board of Adjustment in accordance with the procedures contained in this ordinance. See Section10.02.04.

Violation. The failure of a structure or other development to be fully compliant with the requirements of this ordinance. A structure or other development without the 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 naturally occurring lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

Water Surface Elevation. The height, in relation to the North American Vertical Datum (NAVD) of 1988, of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

10.01.04. Floodplain development permit. A floodplain development permit shall be required in conformance with the provisions of this Article prior to the commencement of any development activities within any areas of special flood hazard.

10.01.05. Compliance. No structure or land shall hereafter be located, extended, converted, or structurally altered, and no building permit shall be issued, without full compliance with the terms of this Article and other applicable regulations, including those within this Code. Violations of this ordinance may result in the denial of a Certificate of Occupancy.

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

10.01.07. Interpretation. In the interpretation and application of this Article, all provisions shall be:

A. Considered as minimum requirements;

B. Deemed neither to limit nor repeal any other powers granted under State statutes, including, but not limited to, Private Property Rights, CS/HB 863 passed during the 1995 legislative session.

10.01.08. 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 on rare occasions. Flood heights may be increased by man-made 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 Escambia County or by any officer or employee thereof for any flood damages that result from reliance on this Article or any administrative decision lawfully made hereunder.

10.02.00. Administration.

10.02.01. Designation of the Floodplain Administrator. The Assistant County Administrator, or designee, is hereby appointed as Floodplain Administrator to administer, implement, and enforce the provisions of this Article.

10.02.02. Permit procedures. Application for a floodplain development permit shall be made to the Floodplain Administrator on forms furnished by him, prior to any development activities, and may include, but not be limited to, the following plan requirements, in duplicate; drawn to scale; showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials; drainage facilities, and the location of each of the foregoing more specifically; the following information is required in addition to any other information required by other provisions of this Code.

Application stage:

A. Elevation in relation to mean sea level of the proposed lowest floor, including basement, of all structures.

B. Elevation in relation to mean sea level to which any non-residential structure will be flood-proofed.

C. Provide a certificate from a registered professional engineer or architect that the non-residential flood-proofed structure meets the flood-proofing criteria in section 10.03.02 (B).

D. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

E. All applicants for floodplain development permits shall provide with the application, a certificate of survey from a Florida Registered Surveyor, which clearly establishes the lot or parcel elevation. A benchmark shall be located on the property based on the certificate of survey prior to approval of the application.

F. Elevation in relation to mean sea level of the bottom of the lowest horizontal structural member of the lowest floor and provide a certification from a registered engineer or architect indicating that they have developed and or reviewed the structural designs, specifications and plans of the construction and certified that are

in accordance with accepted standards of practice in Coastal High Hazard Areas and V zones.

Construction stage:

A. Provide a floor elevation or flood-proofing certification after the lowest floor is completed, or in instances where the structure is subject to the regulations applicable to coastal high hazard areas, after placement of the horizontal structural members of the lowest floor. Within 21 calendar days of establishment of the lowest floor elevation, or flood-proofing by whatever construction means, or upon placement of the horizontal structural members of the lowest floor, whichever is applicable, it shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the elevation of the lowest floor, flood-proofed elevation, or the elevation of the lowest portion of the horizontal structural members of the lowest floor, whichever is applicable, as built, in relation to mean sea level.

B. Said certification shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by same. When flood proofing is utilized for a particular building, said certification shall be prepared by and certified under the direct supervision of a professional engineer or architect. Any work done within the 21-day calendar period and prior to submission of the certification shall be at the permit holder's risk. The Floodplain Administrator shall review the floor elevation survey data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further progressive work being permitted to proceed. Failure to submit the survey or failure to make said corrections required hereby, shall be cause to issue a stop-work order for the project.

10.02.03. Duties and responsibilities of the Floodplain Administrator. Under this Article, duties of the Floodplain Administrator shall include, but not be limited to:

A. Review of all floodplain development permits to assure that the permit requirements of this Article have been satisfied.

B. Advise permittee that additional federal or state permits may be required, and if specific federal or state permits are known, require that copies of such permits be provided and maintained on file with the development permit.

C. Notify adjacent communities and the Department of Community Affairs, Division of Resource Planning and Management, State of Florida, Northwest Florida Water Management District *[NWFWMD]*, and FEMA prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.

D. Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is maintained.

E. Verify and record the actual elevation (in relation to mean sea level) of the lowest floor (A Zones) (including basement) of all new or substantially improved structures, in accordance with Section 10.02.02 (E) or bottom of lowest horizontal member of lowest floor (V Zones).

F. Verify and record the actual elevation (in relation to mean sea level) to which the new or substantially improved structures have been flood-proofed, in accordance with Section 10.02.02 (E).

G. In coastal high hazard areas (coastal A and V Zones), certification shall be obtained from a registered professional engineer or architect that the structure is designed and securely anchored to adequately anchored pilings or columns in order to withstand velocity water and hurricane wave wash. Additionally in Coastal High Hazard Areas, if the area below the lowest horizontal structural member of the lowest floor is enclosed, it may be done so with open wood lattice and insect screening or with non-supporting breakaway walls that meet the standards of Article 5, Section E (6) [sic] of this ordinance [article];

H. In coastal high hazard areas, the Building Official shall review plans for adequacy of breakaway walls in accordance with this Code.

I. When flood proofing is utilized for a non-residential structure, the Building Official shall require the following certification of the design from a registered professional engineer or architect.

1. That all area of the building below the required elevation (four feet above BFE) are water tight with walls substantially impermeable to the passage of water and

2. That the building's structural components have the capability to resist hydrostatic and hydrodynamic loads and the effects of buoyancy pursuant to Section 10.03.02.B of this ordinance.

J. Where interruption 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 with the assistance of the County Engineer. A person contesting the location of the boundary may appeal the interpretation as provided in Section 2.04.00 in this Code.

K. When base flood elevation data or floodway data have not been provided in accordance with Section 10.02.02, then the Floodplain Administrator shall obtain,

review, and reasonably utilize any base flood elevation data available from a federal, state or other source, in order to administer the provisions of Section 10.03.00 et. seq.

L. 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.

M. Notify the general public when there are proposed changes to the floodplain ordinance.

10.02.04. Variance procedures.

A. The Board of Adjustment (BOA) shall hear and decide appeals in accordance with paragraph B below. The BOA shall also hear requests for variances in cases of hardship.

B. The BOA shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the enforcement or administration of this Article.

C. Any person aggrieved by the decision of the BOA or any taxpayer may appeal such decision to the BCC and then to the Circuit Court, as by Florida law.

D. Variances may be issued by the BOA for the reconstruction, rehabilitation or restoration of structures 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 provided that the proposed reconstruction, rehabilitation, or restoration will not result in the structure losing its historical designation. Otherwise, the requirements of this ordinance shall apply.

E. In passing upon applications for variances, the BOA shall consider all technical evaluations, all relevant factors, and all standards specified in other sections of this Article, and:

1. The existence of a unique hardship.

2. The danger that materials may be swept onto other lands to the injury of others;

3. The danger of life and property due to flooding or erosion damage;

4. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

5. The importance of the services provided by the proposed facility to the community;

6. The necessity to the facility of a waterfront location, in the case of a functionally dependent facility, where applicable;

7. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;

8. The compatibility of the proposed use with existing and anticipated development;

9. The relationship of the proposed use to the Comprehensive Plan and floodplain management program for that area;

10. The safety of access to the property in times of flood for ordinary and emergency vehicles;

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 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;

13. The potential for and degree of environmental damage as a result of flooding including consideration of individual as well as adverse cumulative impacts~~;~~ ~~and~~.

F. Upon consideration of the factors listed above and the purposes of this Article, the BOA may attach such conditions to the granting of variances as it deems necessary to further the purposes of this Code.

G. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

H. Conditions for variances:

1. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief and in the instance of a historical building, a determination that the variance is the minimum necessary so as not to destroy the historical character and design of the building.

2. Variances shall only be issued upon:

a. A showing of unique hardship;

b. A showing or good and sufficient cause; 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 a nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

3. Any applicant to whom a variance is granted shall be given written notice specifying the difference between the base flood elevation and the elevation to which the structure is to be built and stating that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

4. The Floodplain Administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency or the Florida Department of Community Affairs upon request.

10.03.00. Provisions for Flood Hazard Reduction.

10.03.01. General standards. In all areas of special flood hazard, the following provisions are required:

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

B. 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.

C. New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

D. New construction or substantial improvements shall be constructed by methods and practices that minimize flood damage.

E. Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities including ductwork shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

F. New and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.

G. 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.

H. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.

I. Any alteration, repair, reconstruction or improvements to a structure which *[that]* is in compliance with the provisions of this Article shall meet the requirements of "new construction" as contained in this Code.

J. Any alteration, repair, reconstruction or improvements to a building, which is not in compliance with the provisions of this Article and Code, shall be permitted and undertaken only if said nonconformity is not furthered, extended or replaced.

K. All applicable additional Federal, State of Florida, and local permits shall be obtained and submitted to the Floodplain Administrator. Copies of such permits shall be maintained on file with the development permit. State of Florida permits may include, but not be limited to the following:

1. Northwest Florida Water Management District: in accordance with F.S. § 373.036.(2)(a), Flood Protection and Floodplain Management.

2. Department of Community Affairs: in accordance with F.S. § 380.05, Areas of Critical State Concern, and F.S. Ch. 553, Part IV, Florida Building Code.

3. Department of Health: in accordance with F.S. § 381.0065, Onsite Sewage Treatment and Disposal Systems.

4. Department of Environmental Protection, Coastal Construction Control Line: in accordance with F.S. § 161.053, Coastal Construction and Excavation.

L. Structural storage facilities for chemicals, explosives, buoyant materials, flammable liquids, or other hazardous or toxic materials shall be located outside of flood prone or floodplain areas to the extent possible and feasible. If these facilities cannot be located outside flood prone or floodplain areas, the design and construction of such facilities shall be flood proofed in accordance with the following standards:

1. A registered professional structural engineer or architect shall certify that the building has been designed and constructed so that the structure and attendant facilities are watertight and capable of resisting the effects of the regulatory flood below protection elevation established in the Article.

2. The design must take into account flood velocities, duration, rate of rise, hydrostatic and hydrodynamic forces, the effect of buoyancy, and impacts from debris.

M. Limit the alteration of natural floodplains, stream channels, and natural protection barriers, which are involved in the accommodation of floodwaters. This includes restrictions or prohibitions on unnecessary or incompatible filling, grading, dredging, drainage, and other development which *[that]* will result in a damaging increase in erosion, habitat, destruction, or adverse impacts on the water quality treatment function of the floodplain.

N. New solid waste disposal sites within flood prone and floodplain areas are prohibited.

O. Adequate buffers to reduce any adverse impact from forestry activities are required.

10.03.02. Specific standards. In all areas of special flood hazard where base flood elevation data have been provided, as set forth in Sections 10.02.02, 10.03.01, or 10.03.03, the following provisions are required:

A. *Residential construction*. All new construction or substantial improvement of any residential structure (including manufactured homes) shall have the lowest floor, including basement, elevated to either of the following:

1. Three feet above the base flood elevation or eight inches above the back of curb with a minimum of two percent slope to the structure, whichever is greater;

2. In cases where the lot is down gradient from the road, the finished floor shall be as per the designated elevation provided by either the subdivision grading plan or a lot grading plan, which shall be a minimum of three feet above the base flood elevation, provided by a licensed Florida Professional Engineer, and current edition of the Florida Building Code R403.1.7.3, whichever is more stringent.

Adequate drainage paths around structures shall be provided on slopes to guide water away from structures. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate “automatic” equalization of hydrostatic flood forces on exterior walls shall be provided in accordance with standards of Section 10.03.02.C below.

B. *Non-residential construction*. All new construction or substantial improvement of any commercial, industrial, or non-residential structure (including manufactured homes) shall have the lowest floor, including basement, elevated to three feet above the base flood elevation. Structures located in all A-zones may be flood proofed in lieu of being elevated provided that all areas of the structure below the base flood elevation plus three feet are water tight with walls substantially impermeable to the passage of water, and use structural components having the capability of resisting hydrostatic and hydrodynamic loads and effect of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied using the FEMA Flood-proofing Certificate. Such certification, along with the corresponding engineering data, and the operational and maintenance plans, shall be provided to the Floodplain Administrator as set forth in sub-part (C) below. Adequate drainage paths around structures shall be provided on slopes to guide water away from structures.

