

# ALABAMA LEGAL JOURNAL

## PUBLIC NOTICE

ORDINANCE NO. 3669  
AN ORDINANCE TO  
REPEAL ORDINANCE  
NO. 3600 "FLOOD DAM-  
AGE PREVENTION ORDINANCE"  
AND TO ADOPT  
THE FOLLOWING "FLOOD  
DAMAGE PREVENTION  
ORDINANCE OF 2024"

WHEREAS, the Council  
of the City of Bessemer Ala-  
bama desires to implement  
a new flood damage pre-  
vention ordinance that will  
be in compliance with the  
State of Alabama and the  
National Flood Insurance  
Program.

NOW, THEREFORE, BE  
IT ORDAINED by the Coun-  
cil of the City of Bessemer  
Alabama as follows:

**ARTICLE 1**  
**STATUTORY AUTHO-  
RIZATION, FINDINGS OF  
FACT, PURPOSE, AND  
OBJECTIVES**

The National Flood In-  
surance Program (NFIP)  
is managed by the Federal  
Emergency Management  
Agency (FEMA). Commu-  
nities are not required to  
participate in the program  
by any law or regulation,  
but instead participate vol-  
untarily in order to obtain  
access to NFIP flood insur-  
ance. Communities that  
choose to participate in the  
NFIP are required to adopt  
and enforce a floodplain de-  
velopment ordinance with  
land use and control mea-  
sures that include effective  
enforcement provisions to  
regulate development in  
the floodplain resulting in  
reduced future flood losses.

FEMA has set forth in  
federal regulations the mini-  
mum standards required for  
participation in the NFIP;  
however, these standards  
have the force of law only  
because they are adopted  
and enforced by a state or  
local government; referred  
to as a NFIP community.  
Legal enforcement of the  
floodplain management  
standards is the responsi-  
bility of the participating  
NFIP community, which  
can elect to adopt higher  
standards as a means of  
mitigating flood risk. The  
City of Bessemer agrees  
to adopt and enforce this  
Ordinance, which meets  
or exceeds the minimum  
standards of the Code of  
Federal Regulations Title  
44 §60.3 in order to partici-  
pate in the NFIP and have  
access to federal flood in-  
surance and other federal  
assistance.

**SECTION A STATUTO-  
RY AUTHORIZATION**

The Legislature of the  
State of Alabama has in Ti-  
tle 11, Chapter 19, Sections  
1-24; Chapter 45, Sections  
1-11; Chapter 52, Sections  
1-84; and Title 41, Chapter  
9, Section 166 of the Code  
of Alabama, 1975, autho-  
rized local government  
units to adopt regulations  
designed to promote the  
public health, safety, and  
general welfare of its citi-  
zenry. Therefore, the City  
Council of The City of Bes-  
semer, Alabama, does or-  
dain as follows:

**SECTION B FINDINGS  
OF FACT**

The flood hazard areas  
of The City of Bessemer,  
Alabama (the Federal  
Emergency Management  
Agency's [FEMA] designat-  
ed Special Flood Hazard  
Areas (SFHAs) or other  
areas designated by The  
City of Bessemer as flood-  
prone areas) are subject to  
periodic inundation which  
may result in loss of life  
and property, health and  
safety hazards, disruption  
of commerce and govern-  
mental services, extraordi-  
nary public expenditures for  
flood relief and protection,  
and impairment of the tax  
base, all of which adversely  
affect public health, safety,  
and general welfare.

These flood losses are  
caused most often by de-  
velopment, as defined in  
this Ordinance, in areas  
designated as FEMA SF-  
HAs or other areas desig-  
nated by The City of Besse-  
mer as vulnerable to flood-  
ing, including structures  
which are inadequately ele-  
vated or floodproofed (only  
non-residential structures)  
or are otherwise unprotect-  
ed from flood damages; or  
by the cumulative effect of  
development in areas sub-  
ject to flooding that cause  
increases in flood heights  
and velocities.

**SECTION C STATE-  
MENT OF PURPOSE**

It is the purpose of this  
Ordinance to promote the  
public health, safety, and

general welfare and to min-  
imize public and private  
losses due to flood condi-  
tions in specific areas by  
provisions designed to:

Require that uses vul-  
nerable to floods, including  
facilities which serve such  
uses, be protected against  
flood damage at the time of  
initial construction.

Restrict or prohibit uses  
which are dangerous to  
health, safety, and prop-  
erty due to water or erosion  
hazards, or which increase  
flood heights, velocities, or  
erosion.

Control development (in-  
cluding filling, grading, pav-  
ing, dredging, and all other  
development as defined in  
this Ordinance).

Prevent or regulate the  
construction of flood barriers  
which will unnaturally  
divert flood waters, or which  
may increase flood hazards  
to other lands.

Control the alteration of  
natural floodplains, stream  
channels, and natural pro-  
tective barriers which may  
influence the flow of water.

**SECTION D OBJEC-  
TIVES**

The objectives of this Or-  
dinance are to:

Protect human life and  
health;

Minimize damage to pub-  
lic facilities and utilities such  
as water and gas mains,  
electric, telephone and sew-  
er lines, streets and bridges  
located in floodplains;

Help maintain a stable  
tax base by providing for  
the sound use and develop-  
ment of floodprone areas in  
such a manner as to mini-  
mize flood blight areas;

Minimize expenditure  
of public money for costly  
flood control projects;

Minimize the need for  
rescue and relief efforts as-  
sociated with flooding and  
generally undertaken at the  
expense of the general public;

Minimize prolonged busi-  
ness interruptions; and

When asked for assist-  
ance regarding flood risk,  
ensure that potential home  
buyers are aware that a  
property is in an area sub-  
ject to flooding.

**ARTICLE 2 GENERAL  
PROVISIONS**

**SECTION A LANDS  
TO WHICH THIS ORDINANCE  
APPLIES**

This Ordinance shall ap-  
ply to all FEMA SFHAs and  
any additional areas desig-  
nated by The City of Besse-  
mer as floodplains or areas  
subject to flooding within  
the jurisdiction of The City  
of Bessemer, Alabama.

**SECTION B BASIS  
FOR SPECIAL FLOOD  
HAZARD AREAS**

The SFHAs identified by  
FEMA in Jefferson County's  
Flood Insurance Study (FIS),  
dated September 24, 2021,  
with accompanying Flood  
Insurance Rate Maps (FIRMs)  
and other supporting  
data and any revision  
thereto, are adopted by  
reference and declared a  
part of this Ordinance. For  
those lands acquired by a  
municipality through annex-  
ation, the current effective  
FIS and data for Jefferson  
County are hereby adopted  
by reference. Community  
Flood Hazard Areas may  
also be regulated as SF-  
HAs. FEMA encourages  
communities to adopt areas  
prone to flooding to be ad-  
ded to the FIRMs. They may  
include those areas known  
to have flooded historically  
or that have been defined  
through standard engineer-  
ing analysis by a profes-  
sional engineer, licensed  
to practice in the State of  
Alabama; or by governmen-  
tal agencies or private or-  
ganizations that are not yet  
incorporated into the FIS  
or otherwise designated by  
the community.

The following areas are  
designated as Community  
Flood Hazard Areas and will  
be regulated and permitted  
in like manner as the Spe-  
cial Flood Hazard Areas:  
When Preliminary Flood  
Insurance Studies and  
Flood Insurance Rate Maps  
have been provided by  
FEMA to the City of Besse-  
mer:  
Prior to the issuance of  
a Letter of Final Determi-  
nation by FEMA, the use of  
the preliminary flood haz-  
ard data shall only be re-  
quired where no BFEs and/  
or floodway areas exist or  
where the preliminary BFEs  
or floodway area exceed  
the BFEs and/or floodway  
widths in the effective flood  
hazard data provided by

FEMA. Such preliminary  
data may be subject to re-  
vision through valid appeals.

Upon the issuance of a  
Letter of Final Determina-  
tion (LFD) by FEMA, the  
revised flood hazard data  
shall be used and replace  
all previously effective flood  
hazard data provided by  
FEMA for the purposes of  
administering these regu-  
lations.

Where adopted regula-  
tory standards conflict, the  
more stringent BFE shall  
prevail. Preliminary FIS  
data may be subject to  
change by a valid appeal.

**SECTION C: ESTAB-  
LISHMENT OF A FLOOD-  
PLAIN DEVELOPMENT  
PERMIT**

A Development Permit  
shall be required in confor-  
mance with the provisions  
of this Ordinance PRIOR to  
the commencement of any  
development, as defined in  
this Ordinance, in identified  
SFHAs and any additional  
identified Community Flood  
Hazard Areas within the  
community.

**SECTION D. COMPLI-  
ANCE**

No structure or land  
shall hereafter be located,  
extended, converted or  
altered without full compli-  
ance with the terms of this  
Ordinance and other appli-  
cable regulations.

**SECTION E. ABRO-  
GATION AND GREATER  
RESTRICTIONS**

This Ordinance is not in-  
tended to repeal, abrogate,  
or impair any existing ordi-  
nance, easements, coven-  
ants, or deed restrictions.  
However, where this Ordinance  
and another conflict or  
overlap, whichever im-  
poses the more stringent  
restrictions shall prevail.

**SECTION F. INTER-  
PRETATION**

In the interpretation and  
application of this Ordinance  
all provisions shall be:  
(1) considered as mini-  
mum requirements; (2) lib-  
erally construed in favor of  
the governing body, and; (3)  
deemed neither to limit nor  
repeal any other powers  
granted under State stat-  
utes.

**SECTION G. WARN-  
ING AND DISCLAIMER OF  
LIABILITY**

The degree of flood pro-  
tection required by this  
Ordinance is considered  
reasonable for regulatory  
purposes and is based on  
scientific and engineering  
considerations. Larger  
floods can and will occur;  
flood heights may be in-  
creased by man-made or  
natural causes. This Ordinance  
does not imply that  
land outside the SFHAs  
or other identified areas  
subject to flooding or uses  
permitted within such areas  
will be free from flooding or  
flood damages. This Ordinance  
shall not create liability  
on the part of The City of  
Bessemer or by any officer  
or employee thereof for any  
flood damages that result  
from reliance on this Ordinance  
or any administrative  
decision lawfully made  
thereunder.

**SECTION H. PENAL-  
TIES FOR VIOLATION**

Violation of the provi-  
sions of this Ordinance or  
failure to comply with any  
of its requirements, includ-  
ing violation of conditions  
and safeguards established  
in connection with grants  
of variance or special ex-  
ceptions shall constitute a  
misdemeanor. The Code  
of Alabama (1975), Title  
11, Chapters 19 and 45  
grant local governments in  
Alabama the authority to  
administer the enforcement  
provisions stated within this  
section of the Ordinance.

**Stop Work Order.** The  
community may issue a  
stop work order, which shall  
be served on the applicant  
or other responsible per-  
son.

Upon notice from the  
Administrator, work on any  
building, structure or prem-  
ises

that is being performed  
contrary to the provisions of  
this Ordinance shall immedi-  
ately cease.

