

AN ORDINANCE TO AMEND THE UNIFIED DEVELOPMENT CODE

WHEREAS, following a public hearing and meeting advertised in accordance with O.C.G.A. §§ 36-66-4 and 50-14-1 *et seq.*, the Douglas County Planning and Zoning Board and Douglas County Board of Commissioners has considered and adopted various amendments to the Unified Development Code.

NOW, THEREFORE BE IT ORDAINED by the Douglas County Board of Commissioners that the Unified Development Code is amended as follows:

SECTION ONE

The text of Section 1105(b) of Article 10 regarding Definitions related to floodplain management in the Unified Development Code is amended to include the following as shown by the underlining of text and to delete the following as shown by the strikethrough of text:

Adjacent to the Floodplain: All land within a development that would flood if the 100-year flood elevation increase by 10 feet.

Appeal: A request for a review of the Authority's Engineering Department's interpretation of any provision of this ordinance.

Area of Special Flood Hazard: The land in the floodplain subject to a one percent or greater chance of flooding in any given year. In the absence of official designation by the Federal Emergency Management Agency, Areas of Special Flood Hazard shall be those designated by the local community and referenced in Section 1105 (d). This includes all floodplain and flood prone areas at or below the base flood elevation (including A, AI-30, A-99, AE, AO, AH and AR on the FHBM or the FIRM) and all floodplain and flood prone areas at or below the future-conditions flood elevation. All streams with a drainage area of 100 acres or greater shall have the area of Special Flood Hazard delineated.

Authority: The Douglasville-Douglas County Water and Sewer Authority and/or its authorized agents or representatives.

Basement: That portion of a building having its floor subgrade (below ground level) on at least one side. See also "Cellar."

Building: ~~Any structure having a roof supported by columns or walls and intended for the shelter, housing, or enclosure of any individual, animal, process, equipment, goods, or materials of any kind.~~ See "Structure."

~~Cellar: A space with less than one-half of its floor-to-ceiling height above the average finished grade of the adjoining ground or with a floor-to-ceiling height of less than 6½ feet. See Also “Basement.”~~

~~Existing Construction: For the purposes of flood damage prevention requirements, any structure for which the “start of construction” commenced before January 1, 2003. Any structure for which the “start of construction” commenced before February 3, 1987 for structures within unincorporated Douglas County.~~

~~Existing 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 final site grading or the pouring of concrete pads) is completed before January 1, 2003 February 3, 1987, for structures within unincorporated Douglas County.~~

~~Fair Market Value: The pre-flood market value as determined by an independent property appraisal by a licensed/certified appraiser or the recorded property value assessed by the Douglas County Tax Assessor.~~

~~Flood Hazard Boundary Map (FHBM): An official map of a community, issued by the Federal Insurance Administration, where the boundaries of area of special flood hazard have been defined as Zone A.~~

~~Floodplain Variance: Refers to a grant of relief from the requirements of this Section, which permits construction in a manner otherwise prohibited by the Floodplain Management Regulations.~~

~~Floodplain Variance Board: The Appeal Panel designated by the Authority, which shall include the Executive Director, the Chief Financial Officer of the Authority, and Authority Counsel, or their designees, which shall hear and decide appeals and requests for variance from the requirements of the Floodplain Management Regulations.~~

~~Future-Conditions Hydrology: The flood discharge associated with projected land-use conditions based on a community’s zoning maps, comprehensive land use plans, and/or watershed study projections and zoning maps and future land use maps without consideration of projected future construction of flood detention structures or projected future hydraulic modifications within a stream or waterway, such as a bridge and culvert construction, fill and excavation.~~

~~Land Development: Any land change, including but not limited to clearing, digging, grubbing, stripping, removal of vegetation, dredging, grading, excavating, transporting and filling of land, construction, paving, and any other installation of impervious cover.~~

*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 Code, the term is synonymous with National Geodetic Vertical Datum (NGVD) **of 1988.***

*New Construction: Means any “structure” (see definition) for which the “start of construction” commenced after February 3, 1987, **for structures within unincorporated Douglas County** and includes any subsequent improvements to the 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 ~~January 1, 2003~~ **February 3, 1987, for structures within unincorporated Douglas County.***

*Ordinance: Refers to this Ordinance, means Article 11 of the Unified Development Code regarding Floodplain Management and any applicable provisions set forth **in the Authority’s Design and Construction Standards.***

Regulatory Floodplain: The future-conditions 100-year floodplain where available. Where the future-conditions base floodplain has not been determined, the regulatory floodplain means the existing 100-year base floodplain.

Section: When referring to this Section, includes all provisions set forth in Chapter 9 of the Authority’s Rules and Regulations and all applicable provisions of the Authority’s Design and Construction Standards adopted in conjunction herewith.