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

1. Designs for complying with this requirement must be certified by a professional engineer or architect and meet the following minimum criteria:

    a. Provide a minimum of two openings having a total net area of not less than one square inch for every one square foot of enclosed area subject to flooding;

    b. The bottom of all openings shall be no higher than one foot above grade; and

    c. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided they contain the required minimum net opening area and permit the automatic flow of floodwaters in both directions.

2. Electrical, plumbing and other utility connections are prohibited below the base flood elevation;

3. Fully enclosed areas below the lowest floor shall be solely used for parking of vehicles, storage, and building access. Access to the enclosed areas shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the living area (stairway or elevator); and

4. The interior portion of such enclosed area shall not be partitioned or finished into separate rooms.

D. *Manufactured homes and recreational vehicles*. For the purposes of this Article, the term manufactured home includes manufactured buildings and mobile homes as defined in Article 3.

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

2. In an existing manufactured home park or subdivision in which a manufactured home has incurred substantial damage as the result of a flood, any manufactured home placed or substantially improved in the park or subdivision must meet the standards of sub-part 3.a. and sub-part 4., below.

3. All manufactured homes placed or substantially improved within all A and VE Zones in an existing manufactured home park or subdivision must be elevated so that:

   a. The lowest floor of the manufactured home is elevated no lower than the base flood elevation plus three feet; or

   b. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength, if no less than 72 inches in height above grade, whichever is less.

4. The manufactured home must be securely anchored to adequately resist flotation, collapse, and lateral movement.

5. All recreational vehicles placed on floodplain sites must:

   a. Be fully licensed and ready for highway use; or

   b. Comply with Section 6.04.04 of this Code, which governs the storage of recreational vehicles. RV's are not allowed as residential uses for more than 14 days.

   Note: A recreational vehicle is ready for highway use if it is on its wheels or jacking system, it is to be on the site for fewer than 180 consecutive days, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.

E. *Standards for streams with established Base Flood Elevations, without Regulatory Floodways*.

1. Located within the areas of special flood hazard established in Article 3, Section B [sic], where streams exist for which base flood elevation data has been provided by the Federal Emergency Management Agency without the delineation of the regulatory floodway (Zones AE and A1–30), the following additional provisions shall also apply.

    a. Until a regulatory floodway is designated, no new construction, substantial improvements, or other development including fill shall be permitted within the areas of special flood hazard, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development will not increase the water surface elevation of the base flood more than one foot at any point within the community.

    b. Development activities which *[that]* increase the water surface elevation of the base flood by more than one foot may be allowed, provided that the developer or applicant first applies – with the community's endorsement – for a conditional Letter of Map Change (LOMC) revision, and receives the approval of the Federal Emergency Management Agency.

F. *Floodways*. Located within areas of special flood hazard established in Section 10.01.01, are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters which *[that]* carry debris, potential projectiles and has erosion potential, the following shall apply in floodways:

1. Prohibit encroachments, including fill, new construction substantial improvements and other development unless certification (with supporting technical data) by a registered professional engineer is provided demonstrating that encroachments shall not result in any increase in flood levels during occurrence of the base flood discharge;

2. If the provisions in sub-part (A) above are satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of this Article;

3. Prohibit the placement of manufactured homes (mobile homes), except in existing manufactured home (mobile home) parks or subdivisions. A replacement manufactured home may be placed on a lot in an existing manufactured home park or subdivision provided the anchoring and elevation standards of this Article are met.

4. Development activities including new construction and substantial improvements that increase the water surface elevation of the base flood by more than any amount may be allowed, provided that the developer or applicant first applies – with the community's endorsement – for a conditional LOMC revision, and receives the approval of FEMA.

G. *Coastal high hazard area (V zones)*. Located within the areas of special flood hazard as defined in Section 10.01.03, are areas designated as coastal high hazard areas. These areas have special flood hazards associated with wave wash, therefore, the following provisions shall apply:

1. All new buildings or structures shall be located 30 feet landward of the mean high tide water line in accordance with Section 7.08.00 of this Code.

2. All buildings or structures shall be elevated so that the bottom of the lowest horizontal member, excluding pilings or columns, is located no lower than three feet above the base flood elevation level, with all space below the lowest supporting member free of obstruction so as not to impede the flow of water. Open latticework or decorative screening may be permitted for aesthetic purposes only and must be designed to wash away in the event of abnormal wave action. Breakaway walls may be permitted and must be designed to wash away in the event of abnormal wave action and in accordance with sub-part (9) below.

