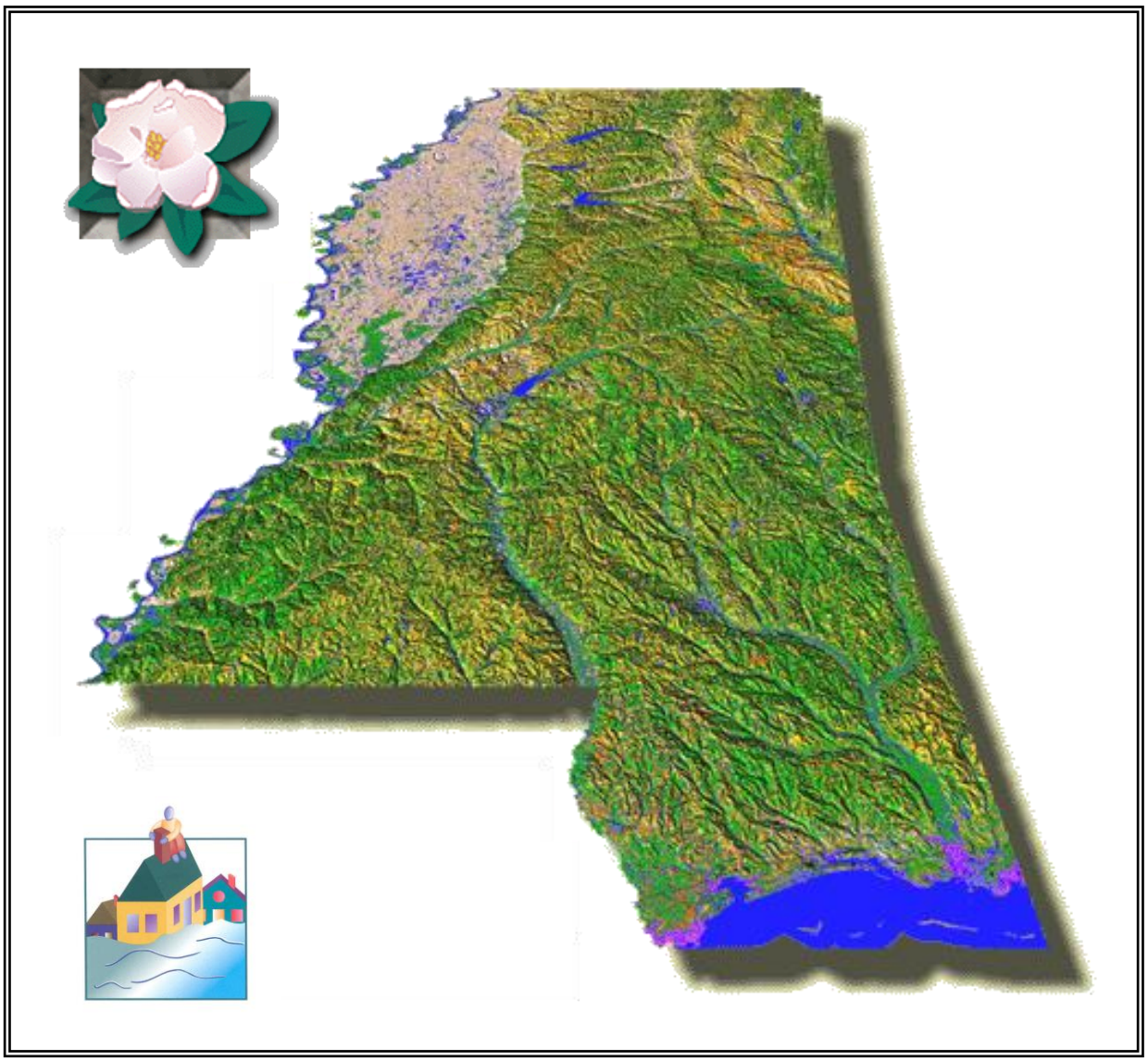
Town of Byhalia
Flood Damage Prevention Ordinance



ACKNOWLEDGEMENT TO:

FEMA Region IV Staff
Insurance Services Office, Inc.
Association of Floodplain Managers of Mississippi

8/09

The following information is provided to assist you in developing an ordinance that will comply with the minimum participating criteria of the National Flood Insurance Program (NFIP). It is recommended that a Community's attorney consider any necessary additions and include all required information and delegations to the model. It is not intended that this model, if adopted, will serve all of a Community's needs as related to floodplain management, land use, or zoning. Any Community may adopt standards that are more restrictive than the standards of the NFIP. This model ordinance will denote only the minimum federal regulations governing construction in a Special Flood Hazard Area (SFHA). Additionally, it will provide some *suggested* enhancements for consideration.

This model ordinance also includes sections for development in shallow flooding areas (AO & AH Zones) and coastal high hazard areas (V Zones), and floodways with definitions of appropriate terms pertaining to these areas. If the community does not have any of these features designated on its Flood Insurance Rate Map (FIRM), it is not necessary to adopt these sections and definitions within its ordinance.

Be advised that a Community's ordinance may be subject to a determination of compliance by FEMA and MEMA staff. It is recommended that a Community coordinate with appropriate agencies to ensure the ordinance's adequacy. As the NFIP changes in detail and perspective, this model will also change. This document is not a fixed text, and will undergo revision as necessary.