Such notice shall be in  
writing and shall be given to  
the owner of the property, or  
to his or her agent, or to the  
person doing the work, and  
shall state the conditions  
under which work may be  
resumed.

The stop work order shall  
remain in effect until the ap-  
plicant or other responsible  
person has taken the re-

medial measures set forth  
in the notice of violation or  
has otherwise cured the  
violation or violations de-  
scribed therein. The stop  
work order must include  
a provision that it may be  
withdrawn or modified to  
enable the applicant or other  
responsible person to take  
the necessary remedial  
measures to cure such  
violation or violations.

**Notice of Violation.** If  
the community determines  
that an applicant or other  
responsible party for the  
development has failed to  
comply with the terms  
and conditions of a permit,  
or otherwise not in ac-  
cordance with the provisions  
of this Ordinance, it shall  
issue a written Notice of  
Violation, by certified return  
receipt mail, to such ap-  
plicant or other responsible  
person. Where the per-  
son is engaged in activity  
covered by this Ordinance  
without having first secured  
a permit, the notice shall be  
served on the owner or the  
party in charge of the activ-  
ity being conducted on the  
site. Therefore, any work  
undertaken prior to sub-  
mission and approval of an  
official permit by the City of  
Bessemer or otherwise not  
in accordance with this Or-  
dinance shall constitute a  
violation of this Ordinance  
and be at the permit holder's  
risk. The notice of viola-  
tion shall contain:

The name and address of  
the owner or the applicant  
or the responsible party;  
The address or other de-  
scription of the site upon  
which the violation is occur-  
ing;  
A statement specifying  
the nature of the violation  
(including failure to obtain a  
permit);  
A description of the reme-  
dial measures necessary to  
bring the action or inaction  
into compliance with the  
permit or this Ordinance  
and the date for the com-  
pletion of such remedial  
action;

A statement of the penal-  
ty or penalties that may be  
assessed against the per-  
son to whom the notice of  
violation is directed, and;

A statement in the Notice  
of Violation shall be includ-  
ed that the determination of  
violation may be appealed  
to the community by filing  
a written Notice of Appeal  
within ten (10) working days  
after the Notice of Violation.

Exceptions for the deadline  
for this Notice include: 1) in  
the event the violation con-  
stitutes a danger to public  
health or public safety, then  
a 24-hour notice shall be  
given; 2) if there's an im-  
minent or immediate threat  
to life or property, then im-  
mediate action is required.

**Civil penalties.** Any per-  
son who violates this Or-  
dinance or fails to comply  
with any of its requirements  
shall, upon conviction there-  
of, be fined not more than  
\$500.00 or imprisoned for  
not more than 180 days, or  
both, and in addition, shall  
pay all costs and expenses  
involved in the case: Each  
day such violation contin-  
ues following receipt of the  
Notice of Violation shall  
be considered a separate  
offense. Nothing contained  
herein shall prevent the City  
of Bessemer from taking  
such other lawful actions as  
is necessary to prevent or  
remedy any violation.

**Additional Enforcement  
Actions.** If the remedial  
measures described in the  
Notice of Violation have not  
been completed by the date  
set forth in the Notice of Vi-  
olation, any one or more of  
the following enforcement  
actions may be enacted  
against the person to whom  
the Notice of Violation was  
directed.

Before taking any of the  
following enforcement ac-  
tions or imposing any of  
the following penalties, the  
City of Bessemer shall first  
notify the applicant or other  
responsible person in writ-  
ing of its intended action.  
The City of Bessemer shall  
provide reasonable opportu-  
nity, of not less than ten  
days (except, in the event  
the violation constitutes a  
danger to public health or  
public safety, then a 24-  
hour notice shall be suffi-  
cient; if there's an imminent  
or immediate threat to the  
public health or public safe-  
ty then immediate action is  
required) to cure such viola-  
tion.

In the event the applicant  
or other responsible party

fails to cure such violation  
after such notice and cure  
period, the City of Besse-  
mer may take or impose  
any one or more of the en-  
forcement actions or penal-  
ties listed below.

**Termination of water  
service and/or withhold or  
revoke Certificate of Oc-  
cupancy.** The community  
may terminate utility ser-  
vices to the property and/  
or refuse to issue and/or  
revoke a certificate of occu-  
pancy for the building or  
other improvements/repairs  
conducted on the site. The  
order shall remain in-place  
until the applicant or other  
responsible party has taken  
the remedial measures set  
forth in the Notice of Viola-  
tion or has otherwise cured  
the violation or violations  
described therein.

**Suspension, revocation,  
or modifications of permit.**  
The community may sus-  
pend, revoke, or modify  
the permit that authorizes  
the development project.  
A suspended, revoked, or  
modified permit may be re-  
instated after the applicant  
or other responsible party  
has taken the remedial  
measures set forth in the  
Notice of Violation or has  
otherwise cured the viola-  
tions described therein,  
provided such permit may  
be reinstated (upon such  
conditions as the commu-  
nity may deem necessary).  
That would enable the ap-  
plicant or other responsible  
party to take the necessary  
remedial measures to cure  
such violations.

The Administrator may  
revoke a permit issued un-  
der the provisions of this  
Ordinance, in case there  
has been any false state-  
ment or misrepresentation  
as to the material fact in  
the application or plans on  
which the permit or approv-  
al was based.

The Administrator may  
revoke a permit upon deter-  
mination that the construc-  
tion, erection, alteration,  
repair, moving, demolition,  
installation, or replacement  
of the structure for which  
the permit was issued is in  
violation of, or not in confor-  
mity with, the provisions of  
this Ordinance.

**Section 1316 Declara-  
tion.** A Section 1316 de-  
claration shall be used only  
when all other legal means  
included in this Ordinance  
to remedy a violation have  
been exhausted and the  
structure remains non-com-  
pliant. Once invoked, the  
property's flood insurance  
coverage will be terminated  
and no new or renewal pol-  
icy can be issued, no NFIP  
insurance claim can be paid  
on any policy on the prop-  
erty, and federal disaster  
assistance will be denied for  
the property.

The declaration must be  
in writing (letter or citation),  
from the community to the  
property owner and to the  
FEMA Regional Office, and  
must contain the following  
items:

The name(s) of the prop-  
erty owner(s) and address  
or legal description of the  
property sufficient to con-  
firm its identity and location;

A clear and unequivocal  
declaration that the prop-  
erty is in violation of a cited  
State or local law, regula-  
tion or ordinance;

A clear statement that  
the public body making the  
declaration has authority to  
do so and a citation of that  
authority;

Evidence that the commu-  
nity has taken and ex-  
hausted all legal means to  
remedy the violation, in-  
cluding all Community en-  
forcement actions, as spec-  
ified in this Ordinance; and

Notice of violation, and  
a statement regarding the  
prospective denial of insur-  
ance.

The structure will be  
considered a violation un-  
til such time the violation  
has been remedied. If a  
structure that has received  
a Section 1316 declaration  
is made compliant with the  
all the applicable provisions  
of this Ordinance, then the  
Section 1316 declaration  
can be rescinded by the  
community and flood insur-  
ance eligibility restored.

**Administrative appeal;  
judicial review.** Any person  
receiving a Notice of Viola-  
tion may appeal the deter-  
mination of the community,  
including but not limited  
to the issuance of a stop  
work order, the assessment  
of an administratively-im-

posed monetary penalty,  
the suspension, revocation,  
modification, or grant with  
condition of a permit by the  
community upon finding  
that the holder is in violation  
of permit conditions, or that  
the holder is in violation of  
any applicable ordinance  
or any of the community's  
rules and regulations, or the  
issuance of a notice of bond  
forfeiture.

The Notice of Appeal  
must be in writing to the  
Floodplain Administrator  
and must be received within  
ten (10) days from the date  
of the Notice of Violation.  
A hearing on the appeal  
shall take place within thirty  
(30) days from the date of  
receipt of the Notice of Ap-  
peal.

All appeals shall be  
heard and decided by the  
community's designated  
appeals board, which shall  
be The City of Bessemer  
Zoning Board of Adjust-  
ment, or their designees.  
The appeals board shall  
have the power to affirm,  
modify, or reject the original  
penalty, including the right  
to increase or decrease the  
amount of any monetary  
penalty and the right to add  
or delete remedial actions  
required for correction of  
the violation and compli-  
ance with the community's  
floodplain development or-  
dinance, and any other ap-  
plicable local, state, or fed-  
eral requirements. Appeals  
cannot be in opposition to  
the provisions of this Ordinance.  
The decision of the  
appeal board shall be final.

A judicial review can be  
requested by any person  
aggrieved by a decision  
or order of the commu-  
nity, after exhausting his/her  
administrative remedies.  
They shall have the right  
to appeal de novo to the  
Circuit Court of Jefferson  
County, Alabama, Besse-  
mer Division, as provided in  
Section 11-52-80, et seq.,  
Code of Alabama (2022).

**SECTION I. S A V -  
INGS CLAUSE**

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

**SECTION J. R E -  
PEALER**

Ordinance No. 3600 of  
the City of Bessemer, Ala-  
bama is hereby repealed.  
This Repealer shall not,  
however, effect, terminate,  
or preclude any rights, du-  
ties, requirements or terms  
which arose or existed  
while said Ordinance was in  
effect, all of which are spe-  
cifically preserved.

**ARTICLE 3 ADMINIS-  
TRATION**

**SECTION A DESIG-  
NATION OF FLOODPLAIN  
ADMINISTRATOR**

The Building Inspection  
Officer is hereby appointed  
to administer and imple-  
ment the provisions of this  
Ordinance. The Building In-  
spection Officer shall here-  
to after be referred to as the  
Floodplain Administrator in  
this Ordinance.

**SECTION B PERMIT  
PROCEDURES**

Application for a Flood-  
plain Development Permit  
shall be made to the Flood-  
plain Administrator on forms  
furnished by the community  
PRIOR to any development  
(any man-made change to  
improved or unimproved  
real estate, including, but  
not limited to, buildings or  
other structures, mining,  
dredging, filling, grading,  
paving, excavation, drilling  
operations, or storage of  
equipment or materials) in  
the SFHAs of the commu-  
nity, and may include, but  
not be limited to, the fol-  
lowing: plans in duplicate  
drawn to scale showing the  
elevations of the area of de-  
velopment and the nature,  
location, and dimensions of  
existing or proposed devel-  
opment.

Specifically, the following  
procedures and information  
are required for all projects  
in the SFHA or other desig-  
nated floodplains within the  
jurisdiction of The City of  
Bessemer:

**Application Stage** Plot  
plans are to include:

The BFEs where provid-  
ed as set forth in Article 4,  
Section B and C;  
Boundary of the Special  
Flood Hazard Area and

**See more on page 2B**

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## PUBLIC NOTICE

floodway(s) as delineated on the

FIRM or other flood map as determined in Article 2, Section B;

Flood zone designation of the proposed development area as determined on the

FIRM or other flood map as set forth in Article 2, Section B;

Elevation in relation to mean sea level (or highest adjacent grade) of the regulatory lowest floor elevation, including basement, of all proposed structures;

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

Design certification from a professional engineer, who is licensed to practice in the

State of Alabama, or a licensed architect, who is registered to practice in the State of Alabama, that any proposed non-residential flood-proofed structure will meet the flood-proofing criteria of Article 4, Sections B (2) and E (2);

A Foundation Plan, drawn to scale, shall include details of the proposed foundation system to ensure all provisions of this Ordinance are met. These details include, but are not limited to, the proposed method of elevation (i.e., fill, solid foundation perimeter wall, solid backfilled foundation, open foundation on columns/posts/piers/piles/shear walls) and description of any flood openings

required in accordance with Article 4, Sections B (1) and B (3) when solid foundation perimeter walls are used.