3. All buildings or structures shall be securely anchored on pilings or columns;

4. All pilings and columns and the attached structures shall be anchored to resist flotation, collapse, and lateral movement due to the effect of wind and water loads acting simultaneously on all building components. Water loading values used shall be those associated with the base flood (one percent annual chance flood). Wind loading values shall be in accordance with the latest edition of the Florida Building Code 2004 as adopted by the County and State as the State Minimum Building Code.

5. A registered professional engineer or architect shall certify that the design, specifications and plans for construction are in compliance with the provisions of this Article and sub-parts (2), (3) and (4) above.

6. Obtain the elevation (in relation to mean sea level) of the bottom of the lowest horizontal structural member of the lowest floor (excluding pilings and columns) of all new and substantially improved structures. The Floodplain Administrator shall maintain a record of all such information.

7. There shall be no fill used as structural support. Non-compacted fill may be used around the perimeter of a building for landscaping/aesthetic purposes provided the fill will wash out from storm surge, thereby rendering the building free from obstruction, prior to generating excessive loading forces, ramping effects, or wave deflection. The Floodplain Administrator shall approve design plans for landscaping/aesthetic fill only after the applicant has provided an analysis by an engineer, architect, and/or soil scientist, which demonstrates that the following factors have been fully considered:

    a. Particle composition to fill material does not have a tendency for excessive natural compaction;

    b. Volume and distribution of fill will not cause wave deflection to adjacent properties; and

    c. Slope of fill will not cause wave run-up or ramping.

8. There shall be no alteration of sand dunes, which would increase potential flood damage;

9. Non-supporting breakaway walls, open wood lattice work or mesh screening shall be allowed for enclosures below the lowest floor provided they are not part of the structural support of the building and are designed so as to breakaway under abnormally high tides or wave action, without damage to the structural integrity of the building on which they are to be used and provided the following design specifications are met:

    a. Non-breakaway walls shall not be allowed and generally, materials used shall consist of wood lattice or mesh screening only; and

    b. The design of the safe loading resistance of each wall shall be not less than 10 nor more than 20 pounds per square foot; or

    c. If more than 20 pounds per square foot, a registered professional engineer or architect shall certify that the design wall collapse would result from a water load less than that which would occur during the base flood event, and the elevated portion of the building and supporting foundation system shall not be subject to flotation collapse, displacement, or other structural damage due to the effects of wind and water loads acting simultaneously on all building components during the base flood event. Maximum wind and water loading values to be used in this determination shall each have one percent chance of being equaled or exceeded in any given year (100-year mean recurrence interval).

d. Such enclosed space shall be useable solely for parking of vehicles, building access, or storage. Such space shall not be finished, partitioned into multiple rooms, or temperature-controlled in a manner for occupancy.

10. If aesthetic open wood lattice work or screening is utilized, such enclosed space shall not be designed to be usable for human habitation, but shall be designed to be usable only for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises.

11. Prior to construction, plans for any structure that will have open wood lattice work or decorative screening must be submitted to the Floodplain Administrator.

12. Any alteration, repair, reconstruction or improvement to a structure shall not enclose the space below the lowest floor except with latticework or decorative screening, as provided for in subparts (8) and (9) above.

13. Prohibit the placement of manufactured homes (mobile homes), and RV's, except in an existing manufactured home (mobile homes) park or subdivision. A replacement manufactured home may be placed on a lot in an existing manufactured home park or subdivision, provided the anchoring and elevation standards of this Article are met.

14. For all structures located seaward of the Coastal Construction Control Line (as recorded in the official records of Escambia County on June 19, 1986, Plat Book 13, Page 23, Sheets A through O) the bottom of the lowest horizontal structural member of the lowest floor of all new construction and substantial improvements shall be elevated to the flood elevation established by the Florida Department of Environmental Protection or the base flood elevation plus 3 feet, whichever is the higher. All non-elevation design requirements Section 10.03.02 G (1-13) shall apply.

15. When fill is proposed, in accordance with the permit issued by the Florida Department of Health, in coastal high hazard area, the development permit shall be issued only upon demonstration by appropriate engineering analyses that the proposed fill will not increase the water surface elevation of the base flood nor cause any adverse impacts to adjacent properties by wave ramping and deflection.