Suggested Higher Standards to be Considered by Community:

(1) Downstream from a dam. A development permit is required for a building and associated fill downstream from a dam at any location where flooding can be reasonably anticipated from principal or emergency spillway discharges, or from overtopping and failure of the dam. *See Article 2.*

(2) Substantial improvement shall be tracked by percent improvement for a minimum of 10-years. *See Article 2.*

(3) Any addition to an existing structure, even if it doesn't constitute a substantial improvement, is considered new construction and must be elevated to the BFE, to include any community freeboard requirements. *See Article 2.*

(4) Areas determined by the community to be subject to periodic inundation by floodwaters, but are not depicted on the community's federally developed flood insurance study, will be designated as a Community Flood Hazard Area (CFHA). Development in CFHA's will be required to comply with the same standards as Special Flood Hazard Areas (SFHA) *See Article 2, Article 3, Sections A, D, H, and Article 5 Section C.*

(5) Due to a combination of old data and land use actions both within and outside the floodplain, existing and future development will experience flood depths of one foot or more above the mapped Base Flood Elevation (BFE). Therefore, the community will implement a freeboard requirement of ***{pick 1, 2, or 3 feet}*** above the standard base flood elevation to meet local conditions and standards. *See Article 5, Section B, (1) and (2).*

(6) A flood openings/venting affidavit shall be required for foundation systems that include permanent openings (flood vents) within one foot above adjacent grade. *See Article 5. Section B. (4) (d.).*

(7) Deed restrictions shall be required that would prohibit subsequent conversion of enclosed areas subject to flooding that is greater than six feet in height. Disclosures to new owners are required and restrictive declarations must be recorded in the Chancery Clerk's Office and with the deed of the structure. *See Article 5, Section B. (7).*

(8) In areas within A Zones, the NFIP only requires applicants for subdivisions with more than 50 lots or five acres to provide detailed engineering studies to determine the Base Flood Elevations of the site. Therefore, the community will implement this requirement for subdivisions with five lots or five acres, whichever is the lesser. *See Article 5, Section F. (4).*

(9) The criteria for construction in A Zones do not provide adequate protection in Coastal AE Zones subject to wave effects. Wave tank studies by FEMA show that breaking waves as small as 1.5 feet cause considerable damage. Because Coastal AE Zones may be subject to the types of hazards present in V Zones, such as wave effects, velocity flows, erosion, scour, and high winds, buildings in Coastal AE Zones shall meet the NFIP regulatory requirements for V Zone buildings. *See Article 2 and Article 5, Section G*.

(10) Breakaway walls are prohibited in V Zones and Coastal AE Zones. Allowed will be screening, latticework, or other materials that demonstrably cause minimal risk of damaging the buildings. *See Article 5, Section G.*

(11) Critical facilities, and access to such facilities, will be constructed or established outside the Special Flood Hazard Areas or elevated/protected to or above the 0.2 percent chance flood level. *See Article 2 and Article 5, Section H.*

Helpful Hints in Ordinance Administration

MEMA produced FPM reference materials

1. Floodplain Management Desk Reference for Community Administrators
2. Floodplain Management in Mississippi 'Quick Guide'
3. Flood: Post-Disaster Community Responsibilities
4. A Citizen's Guide to Flood Protection Measures

The state of Mississippi has produced the four publications listed above to assist you in your administration of your local floodplain management program.

A Zones:

In times past, a default value of three feet above highest adjacent grade was the very last ditch effort by a community to provide a safe elevation for a new structure within an A Zone, if all other methods could not be used. The use of a default is not based on technical data and could result in liability for the community! DO NOT ADOPT A DEFAULT ELEVATION FOR ANY A ZONE THAT CANNOT BE JUSTIFIED.

A building in a SFHA or a CFHA as stated above can never be elevated less than two feet above the highest adjacent grade (HAG) as defined in Article 2 without a Letter of Map Correction being issued first by FEMA. (That is where the old three feet assumption came into play). The insurance rates for Post-FIRM buildings in these areas drop drastically after 5 feet of elevation. A building elevated no higher than 6 feet 8 inches above the HAG, maintains an "uninhabitable" space below the lowest floor and a space usable for parking, storage, and access is created. It also is provided with a high level of flood damage protection for a flood condition that is virtually unknown.

Substantial Improvement Tracking:

Here's one example:

Improvement value divided by building value = percent improvement. Percent improvement value accumulates over life of building. When percent improvement totals 50%, building must be brought into conformance with flood ordinance.

I.E.: $20,000 / $100,000 = 20% improvement in 1990
$10,000 / $120,000 = 8% improvement in 1991
$28,600 / $130,000 = 22% improvement in 1999

50% cumulative improvement (Building must be brought up to (flood) code)

New Construction and Additions/Improvements to existing structures:

Here's the method:

Example A: A Pre-FIRM structure (with lowest floor below BFE), valued at $100,000.00 is improved with an addition worth $20,000.00. Only the addition is required to be elevated above the BFE (less than 50% of market value).

Example B: Same structure as above is improved with an addition worth $50,000.00 or more. The entire structure must be elevated above the BFE (more than 50% of the market value).

Association of Floodplain Managers of Mississippi (AFMM):

The Association of Floodplain Managers of Mississippi (AFMM) serves as an excellent source of information concerning the administration of local ordinances. Their web site can be found at http://www.msafmm.com. This organization serves as a mentoring asset for local floodplain administrators in Mississippi. Please feel free to contact the AFMM District Director (corresponds to Congressional District boundaries) for your area. You may also contact your neighboring NFIP communities to create a networking or support source. The contact information for the local Floodplain Administrators within Mississippi NFIP communities can be found at the link http://www.msema.org/flood .