Usage details of any enclosed areas below the lowest floor shall be described.

Plans and/or details for the protection of public utilities and facilities such as sewer, gas, electrical, and water systems to be located and constructed to minimize flood damage.

Description of the extent to which any watercourse will be altered or relocated as a result of a proposed development including current and proposed locations of the watercourse. An engineering report shall be prepared by a professional engineer, who is licensed to practice in the State of Alabama, on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream. The affected properties shall be depicted on a map or on the plot plan.

Certification of the plot plan by a professional engineer or surveyor, who is licensed to practice in the State of Alabama, is required.

In any lot or lots/areas that will be or have been removed from the special flood hazard area utilizing a Letter of Map Revision Based on Fill (LOMR-F), the top of fill elevation must meet the community's freeboard elevation at that location. If the top of fill elevation is below the freeboard elevation, all new structures, additions to existing buildings or substantial improvements must meet the required community freeboard elevation.

### Construction Stage

For all new construction and substantial improvements, the permit holder shall provide to the Floodplain Administrator an as-built certification of the regulatory floor elevation or flood-proofing level using appropriate FEMA elevation or floodproofing certificate immediately after the lowest floor or flood-proofing is completed. In addition:

When flood-proofing is utilized for non-residential structures, said certification shall be prepared by professional engineer, who is licensed to practice in the State of Alabama, or architect, who is registered to practice in the State of Alabama.

Any work undertaken prior to submission of these certifications shall be at the permit holder's risk.

The Floodplain Administrator shall review the above referenced certification data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately

and prior to further work being allowed. Failure to submit certification or failure to make the required corrections, shall be cause to issue a Notice of Violation and/or Stop-Work Order for the project.

The Floodplain Administrator shall make periodic inspections of projects during construction throughout the SFHAs within the jurisdiction of the community to ensure that the work is being done according to the provisions of this Ordinance and the terms of the permit. Members of the inspections/engineering department shall have a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction of The City of Bessemer during normal business hours of the community for the purposes of inspection or other enforcement action.

The Floodplain Administrator may revoke and require the return of the floodplain development permit by notifying the permit holder in writing stating the reason(s) for the revocation. Permits shall be revoked for any departure from the approved application, plans, and specifications; for refusal or failure to comply with the requirements of State or local laws; or for false statements or misrepresentations made in securing the permit. Any floodplain development permit mistakenly issued in violation of an applicable State or local law may also be revoked.

### Finished Construction

Upon completion of construction, a FEMA elevation certificate (FEMA Form 81-31 or equivalent), which depicts all finished construction elevations, must be submitted to the Floodplain Administrator prior to issuance of a Certificate of Occupancy.

If the project includes a floodproofing measure, a FEMA floodproofing certificate must be submitted by the permit holder to the Floodplain Administrator.

The Floodplain Administrator shall review the certificate(s) and the data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to Certificate of Compliance/Occupancy issuance.

In some instances, another certification may be required to certify corrected as-built construction. Failure to submit the certification or failure to make required corrections shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy.

Documentation regarding completion of and compliance with the requirements stated in the permit application and with Article 3, Section B (1) of this Ordinance shall be provided to the local Floodplain Administrator at the completion of construction or records shall be maintained throughout the Construction Stage by inspectors for the Floodplain Administrator. Failure to provide the required documentation shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy.

All records that pertain to the administration of this Ordinance shall be maintained in perpetuity and made available for public inspection, recognizing that such information may be subject to the Privacy Act of 1974, as amended.

### SECTION C DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR

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

Require permits for all proposed construction or other development in the community, including the placement of manufactured homes, so that it may be determined whether such construction or other development is proposed

within flood-prone areas. Ensure the public is aware that floodplain development permits are required for development in SFHAs.

Conduct regular inspections of the community's SFHAs for any unpermitted development and issue Stop Work Orders and Notice of Violations for any such development. Any unpermitted structure or non-structural development in the SFHA will be considered a violation until such time that the violation has been remedied.

Review proposed development to assure that all necessary permits have been received from those governmental agencies from which approval is required by Federal or State law, including section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33

U.S.C. 1334. Maintain such permits permanently with floodplain development permit file.

Review all permit applications of proposed development, to determine whether the proposed construction or other development will be reasonably safe from flooding and to assure compliance with this Ordinance.

If the provisions of this Ordinance have been met, approve the permit.

If the provisions of this Ordinance have not been met, request that either corrections and accurate completion of the application be made or disapprove the permit.

When BFE data or floodway data have not been provided in accordance with Article 2, Section B then the Floodplain Administrator shall obtain, review and reasonably utilize any BFE and floodway data available from a Federal, State, or other sources in order to administer the provisions of Article 4.

Verify and record the actual elevation of the lowest floor, in relation to mean sea level (or highest adjacent grade), including basement, of all new construction or substantially improved residential structures in accordance with Article 3, Section B (2).

Review elevation certificates and require incomplete or incorrect certificates to be corrected and resubmitted for approval.

A post-construction elevation certificate is required to be kept with the permit and certificate of occupancy in perpetuity; a pre-construction elevation certificate can be used to ensure the correct elevation for the lowest floor and machinery along with the correct number of vents that will be used.

Verify and record the actual elevation, in relation to mean sea level to which any new or substantially improved non-residential structures have been elevated or floodproofed, in accordance with Article 3, Section B, or Article 4, Sections B (2) and E (2).

When floodproofing is utilized for a non-residential structure, the Floodplain Administrator shall obtain certification of design criteria from a professional engineer, licensed to practice in the State of Alabama, or licensed architect, registered to practice in the State of Alabama, in accordance with Article 3, Section B (1) and Article 4, Section B (2) or E (2).

Notify adjacent communities and the Alabama Department of Environmental Management and the appropriate district office of the U.S. Army Corps of Engineers prior to any alteration or relocation of a watercourse. Submit evidence of such notification to FEMA

and the NFIP State Coordinator's Office (Alabama Department of Economic and Community Affairs, Office of Water Resources).

For any altered or relocated watercourse, submit engineering data/analysis within six (6) months after completion of the project to FEMA and State to ensure accuracy of community flood maps through the Letter of Map Revision process. Assure flood carrying capacity of any altered or relocated watercourse is maintained following completion of the project.

pletion of the project.

Where interpretation is needed as to the exact location of boundaries of the SFHA (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), the Floodplain Administrator shall make the necessary interpretation. Any person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this Ordinance.

All records pertaining to the provisions of this Ordinance shall be maintained, in perpetuity, at the office of the Floodplain Administrator and shall be available for public inspection when requested.

For any improvements made to existing construction located in the SFHA (as established in Article 2, Section B) ensure that a permit is obtained. Also, conduct Substantial Improvement (SI) (as defined in Article 6 of this Ordinance) reviews and analysis of all structural development permit applications. Maintain a record of the SI calculations and comments within the permit files in accordance with Section C (11) of this Article.

For any residential and nonresidential structures located in the SFHAs that are damaged from any source, natural hazard or man-made, conduct Substantial Damage (SD) (as defined in Article 6 of this Ordinance) assessments.

The Floodplain Administrator shall ensure that permits are obtained, in accordance with this Ordinance, prior to any repairs commencing.

Make SD determinations whenever structures within the SFHA area are damaged by any cause or origin. SD determinations shall not be waived to expedite the rebuilding process during a post-disaster recovery or for any other reason.

If the community has a large number of buildings in their SFHA that have been damaged, they should decide in advance how best to handle permitting and inspecting damaged buildings for substantial damage determinations.

If required, a moratorium may be placed on all non-disaster related construction permits until the community has sufficiently completed its SD determinations.

The SD determinations should be performed immediately after the damage-causing event or other cause of damage.

The community shall utilize methods and tools for collecting building data and performing analyses that will provide reasonable and defensible SD determinations. Those tools shall be capable of generating reports for recordkeeping purposes and to provide to the applicable property owners if requested.

Maintain a record of the SD calculations within permit files in accordance with Section C (11) of this Article.

If the SD determination finds that the extent that the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred, the Floodplain Administrator shall:

Coordinate with the property owner and issue a letter to convey the SD determination.

Determine if the damage was caused by flooding and include the cause in the letter to the property owner. Also, include whether or not the structure qualifies as a repetitive loss structure per the definitions in Article 6 of this Ordinance. The information can be used to determine if the claim is eligible for an Increased Cost of Compliance claim.

Coordinate with property owners and insurance companies for any NFIP claims.

If the repairs are to proceed, coordinate with the permit applicant to ensure a permit is obtained and inspections are conducted to ensure that all applicable provisions of this Ordinance are adhered to without exception or waiver.

A structure qualifies as a

repetitively damaged structure (synonymous to repetitive loss property) if it's determined to have been damaged by flooding two or more times within a 10-year period where the cost of repairing the flood damage, on average, equaled or exceeded 25 percent of its market value at the time of each flood event. All of the provisions of Article 3, Section C (13) for substantial damages shall apply to any repetitively damaged structure, whether it is covered by NFIP flood insurance or not.

Ensure that phased improvements and incremental repairs do not circumvent the SI/SD requirements.

Ensure that any combinations of elective improvements being made in addition to the necessary repairs to damages are included in making the SI/SD determination.

An applicant for a permit may appeal a decision, order, or determination that was made by the local official for the following:

The local official's finding or determination that the proposed work constituting a SI/SD were based on insufficient information, errors, or repair/improvement costs that should be included and/or excluded;

The local official's finding or determination that the proposed work constituting a SI/SD were based on inappropriate valuations of costs for the proposed work, or an inappropriate method to determine the market value of the building.

It is not appropriate for a permit applicant to seek an appeal who wishes to build in a manner that is contrary to the regulations and codes included in this ordinance. In those cases, the applicant should seek a variance.

Ensure that any building located in a floodway that constitutes a SI/SD has an engineering analysis performed in accordance with Article 4, Section C (2). If that analysis indicates any increase in the BFE, the local official must not allow the

proposed work unless the structure is brought into full compliance with this Ordinance.

Coordinate with insurance adjusters prior to permitting any proposed work to bring any flood-damaged structure covered by a standard flood insurance policy into compliance (either substantially damaged structures or repetitive loss structures) to ensure eligibility for ICC funds.

### Right of Entry:

After the Certificate of Occupancy has been issued for a building and the Floodplain Administrator observes or has reasonable cause to believe that renovations or retrofits have been made to the building, structure, or premises located in a SFHA that appear to be in violation of any provisions of this Ordinance, he/she shall have the right to seek entry into that building as described in (b) to (e) below.