10.03.03. Standards for subdivision and other development proposals.

A. All subdivision and other development proposals shall be consistent with the need to minimize flood damage;

B. All subdivision and other development proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage;

C. All subdivision and other development proposals shall have adequate drainage provided to reduce exposure to flood hazards; and

D. Base flood elevation data shall be provided for subdivision and other development proposals that are greater than five acres. When such base flood elevation is established, all elevation and non-elevation design requirements of this ordinance shall apply.

10.03.04. Standards for areas of shallow flooding (AO zones). Located within the areas of special flood hazard, as defined in Section 10.01.03, are areas designated as shallow flooding. These areas have special flood hazards associated with base flood depths of one to three feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate; therefore, the following provisions apply:

A. All new construction and substantial improvements of residential structures shall have the lowest floor, including basement, elevated to either of the following:

1. The depth number specified on the Flood Insurance Rate Map plus three feet. If no depth number is specified, the lowest floor, including basement, shall be elevated at least five feet above the highest adjacent grade, or eight inches above the back curb with a minimum of two percent slope to the structure, whichever is greater;

2. In cases where the lot is down gradient from the road, the finished floor shall be as per the designed elevation provided by either the subdivision grading plan or a lot grading plan, which shall be a minimum of three feet above the base flood elevation, provided by a licensed Professional Engineer, and the Florida Building Code R403.1.7.3, whichever is more stringent.

B. All new construction and substantial improvement of existing non-residential structures shall:

1. Have the lowest floor, including basement, elevated to a minimum of the base flood level specified on the Flood Insurance Rate Map, plus three feet, above the highest adjacent grade. If no depth number is specified, the lowest floor, including a basement, shall be elevated to at least five feet above the highest adjacent grade; or

2. Together with attendant utility and sanitary facilities, be completely flood-proofed to or above that level so that any space below that level is watertight with walls substantially impermeable to the passage of water, and with

structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

C. Adequate drainage paths around structures shall be provided on slopes to guide water away from structures.

10.03.05. Floodplain management. In order to protect the public health, safety and welfare and to protect the quality of environmental and natural resources, using all available information, the County shall:

A. Identify those floodplains and wetland areas which *[that]* function as ground water recharge areas in the unincorporated Escambia/Santa Rosa Counties Resource Planning Management Committee study areas.

B. Develop public education programs to reduce use of fertilizers, pesticides and herbicides within floodplains.

C. Establish density limits to control building in floodplains.

D. Develop controls of industrial and commercial uses in floodplains.

E. Reevaluate, for improved enforcement, existing prohibitions on placement on litter, trash and debris in floodplains.

10.03.06. Standards for streams without established base flood elevations and/or floodways. Located within the areas of special flood hazard established in Section 10.01.02 above, where there exists A Zones or small streams exist, but where no base flood data have been provided or where no regulatory floodways have been provided or designated by the Federal Emergency Management Agency, the following provisions shall apply:

A. Require standards of Sec. 10.03.00 and 10.03.01.

B. The Floodplain Administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a Federal, State of Florida, or any other source, in order to administer the provisions of this ordinance. When such base flood elevation is established, all elevation and non-elevation design requirements of this ordinance shall apply. The Floodplain Administrator shall:

1. Obtain the elevation (in relation to the mean sea level) of the lowest floor (including the basement) of all new and substantially improved structures;

2. Obtain, if the structure has been flood-proofed in accordance with the requirements of Sec. 10.03.02 (B), the elevation in relation to the mean sea level to which the structure has been flood-proofed; and

3. Maintain a record of all such information. Base flood elevation data shall be provided for all subdivision and other development proposals which *[that]* are greater than five acres. When such base flood elevation is established, all elevation requirements of this ordinance shall apply.

C. Notify, in riverine situations, adjacent communities, the State of Florida, Department of Community Affairs, NFIP Coordinating Office, and the applicable Water Management District prior to any alternation or relocation of a watercourse, and submit copies of such notifications to FEMA.

D. Assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.

E. Manufactured homes shall be installed using methods and practices that minimize flood damage. They must be elevated and anchored to prevent floatation, 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 requirement is in addition to applicable State of Florida and local anchoring requirements for resisting wind forces.

F. When the data is not available from any source as in paragraph B of this section, the lowest floor of the structure shall be elevated to no lower than three feet above the highest adjacent grade.