FLOOD DAMAGE PREVENTION ORDINANCE

TABLE OF CONTENTS

ARTICLE 1. STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE, AND OBJECTIVES

Section A.	Statutory Authorization	5
Section B.	Findings of Fact	5
Section C.	Statement of Purpose	5
Section D.	Objectives	5
Section E.	Methods of Reducing Flood Losses	6

ARTICLE 2. DEFINTIONS 6

ARTICLE 3. GENERAL PROVISIONS

Section A.	Lands to Which This Ordinance Applies	15
Section B.	Basis for Establishing the Areas of Special Flood Hazard	15
Section C.	Use of Preliminary Flood Hazard Data	15
Section D.	Establishment of Floodplain Development Permit	15
Section E.	Compliance	15
Section F.	Abrogation and Greater Restrictions	15
Section G.	Interprétation	15
Section H.	Warning and Disclaimer of Liability	16
Section I.	Enforcement, Penalties, and Violations	16

ARTICLE 4. ADMINISTRATION

Section A.	Designation of Flood Damage Prevention Ordinance Administrator	16
Section B.	Permit Procedures	16
Section C.	Powers, Duties, and Responsibilities of the Floodplain Administrator	17

ARTICLE 5. PROVISIONS FOR FLOOD HAZARD REDUCTION

Section A.	General Standards	18
Section B.	Specific Standards	19
Section C.	Standards for Streams without Base Flood Elevations and Floodways	21
Section D.	Standards for Subdivision Proposals and Other Proposed Development	22
Section E.	Critical Facilities	22

ARTICLE 6. VARIANCE PROCEDURES

Section A.	Designation of Variance and Appeals Board	22
Section B.	Duties of Variance and Appeals Board	22
Section C.	Variance Procedures	22
Section D.	Conditions for Variances	23
Section E.	Variance Notification	24
Section F.	Historic Structures	24
Section G.	Special Conditions	24

ARTICLE 7. SEVERABILITY 24

FLOOD DAMAGE PREVENTION ORDINANCE

ARTICLE 1. STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE, AND OBJECTIVES.

SECTION A. STATUTORY AUTHORIZATION.

The Legislature of the state of Mississippi has in Title 17, Chapter 1, Mississippi Code of 1972 Annotated delegated the responsibility to local government units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the ***Mayor and Board of Aldermen*** of ***the Town of Byhalia*** does hereby adopt the following floodplain management regulations.

SECTION B. FINDINGS OF FACT.

(1) ***The Town of Byhalia*** is subject to periodic inundation, which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

(2) These flood losses are caused by the cumulative effect of obstructions, both inside and outside the identified Special Flood Hazard Areas, 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, floodproofed, or otherwise unprotected from flood damages.

SECTION C. STATEMENT OF PURPOSE.

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

(1) Restrict or prohibit uses which are dangerous to health, safety, and property due to water or erosion hazards, which result in damaging increases in erosion or in flood heights or velocities;

(2) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

(3) Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters;

(4) Control filling, grading, dredging, and other development which may increase erosion or flood damage, and;

(5) Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.

SECTION D. OBJECTIVES.

The objectives of this ordinance are:

(1) To protect human life and health;

(2) To minimize expenditure of public money for costly flood control projects;

(3) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

(4) To minimize prolonged business interruptions;

(5) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains;

(6) To help maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize flood blight areas, and;

(7) To ensure that potential homebuyers are notified that property is in a floodprone area.

SECTION E. METHODS OF REDUCING FLOOD LOSSES.

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

(1) Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;

(2) Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

(3) Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;

(4) Controlling filling, grading, dredging, and other development which may increase flood damage, and;

(5) Preventing or regulating the construction of flood barriers that will unnaturally divert floodwaters or may increase flood hazards in other areas.

ARTICLE 2. DEFINITIONS.

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance it's most reasonable application.

A Zone is the Area of Special Flood Hazard without base flood elevations determined.

A1 – A30 and AE zone is the Area of Special Flood Hazard with base flood elevations determined.

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

Addition (to an existing building) means any walled and roofed expansion to the perimeter or height of a building.

Appeal means a request for a review of the Floodplain Administrator's interpretation of any provision of this ordinance or a request for a variance.

AR/A1 – A30, AR/AE, AR/AH, AR/AO, and AR/A zones are SFHAs that result from the decertification of a previously accredited flood protection system or levee that is in the process of being restored to provide a one percent chance or greater level of flood protection. After restoration is complete, these areas will still experience residual flooding from other flooding sources.

A99 zone is that part of the SFHA inundated by the one percent chance flood to be protected from the one percent chance flood by a Federal flood protection system or levee under construction, no base flood elevations are determined.

Area of special flood hazard is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. This area is also referred to as the Special Flood Hazard Area (SFHA).

B and X zones (shaded) are areas of 0.2 percent chance flood that are outside of the SFHA subject to the one percent chance flood with average depths of less than one foot, or with contributing drainage area less than one square mile, and areas protected by certified levees from the base flood.

Base flood means the flood having a one percent chance of being equaled or exceeded in any given year (also called the "one percent chance flood").

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

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

Building see **Structure**.

C and X zones (unshaded) are areas determined to be outside the 0.2 percent chance floodplain.

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

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

Critical facility (also called critical action) means facilities for which the effects of even a slight chance of flooding would be too great. The minimum floodplain of concern for critical facilities is the 0.2 percent chance flood level. Critical facilities include, but are not limited to facilities critical to the health and safety of the public such as: emergency operations centers, designated public shelters, schools, nursing homes, hospitals, police, fire and emergency response installations, vital data storage centers, power generation and water and other utilities (including related infrastructure such as principal points of utility systems) and installations which produce, use or store hazardous materials or hazardous waste (as defined under the Clean Water Act and other Federal statutes and regulations). Such facilities and access to such facilities will be constructed outside the one percent chance Special Flood Hazard Area or elevated/protected to or above the 0.2 percent chance flood level.