~~Start of Construction: The date the permit was issued, provided the actual start of construction, repair, reconstruction, or improvement was within 180 days of the permit date, for new construction or a substantial improvement as follows: For new construction, the actual start means the first placement of permanent construction of the structure, such as the pouring of slabs or footings, installation of pipes, construction of columns, or any work beyond the stage of excavation, and includes the placement of a manufactured home on a foundation. Permanent construction does not include initial land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of buildings appurtenant to the permitted structures, such as~~

~~garages or sheds not occupied as dwelling units or part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.~~ **The date the 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 the structure, such as pouring of slabs or footing, installation of pipes, construction of columns, or any work beyond the stage of excavation, and includes the placement of a manufactured home on a foundation. Permanent construction does not include initial land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footing, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of buildings appurtenant to the permitted structures, such as garages or shed not occupied as dwelling units or part of the main structure. (Note: Accessory structures are not exempt from any requirement of this Section.) For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building.**

*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% of the market value of the structure before the damage occurred. **Damage could be from a single event or cumulative damage for a period not to exceed 10 years.***

*Substantial Improvement: Any combination of repairs, reconstruction, alteration, or improvements to a building, taking place during a ~~5-year~~ **ten-year (10-year)** period, in which the cumulative cost equals or exceeds 50% of the market value of the structure prior to the improvement. The market value of the building means (1) the appraised value of the structure prior to the start of the initial repair or improvement, or (2) in the case of damage, the value of the structure prior to the damage occurring. This term includes structures that have incurred "substantial damage" regardless of the actual amount of repair work performed. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the building. The term does not, however, include those improvements of a building required to comply with existing health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, which have been pre-identified by the Authority or any County Code Enforcement official, and not solely triggered by an improvement or repair project.*

*Variance Board: ~~The Planning & Zoning Board~~ appointed by the Board of Commissioners, **The Appeal Panel designated by the Authority, which shall include the Executive Director, the Chief Financial Officer of the Authority and Authority Counsel, or their designees,** which shall hear and decide appeals and requests for variances from the requirements of this Article.*

Violation: The failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without a required elevation certificate, other certificates, or other evidence of compliance required in this Section 1105, is presumed to be a violation until such time as that documentation is provided.

SECTION TWO

The text of Section 1105 of Article 11 regarding Floodplain management regulations in the Unified Development Code is amended to include a new item 1105(d) as shown by the underlining of text with subsequent items renumbered 1105(e) – 1105(cc):

Designation of administrator.

The Authority's Engineering Department is hereby appointed to administer, implement and enforce the provision of this Section.

SECTION THREE

The text of Section 1105(e) of Article 11 regarding Basis for area of special flood hazard; flood area maps and studies in the Unified Development Code is amended to include the following as shown by the underlining of text and to delete the following as shown by the strikethrough of text:

- (1) *The Flood Insurance Study (FIS) for Douglas County, Georgia, dated ~~March 15, 1984~~ August 18, 2009, as amended, with accompanying maps and other supporting data and any revision thereto. For those land areas acquired ~~by a municipality through annexation or otherwise lying in unincorporated Douglas County~~, the current effective FIS and data for unincorporated Douglas County are hereby adopted by reference.*
- (2) *Other studies which may be relied upon for the establishment of the base flood elevation of delineation of the 100-year floodplain include:*
 - a. *Any flood or flood-related study conducted by the United States Corps of Engineers or the United States Geological Survey applicable to ~~the City of Douglasville and/or Douglas County, Georgia~~; or*
 - b. *Any base flood study authored by a registered professional engineer in the State of Georgia that has been approved by the Authority and Douglas County, Georgia, as applicable.*

- (3) *Other studies that may be relied upon for the establishment of the regulatory flood elevation or delineation of the regulatory floodplain include:*
- a. *Any flood or flood-related study conducted by the United States Corps of Engineers or the United States Geological Survey applicable to Douglas County, Georgia; or*
 - b. *Any regulatory flood study authored by a registered professional engineer in the State of Georgia that has been approved by the Authority and Douglas County, Georgia, as applicable. Any future-conditions flood study using FEMA approved methods authored by a registered professional engineer in the State of Georgia that has been approved by the Authority and Douglas County, Georgia, as applicable.*
- (4) *The repository for public inspection of the flood studies, accompanying maps and other supporting data is located in the Development Control Department of Douglas County.*

SECTION FOUR

The text of Section 1105(i) of Article 11 regarding Floodplain management is renamed Permit application requirements and is amended to include the following as shown by the underlining of text and to delete the following as shown by the strikethrough of text:

Floodplain management Permit application requirements.

No owner or developer shall perform any land development activities on a site where ~~a~~ regulatory floodplain an area of special flood hazard is located, ~~or is proposed to be altered or disturbed in any way,~~ without first meeting the requirements of this Section prior to commencing the proposed activity.

Unless specifically excluded by this Section, any owner or developer desiring a permit for a land development activity shall submit a permit application to the Authority on a form provided by the Authority for that purpose.

No permit will be approved for any land development activities that do not meet the requirements, restrictions, and criteria of this Section.