Whenever it becomes necessary to make an inspection to enforce any of the provisions of this Ordinance, the Floodplain Administrator may enter such building, structure or premises at all reasonable times (normal business hours for the community) to inspect the same or perform any duty imposed upon the Floodplain Administrator by this Ordinance.

If such building or premises are occupied, the Floodplain Administrator shall first present proper credentials and request entry. If such building, structure, or premises are unoccupied, he/she shall first make a reasonable effort to locate the owner or other persons having charge or control of such building or premises prior to entry.

If entry is refused or owner cannot be located, the Floodplain Administrator shall have recourse to every remedy provided by law to secure the right of entry of the building, structure, or premises.

When the Floodplain Administrator shall have first obtained a proper inspection warrant or other remedy provided by law to secure

entry, no owner or occupant or any other persons having charge, care or control of any building, structure, or premises shall fail or neglect, after proper request is made as herein provided, to promptly permit entry therein by the Floodplain Administrator for the purpose of inspection and examination pursuant to this Ordinance.

### ARTICLE 4 PROVISIONS FOR FLOOD HAZARD REDUCTION

#### SECTION A GENERAL STANDARDS

In ALL SFHAs and flood-prone areas regulated by The City of Bessemer, the following provisions are required for all proposed development including new construction, reconstruction or repairs made to repetitive loss structures, and substantial improvements:

Review proposed development to assure that all necessary permits have been received from those governmental agencies from which approval is required by Federal or State law, including but, not limited to Section 404 of the Federal Water Pollution Control Act Amendments (1972, 33 U.S.C. 1334) and the Endangered Species Act (1973, 16 U.S.C. 1531-1544).

Maintain such permits permanently with floodplain development permit file.

New construction and substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.

New construction and substantial improvements shall be constructed with materials resistant to flood damage below the BFE.

New construction and substantial improvements shall be constructed by methods and practices that minimize flood damages.

New construction and substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

Review subdivision proposals and other proposed development, including manufactured home parks or subdivisions, to determine whether such proposals will be reasonably safe from flooding. If a subdivision proposal or other proposed development is in a SFHA, any such proposals shall be reviewed to assure that:

They are consistent with the need to minimize flood damage within the SFHA,

All public utilities and facilities, such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damage,

All new and replacement water supply systems are to be designed to minimize or eliminate infiltration of flood waters into the systems,

All new and replacement sanitary sewage systems are to be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters,

Onsite waste disposal systems are to be located to avoid impairment to them or contamination from them during flooding, and

Adequate drainage provided to reduce exposure to flood hazards.

Manufactured homes shall be installed using methods and practices which minimize flood damage. They must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local requirements for resisting wind forces.

New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems.

See more on page 3B

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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.

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

Any alteration, repair, reconstruction or improvement to the new construction and substantial improvements which is not compliant with the provisions of this Ordinance, shall be undertaken only if the non-conformity is not furthered, extended or replaced.

Proposed new construction and substantial improvements that are partially located in a SFHA shall have the entire structure meet the standards of this Ordinance for new construction.

Where new construction and substantial improvements are located in multiple SFHAs or in a SFHA with multiple BFEs, the entire structure shall meet the standards for the most hazardous SFHA and the highest BFE.

### SECTION B S P E - CIFIC TECHNICAL STANDARDS

In ALL Special Flood Hazard Areas designated as A, AE, AH (with engineered or estimated BFE), the following provisions are required:

**Residential Structures** - Where BFE data is available, new construction, reconstruction or repairs made to a repetitive loss structure, and substantial improvement of any structure or manufactured home shall have the lowest floor, including basement, elevated no lower than two (2) feet above the base flood elevation (also referred to as the design flood elevation). Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of flood waters shall be provided in accordance with standards of Article 4, Section B (3).

**Non-Residential Structures** - New construction, reconstruction or repairs made to a repetitive loss structure, and substantial improvement of any non-residential structure located in AE or AH zones, may be floodproofed (dry) in lieu of elevation. The structure, together with attendant utility and sanitary facilities, must be designed to be watertight to at least one (1) foot above the base flood elevation (herein after referred to as the design flood elevation), with walls substantially impermeable to the passage of water, and structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy.

A professional engineer, who is licensed to practice in the State of Alabama, or licensed architect, who is registered to practice in the State of Alabama, shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with the standards in ASCE-24 (for dry floodproofing) or other compatible standards of practice for meeting the provisions above, and shall provide such certification to the official as set forth above and in Article 3, Section C(6).

A record of such certificates, which includes the specific elevation (in relation to mean sea level) to which such structures are floodproofed, shall be maintained with the official permitting records for the structure and kept in-perpetuity.

Any non-residential functionally dependent structure (as defined in Article 6) that cannot meet the standards stated in Section B(2)(a) shall require a variance to be issued in accordance with Article 5, Section C (3) and D (1).

Any non-residential structure, or part thereof, made watertight below the DFE shall be floodproofed in accordance with the applicable standards in ASCE

24. All plans and specifications for such floodproofing shall be accompanied by a statement certified by a professional engineer, who is licensed to practice in the State of Alabama, or licensed architect, who is registered to practice in the State of Alabama, which states that the proposed design and methods of construction are in conformance with the above referenced standards. There should be a statement submitted with the permit application and a statement submitted with the as-built Floodproofing Certificate prior to the issuance of the Certificate of Occupancy.

Prior to the issuance of the Certificate of Occupancy, the following must be submitted for any non-residential structure that will be floodproofed.

(i) An inspection and maintenance plan detailing the annual maintenance of floodproofed components ensuring that all components will operate properly under flood conditions. Components that must be inspected include at a minimum:

Mechanical equipment such as sump pumps and generators,

Flood shields and closures, Walls and wall penetrations, and

Levees and berms (as applicable).

(ii) A Flood Emergency Operation Plan detailing the procedures to be followed during a flooding event and must include information pertaining to how all components will operate properly under all conditions, including power failures. The design professional must prepare the plan which shall include the following:

An established chain of command and responsibility with leadership responsibilities clearly defined for all aspects of the plan.

A procedure for notification of necessary parties when flooding threatens and flood warnings are issued. Personnel required to be at the building should have a planned and safe means of ingress/egress and should have no other emergency response duties during a flood event. Alternates should be assigned in the event that the primary persons responsible are unable to complete their assigned duties under the plan.

A list of specific duties assigned to ensure that all responsibilities are addressed expeditiously. The locations of materials necessary to properly install all floodproofing components must be included in the list.

An evacuation plan for all personnel or occupants; those without duties for the flood emergency as well as those with duties for implementing the plan. All possible ingress and egress routes must be identified.

A periodic training and exercise program to keep personnel and occupants aware of their duties and responsibilities. Training drills should be held at least once a year and should be coordinated with community officials.

**Enclosures for Elevated Buildings** - All new construction, reconstruction or repairs made to a repetitive loss structure, and substantial improvements of existing structures (residential and non-residential) that include ANY fully enclosed area below the BFE, located below the lowest floor formed by the foundation and other exterior walls shall be designed so as to be an unfinished or flood resistant enclosure. The enclosure shall be designed to equalize hydrostatic flood forces on exterior walls by allowing for the automatic entry and exit of flood waters.

(a) Designs for complying with this requirement must either be certified by a professional engineer, who is licensed to practice in the State of Alabama, or a licensed architect, registered to practice in the State of Alabama, or meet the following minimum criteria:

Provide a minimum of two openings for each enclosed area having a total net area of not less than one square inch for every square foot

of enclosed area subject to flooding (if a structure has more than one enclosed area below the BFE, each shall have openings on exterior walls);

Openings shall be in at least two walls of each enclosed area (includes areas separated by interior walls);

The bottom of all openings shall be no higher than one-foot above grade;

Openings may be equipped with screens, louvers, valves and other coverings or devices provided that they permit the automatic entry and exit of floodwaters in both directions without impeding or blocking flow and shall be accounted for in determination of the net open area; and

Openings meeting the requirements of (3)(a)(i) – (iv) that are installed in doors are permitted.

So as not to violate the "Lowest Floor" criteria of this Ordinance, the unfinished or flood resistant enclosure shall only be used for parking of vehicles, limited storage, or access to the elevated area.

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

All interior walls, ceilings and floors below the BFE shall be unfinished and/or constructed of flood damage-resistant materials.

This practice is also referred to as "wet floodproofing". The definitions for "flood damage-resistant materials" and "wet floodproofing" are included in Article 6.

Mechanical, electrical, or plumbing devices shall be installed not less than one foot above the BFE. The interior portion of such enclosed area(s) shall be void of utilities except for essential lighting and power, as required, that are watertight or have otherwise been floodproofed.

**Standards for Manufactured Homes and Recreational Vehicles Where Base Flood Elevation Data is Available.**

(a) Require that all manufactured homes placed or substantially improved:

Outside of a manufactured home park or subdivision,

In a new or substantially improved manufactured home park or subdivision,

In an expansion to an existing manufactured home park or subdivision, or

In an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as the result of a flood,

be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated two feet or more above the BFE and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

(b) Require that all manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision that are not subject to the provisions of Subsection (4)(a) be elevated so that either:

The lowest floor of the manufactured home is two feet or more above the BFE; OR

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

Concrete block piers (and other foundation systems) are to be designed in accordance with the Code of Federal Regulations Title 24, Part 3285 and with the specifications in FEMA P-85: Protecting Manufactured Homes from Floods and Other Hazards – A Multi-Hazard Foundation and Installation

Guide. The §3285.306 Design procedures for concrete block piers and FEMA

P-85 (Table SP-1.1), specify that the maximum allowable pier height (measured from top of grade) for

concrete piers to be five (5) feet.

(iv) The chassis and its supporting equipment are to be above the pier or other foundation. The areas below the chassis must be constructed with flood-resistant materials. All utilities and mechanical equipment must be elevated to a minimum of three (3) feet above the highest adjacent grade. Any utility and mechanical components that must be below the BFE must be made watertight to that same elevation to meet the standards in Article 4, Section A (5).

(c) Require that all recreational vehicles placed on sites must either:

Be on the site for fewer than 180 consecutive days,

Be fully licensed and ready for highway use on its wheels or jacking system,

Be attached to the site only by quick disconnect type utilities and security devices, and have no permanently attached structures or additions; OR

Must meet all the requirements for "New Construction", including the anchoring and elevation requirements of Article 4, Section B, provisions (4)(a) and (4) (b).

**Standards for Manufactured Homes Where No Base Flood Elevation Exists.**

Require that all manufactured homes to be placed within a Zone A area on the FIRM shall be installed using methods and practices which minimize flood damage.

Manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors.

The manufactured home chassis must be supported by reinforced piers or other foundation elements of at least equivalent strength such that the bottom of the chassis and its supporting equipment be no less than 36 inches and up to a maximum 60 inches (five feet) above the highest adjacent grade and be securely anchored to an adequately anchored foundation system.