D zone is an area in which the flood hazard is undetermined.

Dam is any artificial barrier, including appurtenant works, constructed to impound or divert water, waste water, liquid borne materials, or solids that may flow if saturated. All structures necessary to maintain the water level in an impoundment or to divert a stream from its course will be considered a dam.

Development means 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 means for insurance purposes, a non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, pilings, columns, or piers.

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

Emergency Program means the first phase under which a community participates in the NFIP. It is intended to provide a first layer amount of insurance coverage for all insurable buildings in that community before the effective date of the initial FIRM.

Enclosure below the Lowest Floor see "Lowest Floor."

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

Executive Order 11988 (Floodplain Management) this order requires that no federally assisted activities be conducted in or have the potential to affect identified Special Flood Hazard Areas, unless there is no practicable alternative.
Existing Construction means structures for which the "start of construction" commenced before the date of the FIRM or before January 1, 1975, for FIRMs effective before that date. Existing construction may also be referred to as existing structures.

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

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

Fill means a deposit of earthen materials placed by artificial means.

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

Flood or flooding means a general and temporary condition of partial or complete inundation of normally dry land areas from:

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

Flood (insurance definition) means a general and temporary condition of partial or complete inundation of two or more acres of normally dry land areas or of two or more properties (e.g. a building and a public street) from (1) overflow of inland or tidal waters (2) unusual and rapid accumulation or runoff of surface waters (3) mudflows caused by flooding.

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

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

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

Flood Insurance Study (FIS) is the document which provides an examination, evaluation, and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation, and determination of mudslide and/or flood-related erosion hazards.

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

Floodplain management means 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 is the individual appointed to administer and enforce the floodplain management regulations.

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

Floodproofing means any combination of structural and nonstructural additions, changes, or adjustments to structures, which reduce or eliminate flood damages to real estate or improved real estate property, water, and sanitary facilities, structures, and their contents. Only non-residential buildings in A Zones can be floodproofed. Structures shall be floodproofed with a minimum of one foot of freeboard in relation to the base flood elevation.

Floodproofing Certificate is an official FEMA form used to certify compliance for non-residential structures in A Zones as an alternative to elevating buildings to or above the base flood elevation.

Floodway *See Regulatory Floodway*.

Floodway fringe means that area of the special flood hazard area on either side of the regulatory floodway.

Flood Protection Elevation is the base flood elevation plus 18 inches of freeboard. In areas where no base flood elevations exist from any authoritative source, the flood protection elevation can be historical flood elevations or base flood elevations determined and/or approved by the floodplain administrator.

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

Functionally dependent use means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, ship building and ship repair facilities and seafood offloading facilities. The term does not include long-term storage, manufacture, processing functions, sales, administrative functions, or service facilities.

Hardship (as related to variances of this ordinance) means the exceptional difficulty that would result from a failure to grant the requested variance. The ***Mayor and Board of Aldermen*** requires that the variance is exceptional, unusual, and peculiar to the property involved. Mere economic or financial hardship alone is NOT exceptional. Inconvenience, aesthetic considerations, physical handicaps, personal preferences, or the disapproval of one's neighbors likewise cannot, as a rule, qualify as an exceptional hardship. All of these problems can be resolved

through other means without granting a variance, even if the alternative is more expensive, or requires the property owner to build elsewhere or put the parcel to a different use than originally intended.

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

High hazard dam means a class of dam in which failure may cause loss of life, serious damage to residential, industrial, or commercial buildings; or damage to, or disruption of, important public utilities or transportation facilities such as major highways or railroads. Dams which meet the statutory thresholds for regulation that are proposed for construction in established or proposed residential, commercial, or industrial areas will be assigned this classification, unless the applicant provides convincing evidence to the contrary. **Highest adjacent grade** means the highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a building.

Historic Structure means any structure that is:

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 or a district preliminarily determined by the Secretary to qualify as a registered historic district;
c.) Individually listed on the State of Mississippi inventory of historic structures, or;
d.) Individually listed on a local inventory historic places in communities with historic preservation programs that have been certified by an approved state program as determined by the Secretary of the Interior.

Hydrologic and hydraulic engineering analyses means the analyses performed by a professional engineer, registered in the state of Mississippi, in accordance with standard engineering practices as accepted by FEMA, used to determine flood elevations and /or floodway boundaries.

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

Letter of Map Change (LOMC) is an official FEMA determination, by letter, to amend or revise effective Flood Insurance Rate Maps, Flood Boundary and Floodway Maps, and Flood Insurance Studies. LOMC's are broken down into the following categories:

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

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

<u>Conditional Letter of Map Revision (CLOMR)</u>

A formal review and comment by FEMA as to whether a proposed project complies with the minimum NFIP floodplain management criteria. A CLOMR does not revise effective Flood Insurance Rate Maps, Flood Boundary and Floodway Maps, or Flood Insurance Studies.

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

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

Low hazard dam means a class of dam in which failure would at the most result in damage to agricultural land, farm buildings (excluding residences), or minor roads.

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

Lowest floor means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, used solely for parking of vehicles, building access, or storage, in an area other than a basement, is not considered a building's lowest floor, *provided* that such enclosure is not built so as to render the structure in violation of the non-elevation provisions of this code.

Manufactured home means a structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when attached to the required utilities. The term manufactured home does not include a "recreational vehicle."

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

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

Map Panel Number means the four-digit number followed by a letter suffix assigned by FEMA on a FHBM, FBFM, or FIRM. The first four digits represent the map panel, and the letter suffix represents the number of times the map panel has been revised.