SECTION FIVE

The text of Section 1105(j) of Article 11 regarding Floodplain management plan requirements in the Unified Development Code is amended to include the following as shown by the underlining of text and to delete the following as shown by the strikethrough of text:

~~An~~ **No** application for a ~~land~~ development project within any area of special flood hazard established in Section 1105(e) will be ~~required~~ **approved unless it** ~~to~~ includes a floodplain management/flood damage prevention plan. This plan shall be in accordance with the criteria established in this Section.

The floodplain management/flood damage prevention plan must be submitted with the stamp and signature of a Professional Engineer (PE) licensed in the state of Georgia, who will verify that all designs are consistent with the requirements of this Section.

The approved floodplain management/flood damage prevention plan shall contain certification by the applicant that all land development activities will be done according to the plan or previously approved revisions. Any and all land development permits and/or use and occupancy certificates or permits may be revoked and water service may be terminated by the Authority at any time if the construction and building activities are not in strict accordance with approved plans.

The floodplain management/flood damage prevention plan shall include, but not be limited to, the following: plans drawn to scale of the site in question and the nature, location, and dimensions of existing or proposed structures, earthen fill placement, storage of materials or equipment, and drainage and stormwater management facilities. Specifically, the following information is required:

- (1) Site plan, including but not limited to:
 - a. For all proposed structures **in the base floodplain or future-conditions floodplain**, spot ground elevations at building corners and 20-foot or smaller intervals along the foundation footprint, or one foot contour elevations throughout the building site;
 - b. ~~Existing and proposed elevations of the area in question and the nature, locations and dimensions of existing and/or proposed structures, earthen fill placement, amount and locations of excavation material, and storage of materials or equipment;~~ **Proposed placement of earthen fill, amount and location of excavations, and storage of materials and equipment;**
 - c. Proposed locations of water supply, sanitary sewer and utilities;
 - d. Proposed locations of drainage and stormwater management facilities;
 - e. Proposed grading plan;
 - f. Base flood elevations or future-conditions flood elevations;
 - g. Boundaries of the base flood floodplain or future-conditions flood floodplain;

County Floodplain Administrator a certified as-built plan ~~showing the regulatory flood elevation or flood proofing level~~ Elevation Certificate or Floodproofing Certificate for non-residential construction, including the lowest floor elevation or flood-proofing level, immediately after the lowest floor or flood-proofing is completed. A Final Elevation Certificate shall be provided after completion of construction, including final grading of the site. Any lowest floor certification made relative to mean sea level 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 non-residential structures, said certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same.

Any work undertaken prior to approval of these certifications shall be at the permit holder's risk. ~~The Authority~~ County Floodplain Administrator shall review the above-referenced certification data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further work being allowed to proceed. Failure to submit certificates or failure to make the corrections required hereby shall be cause to issue a stop-work order for the project and/or withhold the Certificate of Occupancy.

SECTION SEVEN

The text of Section 1105(l)(1) and Section 1105(l)(6) of Article 11 regarding Duties and responsibilities of the authority in the Unified Development Code is amended to include the following as shown by the underlining of text

- (1) Review of all land development applications and permits to assure that the requirements of this Section have been satisfied and to determine whether proposed building sites will be reasonably safe from flooding;*

- (6) When flood-proofing is utilized for a non-residential structure, the Authority shall obtain certification of design criteria from a registered professional engineer or architect;*

SECTION EIGHT

The text of Section 1105(o) of Article 11 regarding General standards for land development in the Unified Development Code is amended to include the following as shown by the underlining of text and to delete the following as shown by the strikethrough of text:

- (1) ~~No development shall be allowed within the future-conditions floodplain that could result in any of the following:~~*
 - a. ~~Raising the base flood elevation or future-conditions flood elevation equal to more than 0.01 foot;~~*