The areas below the chassis must be constructed with flood-resistant materials. All utilities and mechanical equipment must be elevated to a minimum of 3 feet above the highest adjacent grade. Any utility and mechanical components that must be below the BFE must be made watertight to that same elevation to meet the standards in Article 4, Section A (5).

**Require, until a regulatory floodway is designated,** that no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A and AE on the City of Bessemer's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

**Accessory and Agricultural Structures** – When an accessory structure meets the requirements outlined below, these structures may be wet-floodproofed and do not have to be elevated to one foot above the BFE as required in Article 4, Section B (2).

A permit shall be required prior to construction or installation of any accessory structures and any agricultural structures built below the DFE and the following provisions apply: (a)

Must be adequately anchored to prevent flotation, collapse, or lateral movement;

Must be designed with an unfinished interior and constructed with flood damage resistant materials below the DFE as described in Article 4, Section B (3);

Must have adequate flood openings as described in Article 4, Section B (3);

Must be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters;

Must comply with the requirements for development in floodways in accordance with Article 4, Section C;

Must elevate any mechanical and other utility equipment in or servicing the structure to or above the DFE or must be floodproofed in accordance with Article 4, Section A;

Prohibit storage of any hazardous or toxic materials below the DFE.

Permits for small accessory structures may be issued to provide wet floodproofing measures in accordance with the standards described in subsections (i) through (iv) below without requiring a variance. Before issuing permits for small accessory structures, the Floodplain Administrator must verify:

Use is limited to parking of vehicles or storage;

Size is less than or equal to a one-story, two-car garage for all A zones;

Structures are a minimal investment and have a low damage potential with respect to the structure and contents;

Structures will not be used for human habitation;

Structures comply with the wet floodproofing requirements in Article 4, Section B (3).

Permits for accessory structures larger than the size allowed for in subsection (7)(h) above, shall require a variance to be granted on a case-by-case basis in accordance with Article 7, Section D (3). Variances shall not be granted for entire subdivisions for accessory structures.

Permits for new construction of all agricultural structures shall require a variance to be granted on a case-by-case basis in accordance with Article 7, Section D (4).

Typically, when structures are substantially damaged by any cause or will be substantially improved, communities must require that the structures be brought into compliance with all requirements for new construction. In accordance with guidance in FEMA Publication 2140, agricultural structures that are substantially damaged by flooding and agricultural structures that are repetitive loss structures are permitted to be repaired or restored to pre-damage condition, provided the following are satisfied:

If substantially damaged, the substantial damage determination is based only on the cost to repair damage caused by flooding to pre-damage conditions.

The proposed repair or restoration does not change the size of the structure and does not significantly alter the nature of the building. With the exception of costs associated with wet floodproofing in accordance with Article 4, Section B (3), proposals that include work beyond or in addition to that necessary to repair or restore the structure to pre-damage conditions must be regulated as substantial improvements as provided for in this Ordinance.

The repaired or restored structure will continue to be an agricultural structure, as defined in this Ordinance.

Owners are notified, in writing, that agricultural structures approved under this subsection:

Will not be eligible for disaster relief under any program administered by FEMA or any other Federal agency.

Will have NFIP flood insurance policies rated based on the structure's risk.

May be denied NFIP flood insurance policies if repairs do not include the wet floodproofing requirements of Article 4, Section B (3).

When owners elect to wet floodproof flood-damaged agricultural structures as part of repair or restoration to pre-damage condition, the structure shall comply with the requirements of Article 4, Section B (3).

A variance shall be required to allow wet floodproofing in-lieu of elevation or dry-floodproofing in accordance with the definitions in Article 7.

Prohibit the storage of hazardous substances (as defined in Article 7)

in any residential accessory structure located in a SFHA. Limit the storage in nonresidential accessory structures to only fertilizers, petroleum products, and pesticides essential for landscaping purposes. Limit storage in agricultural structures to only fertilizers, petroleum products, and pesticides necessary for agricultural purposes. In both cases, storage shall be in strict compliance with the requirements of Article 4, Section B (9).

**Underground and Aboveground Storage (Liquid and Gas) Tanks** - Tanks and tank inlets, fill openings, outlets, and vents that are located below the DFE shall be designed, constructed, installed, and anchored to resist all flood-related loads (flotation, collapse, or lateral movement resulting from hydrostatic and hydrodynamic forces) and any other loads, including the effects of buoyancy, during flooding up to and including the 100-year flood and without release of contents into floodwaters or infiltration of floodwaters into the tanks.

A permit that includes floodplain development shall be required prior to construction or installation of any underground and aboveground tanks (including their foundation and support systems) located within a special flood hazard area.

Loads on underground tanks and aboveground tanks exposed to flooding shall be determined assuming at least 1.3 times the potential buoyant and other flood forces acting on the empty tank.

Tanks and associated piping shall be installed to resist local scour and erosion during the 100-year flood.

Aboveground tanks located in Zone A/AE flood hazard areas shall be either:

Elevated to or above the DFE on platforms or structural fill,

Elevated to or above the DFE where attached to structures and the foundation system supporting the structures shall be designed to accommodate any increased loads resulting from the attached tanks,

Permitted below the DFE where the tank and its foundation are designed to resist all flood-related loads including floating debris, or

Permitted below the DFE where the tank and its foundation are designed to resist flood loads and are located inside a barrier designed to protect the tank from floating debris.

Aboveground tanks located in areas designated as Zone V/VE, Coastal A-Zones, and other high risk flood hazard areas (see ASCE 24-14) shall be elevated to or above the DFE on platforms that conform to the foundation requirements of ASCE 24-14, Section 4.5. Aboveground tanks shall not be permitted to be located under elevated structures or attached to structures at elevations below one foot above the DFE in these areas.

Underground tanks located in areas designated as Zone V/VE, Coastal A-Zones, and other high risk flood hazard areas (see ASCE 24-14) shall have the determination of flood-related loads take into consideration the eroded ground elevation.

Tank inlets, fill openings, outlets, and vents shall be:

At or above the DFE or fitted with covers designed to prevent the inflow of floodwater or outflow of the contents of the tanks during conditions of the 100-year flood.

Anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the 100-year flood.

**Structures and Sites for the Storage or Production of Hazardous Substances** – Require that all outdoor storage sites, new construction, reconstruction or repairs made to a repetitive loss structure, and substantial improvements to be used for the production or storage of hazardous substances (as defined in

**See more on page 4B**

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Article 7) which are located in the special flood hazard area shall be built in accordance with all applicable standards in this Ordinance in addition to the following requirements:

No structures containing hazardous substances shall be permitted for construction in a floodway;

Residential structures shall have the area in which the hazard substances are to be stored elevated or dry floodproofed a minimum of two (2) feet above the BFE;

Non-residential structures shall be permitted to be built below the BFE in accordance with Article 4, Section B (2) such that the area where the hazard substance production or storage is located will be:

elevated or designed and constructed to remain completely dry to at least two (2) feet above the BFE, and

designed to prevent pollution from the storage containers, structure, or activity during the course of the base flood.

Any solid, liquid, or gas storage containers of hazardous substances and any associated mechanical, electrical, and conveyance equipment shall be watertight and shall be properly anchored and protected from the hydrostatic and hydrodynamic forces of flood waters and debris carried by the base flood.

It is prohibited for any outdoor storage sites, new construction and substantial improvements used for the production or storage of hazard substances (as defined in Article 7) to be located within the SFHA.

**Construction of Fences** - New and replacement fences may be allowed in flood hazard areas if they do not act as a flow boundary and redirect the direction of flow, collect flood debris

and cause blockages, cause localized increases in flood levels, or if damaged, become debris that may cause damage to other structures.

**Structures Elevated on Fill** - Fill for structures shall be designed to be stable under conditions of flooding, including rapid rise and rapid drawdown of floodwaters, prolonged inundation, and flood-related erosion and scour. The standards from ASCE 24 should be followed for any fill placed in flood hazard areas. All new construction for residential or non-residential structures may be constructed on permanent structural fill in accordance with the following:

The lowest floor (including basement) of the structure or addition along with any appurtenant utilities shall be no lower than one foot above the BFE.

The nearest wall foundation of the structure shall have a minimum setback distance of 25 feet from the edge of the floodplain boundary. If less than 25 feet the Engineer of Record shall submit a letter stating that the wall foundation of the structure is safe from rapid rise and rapid drawdown of floodwaters, prolonged inundation, and flood-related erosion and scour.

Fill used for structural support or protection shall consist of granular and earthen material that is free of vegetation and foreign or organic materials and suitable for its intended use.

The fill shall be placed in layers no greater than one foot deep before compacting and should extend at least ten (10) feet beyond the foundation of the structure before sloping below the BFE, said slope being no greater than a 1:1.5 (vertical / horizontal) ratio unless a stability analysis is provided by a registered professional engineer. However, the ten-foot minimum may be waived if a structural engineer certifies an alternative method to protect the structure from damage due to erosion, scour, and other hydrodynamic forces.

All new structures built on fill must be constructed on properly designed and compacted fill (ASTM D-698 or equivalent) that extends beyond the building walls before dropping below the BFE.

The top of the fill shall be no lower than one foot above the BFE.

The fill shall not adversely affect the flow or surface drainage from or onto any neighboring properties.

Structural fill, including side slopes, shall be protected from scour and erosion under flood conditions up to and including the base flood discharge. When expected velocities during the occurrence of the base flood are greater than five feet per second, armoring with stone or rock protection shall be provided. When expected velocities during the base flood are five feet per second or less, protection shall be provided by covering them with vegetative ground cover.

The design of the fill or the fill standard must be approved by a licensed professional engineer.

The applicant shall submit a Letter of Map Revision based on fill (LOMR-F) utilizing FEMA's MT-1 application forms to FEMA requesting a revision to the FIRM for the placement of fill.

This standard is not applicable for placement of fill in a floodway; fill in a floodway is prohibited.

**Vegetative Buffer Strips (Riparian Zones)** - For all activities involving construction within 25 feet of the channel, the following criteria shall be met:

A natural vegetative buffer strip shall be preserved within at least 25 feet of the mean highwater level of the channel.

Where it is not possible to protect this buffer strip during the construction of an appropriate use, a vegetated buffer strip shall be established upon completion of construction.

The use of native riparian vegetation is preferred in the buffer strip. Access through this buffer strip shall be provided for stream maintenance purposes.

### SECTION C FLOODWAYS

Located within Special Flood Hazard Areas established in Article 2, Section B, are areas designated as floodway. A floodway may be an extremely hazardous area due to velocity floodwaters, debris or erosion potential. In addition, the area must remain free of encroachment in order to allow for the discharge of the base flood without increased flood heights. Therefore, the following provisions shall apply:

The community shall select and adopt a regulatory floodway based on the principle that the area chosen for the regulatory floodway must be designed to carry the waters of the base flood, without increasing the water surface elevation of that flood more than one foot at any point;

Encroachments, including fill, new construction, substantial improvements or other development are prohibited within the adopted regulatory floodway unless it is demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in BFEs during the occurrence of the base flood discharge. A registered professional engineer must provide supporting technical data and certification (No-Rise Certificate) to FEMA for the proposed floodway encroachment. The No-Rise Certificate must be submitted to the Floodplain Administrator with the development permit (including a Site Plan showing the current and proposed floodway alignment) for approval.