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

Mean Sea Level means, for the purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum (NAVD) of 1988, or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map (FIRM) are referenced.

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

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

New Construction means a structure for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by a community and any subsequent improvements to such structure or the addition.

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

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

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

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

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

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

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

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

Probation is a means of FEMA formally notifying participating communities of the first of the two NFIP sanctions due to their failure to correct violations and deficiencies in the administration and enforcement of the local floodplain management regulations.

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

Recreational vehicle means a vehicle that is:

a.) Built on a single chassis;
b.) 400 square feet or less when measured at the largest horizontal projection;

c.) Designed to be self-propelled or permanently towable by a light duty truck, and;
d.) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Regular Program means the second phase of the community's participation in the NFIP in which second layer coverage is available based upon risk premium rates only after FEMA has competed a risk study for the community.

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

Repair means the reconstruction or renewal of any part of an existing building for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by a community and all such regulations effective at the time of permitting must be met.

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

Repetitive Loss Property is any insurable building for which two or more claims of more than $1,000 were paid by the National Flood Insurance Program (NFIP) within any rolling 10-year period, since 1978. At least two of the claims must be more than ten days apart but, within ten years of each other. A RL property may or may not be currently insured by the NFIP.

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

Severe Repetitive Loss Structure means any insured property that has met at least one of the following paid flood loss criteria since 1978, regardless of ownership:

1. Four or more separate claim payments of more than $5,000 each (including building and contents payments); or
2. Two or more separate claim payments (building payments only) where the total of the payments exceeds the current market value of the property.

In either case, two of the claim payments must have occurred within ten years of each other. Multiple losses at the same location within ten days of each other are counted as one loss, with the payment amounts added together.

Significant hazard dam means a dam assigned the significant hazard potential classification where failure may cause damage to main roads, minor railroads, or cause interruption of use, or service of relatively important public utilities.

Special flood hazard area (SFHA) means that portion of the floodplain subject to inundation by the base flood and/or flood-related erosion hazards as shown on a FHBM or FIRM as Zone A, AE, A1 – A30, AH, AO, AR, AR/A1-A30, AR/AE, AR/AO, AR/AH, AR/A, A99, V, VE, or V1-V30.

Start of construction (for other than new construction or substantial improvements under the Coastal Barrier Resources Act P. L. 97-348), includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, or improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of a building (including a manufactured home) on a site, such as the pouring of 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; nor does it include the installation of streets

and/or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main building. For substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

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

Structure, for insurance purposes, means a building with two or more outside rigid walls and a fully secured roof, that is affixed to a permanent site; a manufactured home built on a permanent chassis, transported to it site in one or more sections, and affixed to a permanent foundation; or a travel trailer without wheels, built on a chassis and affixed to a permanent foundation, that is regulated under the community's floodplain management and building ordinances or laws. The term does not include recreational vehicle or a park trailer or other similar vehicle, except as described in the last part of this definition, or a gas, or a liquid storage tank.

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

Substantial Damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to it's before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. "Substantial damage" also means flood-related damages sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred.

Substantial Improvement means any combination of reconstruction, rehabilitation, or other improvement of a structure taking place during a 10-year period, in which the cumulative percentage of improvement equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. The costs for determining substantial improvement include the costs of additions. This term includes structures which have incurred repetitive loss or substantial damage, regardless of the actual repair work performed.

The term does not apply to:

a.) Any project for improvement of a building required to comply with existing health, sanitary, or safety code specifications which have been identified by the Code Enforcement Official and which are solely necessary to assure safe living conditions, provided that said code deficiencies were not caused by neglect or lack of maintenance on the part of the current or previous owners or;
b.) Any alteration of a "historic structure" provided that the alteration will not preclude the structure's continued designation as a "historic structure."

Substantially improved existing manufactured home parks or subdivisions means manufactured home parks or subdivisions 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.

Suspension means the removal, with or without probation, of a participating community from the NFIP because the community failed to adopt and enforce the compliant floodplain management regulations required for participation in the NFIP.

V zone *see Coastal High Hazard Area.*

V1 – V30 and VE zone *see Coastal High Hazard Area*.

Variance is a grant of relief from the requirements of this ordinance.

Violation means the failure of a structure or other development to be fully compliant with 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 means any flowing body of water including a river, creek, stream, or a branch.
Water surface elevation means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, the North American Vertical Datum (NAVD) of 1988, (or other datum, where specified) of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

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

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

ARTICLE 3. GENERAL PROVISIONS.

SECTION A. LANDS TO WHICH THIS ORDINANCE APPLIES.

This ordinance shall apply to all areas of special flood hazard (SFHA) areas within the jurisdiction of the ***Mayor and Board of Aldermen*** of ***the Town of Byhalia***

This ordinance shall apply to all areas within jurisdiction of the Town of Byhalia.

SECTION B. BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD.

The areas of special flood hazard identified by the Federal Emergency Management Agency in the Flood Insurance Rate Map (single panel) No. 280112B, whose effective date is 06/18/1987 other supporting data are adopted by reference and declared to be a part of this ordinance. The Flood Insurance Study and maps are on file at the Town Hall, Town of Byhalia, Byhalia, Mississippi.

SECTION D. ESTABLISHMENT OF FLOODPLAIN DEVELOPMENT PERMIT.

A development permit shall be required in conformance with the provision of this ordinance prior to the commencement of any development activities in identified areas of special flood hazard within the community.

SECTION E. COMPLIANCE.

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

SECTION F. ABROGATION AND GREATER RESTRICTIONS.

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

SECTION G. INTERPRETATION.

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

(1) Considered as minimum requirements;

(2) Liberally construed in favor of the governing body, and;

(3) Deemed neither to limit nor repeal any other powers granted under state statutes.