- b. ~~Reducing the base flood or future conditions~~ **regulatory** flood storage capacity - **All** compensation for storage capacity shall occur between the average ground water table elevation **or future-conditions flood elevation** ~~and the base flood elevation for the base flood, and between the average ground water table elevations and the future condition flood elevation for the future conditions flood~~ and lie either within the boundaries of ownership of the property being developed, and shall be within the immediate vicinity of the location of the encroachment. Acceptable means of providing required compensation include: lowering of natural ground elevations within the floodplain; or lowering of adjoining land areas to create additional floodplain storage. All cut areas are to be ~~stabilized~~ **and** graded to a slope of no less than ~~two~~ **three** percent (~~2.0~~ **3.0** %). In no case shall any required compensation be provided via bottom storage or by excavating below the elevation of the top of the natural (pre-development) stream channel **unless such excavation results from the widening or relocation of the stream channel.** A step-backwater analysis will be required to determine the volume of flood storage created by raising the regulatory flood elevation;
- c. ~~Effective transitions shall be provided such that flow velocities occurring on both upstream and downstream properties are not increased or decreased. Verification of no-rise conditions (0.1 foot or less), floor storage, volumes and flow characteristics shall be provided via a step-backwater analysis meeting the requirements of Section 1105(e).~~ **Changing the flow characteristics as to the depth and velocity of the waters of the base flood or future-conditions flood as they pass both the upstream and the downstream boundaries of the property. Verification shall be provided via a step-backwater analysis; or;**
- d. Creating hazardous or erosion-producing velocities, or resulting in excessive sedimentation. In all cases, effective transitions must be provided such that flow velocities occurring on both upstream and downstream properties are not increased or decreased.
- (2) All proposed ~~development shall have~~ public utilities and facilities, such as sewer, gas, electrical, and water system, **shall be** located and constructed to minimize flood damage.
- (3) Any significant **physical changes to the regulatory floodplain or any significant** changes or revisions to the flood data adopted herein and shown on the FIRM shall be submitted as a Conditional Letter of Map Revision (CLOMR) or Conditional Letter of Map Amendment (CLOMA), whichever is applicable. The CLOMR submittal shall be subject to approval by the Authority and the ~~City of Douglasville~~ **County** using the Community Consent forms before forwarding the submittal package to FEMA for final approval. The responsibility for forwarding the CLOMR to FEMA and for obtaining the CLOMR approval shall be the responsibility of the applicant. Within six months of the completion of construction, the applicant shall submit as-built surveys that demonstrate general conformance to the approved designs as submitted in the CLOMR application. A Letter of Map Revision (LOMR) or Letter of Map Amendment (LOMA) must be issued before the Final Plat can be approved or a Certificate of Occupancy can be issued.

Significant changes or revisions shall be defined as any change to the FIRM easily observed when plotted at a scale of 1inch = 1000 feet. The changes or revisions may be due to, but are not limited to, more current and/or superior topographic information or compensatory cut and fill grading done as a part of the development.

SECTION NINE

The text of Section 1105(p) of Article 11 regarding Engineering study requirements for floodplain encroachments in the Unified Development Code is amended to include the following as shown by the underlining of text and to delete the following as shown by the strikethrough of text:

An engineering study is required, as appropriate to the proposed development activities on the site, whenever a development proposes to disturb the ~~regulatory~~ base floodplain or future-conditions floodplain. This study shall be prepared by a currently registered Professional Engineer in the State of Georgia and made a part of the application for a permit. This information shall be submitted to and approved by the Authority prior to the approval of any permit that would authorize the disturbance of land located within the floodplain. Such study shall include:

SECTION TEN

The text of Section 1105(q)(2) of Article 11 regarding Floodway encroachments in the Unified Development Code is amended to delete the following as shown by the strikethrough of text:

- (2) *If the applicant proposes to revise the floodway boundaries, no permit authorizing the encroachment into or an alteration of the floodway shall be issued by the Authority until an affirmative Conditional Letter of Map Revision (CLOMR) ~~or Conditional Letter of Map Amendment (CLOMA), whichever is applicable,~~ is issued by FEMA and a no-rise certificate is approved by the Authority.*

SECTION ELEVEN

The text of Section 1105(s) of Article 11 regarding General standards for flood hazard reduction in the Unified Development Code is amended to include the following as shown by the underlining of text and to delete the following as shown by the strikethrough of text:

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

- (1) *New construction of ~~principal~~ residential buildings (~~residential or non residential~~), including manufactured homes, shall not be allowed within the limits of the future-*

conditions floodplain ~~unless all requirements of Sections 1105 (n) (o) and (p) have been met;~~

- (2) *New construction of non-residential structures shall not be allowed within the future-conditions floodplain unless all requirements of Article 11, Section ~~1105 (r) (6)~~ **1105 (j), (k), (o), (p) and (q)** are met;*
- (3) *New construction or substantial improvements of existing structures shall be anchored to prevent flotation, collapse, or lateral movement of the structure;*
- (4) *New construction or substantial improvement of existing structures shall be constructed with materials and utility equipment resistant to flood damage;*
- (5) *New construction or substantial improvements of existing structures shall be constructed by methods and practices that minimize flood damage;*

(6) *~~Elevated Buildings~~ **Enclosures**.*

*All ~~new construction and~~ substantial improvements of existing structures that include any fully enclosed area located below the lowest floor formed by foundation and other exterior walls shall be designed so as to be an unfinished ~~or~~ **and** flood resistant enclosure. The enclosure shall be designed to equalize hydrostatic flood forces on exterior walls by allowing for the automatic entry and exit of floodwater.*

- a. *Designs for complying with this requirement must either be certified by a professional engineer or architect or meet the following minimum criteria:*
 - 1. *Provide a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;*
 - 2. *The bottom of all openings shall be no higher than one foot above grade; and,*
 - 3. *Openings may be equipped with screens, louvers, valves, or other coverings or devices provided they permit the automatic flow of floodwater in both directions.*
- b. *So as not to violate the “Lowest Floor” criteria of this Section, the unfinished or flood resistant enclosure shall only be used for parking of vehicles, limited storage of maintenance equipment used in connection with the premises, or entry to the elevated area; and,*
- c. *The interior portion of such enclosed area shall not be partitioned or finished into separate rooms.*