ONLY if Article 4, Section C, provisions (1) and (2) are satisfied, then any new construction or substantial improvement in a floodway shall comply with all other applicable flood hazard reduction provisions of Article 4. After satisfying the required provisions stated in this section, encroachments in floodways should be limited to the following types of projects:

flood control and stormwater management structures;

road improvements and repairs;

utility easements/rights-of-way; and

public improvements or public structures for bridging over the floodway.

Fencing shall be prohibited in floodways unless it is demonstrated that such development will not cause any increase in the BFE. Appropriate analysis and documentation shall be submitted along with the development permit for review and approval. Fences that have the potential to block or restrict the passage of floodwaters (by trapping debris or with openings too small to allow unhindered passage of water), such as stockade and wire mesh fences, shall meet the requirements of Article 4, Section C (2).

### SECTION D BUILDING STANDARDS FOR STREAMS WITHOUT ESTABLISHED BASE FLOOD ELEVATIONS (APPROXIMATE AZONES)

Located within the SFHAs established in Article 2, Section B, where streams exist but no base flood data have been provided (Approximate A-Zones), the following provisions apply:

BFE data shall be provided for new subdivision proposals and other proposed development (including manufactured home parks and subdivisions) greater than fifty (50) lots or five (5) acres, whichever is the lesser.

When BFE data or floodway data have not been provided in accordance with Article 2, Section B then the Floodplain Administrator shall obtain, review, and reasonably utilize any scientific or historic BFE and floodway data available from a Federal, State, or other source, in order to administer the provisions of Article 4. ONLY if data are not available from these sources, then Article 4, Section D, provisions (4) and (5) shall apply.

All development in Zone A must meet the requirements of Article 4, Section A and Sections B (1), B (2), B (3), B (5), B (6), B (7), B (8), B (9), B (10), B (11), B (12), and B (13).

In SFHAs without BFE data, new construction and substantial improvements of existing structures shall have the lowest floor (for the lowest enclosed area; including basement) elevated no less than three (3) feet above the highest adjacent grade. As the requirements set forth in Article 4, Section B (1) and B (2) stipulate the lowest floor to be elevated no less than two feet above the BFE, then the structure for this condition shall be elevated no less than five (5) feet about the highest adjacent grade.

In the absence of a BFE, a manufactured home must also meet the elevation requirements of Article 4, Section B(4)(b)(ii) - B(4)(b)(iv) in that the structure cannot be elevated above a maximum of 60 inches (5 feet) and all utilities and mechanical equipment must be elevated a minimum of three (3) feet above the highest adjacent grade.

Enclosures for elevated buildings in Zone A areas shall comply with the standards of Article 4, Section B(3)(a). The Floodplain Administrator shall certify the lowest floor elevation level and the record shall become a permanent part of the permit file.

No encroachments, including structures or fill material, shall be located within an area equal to the width of the stream or twenty-five feet, whichever is greater, measured from the top of

the stream bank, unless certification by a registered professional engineer is provided demonstrating that such encroachment shall not result in any increase in flood levels during the occurrence of the base flood discharge.

### SECTION E STANDARDS FOR AREAS OF SHALLOW FLOODING (AO ZONES)

Special flood hazard areas established in Article 2 Section B may include designated "AO" shallow flooding areas. These areas have base flood depths

of one to three feet (1'-3') above ground, with no clearly defined channel. The following provisions apply:

All new construction and substantial improvements of residential and non-residential structures shall have the lowest floor, including basement, elevated above the highest adjacent grade at least as high as the depth number specified on the Flood Insurance Rate Map (FIRM) plus one foot of freeboard. If no depth number is specified, the lowest floor (including basement) shall be elevated at least three (3) feet above the highest adjacent grade. Openings sufficient to facilitate the unimpeded movements of flood waters shall be provided in accordance with standards of Article 4, Section B (3).

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

New construction and the substantial improvement of a non-residential structure may be floodproofed in lieu of elevation. The structure, together with attendant utility and sanitary facilities, must be designed to be water tight to the specified flood level in Article 4, Section E (1) or three (3) feet (if no depth number is specified), above highest adjacent grade, with walls substantially impermeable to the passage of water, and structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. As the requirements set forth in Article 4, Section B (2) stipulate the lowest floor to be elevated no less than one foot above the BFE, then the structure for this condition shall be elevated no less than four (4) feet about the highest adjacent grade.

A professional engineer, who is licensed to practice in the State of Alabama, or licensed architect, who is registered in the State of Alabama, shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions above and shall provide such certification to the official as set forth above and as required in Article 3, Section B (1) and (2).

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

### SECTION F STANDARDS FOR SUBDIVISIONS AND OTHER DEVELOPMENT

All subdivision proposals and other proposed development (including proposals for manufactured home parks and subdivisions) greater than 50 lots or 5 acres, whichever is the lesser, shall include within the drawings, plans, and permits for such proposals the following:

BFE data;

Provisions to minimize flood damage;

Public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage;

Adequate drainage provided to reduce exposure to flood hazards without negatively impacting adjacent properties;

Preliminary plans for review and approval of the platted subdivision which identifies the Special Flood Hazard Area, floodway boundaries, the BFE, and other areas regulated by the community;

Final subdivision plats that identify the boundary of the special flood hazard area, the floodway boundary, the BFEs, and any drainage easements to reduce the risk for flash flooding;

### ARTICLE 5 VARIANCE PROCEDURES

#### SECTION A. DESIGNATION OF VARIANCE AND APPEALS BOARD

The Zoning Board of Adjustment as established by the City of Bessemer shall hear and decide requests for appeals or variance from the requirements of this Ordinance.

#### SECTION B. DUTIES OF BOARD

The Board shall hear and decide appeals when it is alleged an error in any requirement, decision, or determination is made by the Floodplain Administrator in the enforcement or administration of this Ordinance. Any person aggrieved by the decision of the Zoning Board of Adjustment may appeal such decision to the Circuit Court of Jefferson County, Alabama, Bessemer Division, as provided in Section 11-52-80, et seq., Code of Alabama (2022).

#### SECTION C. CONDITIONS FOR VARIANCES

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, considering the flood hazard, to afford relief.

A variance may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size, contiguous to and surrounded by lots with existing structures constructed below the base flood level, in conformance with the procedures of Sections C (3), C (4), F (1) and F (2) of this Article.

In the instance of a Historic Structure, a determination is required that the variance is the minimum necessary so as not to destroy the historic character and design of the building.

A variance shall be issued ONLY when there is:

A finding of good and sufficient cause;

A determination that failure to grant the variance would result in exceptional hardship (cannot be personal physical or financial hardship); and

A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

A variance shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

Variances shall not be issued "after the fact."

#### SECTION D. VARIANCE PROCEDURES

In reviewing requests for variance, the Zoning Board of Adjustment shall consider all technical evaluations, relevant factors, and standards specified in other sections of this Ordinance, and:

Certain facilities and structures must be located on or adjacent to water in order to perform their intended purpose which may result in practical and operational difficulties due to the physical characteristics of the property. Variances may be issued for development necessary for conducting of a functionally dependent use, provided the criteria of this Article are met, no reasonable alternative exists, the development is protected by methods that minimize flood damage during the base flood, and it creates no additional threats to public safety.

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

Variances may be issued for the construction or substantial improvement of accessory structures provided it has been determined that the proposed structure:

Represents minimal investment and has low damage potential (amount of physical damage, contents damage, and loss of function).

Is larger than the size limits specified in Article 4, Section B(7)(i).

Complies with the wet floodproofing construction requirements of Article 4, Section B(3).

Variances may be issued for the construction or substantial improvement of agricultural structures provided it has been determined that the proposed structure:

Is used exclusively in connection with the produc-

tion, harvesting, storage, raising, or drying of agricultural commodities and livestock, or storage of tools or equipment used in connection with these purposes or uses, and will be restricted to such exclusive uses.

Has low damage potential (amount of physical damage, contents damage, and loss of function).

Does not increase risks and pose a danger to public health, safety, and welfare if flooded and contents are released, including but not limited to the effects of flooding on manure storage, livestock confinement operations, liquified natural gas terminals, and production and storage of highly volatile, toxic, or water-reactive materials.

Is an aquaculture structure that is dependent on proximity to water if located in a coastal high-hazard area (Zones V, VE, V1 30, and VO).

Complies with the wet floodproofing construction requirements of Article 4, Section B(3).

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

Variances should never be granted for multiple lots, phases of subdivisions, or entire subdivisions.

Careful consideration and evaluation should be given to the following factors:

The danger of life and property due to flooding or erosion damage including materials that may be swept onto other lands to the injury of others.

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.

The safety of access to the property during flood conditions for daily traffic and emergency vehicles.

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

The necessity of the facility to be at a waterfront location, where applicable.

The compatibility of the proposed use with existing and anticipated development based on the community's comprehensive plan for that area.

If applicable, the expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action expected at the site.

The costs associated with providing governmental services to the development during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and community infrastructure such as streets, bridges, and culverts.

Upon consideration of factors listed above, and the purpose of this Ordinance, the Zoning Board of Adjustment may attach such conditions to the granting of variances as it deems necessary to further the purposes of this Ordinance.

#### SECTION E. VARIANCES FOR HISTORIC STRUCTURES

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

#### SECTION F. VARIANCE NOTIFICATION AND RECORDS

Any applicant to whom a variance is granted shall be given written notice over the signature of a community official that specifies the difference between the BFE and the elevation of the proposed lowest floor and stating that the issuance of such a variance could:

result in flood insurance rate increases in the hundreds and possibly thousands of dollars annually

See more on page 5B

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depending on structure and site-specific conditions; and

increase the risk to life and property resulting from construction below the base flood level.

The Floodplain Administrator shall maintain a record of all variance actions and appeal actions, including justification for their issuance. Report any variances to the Federal Emergency Management Agency Region 4 and the Alabama Department of Economic and Community Affairs/Office of Water Resources upon request.

A copy of the notice shall be recorded by the Floodplain Administrator in the Office of the City Clerk or the Jefferson County Probate Office and shall be recorded in a manner so that it appears in the chain of title (i.e., deed) of the affected parcel of land.

### ARTICLE 6 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 its most reasonable application.

**A Zone** means the special flood hazard areas on a FIRM without base flood elevations determined.

**Administrator** means the Administrator of the Federal Emergency Management Agency (FEMA).

**Accessory Structure** (also referred to as **Appurtenant Structures**) means a structure which is located on the same parcel of property as a principal structure and the use of which is incidental to the use of the principal structure. Detached garages and small sheds used for limited storage are considered accessory structures. Other examples of accessory structures include gazebos, picnic pavilions, boathouses, small pole barns, storage sheds, and similar buildings. An accessory structure specifically excludes structures used for human habitation.

**Addition (to an Existing Building)** means any improvement that increases the square footage of a structure. These include lateral additions added to the front, side, or rear of a structure, vertical additions added on top of a structure, and enclosures added underneath a structure. NFIP regulations for new construction apply to any addition that is considered a substantial improvement to a structure.