SECTION H. WARNING AND DISCLAIMER OF LIABILITY.

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

SECTION I. ENFORCMENT, PENALTIES, AND VIOLATIONS.

Civil penalties. Violation of the provisions of this ordinance or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than $ 500.00 or imprisoned for not more than 30 days, or both, and in addition, shall pay all costs and expenses involved in the case. Each act of violation and each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the Floodplain Administrator from taking such other lawful actions as are necessary to prevent or remedy any violation.

ARTICLE 4. ADMINISTRATION.

SECTION A. DESIGNATION OF FLOOD DAMAGE PREVENTION ORDINANCE ADMINISTRATOR.

The ***Mayor and Board of Aldermen*** of ***the Town of Byhalia*** hereby appoints the ***Code Enforcement Official*** to administer and implement the provisions of this ordinance and is herein referred to as the Floodplain Administrator and/or the administrator.

SECTION B. PERMIT PROCEDURES.

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

(1) Application Stage.

a.) Elevation in relation to mean sea level of the proposed lowest floor (including basement) of all buildings, which will be submitted on a FEMA Form 81-31 (Elevation Certificate) by a state of Mississippi registered engineer or surveyor;

b.) Elevation in relation to mean sea level to which any non-residential building in an A Zone will be floodproofed;

c.) Certificate from a state of Mississippi registered professional engineer or architect that the non-residential flood-proofed building will meet the floodproofing criteria in Article 4, Section B (2), Article 5, Section B (2) and Section D (2);

d.) No floodplain development permit can be issued to any mobile, modular, or permanently constructed residence, building or facility unless the owner, lessee, or developer obtains a Notice of Intent from the Mississippi State Health Department, pursuant to the MS Individual On-Site Wastewater Disposal System Law (2009), for a recommendation of a sewage system or Proof of Compliance from the proper Sewer and Water District;

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

(2) Construction Stage:

Upon establishment/placement of the lowest floor, before framing continues, to include any approved floodproofing method by whatever construction means, it shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the NAVD or NGVD elevation of the lowest floor or floodproofed elevation, as built, in relation to mean sea level. Said certification shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer, who is authorized by the state of Mississippi to certify such information, and certified by same. When floodproofing is utilized for a particular building said certification shall be prepared by or under the direct supervision of a professional engineer or architect, who is authorized by the state of Mississippi to certify such information, and certified by same. Floodproofing shall be required to be at least one foot above the base flood elevation.

Any work undertaken prior to submission of the certification shall be at the permit holder's risk. The Floodplain Administrator shall review the lowest floor & floodproofing elevation survey data submitted. The permit holder immediately and prior to further progressive work being permitted to proceed shall correct deficiencies detected by such review. Failure to submit the survey or failure to make said corrections required hereby shall be cause to issue a stop-work order for the project.

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

The Floodplain Administrator and his or her designated staff is hereby authorized and directed to enforce the provisions of this ordinance. The Administrator is further authorized to render interpretations of this ordinance, which are consistent with its spirit and purpose.

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

(1) Review all development permits to assure that the permit requirements of this ordinance have been satisfied;

(2) Require permittee to obtain and submit copies of any required federal or state permits and maintain them on file with the development permit.

(3) Notify adjacent communities, the NFIP State Coordinator, and other federal and/or state agencies with statutory or regulatory authority prior to any alteration or relocation of a watercourse.

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

(5) Verify and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new construction and substantially improved buildings, in accordance with Article 4, Section B (2).

(6) Verify and record the actual elevation (in relation to mean sea level) to which the new construction and substantially improved buildings have been floodproofed, in accordance with Article 4, Section B (2).

(7) Review certified plans and specifications for compliance.

(8) Make the necessary interpretation where interpretation is needed as to the exact location of boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this Article.

(9) Obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source when base flood elevation data or floodway data have not been provided in accordance with Article 3, Section B, in order to administer the provisions of Article 5.

(10) Provide information, testimony, or other evidence, as needed during variance request hearings.

(11) Conduct the following actions when damage occurs to a building or buildings:

a.) Determine whether damaged structures are located within the Special Flood Hazard Area;

b.) Conduct damage assessments for those damaged structures located in the SFHA, and;

c.) Make a reasonable attempt to notify owner(s) of damaged structure(s) of the requirement to obtain a building permit / floodplain development permit prior to repair, rehabilitation, or reconstruction.

ARTICLE 5. PROVISIONS FOR FLOOD HAZARD REDUCTION.

SECTION A. GENERAL STANDARDS.

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

(1) New construction and substantial improvements shall be anchored to prevent flotation, collapse and lateral movement of the structure;

(2) Manufactured homes shall be anchored to prevent flotation, collapse, 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;

(3) New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage;

(4) New construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;

(5) Electrical, heating, ventilation, plumbing, air conditioning equipment and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding, such facilities shall be located a minimum of 18 inches above the Base Flood Elevation;

(6) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

(7) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters;

(8) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding;

(9) Any alteration, repair, reconstruction or improvements to a building that is in compliance with the provisions of this ordinance shall meet the requirements of "new construction" as contained in this ordinance; and,

(10) Any alteration, repair, reconstruction or improvements to a building that is not in compliance with the provisions of this ordinance, shall be undertaken only if said non-conformity is not furthered, extended, or replaced.

(11) All gas and liquid storage tanks that are principally above ground shall be anchored to prevent floatation and lateral movement.

(12) When new construction and substantial improvements are located in multiple flood zones or in a flood zone with multiple base flood elevations, they shall meet the requirement for the more stringent flood zone and the highest base flood elevation.