- (7) *All heating and air conditioning equipment and components (including ductwork), all electrical, ventilation, plumbing, and other service facilities shall be designed and/or located ~~four (4)~~ three (3) feet above the base flood elevation or one (1) foot above the future-conditions flood elevation, whichever is higher, so as to prevent water from entering or accumulating within the components during conditions of flooding;*
- (8) *Manufactured homes shall be anchored to prevent flotation, collapse, ~~or~~ and 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;*
- (9) *New and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system;*
- (10) *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;*
- (11) *On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding; and,*
- (12) *Any alteration, repair, reconstruction, or improvement to a structure that is not compliant with the provisions of this Section, shall be undertaken only if the nonconformity is not furthered, extended, or replaced.*
- (13) *If the proposed development has multiple flood zones or multiple base flood elevations, the higher or more restrictive base flood elevation or future-conditions elevation and development standards shall take precedence.*

SECTION TWELVE

The text of Section 1105(t) of Article 11 regarding Building standards for structures and buildings within the floodplain in the Unified Development Code is amended to include the following as shown by the underlining of text and to delete the following as shown by the strikethrough of text:

- (1) *Residential buildings.*
 - a. *New construction.*
~~*New construction of principal buildings, including manufactured homes, shall not be allowed within the limits of the base floodplain or future-conditions floodplain unless all requirements of Section 1105 (n) (o) and (p) have been met. If all requirements of Section 1105 (n) (o) and (p) have been met, all new construction*~~

shall have the lowest floor, including basement elevated no lower than three (3) feet above the base flood elevation or one (1) foot above future conditions flood elevation, whichever is higher. Should solid foundation perimeter walls be used to elevate the structure, opening sufficient to equalize the hydrologic flood forces on exterior walls and to facilitate the unimpeded movements of floodwaters shall be provided in accordance with the standards of Section 1105 (r).

New construction of residential buildings, including manufactured homes, shall not be allowed within the limits of the base floodplain or future-condition floodplain.

b. Substantial improvements.

*Substantial improvement of any structure or manufactured home shall have the lowest floor, including basement, elevated no lower than ~~four (4)~~ **three (3)** feet above the base flood elevation or one (1) foot above the future-conditions flood elevation, whichever is highest. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to equalize the hydrologic flood forces on exterior walls and to facilitate the unimpeded movements of floodwaters shall be provided in accordance with standards of ~~Section 1105 (r) (6)~~ **“Elevated Buildings.” Section 1105 (s) (6) “Enclosures.”** (Amended 02/2005)*

(2) *Nonresidential buildings.*

a. New construction.

*New construction of principal buildings, ~~including manufactured homes,~~ shall not be allowed within the limits of the future-conditions floodplain unless all requirements of Article 11, Section ~~1105 (n) (o) & (p)~~ **1105 (j), (k), (o), (p) and (q)** have been met. New construction that has met these requirements may be floodproofed in lieu of elevation. The structure, together with attendant utility and sanitary facilities, must be designed to be watertight to one (1) foot above the base flood elevation, or at least as high as the future-conditions flood elevation, whichever is higher, with walls substantially impermeable to the passage of water and structural components having the capacity of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the designs and methods of construction are in accordance with accepted standards of practice for meeting the provisions above and shall provide such certifications to the Authority.*

b. Substantial improvements.

Substantial improvement of any principal non-residential structure located in A1-30, AE, or AH zones may be authorized by the Authority to be flood-proofed in lieu of elevation. The structure, together with attendant utility and sanitary facilities, must be designed to be water tight to one (1) foot above the base flood elevation, or at least as high as the future-conditions flood elevation, whichever is highest, with walls substantially impermeable to the passage of water, and

structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered Professional Engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions above, and shall provide such certification to the Authority.

(3) *Accessory structures and facilities.*

Accessory structures and facilities (i.e., barns, sheds, gazebos, detached garages, parking lots, recreational facilities, and other similar structures and facilities) which are permitted to be located within the limits of the floodplain shall be constructed of flood-resistant materials and designed and constructed to pass all floodwater in a manner consistent with Section 1105 (r) (5) and be anchored to prevent flotation, collapse or lateral movement of the structure.