**AE Zone** means the special flood hazard areas on a FIRM with base flood elevations determined.

**Agricultural Structure** means a walled and roofed structure used exclusively for agricultural purposes or uses in connection with the production, harvesting, storage, raising, or drying of agricultural commodities and livestock, including aquatic organisms. Aquaculture structures are included within this definition. Structures that house tools or equipment used in connection with these purposes or uses are also considered to have agricultural purposes or uses.

**AH Zone** means area of special flood hazards on a FIRM having shallow water depths and/or unpredictable flow paths between one (1) and three (3) feet, and with water surface elevations determined.

**AO Zone** means an area of special flood hazards on a FIRM having shallow water depths and/or unpredictable flow paths between one (1) and three (3) feet.

**Appeal** means a request for a review of the Floodplain Administrator's interpretation of any provision of this Ordinance.

**Appurtenant Structure** (see definition for Accessory Structure)

**AR/AE, AR/AH, AR/AO, and AR/A Zones** means an area of special flood hazard on a FIRM that results from the decertification of a previously accredited flood protection system that is determined to be in the process of being restored to provide base flood protection.

**A99 Zone** means an area of special flood hazard on a

FIRM where enough progress has been made on a protective system, such as dikes, dams, and levees, to consider it complete for insurance rating purposes.

**Area of Future-conditions Flood Hazard** means the land area that would be inundated by the 1percent-annual-chance (100-year) flood based on future-conditions hydrology.

**Area of Shallow Flooding** means a designated AO, AH, AR/AO, AR/AH or VO zone on a community's FIRM with a 1 percent or greater annual chance of flooding to an average depth of one (1) to three (3) feet where a clearly defined channel does not exist, where the path of flooding unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

**Area of Special Flood Hazard** (see definition for Special Flood Hazard Area)

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

**Base Flood Elevation (BFE)** means the elevation of surface water resulting from a flood that has a 1% chance of equaling or exceeding that level in any given year. The BFE is shown on the FIRM for zones AE, AH, A1-A30, AR, AR/A, AR/AE, AR/A1-A30, AR/AH, AR/AO, V1-V30 and VE.

It is the regulatory requirement for the elevation of flood proofing of structures. The relationship between the BFE and a structure's elevation determines the flood insurance premium.

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

**Building** (also see Structure) means a structure with two or more outside rigid walls and a fully secured roof that is affixed to a permanent site; a manufactured home or a mobile home 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. "Building" does not mean a gas or liquid storage tank or a recreational vehicle, park trailer or other similar vehicle.

**Community** means any State or area or political subdivision thereof, or any Indian tribe or authorized tribal organization, or authorized native organization, which has authority to adopt and enforce floodplain management regulations for the areas within its jurisdiction.

**Community Rating System (CRS)** means a voluntary 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.

**Condominium Building** means a type of building in the form of ownership in which each unit owner has an undivided interest in common elements of the building.

**Critical Facility** (aka, critical action) means facilities or activities for which even a slight chance of flooding is too great a threat. Typical critical facilities include hospitals, fire stations, police stations, storage of critical records, and similar facilities. These facilities should be given special consideration when formulating regulatory alternatives and floodplain management plans. A critical facility should not be located in a floodplain if at all possible.

**Critical Feature** means an integral and readily identifiable part of a flood protection system, without which the flood protection provided by the entire system would be compromised.

**Cumulative Substantial Improvement/Damage** means any combination of reconstruction, alteration, or improvement to a building, taking place during a 10-year period, in which the cumulative percentage

of improvement equals or exceeds 50 percent of the current market value of the structure before the "start of construction" of the initial improvement. Any subsequent improvement project costs shall be added to the initial costs for the initial improvement project. At the end of a 10-year period from the initial improvement project, an updated valuation for the structure can be used for the next time period. Damages can be from any source.

**D Zone** means an area in which the flood hazard is undetermined.

**Dam** means an artificial barrier, that has the ability to impound water, wastewater, or any liquidborne material, for the purpose of storage or control of water.

**Design Flood Elevation (DFE)** means the locally adopted regulatory flood elevation. It is the minimum elevation to which a structure must be elevated or floodproofed. DFE is the sum of the base flood elevation and freeboard, based on a building's structural category. In areas designated as Zone AO on a community's flood map, the DFE is the elevation of the highest existing grade of a building's perimeter plus the depth number specified on the flood hazard map. In areas designated as Zone AO where a depth is not specified on the map, the depth is two feet. In all cases, the DFE must be at least as high as the base flood elevation.

**Developed Area** means an area of a community that is:

A primarily urbanized, built-up area that is a minimum of 20 contiguous acres, has basic urban infrastructure, including roads, utilities, communications, and public facilities, to sustain industrial, residential, and commercial activities, and

Within which 75 percent or more of the parcels, tracts, or lots contain commercial, industrial, or residential structures or uses; or

Is a single parcel, tract, or lot in which 75 percent of the area contains existing commercial or industrial structures or uses; or

Is a subdivision developed at a density of at least two residential structures per acre within which 75 percent or more of the lots contain existing residential structures at the time the designation is adopted.

Undeveloped parcels, tracts, or lots, the combination of which is less than 20 acres and contiguous on at least 3 sides to areas meeting the criteria of paragraph "a" at the time the designation is adopted.

A subdivision that is a minimum of 20 contiguous acres that has obtained all necessary government approvals, provided that the actual "start of construction" of structures has occurred on at least 10 percent of the lots or remaining lots of a subdivision or 10 percent of the maximum building coverage or remaining building coverage allowed for a single lot subdivision at the time the designation is adopted and construction of structures is underway. Residential subdivisions must meet the density criteria in paragraph (a)(iii).

**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, excavation, drilling operations, or storage of equipment or materials.

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

**Elevation Certificate** means a FEMA form used as an administrative tool of the NFIP to provide building elevation information necessary to ensure compliance with community floodplain management ordinances, to inform the proper insurance premium, and to support a request for a LOMA, CLOMA, LOMR-F, or CLOMR-F.

**Encroachment** means activities or construction within the floodway including fill, new construction, substan-

tial improvements, and other development.

**Existing Construction** means, for the purposes of determining rates, structures for which the "start of construction" commenced before the effective 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 final site grading or the pouring of concrete pads) is completed before the effective date of the original floodplain management regulations adopted by the community.

**Expansion to an Existing Manufactured Home Park or Subdivision** means the preparation of additional facilities 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.

**Fair Market Value** means the price that the seller is willing to accept and the buyer is to pay on the open market and in an arm's length transaction.

**Flood or Flooding** means: A general and temporary condition of partial or complete inundation of normally dry land areas from:

The overflow of inland or tidal waters.

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

Mudslides which are proximately caused by flooding as described in part "b." of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.

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

**Flood Damage-Resistant Material** means any building product capable of withstanding direct and prolonged contact with floodwaters without sustaining significant damage. Prolonged contact is defined as at least 72 hours. Significant damage is any damage requiring more than low-cost cosmetic repair (such as painting).

**Flood Elevation Determination** means a determination by the Federal Insurance Administrator of the water surface elevations of the base flood, that is, the flood level that has a one percent or greater chance of occurrence in any given year.

**Flood Elevation Study** means an examination, evaluation, and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation, and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards.

**Flood Hazard Boundary Map (FHBM)** means an official map of a community, issued by the Federal Insurance Administration, where the boundaries of special flood hazard areas have been designated as Zones A, M, and/or E.

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

to the community. A FIRM that has been made available digitally is called a Digital Flood Insurance Rate Map (DFIRM).

**Flood Insurance Study** (see Flood Elevation Study)

**Floodplain (or Flood-Prone Area)** means any land area susceptible to being inundated by water from any source (see definition of Flooding).

**Floodplain Management** means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works, and floodplain management regulations.

**Floodplain Management Regulations** means this Ordinance and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as those for floodplain management, stormwater management, watershed management, grading/earthwork, and erosion control), and other applications of police power. This term describes state or local regulations in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

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

**Flood Protection System** means those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the area within a community subject to a "special flood hazard" and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

**Flood-related Erosion** means the collapse or subsidence of land along the shore of a lake or other body of water as a result of undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high-water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding.

**Flood-related Erosion Area or Flood-related Erosion Prone Area** means a land area adjoining a shore of a lake or other body of water, which due to the composition of the shoreline or bank and high-water levels or wind-driven currents, is likely to suffer flood-related erosion damage.

**Flood-related Erosion Area Management** means the operation of an overall program of corrective and preventive measures for reducing flood-related erosion damage, including but not limited to emergency preparedness plans, flood-related erosion control works, and flood plain management regulations.

**Floodway** (see definition for Regulatory Floodway)

**Floodway Fringe (or Flood Fringe)** means the portion of the Special Flood Hazard Area outside of the floodway, which experiences shallower, lower-velocity floodwater than in the floodway. It serves as a temporary floodwater storage area during a flood.

**Floodway Encroachment Lines** mean the lines marking the limits of floodways on Federal, State and local flood plain maps.

**Freeboard** means a factor of safety usually expressed in feet above a flood level for purposes of flood plain management.

"Freeboard" tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed.

**Functionally Dependent Use** means a 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, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

**Future-conditions Flood Hazard Area, or Future-conditions Floodplain** (see Area of Futureconditions Flood Hazard)

**Future-conditions Hydrology** means the flood discharges associated with projected land-use conditions based on a community's zoning maps and/or comprehensive land-use plans and without consideration of projected future construction of flood detention structures or projected future hydraulic modifications within a stream or other waterway, such as bridge and culvert construction, fill, and excavation.

**Hazardous Substance (or Material)** means any substance or material that, when involved in an accident and released in sufficient quantities, poses a risk to people's health, safety, and/or property. These substances and materials include explosives, radioactive materials, flammable liquids or solids, combustible liquids or solids, poisons, oxidizers, toxins, and corrosive materials. It includes any substance defined as a hazardous substance pursuant to 42 U.S.C. §9601(14) or listed as a hazardous waste pursuant to the Hazardous Wastes Management Act, Section 22-30-1 et seq. and the regulations promulgated thereunder.

**Highest Adjacent Grade** means the highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a structure.

**Historic Structure** means any structure that is:

Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register.

Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district.

Individually listed on a state inventory of historic places and determined as eligible by states with historic preservation programs which have been approved by the Secretary of the Interior; or

Individually listed on a local inventory of historic places and determined as eligible by communities with historic preservation programs that have been certified either:

By an approved state program as determined by the Secretary of the Interior, or

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

**Increased Cost of Compliance (ICC)** means a claim under a standard NFIP flood insurance policy, available to flood insurance policyholders who need additional funding to rebuild after a flood. It provides up to \$30,000 to help cover the increased cost of mitigation measures to bring a building into compliance with the latest state or local floodplain management ordinances. Acceptable mitigation measures are elevation, floodproofing, relocation, and demolition, or any combination of these measures.