SECTION B. SPECIFIC STANDARDS.

In all areas of special flood hazard designated on the community's FIRM, where base flood elevation data have been provided, as set forth in Article 3, Section B, the following provisions, in addition to the standards of Article 5, Section A, are required:

(1) Residential Construction. New construction and substantial improvement of any residential building (including manufactured home) shall have the lowest floor, including basement, elevated to no lower than 18 inches the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, flood openings sufficient to automatically equalize hydrostatic flood forces on exterior walls of enclosures that are subject to flooding, shall be provided in accordance with standards of Article 5, Section B (4).

(2) Non-Residential Construction. New construction and substantial improvement of any commercial, industrial, or non-residential building (including manufactured home) shall have the lowest floor, including basement, elevated to no lower than 18 inches the base flood elevation. Buildings located in all A-Zones may, together with attendant utility and sanitary facilities, be floodproofed in lieu of being elevated provided that all areas of the building below the base flood elevation (plus a minimum of one foot of freeboard) are water tight with walls substantially impermeable to the passage of water, and use structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification, together with an operation and maintenance plan, shall be provided to the Floodplain Administrator.

(3) In special flood hazard areas with base flood elevations (Zones AE and A1-30) but without floodways, no encroachments, including fill material or structures, shall be permitted unless certification by a registered professional engineer is provided demonstrating 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. The engineering certification must be supported by technical data that conforms to standard hydraulic engineering principles.

(4) Enclosures. New construction and substantial improvements that include fully enclosed areas formed by foundation and other exterior walls below the lowest floor 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. Enclosed areas, including crawl spaces, shall be used solely for parking of vehicles, building access, and storage.

a.) Designs for complying with this requirement must either be certified by a professional engineer or architect or meet or exceed the following criteria:

(i) Provide a minimum of two openings, on different sides of each enclosed area; if a structure has more than one enclosed area below the base flood elevation, each shall have openings on exterior walls;

(ii) The total net area of all openings shall be at least one square inch for each square foot of enclosed area, or the openings shall be designed and the construction documents shall include a statement that the design and installation will provide for equalization of hydrostatic flood forces on exterior walls by allowing for the automatic entry and exit of floodwaters;

(iii) The bottom of all openings shall be no higher than one foot above interior grade (which must be equal to in elevation or higher than the exterior grade);

(iv) Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions;

(v) Limited in use to parking of vehicles, storage, and building access, and;

b.) Access to the enclosed area shall be 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,

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

(5) Detached storage buildings, sheds, or other like accessory improvements, excluding detached garages, carports, and boat houses, shall solely be used for parking of vehicles and storage. Such storage space shall not be used for human habitation and shall be limited to storage of items that can withstand exposure to the elements and have low flood damage potential. The storage space shall be constructed of flood resistant or breakaway materials, and equipment and service utilities, such as electrical outlets, shall be limited to essential lighting and other incidental uses, and must be elevated or floodproofed. Flood openings in accordance with the standards of Article 5 Section B (4) shall also be required. These accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters.

(6) Accessory improvements and other appurtenant structures shall be firmly anchored to prevent flotation that may result in damage to other structures.

(8) <u>Standards for Manufactured Homes and Recreational Vehicles</u>.

a.) All manufactured homes placed, or substantially improved, on individual lots or parcels, in existing manufactured home parks or subdivisions, in expansions to existing manufactured home parks or subdivisions, in new manufactured home parks or subdivisions or in substantially improved manufactured home parks or subdivisions, must meet all the requirements for new construction, including elevation and anchoring and the flood openings requirements of Article 5, Section B (4). Manufactured homes must be:

(i) Elevated on a permanent foundation to have its lowest floor elevated to no lower than 18 inches above the base flood elevation, and;

(ii) Securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

b.) All manufactured homes placed or substantially improved, excepting manufactured homes that have incurred substantial damage as a result of a flood, in an existing manufactured home park or subdivision must be elevated so that:

(i) The lowest floor of the manufactured home is elevated to no lower than 18 inches above the base flood elevation and be securely anchored to an adequately anchored foundation support system to resist floatation, collapse, and lateral movement, or

(ii) The manufactured home chassis is supported by reinforced piers or other foundation elements of at least an equivalent strength, of no less than 36 inches in height above the highest adjacent grade and adequately anchored foundation support system to resist floatation, collapse, and lateral movement.

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

(i) Be on site for fewer than 180 consecutive days

(ii) Be fully licensed and ready for highway use, or

(iii) Must meet all the requirements for new construction, including anchoring and elevation requirements of this Article 5, Section B (8) (a) or Article 5, Section B (8) (b) (i) above.

A recreational vehicle is ready for highway use if it is licensed and insured in accordance with the state of Mississippi motor vehicle regulations, is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.

SECTION C. STANDARDS FOR STREAMS WITHOUT BASE FLOOD ELEVATIONS AND FLOODWAYS.

Located within the areas of special flood hazard established in Article 3, Section A and Section B, where no base flood data and floodway data have been provided, the following provisions in addition to the standards of Article 5 Section A, apply:

(1) Require that all new subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than 50 lots or five acres, whichever is lesser, include within such proposals base flood elevation data;

(2) The Floodplain Administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state, or other source, in order to administer the provisions of Article 5. When such data is available, standards of Article 5, Section B, shall apply. If data is not available from Article 5 Section C (1) or outside sources, then the following provisions shall apply.

(3) When base flood elevation data and floodway data are not available in accordance with Article 3, Section A, in Special Flood Hazard Areas without base flood elevation data, new construction and substantial improvements shall be elevated or floodproofed to elevations established by the community. The enclosure standards of Article 5, Section B (4) shall apply.