(4) *Standards for recreational vehicles.*

All recreational vehicles placed on sites must either:

- a. Be on the site for fewer than 180 consecutive days and be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is licensed, on its wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached structures or additional); or*
- b. The recreational vehicle must meet all the requirements for “Residential Buildings – Substantial Improvements,” including the anchoring and elevation requirements above.*

(5) *Standards for manufactured homes.*

- a. New construction or development that involves the placed of manufactured homes within the limits of the base floodplain or future-conditions floodplain shall not be allowed ~~unless all requirements of Section 1105 (n) (o) & (p) have been met.~~*
- b. Manufactured homes placed and/or substantially improved within an existing manufactured home park or subdivision shall be floodproofed as follows:*
 - 1. The manufactured home shall be elevated such that the lowest floor is elevated no lower than ~~four (4)~~ **three (3)** feet above the base flood elevation or one (1) foot above the future-conditions floodplain, whichever is higher; ~~or the manufactured home chassis is elevated and supported by reinforced piers (or other foundation elements of at least an equivalent strength) of no less than four (4) feet in height above grade **and**~~*

2. *The manufactured home must be securely anchored to an adequate foundation system to resist foundation collapse and lateral movement in accordance with Article 11, section 1105 (r) (8).*
3. **The manufactured home chassis must be elevated no less than 36 inches in height above grade and supported by reinforced piers.**

SECTION THIRTEEN

The text of Section 1105(u)(1) of Article 11 regarding Building standards for structures and buildings authorized adjacent to the floodplain in the Unified Development Code is amended to include the following as shown by the underlining of text and to delete the following as shown by the strikethrough of text:

All buildings shall comply with the County's building codes, in addition to the following:

(1) *Residential buildings.*

~~*For new construction or substantial improvement of any principal residential building or manufactured home, the elevation of the lowest floor, including basement and access to the building, shall be at least four (4) feet above the level of the highest base flood elevation or one (1) foot above the level of the future conditions flood elevation, whichever is highest.*~~

No new residential structures may be constructed within the base floodplain or the future-conditions floodplain. For new construction adjacent to the base floodplain or future-conditions floodplain or substantial improvement to any existing residential building or manufactured home within a floodplain, the elevation of the lowest floor, including basement and access to the building, shall be at least three (3) feet above the level of the highest base flood (100 year) elevation or one (1) foot above the future-conditions flood elevation, whichever is higher.

SECTION FOURTEEN

The text of Section 1105(v) of Article 11 regarding Building standards for streams without established base flood elevations and/or floodway (A-Zones) in the Unified Development Code is amended to include the following as shown by the underlining of text and to delete the following as shown by the strikethrough of text:

For a residential single-lot development not part of a subdivision that has Areas of Special Flood Hazard, where streams exist but no base flood data have been provided (A-Zones), the Authority shall review and reasonably utilize any available scientific or historic flood elevation data, base flood elevation and floodway data or future-conditions flood elevation data available from a Federal, State, local or other source, in order to administer the provisions and standards of this ordinance.

If data are not available from any of these sources, the following provisions shall apply:

- (1) *No encroachments, including structures or fill material, shall be located within an area equal to twice the width of the stream or fifty (50) feet from the top of the bank of the stream, whichever is greater.*
- (2) *In special flood hazard areas without base flood or future-conditions flood elevations data, new construction and substantial improvements of existing structures shall have the lowest floor of the lowest enclosed area (including basement) elevated no less than ~~four~~ **three (3)** feet above the highest adjacent grade at the building site. Openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with Article 11, Section 1105 (r) (6).*
- (3) **For new homes constructed upstream of and adjacent to a new or existing roadway crossing of a stream where the roadway forms a sag vertical curve, the lowest floor of the lowest enclosed area (including basement) shall be elevated no less than three (3) feet above the top of the roadway or curb, whichever is higher, measured at the low point of the curve.**

SECTION FIFTEEN

The text of Section 1105(w)(3) of Article 11 regarding Building standards for X Zone areas in the Unified Development Code is amended to include the following as shown by the underlining of text and to delete the following as shown by the strikethrough of text:

- (3) *For new homes constructed adjacent to a new or existing roadway crossing of a stream where the roadway forms a sag vertical curve, the lowest floor of the lowest enclosed area (including basement) shall be elevated no less than ~~four~~ **three (3)** feet above the top of the roadway or curb, whichever is higher, measured at the low point of the curve.*

SECTION SIXTEEN

The text of Section 1105(x) of Article 11 regarding Building standards for Areas of Shallow Flooding (AO-Zones) in the Unified Development Code is amended to include the following as shown by the underlining of text and to delete the following as shown by the strikethrough of text:

Areas of Special Flood Hazard may include designated “AO” shallow flood areas. These areas have base flood depths of one to three feet above ground, with no clearly defined channel. In these areas, the following provisions apply:

- (1) *All substantial improvements of residential and non-residential structures shall have the lowest floor, including basement, elevated to no lower than one (1) foot above the flood depth number specified on the Flood Insurance Rate Map (FIRM), above the highest adjacent grade. If no flood depth number is specified, the lowest floor, including basement, shall be elevated at least ~~four~~ **three (3)** feet above the highest adjacent*

grade. Openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with standards for “Elevated Buildings.”

The applicant’s or owner’s engineer shall certify to the Authority that the lowest floor elevation level is at least ~~four (4)~~ three (3) feet above the highest adjacent grade and the record shall become a permanent part of the permit file.