See more on page 6B

# ALABAMA LEGAL JOURNAL

## PUBLIC NOTICE

**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:

**Letter of Map Amendment (LOMA)**

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

**Letter of Map Revision (LOMR)**

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.

**Conditional Letter of Map Revision (CLOMR)**

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

**Lowest Adjacent Grade** means the lowest elevation of the natural or regraded ground surface, or structural fill (or concrete slab or pavement), at the location of a structure.

**Lowest Floor** means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, used solely for parking of vehicles, building access, or storage, in an area other than a basement, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of other provisions of this Ordinance. This definition applies even when the floor below ground level is not enclosed by fullheight walls.

**Manufactured Home** means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use 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.

**Market Value** (see definition for Fair Market Value)

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

**Mixed Use Building** means a building that has both residential and non-residential uses.

**National Flood Insurance Program (NFIP)** is a federal program created by the United States Congress in 1968 to identify flood-prone areas nationwide and make flood insurance available for properties in participating communities. Communities must enact and enforce floodplain management regulations that meet or exceed the criteria established by FEMA in order to participate in the program. This program requires properties within the floodplain with a federally backed or regulated mortgage, or those that

receive federal housing subsidies, to buy flood insurance.

**National Geodetic Vertical Datum (NGVD) of 1929** means a national standard reference datum for elevations, formerly referred to as Mean Sea Level (MSL) of 1929. NGVD 1929 may be used as the reference datum on some Flood Insurance Rate Maps (FIRMs).

**New Construction** means, for the purposes of determining insurance rates, structures for which the

"start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, new construction means structures for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

An existing building is considered to be new construction if it is substantially improved or once it has been repaired after being substantially damaged/improved.

**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 June 1, 1981.

**Non-Residential Building** means, a commercial or mixed-use building where the primary use is commercial or non-habitational.

**Non-residential Property** means either a non-residential building, the contents within a non-residential building, or both.

**North American Vertical Datum (NAVD) of 1988** means the vertical control datum established for vertical control surveying in the United States of America based upon the General Adjustment of the North American Datum of 1988. It replaces the National Geodetic Vertical Datum (NGVD) of 1929. Used by FEMA in many recent Flood Insurance Studies as the basis for measuring flood, ground, and structural elevations.

**Post-FIRM** means, for floodplain management purposes, a post-FIRM building is one for which construction began after the effective date of a community's NFIP-compliant floodplain management ordinance. For the purpose of determining flood insurance rates under the NFIP, a post-FIRM building is a building for which construction began on or after the effective date of an initial Flood Insurance Rate Map or after December 31, 1974, whichever is later, including any subsequent improvements to such structures.

**Pre-FIRM** means, for floodplain management purposes, a building for which the start of construction occurred before the effective date of the community's NFIP-compliant floodplain management ordinance. For the purpose of determining flood insurance rates under the NFIP, a pre-FIRM building is a building for which construction began prior to the effective date of an initial Flood Insurance Rate Map or on or before December 31, 1974, whichever is later.

**Recreational Vehicle** means a vehicle which is: Built on a single chassis; 400 square feet or less when measured at the largest horizontal projection;

Designed to be self-propelled or permanently towable by a light duty truck; and

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 Program authorized by the Act under which risk premium rates are required for the first half of available coverage (also known as "first layer" coverage) for all new construction and substantial improvements started on or after the effective date of the FIRM, or after December 31, 1974, for FIRM's effective on or before that date. All buildings, the construction of which started before the effective date of the FIRM, or before January 1, 1975, for FIRMs effective before that date, are eligible for first layer coverage at either subsidized rates or risk premium rates, whichever are lower. Regardless of date of construction, risk premium rates are always required for the second layer coverage and such coverage is offered only after the Administrator has completed 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 a designated height.

**Remedy a Violation** means to bring the structures or other development into full or partial compliance with State or local regulations or, if this is not possible, to reduce the impacts of its non-compliance. Ways that impacts may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provision of the ordinance or otherwise deterring future similar violations, or reducing Federal financial exposure with regard to the structure or other development.

**Repetitive Loss Agricultural Structure** means an agricultural structure covered by a NFIP contract for flood insurance that has incurred flood-related damage on two (2) separate occasions in which the cost of repair, on the average, equaled or exceeded 25 percent of the value of the structure at the time of each such flood event.

**Repetitive Loss Property** means any NFIP-insured single family or multi-family residential building for which two or more claims of more than \$1,000 were paid by the NFIP within any rolling 10-year period, since 1978. A repetitive loss property may or may not be currently insured by the NFIP.

**Residential Building** means a non-commercial building designed for habitation by one or more families or a mixed-use building that qualifies as a single-family, two-to-four family, or other residential building.

**Residential Property** means either a residential building or the contents within a residential building, or both.

**Riverine** means floodplain relating to, formed by, or resembling a river (including tributaries), stream, brook, etc. Riverine floodplains have readily identifiable channels.

**Section 1316** means Section 1316 of the National Flood Insurance Act of 1968, as amended, which provides for the denial of flood insurance coverage for any property which the Administrator finds has been declared by a duly constituted State or local authority to be in violation of State or local floodplain management regulations. Once a duly constituted State or local authority declares a structure as being in violation, the Administrator must deny flood insurance coverage provided that the individual or office making the declaration has the authority to do so and that the law or regulations violated was, in fact, intended to discourage or otherwise restrict land development or occupancy in the flood-prone area.

Section 1316 was in-

tended for use primarily as a backup for local enforcement actions (i.e., if a community could not force compliance through the enforcement mechanisms in its regulations, it could use Section 1316 as additional leverage) and was not intended merely as a mechanism to remove bad risks from the policy base. Section 1316 will only be implemented in instances where States or communities submit declarations specifically for that purpose.

**Severe Repetitive Loss Structure** means a single family property (consisting of 1 to 4 residences) that is covered under flood insurance by the NFIP and has incurred flood-related damage for which

4 or more separate claims payments have been paid under flood insurance coverage, with the amount of each claim payment exceeding \$5,000 and with cumulative amount of such claims payments exceeding \$20,000; or for which at least 2 separate claims payments have been made with the cumulative amount of such claims exceeding the reported value of the property.

**Sheet Flow Area** (see definition for Area of Shallow Flooding)

**Single-family Dwelling** means either (a) a residential single-family building in which the total floor area devoted to non-residential uses is less than 50 percent of the building's total floor area, or (b) a single-family residential unit within a two-to-four family building, other-residential building, business, or non-residential building, in which commercial uses within the unit are limited to less than 50 percent of the unit's total floor area.

**Special Flood Hazard Area (SFHA)** means the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year as shown on a FHBM or FIRM as Zones A, AE, AH, AO, AR, AR/AE, AR/AO, AR/AH, AR/A, A99, or VE. The SFHA is the area where the National Flood Insurance Program's (NFIP's) floodplain management regulations must be enforced and the area where the mandatory purchase of flood insurance applies.

**Start of Construction** (for other than new construction or substantial improvements under the Coastal Barrier Resources Act (Pub. L. 97-348)) means the date the development or building permit was issued (includes substantial improvement), 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 (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, 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 accessory buildings, 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.

**Structure** means, for floodplain management purposes, a walled and roofed building, including a liquid or gas storage tank,

that is principally above ground, as well as a manufactured home. The terms "structure" and "building" are interchangeable in the NFIP. For insurance purposes, structure 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 ("a manufactured home," also known as a mobile home, is a structure: built on a permanent chassis, transported to its 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.

For the latter purpose, "structure" does not mean a recreational vehicle or a park trailer or other similar vehicle, except as described in paragraph (3) of this definition, or a gas or liquid storage tank.

**Substantial Damage** means damage of any origin sustained by a structure whereby the cost of restoring the structure to it before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

**Substantial Improvement** means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "repetitive loss" or "substantial damage", regardless of the actual repair work performed. The term does not, however, include either:

Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions (provided that said code deficiencies were not caused by neglect or lack of maintenance on the part of the current or previous owners) or;

Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure".

**Variance** means a grant of relief by the (Community name) from the terms of a floodplain management regulation.

**Violation** means 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 the elevation certificate, other certifications, or other evidence of compliance required in the Code of Federal Regulations (CFR) §44, Sec. 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided.

**Watercourse** means only the channel and banks of an identifiable watercourse and not the adjoining floodplain areas. The flood carrying capacity of a watercourse refers to the flood carrying capacity of the channel.

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

**Wet floodproofing** means a method of construction that involves modifying a building to allow floodwaters to enter it in order to minimize damage to the building, using flood damage-resistant materials below the DFE throughout the building, raising utilities and impor-

tant contents to or above the DFE, installing and configuring electrical and mechanical systems to minimize disruptions and facilitate repairs, installing flood openings or other methods to equalize the hydrostatic pressure exerted by floodwaters, and, where required, installing pumps to gradually remove floodwater from basement areas after the flood.

Wet floodproofing shall not be utilized as a method to satisfy the requirements of this Ordinance for bringing substantially damaged or improved structures into compliance. Wet floodproofing is not allowed in lieu of complying with the lowest floor elevation requirements for new residential buildings.

**X Zones (shaded)** means the areas on a FIRM subject to inundation by the flood that has a 0.2percent chance of being equaled or exceeded during any given year, often referred to as the 500year flood.

**X Zones (unshaded)** designates areas on a FIRM where the annual probability of flooding is less than 0.2 percent.

**Zone of Imminent Collapse** means an area subject to erosion adjacent to the shoreline of an ocean, bay, or lake and within a distance equal to 10 feet plus 5 times the average annual long-term erosion rate for the site, measured from the reference feature.

ARTICLE 7 LEGAL STATUS PROVISIONS

SECTION A. SEVERABILITY

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

SECTION B. ENFORCEABILITY OF ORDINANCE AND FUTURE REVISIONS

The provisions within this Ordinance must be legally enforceable; applied uniformly throughout the community to all privately and publicly owned land within any regulated flood hazard areas; meet the minimum standards set forth in §60.3 of the Code of Federal Regulations Title 44; and the community must provide that the provisions of this Ordinance take precedence over any less restrictive conflicting local laws, ordinances, or codes.

If the City of Bessemer repeals its floodplain management regulations, allows its regulations to lapse, or amends its regulations so that they no longer meet the minimum requirements set forth in §60.3 of the Code of Federal Regulations Title 44, it shall be suspended from the National Flood Insurance Program (NFIP). The community eligibility shall remain terminated after suspension until copies of adequate floodplain management regulations have been received and approved by the Federal Insurance Administrator. To avoid such occurrences, the City of Bessemer will coordinate with the Alabama NFIP State Coordinator and FEMA Regional Office prior to any revisions to this Ordinance. Without prior approval of the Federal Insurance Administrator, the community shall not adopt and enforce revised floodplain management regulations.

From time-to-time Part 60 of the Code of Federal Regulations Title 44 may be revised to advance flood risk reduction measures as experience is acquired under the NFIP and new information becomes available. The City of Bessemer agrees to revise its floodplain management Ordinance to comply with any such changes within six months from the effective date of any new federal regulation.

This Ordinance adopted on the 6<sup>th</sup> day of February 2024.

Western Star  
February 23 & March 1, 2024