(4) Notify, in riverine situations, adjacent communities and the State Coordinating Office prior to any alteration or relocation of a watercourse, and submit copies of such notifications to FEMA. Assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.

(5) Require that all manufactured homes be placed or installed using methods and practices which minimize flood damage. Manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement.

SECTION D. STANDARDS FOR SUBDIVISION PROPOSALS AND OTHER PROPOSED DEVELOPMENT.

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

(2) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage;

(3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards, and;

(4) Base flood elevation data shall be provided for all new subdivision proposals and other proposed development (including manufactured home parks and subdivisions), which is greater than 50 lots or five acres, whichever is the lesser.

SECTION E. CRITICAL FACILITIES.

Construction of new and substantially improved critical facilities shall be located outside the limits of the special flood hazard area (one percent chance floodplain). Construction of new critical facilities shall be permissible within the SFHA if no feasible alternative site is available. Critical facilities constructed within the SFHA shall have the lowest floor elevated three feet above the base flood elevation at the site (or to the 0.2 percent chance flood elevation whichever is greater). Floodproofing and sealing measures must be implemented to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes elevated to or above the base flood elevation shall be provided to all critical facilities to the maximum extent possible. Critical facilities must not only be protected to the 0.2 percent chance flood, but must remain operable during such an event.

ARTICLE 6. VARIANCE PROCEDURES.

SECTION A. DESIGNATION OF VARIANCE AND APPEALS BOARD.

The ***Planning Commission*** as established by the ***Mayor and Board of Aldermen*** of ***the Town of Byhalia*** shall hear and decide appeals and requests for variances from requirements of this ordinance.

SECTION B. DUTIES OF VARIANCE AND APPEALS BOARD.

The board shall hear and decide appeals when it is alleged an error in any requirement, decision, or determination is made by the Floodplain Administrator in the enforcement or administration of this ordinance. Any person aggrieved by the decision of the board may appeal such decision to the Circuit Court**,** as provided in ***Title 17, Chapter 1, Mississippi Code 1972***.

SECTION C. VARIANCE PROCEDURES.

In passing upon such applications, the ***Planning Commission*** shall consider all technical evaluations, relevant factors, and standards specified in other sections of this ordinance, and:

(1) The evaluation must be based on the characteristics unique to that property and not be shared by adjacent parcels. The characteristics must pertain to the land itself, not to the structure, its inhabitants, or its owners;

(2) Variances should never be granted for multiple lots, phases of subdivisions, or entire subdivisions;

(3) The danger that materials may be swept onto other lands to the injury of others;

(4) The danger of life and property due to flooding or erosion damage;

(5) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner and the community;

(6) The importance of the services provided by the proposed facility to the community;

(7) The necessity of the facility to be at a waterfront location, where applicable;

(8) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;

(9) The compatibility of the proposed use with existing and anticipated development;

(10) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

(11) The safety of access to the property in times of flood for ordinary and emergency vehicles;

(12) 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, and;

(13) The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges and culverts.

(14) Upon consideration of factors listed above, and the purpose of this ordinance, the ***Planning Commission*** may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.

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

SECTION D. CONDITIONS FOR VARIANCES.

(1) Variances shall only be issued when there is:

a.) A showing 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 expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

(2) The provisions of this ordinance are minimum standards for flood loss reduction; therefore any deviation from the standards must be weighed carefully. Variances shall only be issued upon a determination that the variance is the minimum necessary deviation from the requirements of this ordinance, considering the flood hazard, to afford relief. In the instance of a Historic Structure, a determination that the variance is the minimum necessary so as not to destroy the historic character and design of the building.(See Article 6, Section F.)

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

(4) The Floodplain Administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency and Mississippi Emergency Management Agency upon request. (See Article 6 Section E.)

(5) Upon consideration of the factors listed above and the purposes of this ordinance, the ***Planning Commission*** may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.

(6) Variances shall not be issued "after the fact."

SECTION E. VARIANCE NOTIFICATION.

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

(1) The issuance of a variance to construct a structure below the base flood elevation will result in increased premium rates for flood insurance up to amounts as high as $25 for $100 of insurance coverage, and;

(2) Such construction below the base flood level increases risks to life and property. A copy of the notice shall be recorded by the Floodplain Administrator in the Office of the ***Town of Byhalia*** Recorder and shall be recorded in a manner so that it appears in the chain of title of the affected parcel of land.

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

SECTION F. HISTORIC STRUCTURES.

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

SECTION G. SPECIAL CONDITIONS.

Upon consideration of the factors listed in Article 6, and the purposes of this ordinance, the ***Planning Commission*** may attach such conditions to the granting of variances, as it deems necessary to further the purposes of this ordinance.

ARTICLE 7. SEVERABILITY.

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

ADOPTED, ORDAINED AND APPROVED, this 3rd day of November, 2009.

_____
PHIL MALONE, MAYOR

ATTEST:

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TERESA TURNER, TOWN CLERK

The foregoing Ordinance was read, discussed and voted upon in a public meeting, section by section, and as a whole, and whereas a motion was duly made by Alderman Mike Hamblin, and seconded by Alderman Joe Tunstall, with the following results:

Alderman Richard Minor	Aye
Alderman Michael E. Hamblin	Aye
Alderman Rick DeBardeleben	Aye
Alderman Daylon Cannon	Aye
Alderman Joe L. Tunstall	Aye

The foregoing Ordinance was passed, adopted and approved on the 3rd day of November, 2009.

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PHIL MALONE, MAYOR

ATTEST:

_____
TERESA TURNER, TOWN CLERK