- (2) *Substantial improvement of a non-residential structure may be flood-proofed in lieu of elevation. The structure, together with attendant utility and sanitary facilities, must be designed to be water tight to the specified FIRM flood level plus one (1) foot above the highest adjacent grade, with wall substantially impermeable to the passage of water, and structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice; and*
- (3) *Drainage paths shall be provided to guide floodwater around and away from any proposed structure.*

SECTION SEVENTEEN

The text of Section 1105(y) of Article 11 regarding Standards for subdivisions in the Unified Development Code is amended to include the following as shown by the underlining of text and to delete the following as shown by the strikethrough of text:

- (1) *All subdivision proposals shall identify the special flood hazard area and provide base flood and regulatory flood elevation data;*
- (2) *~~All subdivision plans will provide the elevations of proposed structure(s) in accordance with Section 1105 (i). if the site is filled above the base flood or future conditions flood elevation, the lowest floor and pad elevations shall be certified by a registered professional engineer or surveyor and provided to the Authority.~~*

All residential lots in a subdivision shall have sufficient buildable area outside of the base floodplain or future-condition floodplain such that encroachments into the floodplain for residential structures will not be required.

- (3) *~~All subdivision proposals shall be consistent with the need to minimize flood damage;~~*

All subdivision plans will provide the elevation of proposed structure(s) and pad(s) in accordance with Section 1105 (j).

- (4) **All subdivision proposals shall be consistent with the need to minimize flood damage;**

- (5) *All subdivision proposals shall have public utilities and facilities, such as sanitary sewer, gas, electrical, and water systems located and constructed to minimize or eliminate infiltration of flood waters and discharges from the systems into flood waters; and,*
- (6) *All subdivision proposals shall have adequate drainage and stormwater management facilities per the requirements of the Authority and Douglas County to reduce exposure to flood hazards.*

SECTION EIGHTEEN

The text of Section 1105(aa) of Article 11 regarding Repetitive loss structures is renamed Repetitive loss structures/substantial damage in the Unified Development Code is amended to include the following as shown by the underlining of text and to delete the following as shown by the strikethrough of text:

*Repetitive loss structures**/substantial damage.*

(1) Repetitive loss structures

The County Floodplain Administrator may declare any structure as a repetitive loss structure as required to qualify the structure for increased cost of compliance benefits allowed in the National Flood Insurance Program. To be declared a repetitive loss structure, the following conditions must be true:

~~*The Authority may declare any existing structure as a repetitive loss structure as required to qualify the structure for increased cost of compliance benefits allowed in the National Flood Insurance Program. To be declared a repetitive loss structure, the following conditions must be met:*~~

- a. *The structure must have a flood insurance policy that includes increased cost of compliance coverage; **and;***
- b. *The structure must have been flooded at least twice during a ten-year (10-year) period which **ends on the date of the second flood** with each flood event causing damage for which the repair cost equaled or exceeded twenty-five percent (25%) of the market value of the structure; and;*
- c. *The cost to repair the flood damage, on average, equaled or exceeded 25% of the fair market value of the structure at the time of each flood eve, and;*
- d. *The owner, or representative, shall request the declaration in writing and provide supporting documentation to show that the above requirements have been met.*

(2) Substantial damage

The County Floodplain Administrator may declare any damaged structure to have “Substantial Damage” as required to qualify the structure for increased cost of compliance benefits allowed in the National Flood Insurance Program. To be declared as having substantial damage, the structure must have qualified damage as follows:

- a. Single event damage of any origin such that the cost of restoring the structure to its pre-damaged condition would equal or exceed 50% of the fair market value of the structure at the time it received damage.**
- b. Cumulative damage of any origin over a period of time not to exceed 10 year such that the cumulative cost of repairs equals or exceed 50% of the current fair market value of the structure.**

SECTION NINETEEN

The text of Section 1105(bb) of Article 11 regarding Floodplain management regulations is renamed Variance procedures in the Unified Development Code is amended to delete the following as shown by the strikethrough of text:

~~Floodplain management regulations; Variance procedures.~~

The following variance and appeals procedures shall apply to an applicant who has been denied a permit for a development or to an owner or developer who has not applied for a permit because it is clear that the proposed development activity would be inconsistent with the provisions of this Article. A request for a variance may be submitted by an applicant who has been denied a permit by the Authority or by an owner or developer who has not been previously applied for a permit stated above.

- (1) Requests for variances from the requirements of this Article shall be submitted to the Authority. All such requests shall be heard and decided in accordance with procedures established by the Authority. At a minimum, such procedures shall include notice to all affected parties and the opportunity to be heard.*
- (2) The ~~Floodplain~~ Variance Board as established by the Authority shall hear and decide requests for appeals or variance from the requirements of this Section.*
- (3) ~~The Floodplain~~ Variance Board shall hear and decide appeals when it is alleged an error in any requirement, decision, or determination is made by the Engineering Department in the enforcement or administration of this Section.*
- (4) Any person aggrieved by the decision of the ~~Floodplain~~ Variance Board may, after exhausting all administrative remedies, appeal such decision to the Superior Court of Douglas County, as provided by state law.*
- (5) ~~Floodplain~~ Variances may be issued for the repair and rehabilitation of Historic Structures upon a determination that the proposed repair or rehabilitation will not*

preclude the structure's continued designation as an Historic Structure, and the variance is the minimum to preserve the historic character and design of the structure.

- (6) ~~Floodplain~~ Variances may be issued for development necessary for the conduct of a functionally dependent use, provided the criteria in this Section are met, no reasonable alternative exists, and the development is protected by methods that minimize flood damage during the base flood and create no additional threats to public safety.*
- (7) ~~Floodplain~~ Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.*
- (8) In reviewing such requests, the ~~Floodplain~~ Variance Board shall consider all technical evaluations, relevant factors, and all standards specified in this and other sections of this Section.*
- (9) Conditions for floodplain variances.*
A floodplain variance shall be issued only when there is:

 - a. A finding of good and sufficient cause;*
 - b. A determination that failure to grant the variance would result in exceptional hardship; and,*
 - c. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, or cause fraud on or victimization of the public.*
- (10) The provisions of this Section are minimum standards for flood loss reduction, therefore any deviation from the standards must be weighed carefully. Floodplain variances shall only be issued upon 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.*

- (11) *Any applicant to whom a ~~floodplain~~ variance is granted shall be given written notice specifying the difference between the base flood elevation and the elevation of the proposed lowest floor and stating that the cost of flood insurance will be commensurate with the increased risk to life and property resulting from the reduced lowest floor elevation.*
- (12) *The Authority shall maintain the records of all appeal actions and report any floodplain variances to the Federal Emergency Management Agency upon request.*
- (13) *Any person requesting a variance shall, from the time of the request until the time the request is acted upon, submit such information and documentation as the Authority and the Variance Board shall deem necessary to the consideration of the request.*
- (14) *Upon consideration of the factors listed above and the purposes of this Section, the Authority and the ~~Floodplain~~ Variance Board may attach such conditions to the granting of variances as it deems necessary or appropriate, consistent with the purposes of this Section.*

SECTION TWENTY

The text of Section 1105(cc) of Article 11 regarding Floodplain management is renamed Violations, enforcement, and penalties in the Unified Development Code is amended to include the following as shown by the underlining of text and to delete the following as shown by the strikethrough of text:

~~***Floodplain management;***~~ ***Violations, enforcement, and penalties.***

*Any action or inaction which violates the provisions of this Section or the requirements of an approved ~~floodplain~~ **stormwater** management plan or permit may be subject to the enforcement actions outlined in this Section. Any such action or inaction that is continuous with respect to time is deemed to be a public nuisance and may be abated by injunctive or other equitable relief. The imposition of any of the penalties described below shall not prevent such equitable relief.*

SECTION TWENTY ONE

The text of Section 1105(cc) of Article 11 regarding Violations, enforcement, and penalties in the Unified Development Code is amended to include the a new section 1105(cc)(3) as shown by the underlining of text:

(3) Administrative appeal; judicial review.

a. Administrative remedies. Any person receiving a notice of violation may appeal the determination of the Authority, including but not limited to the issuance of a stop work order, the assessment of an administratively-imposed monetary penalty, the suspension, revocation, modification or grant with condition of a permit by the Authority upon finding that the holder is not in compliance with

the approved erosion and sediment control plan, or that the holder is in violation of permit conditions, or that the holder is in violation of any applicable ordinance or any of the Authority's Rules and Regulations or Design and Construction Standards, or the issuance of a notice of bond forfeiture. The notice of appeal must be in writing and must be received within thirty (30) days from the date of the notice of violation. A hearing on the appeal shall take place within fifteen (15) days from the date of the receipt of the notice of appeal by the Executive Director. All appeals shall be heard and decided by the Authority's designated Appeal Panel, which shall include the Executive Director, the Chief Financial Officer of the Authority, and Deputy Director of Operations, or their designees. The Appeal Panel shall have the power to affirm, modify or reject the original penalty, including the right to increase or decrease the amount of any monetary penalty and the right to add to or delete remedial actions required for correction of the violation and the compliance with the Authority's Rules and Regulations, Design and Construction Standards, and any other applicable local, state or federal requirements. The decision of the Appeal Panel shall be final.

b. Judicial review. Any person aggrieved by a decision or order of the Authority, after exhausting his administrative remedies, shall have the right to appeal to the Superior Court of Douglas County by petition for writ of certiorari, which must be filed within thirty (30) days of the final decision of the Appeal Panel.

SECTION TWENTY TWO

All ordinances and parts of ordinances in conflict with this ordinance are hereby repealed

SECTION TWENTY THREE

This ordinance shall be effective upon adoption.

SO ORDAINED this 4th day of May 2010.

Tom Worthan, Chairman

Freddie Ashmon, JR, District I

Kelly Robinson, District II

Michael Mulcare, District III

David Latham, District IV

Attest:

Amy Brumelow, Planning and Zoning

